

Court File No. CV-17-11670-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

and

VAUGHAN CROSSINGS INC.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3 and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43

APPLICATION RECORD

January 19, 2017

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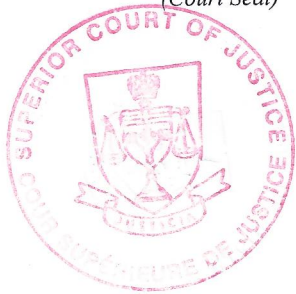
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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

(Court Seal)



VECTOR FINANCIAL SERVICES LIMITED

Applicant

and

VAUGHAN CROSSINGS INC.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985,
c.B-3 and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43.

NOTICE OF APPLICATION

TO THE RESPONDENT(S)

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 on Thursday, January 26, 2017, at 9:30 a.m., before a judge presiding over the Commercial List at 330 University Avenue, 7th Floor, Toronto ON M5G 1R7.

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

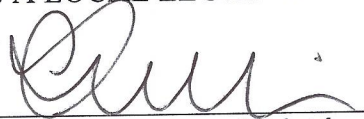
a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

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

January 18, 2017

Issued by



Local Registrar
Registrar

Address of court office: Superior Court of Justice
330 University Avenue, 7th Floor
Toronto ON M5G 1R7

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APPLICATION

1. The Applicant, Vector Financial Services Limited (“**Vector**”), makes an application for:
 - (a) an order validating service of this Notice of Application and the Application Record in the manner effected, abridging the time for service thereof (if necessary), and dispensing with service thereof on any party other than the parties served;
 - (b) an order appointing Ira Smith Trustee & Receiver Inc. (“**ISI**”) as receiver (the “**Receiver**”) in respect of the following real properties of which Vaughan Crossings Inc. (“**VCI**” or the “**Debtor**”) is the owner or tenant and of which Vector is the first mortgagee:
 - (i) PIN 03274-0103 LT
PT LT 24 REGISIAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY R312155; VAUGHAN

DUFFERIN STREET, VAUGHAN

PIN 03274- 0104 LT

PT LT 25 REGISIAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039; VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

(collectively, the “**Freehold Property**”)
 - (ii) PIN 03274- 0106 LT

PT LT 28 REGISIAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

03274- 0107 LT

LT 27 REGISAR'S COMPILED PLAN 10309 VAUGHAN; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

03274- 0185 LT

PT L T 22 REGISAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928;; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

03274- 0186 LT

PT LT 25 REGISAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; S/T VA84765 ASSIGNED BY R312155; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

(collectively the “**Leasehold Property**”)

(collectively the “**Properties**”)

and of all plans, permits, agreements, improvements and other personal property owned or leased by the Debtor and relating to the Properties or the development and sale thereof; and

(c) such further and other Relief as this Honourable Court may deem just.

2. The grounds for the application are:

The Parties

(a) The Debtor is a corporation governed by the *Business Corporations Act* (Ontario) and has its registered office located in Concord, Ontario.

- (b) The Debtor was incorporated for the purpose of acquiring and developing 5.5 acres of land located at the northwest corner of Dufferin Street and Centre Street in Vaughan, Ontario, which were acquired on April 17, 2007 and September 4, 2007 (the previously identified “Freehold Property”).
- (c) The Debtor is also a tenant of approximately 3.75 acres of land adjacent to the land it owns (hereinbefore identified as the Leasehold Property) pursuant to a 35-year land lease (the “Lease”).
- (d) The Debtor intended to develop a commercial project of approximately 150,000 square feet on the Properties which was to be known as “The Dufferin Centre” or “Vaughan Crossings”.
- (e) Vector is a corporation incorporated pursuant to the laws of the Province of Ontario with its head office in Toronto, Ontario and carries on business as a financial services provider including investing in mortgages on behalf of investors.

Vector’s Loan to the Debtor

- (f) Pursuant to a commitment letter dated December 6, 2013 (the “**Vector Commitment Letter**”) Vector agreed to lend the Debtor the amount of \$32,500,000.00 in order to finance the land segment of the Properties, and to finance site servicing and construction.
- (g) Vector received as security for its loan, *inter alia*, a charge/mortgage in the amount of \$32.5 million registered as against the Debtor’s interest in the Freehold Property as Charge/Mortgage No. YR2092552 on February 6, 2014, and a Notice of Charge

of Lease registered as against the Leasehold Property as Instrument No. YR2092557 on February 6, 2014 (collectively, the “**Vector Mortgage**”).

- (h) Vector has advanced approximately \$8.8 million to the Debtor pursuant to the Vector Commitment Letter (the “**Vector Loan**”) and under the Vector Mortgage.

Default of the Debtor

- (i) The Debtor defaulted on the Vector Loan on or about February 10, 2016 when it failed to make payment in accordance with the Vector Commitment Letter and the terms of the Vector Mortgage.
- (j) Further, between January 13 and February 8, 2016 four claims for lien were registered as against the Properties totalling approximately \$2.4 million, all of which have since been perfected.
- (k) The registration of the said claims for lien has caused Vector’s loans to go into default as well as triggering default under the Lease.
- (l) On or about July 21, 2016 Vector served notice of default on the Debtor formally demanding repayment of its loan (the “**Demand Notice**”). Further, Vector also served notice of intention to enforce security in respect of the said loan pursuant to the provisions of the *Bankruptcy and Insolvency Act* (“**BIA Notice**”) at the same time it issued the Demand Notice.
- (m) The Debtor has not repaid the Vector Loan following delivery of the Demand Notice and the BIA Notice or at all;

Scollard Trustee Corporation

- (n) Scollard Trustee Corporation (“**Scollard**”) and Olympia Trust Company (“**Olympia**”) hold a second charge/mortgage in the amount of \$14.8 million pursuant to a loan made to the Debtor which is registered as against the Freehold Property only as Instrument No. YR2058941 on October 18, 2013 (Scollard had postponed its interest to that of Vector) (the “**Scollard/Olympia Mortgage**”);
- (o) Pursuant to the terms of its loan Scollard/Olympia advanced the amount of approximately \$14.8 million to the Debtor (the “**Scollard/Olympia Loan**”) which is secured by the Scollard/Olympia Mortgage;
- (p) The Scollard/Olympia Loan is made on behalf of various investors, and Scollard is authorized by all of the investors to take any and all steps to enforce the Scollard/Olympia Mortgage;
- (q) Upon default of both the Vector Loan and the Scollard/Olympia Loan, a corporation related to the principal of Scollard, Tier 1 Transaction Advisory Services Inc. (“**Tier 1**”) purchased certain accounts receivable interest payments owed by the Debtor to Vector such that Vector received the said amounts for payments to its investors.
- (r) Further, Tier 1 advanced to Vector, by way of a subordination participation in the Vector Loan, certain amounts required to make protective disbursements by Vector to satisfy rents payable under the Lease.

Scollard Application for Receiver/Joint Retainer of Private Receiver

- (s) In or about June 2016 Scollard commenced an application in the Superior Court of Justice (Commercial List) to appoint a receiver over all of the assets and undertakings of the Debtor (the “**Scollard Application**”).
- (t) Vector had initially opposed the Scollard Application and the matter was resolved by way of Vector and Scollard agreeing to jointly appoint ISI as a private receiver of the Properties.
- (u) Further, Vector and Scollard entered into a Joint Retainer Agreement dated August 2016 with respect to the appointment of ISI.
- (v) The Joint Retainer Agreement contained, *inter alia*, the following provisions:
 - (i) that each of Vector and Scollard would pay one-half of ISI’s fees and disbursements, including legal fees, and funding of the receivership;
 - (ii) that ISI would engage in a sales process with respect to the Properties but that Scollard would be permitted to submit a stalking horse bid for the purchase of same; and
 - (iii) in the event that ISI could not proceed with the sale of the Properties as a result of circumstances not within its control or if there was a disagreement between Vector and Scollard which could not be resolved within a reasonable time, then either of Vector or Scollard could bring a court application to appoint ISI as receiver and that both Vector and Scollard would consent to such appointment, and that upon such appointment the Joint Retainer Agreement is terminated.

Trustee Appointed Over Scollard

- (w) By way of Order of the Superior Court of Justice (Commercial List) dated October 27, 2016, Grant Thornton Limited (“GTL”) was appointed as trustee over all of the assets, undertakings and properties of Scollard pursuant to the terms of the *Mortgage Brokers, Lenders and Administrators Act*, 2006, S.O. 2006, c.29, as amended (the “Trustee”).
- (x) Prior to the appointment of the Trustee, Scollard did not submit a stalking horse bid and ISI, in its capacity as private receiver, did not otherwise market the Properties as it was awaiting the said stalking horse bid.
- (y) Since the appointment of the Trustee, Scollard has not put forth a stalking horse bid or any sales bid to purchase the Properties or either of them.

Just and Convenient to Appoint A Receiver

- (z) Vector has received no payments from the Debtor since January 2016. The Vector Loan matured and was due on or about August 10, 2016. Vector has demanded payment of the loan from the Debtor and has sent the BIA Notice indicated above under which the 10-day notice period has expired.
- (aa) The Debtor is in default under the Lease and there are construction liens in excess of \$2.4 million registered against the Properties.
- (bb) The Debtor is insolvent and cannot pay its liabilities generally as they become due. Vector has previously attempted to work with Scollard in order to realize upon its

security and retire the Vector Loan, however has been unable to do so, and the Properties themselves sit undeveloped subject only to having site servicing installed without any substantial construction on the project initially contemplated by the Debtor.

- (cc) The court appointment of a receiver is just and convenient having regard to the nature of the Properties and the rights of parties in relating thereto in order to:
 - (i) maximize recovery for all of the Debtors' creditors and other stakeholders through a court supervised marketing and sales process;
 - (ii) deal with the Lease including, if necessary or required, any assignment of same or dealing in general with the Leasehold Property; and
 - (iii) set out a process for resolving any priority disputes as between Vector, Scollard/Olympia, the lien claimants, the Debtor and others.
- (dd) ISI has consented to act to its court appointment.
- (ee) The security for the Vector Loan allowed for it to appoint a court appointed receiver in the event of default under the said loan.
- (ff) Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.
- (gg) Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3.
- (hh) Rules 2.03, 3.02 and 41 of the *Rules of Civil Procedure*.
- (ii) Such further and other grounds as the lawyers may advise.

3. The following documentary evidence will be used at the hearing of the application:
- (a) The affidavit of Mickey Baratz;
 - (b) Report of Ira Smith Trustee & Receiver Inc.;
 - (c) The consent of the receiver; and
 - (d) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

January 18, 2017

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court appointed Receiver of the Respondent

RCP-E 14E (March 31, 2010)

VECTOR FINANCIAL SERVICES LIMITED
Applicant

-and-

VAUGHAN CROSSINGS INC.
Respondent

Court File No. **CV-17-11670-00CL**

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF APPLICATION

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Lawyers for the Applicant

RCP-E 4C (July 1, 2007)

TAB 2

Court File No. CV-17-11670-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

and

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Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3 and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43

**AFFIDAVIT OF MICHAEL BARATZ
SWORN JANUARY 19, 2017**

I, Michael (Mickey) Baratz, of the City of Toronto, MAKE OATH AND SAY:

1. I am the Director of Finance of Vector Financial Services Limited (“Vector” or the “Lender”) and, as such, have knowledge of the matters hereinafter deposed to.
2. The contents of the within affidavit are from my own personal knowledge except where I have otherwise indicated that I have received such information from third parties in which case I verily believe all such information to be true.
3. The within affidavit is sworn in support of the application by Vector for the appointment of Ira Smith Trustee & Receiver Inc. (“ISI”) as receiver (the “Receiver”) in respect of the following

properties for which Vaughan Crossings Inc. ("VCI" or the "Debtor") is a mortgagor pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended and section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3:

(a) PIN 03274-0103 LT

PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11
64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY
R312155; VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

PIN 03274- 0104 LT

PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1,
65R14039; VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

(the "Freehold Property")

(b) PIN 03274- 0106 LT

PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2
65R11525; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

03274- 0107 LT

LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; CITY OF
VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

03274- 0185 LT

PT L T 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1
65R8928;; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

03274- 0186 LT

PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2
65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309
VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; S/T VA84765 ASSIGNED
BY R312155; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

(the "Leasehold Property")

(collectively, the "Properties").

Background

4. Vector is a corporation incorporated pursuant to the law of the Province of Ontario and carries on business as a lender on commercial mortgages on behalf of itself and for investors.

5. I attach and mark as **Exhibit "A"** to this my affidavit a true copy of a corporate profile report for VCI dated January 17, 2017.

6. Attached and marked as exhibit opposite their letter below are copies the following:

(a) **Exhibit "B"** the parcel registers for the Freehold Property;

(b) **Exhibit "C"** the parcel registers for the Leasehold Property.

7. The Debtor is the owner in fee simple of the Freehold Property as can be seen from the parcel register at Exhibit "B" above.

8. Further, the Debtor is the tenant of the Leasehold Property pursuant to a 35-year land lease dated April 11, 2007 between the Estate of Harry Kranc, Sarah Kranc and the Estate of Lejb Schwartzberg (collectively the "Landlord") and the Debtor (the "Lease"). Attached and marked as **Exhibit "D"** to this my affidavit are copies of the Lease and the Notice of Lease.

9. Pursuant to the terms of the Lease, the Debtor has the option to purchase the Leasehold Property at fair market value with such option to be exercised by the Debtor during the period starting the date that is twelve months prior to the end of the 35th year of the term of the Lease and ending with the date that is six months prior to the end of the said 35-year term.

10. The Freehold Property is approximately 5.5 acres and the Leasehold Property approximately 3.7 acres.

The Vector Loan

11. By way of a loan proposal dated November 27, 2013 Vector agreed to loan the Debtor the amount of \$32,500,000.00 to be advanced as a first mortgage of its interests in the Properties (the "Vector Loan"). Additionally, the directors of VCI, being Albert Guido and Anthony DeGustofaro, agreed to be joint and several guarantors with VCI for the amount of the Vector Loan; I attach and mark as **Exhibit "E"** to this my affidavit a true copy of the signed Loan Proposal.

12. Subsequently, Vector issued a commitment letter to VCI dated December 6, 2013 and I attach and mark as **Exhibit "F"** to this my affidavit a true copy of the commitment letter accepted by VCI and by Mr. Guido and Mr. DeGustofaro as joint several guarantors.

13. Vector registered its security interests on title as against the Properties on February 6, 2014, and attached and marked as exhibits herein are copies of these as follows:

- (a) **Exhibit "G"** - Charge/Mortgage bearing instrument No. YR2092552 and Notice of Assignment of Rents bearing instrument No. YR2092553 as against the Freehold Property (the "Freehold Charge");

- (b) **Exhibit “H”** - Notice of Charge of Lease bearing instrument No. YR2092557 and Notice of Assignment of Rents bearing instrument No. YR2092558 as against the Leasehold Property (the “Leasehold Charge”);

(collectively, the “Vector Mortgage”).

Scollard Trustee Corporation

14. Prior to the Vector Mortgage being registered on title, VCI had given a mortgage over the Freehold Property to Scollard Trustee Corporation (“Scollard”) and Olympia Trust Company (together, the “Second Mortgagees”) and I attach and mark as **Exhibit “I”** to this my affidavit a true copy of the said Charge/Mortgage bearing instrument No. YR2048941 and of a Notice of Assignment of Rents bearing instrument No. YR2048949, both dated October 18, 2013.

15. The Second Mortgagees agreed to postpone their interest in the Freehold Property to that of Vector and in this regard I attach and mark as **Exhibit “J”** to this my affidavit a true copy of a Postponement of Interest bearing instrument No. YR2092569 dated February 6, 2014 as registered on title, and of an Acknowledgement of Priority and Standstill undertaking to Vector from the Second Mortgagees dated February 6, 2014.

Default Under Vector Loan and Agreements with Tier 1 Transaction Advisory Services Inc.

16. Default originally occurred under the terms of the Vector Loan when construction liens were registered as against both the Freehold Property and the Leasehold Property on January 13, 2016 by Sora Construction Ltd. Subsequently, three additional construction liens were registered as against the Properties on January 28, 2016 and February 8, 2016. All of the said construction

liens have now been perfected and in this regard I attach and mark opposite the exhibit number below the following documentation with respect to the said liens as identified by lien claimant:

- (a) **Exhibit “K” - Sora Construction Ltd.:**
 - (i) Construction Lien;
 - (ii) Registration of Certificate of Action; and
 - (iii) Statement of Claim.

- (b) **Exhibit “L” - Kohn Partnership Architects Inc.:**
 - (i) Construction Lien;
 - (ii) Certificate of Action;
 - (iii) Statement of Claim; and
 - (iv) Statement of Defence and Crossclaim of Vector.

- (c) **Exhibit “M” - Triaxis Construction Limited:**
 - (i) Construction Lien;
 - (ii) Registration of Certificate of Action; and
 - (iii) Statement of Claim.

- (d) **Exhibit “N” - 2388208 Ontario Incorporated operating as Ronen Management Services:**

- (i) Construction Lien;
- (ii) Registration of Certificate of Action; and
- (iii) Statement of Claim.

17. All of the lien claimants have waived the requirement of a defence from Vector with the exception of Kohn Partnership Architects Inc. and a copy of Vector's Statement of Defence and Crossclaim has been attached as part of Exhibit "L" above.

18. Additionally, the Debtor defaulted on the Vector Loan by failing to make the payment due and owing on February 10, 2016.

19. Further, the Debtor defaulted under the terms of the Lease, which also constituted default under the Vector Loan, and in this regard I attach and mark as **Exhibit "O"** to this my affidavit a true copy of correspondence from the Landlord's lawyer to the Debtor which was copied to Vector dated June 15, 2016 notifying it of the breach. Additionally, the Landlord has advised that the breach under the Lease continues and in this regard I attach and mark as **Exhibit "P"** to this my affidavit a true copy of correspondence dated January 16, 2017 from the Landlord's lawyer advising of this information.

20. As a result of the default under the Vector Loan, the President of Scollard, Raj Singh, contacted Vector to discuss the various problems and consider possible solutions that would allow the Second Mortgagees to find a workout solution that would satisfy all or part of the second mortgage indebtedness while at the same time protecting Vector's interest and its desire to continue monthly distributions to its investors. After several additional meetings and other discussions, Mr. Singh advised that he had been unable to obtain consensus amongst all of the

second mortgage investors to put up additional funds required for protective advances, but Mr. Singh advised that he wished to do so through his own corporation, Tier 1 Transaction Advisory Services Inc. ("Tier 1"), in order to protect his interest in the Vaughan Crossings Project. Ultimately, Vector and Tier 1 negotiated certain agreements whereby distributions to Vector's investors would be funded and paid monthly, and other obligations provided for, in order to thereby induce Vector to forbear and allow Scollard to attempt to refinance it or conduct some other renegotiation with respect to the Properties and the Debtor.

21. Vector and Tier 1 entered into a Mortgage Participation Agreement dated February 10, 2016 (the "Mortgage Participation Agreement"), a true copy of which is attached and marked as **Exhibit "Q"** to this my affidavit.

22. Vector and Tier 1 entered into a Sale and Assignment of Mortgage Interest Receivables agreement dated February 2016 ("Interest Assignment Agreement"), a true copy of which is attached and marked as **Exhibit "R"** to this my affidavit.

23. Under the terms of the Interest Assignment Agreement, Vector has agreed to sell, on a subordinated basis, the interest receivables owing by the Debtor under the Vector Mortgage to Tier 1 for the amount of the said interest owing. However, the said agreement does not serve to reduce the amounts owing from the Debtor to Vector and shall only be repaid on a subordinated basis once the Vector Loan is repaid in full. Further, the Vector Loan remains in default although Vector has received payments from Tier 1 pursuant to the sale of the receivable as set out below.

24. The combined effects of the Mortgage Participation Agreement and the Interest Assignment Agreement were:

- (a) to allow Tier 1 and not Vector and its investors, to fund the protective advances required to make payments for property taxes and to the Landlord for ground rents and for costs of the Landlord's solicitors pursuant to the terms of the Lease in order to protect Vector's priority interest;
- (b) to allow Tier 1 to purchase the outstanding interest receivables from Vector for payments not made to it by the Debtor, thereby allowing Vector to continue making monthly distributions to its investors without having to disburse its own funds to do so; and
- (c) to give Tier 1 priority for all payments that it had made to Vector over the interests of Scollard, but still be behind Vector's position.

25. Vector has received the amount of \$282,825.38 pursuant to the Interest Assignment Agreement and the amount of \$188,258.30 pursuant to the Mortgage Participation Agreement.

Scollard Application for Receiver/Joint Retainer of Private Receiver

26. Despite the fact that the Mortgage Participation Agreement and the Interest Assignment Agreement were entered into for the purpose of allowing Mr. Singh an opportunity to see whether or not he could fashion a transaction for Scollard whereby the Vector Loan would be paid in full, by June 2016 it was unable to do so.

27. On June 30, 2016 Scollard issued an application in the Superior Court of Justice Commercial List seeking to appoint KSV Kofman Inc. as the receiver for all the property, assets and undertakings of the Debtor; in this regard I attach and mark as **Exhibit "S"** to this my affidavit a true copy of the Notice of Application issued by Scollard in this regard.

28. Vector opposed Scollard's application for appointment of a receiver on various grounds including that it was seeking to have the costs for the receiver and certificates for borrowing issued by it placed in priority of Vector. In any event, Scollard and Vector came to an agreement as outlined below which saw Scollard withdraw its application.

29. The terms of the agreement as reached between Vector and Scollard were that they would jointly appoint ISI as a private receiver over the Debtor and all of its assets. In this regard, I attach and mark as exhibits opposite their designation as follows:

- (a) **Exhibit "T"** Joint Retainer Agreement ("Joint Retainer") dated August 2016 between Vector and the Second Mortgagees;
- (b) **Exhibit "U"** Engagement Letter dated August 26, 2016 (the "Engagement Letter") engaging ISI as signed by Vector and the Second Mortgagees; and
- (c) **Exhibit "V"** Appointment Letter of ISI dated August 2016 (the "Appointment") by Vector and the Second Mortgagees;

(collectively, the "Appointment Documents").

30. As set out in the Appointment Documents, the purpose of the private appointment of ISI was to allow the Properties to be marketed including allowing Scollard, or a designee on its behalf, to put forward a stalking horse bid which would allow for full payment of the Vector Loan.

31. Although a representative of Scollard had advised Vector that it would put together a stalking horse bid, none was forthcoming that would meet the requirements of the Appointment Documents nor which would ensure that the Vector Loan was paid in full. In the meantime, ISI

had taken steps to gather information for the purpose of putting together a sales process and marketing plan for the Properties however, this was never finalized for reasons as set out herein.

Trustee Appointed for Scollard

32. On October 27, 2016 the Superior Court of Justice Commercial List appointed Grant Thornton Limited (“GTL”) as trustee over all property, assets and undertakings of Scollard pursuant to an application that was brought by the Superintendent of Financial Services under the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c.29 (the “MBLAA”) and I attach and mark as **Exhibit “W”** to this my affidavit a true copy of the said Order of the Honourable Justice Newbould appointing GTL as trustee.

33. Prior to receiving a copy of the Order shortly after it was made, Vector was unaware of any issues with Scollard that necessitated an appointment of a trustee pursuant to the MBLAA or that there were any internal issues with respect to Scollard, Mr. Singh or their affiliates.

34. Subsequent to the appointment of GTL as trustee, Vector attempted to work with it to see if a stalking horse bid or other transactions that Scollard had tried to obtain prior to its appointment could be finalized and revived. This has not happened and, as of the date of swearing the within affidavit, the Vector Loan remains outstanding and there have been no deals or transactions presented by GTL that would see the Vector Loan repaid in full.

Just and Convenient to Appoint a Receiver

35. As a result of non-payment of the Vector Loan, Vector issued a demand letter and a Notice of Intent to Enforce Security under the *Bankruptcy and Insolvency Act I* (the “BIA Notice”) and in this regard I attach and mark as **Exhibit “X”** to this my affidavit a true copy of correspondence

dated July 21, 2016 from Vector's lawyer, Rose Persiko Rakowsky Melvin LLP, together with the Statement for Discharge Purposes and the BIA Notice. Vector has received no response to the letter or the BIA Notice.

36. The Vector Loan matured on August 10, 2016.

37. In addition to the above, the Lease remains outstanding in the amount of each of \$37,666.66 for each of the months of December 2016 and January 2017 plus \$1,014.12 for legal fees.

38. Outstanding property tax arrears according to the City of Vaughan on the Freehold Property as of January 17, 2017 are \$70,473.15; there are currently no arrears on the Leasehold Property.

39. Further, as of January 10, 2017, Vector is owed the amount of \$10,069,038.23 not including legal fees under the Vector Loan as set out in the statement attached and marked as **Exhibit "Y"** to this my affidavit.

40. The Debtor has not made one payment under the Vector Loan since January 10, 2016.

41. The Debtor is insolvent and cannot pay its liabilities as they become due.

42. Under the terms of the Appointment Documents, the Second Mortgagees have agreed to consent to the court appointment of ISI as receiver for the Debtor in the event that the two parties could not agree on instructions to ISI moving forward with the private receivership; this has now occurred and Vector is seeking to appoint ISI as a court appointed receiver however, only over the Properties, and assets related thereto, and not all of the assets of the Debtor. ISI has agreed to

accept the appointment and a true copy of its consent is attached and marked as **Exhibit “Z”** to this my affidavit.

43. In these circumstances it is in the best interest of Vector and the Debtor’s creditors generally that a receiver be appointed to take over control and realize upon the Properties. I understand that ISI has issued a report concurrent with the within affidavit setting out details with respect to a proposed sales process.

44. As well as indicated above, there are four construction liens registered on the Properties who are all claiming priority over Vector to some extent and these will also have to be dealt with in the context of any disposition of the Properties.

45. Further, the appointment of the receiver will provide for a stay of proceedings and prevent the Landlord from terminating the Lease or taking any steps thereunder without court approval.

46. As set out in the Appointment Documents, the firm of Steinberg Title Hope & Israel LLP (“STHI”) may be appointed on behalf of ISI if it is court appointed and continue to act for Vector after such appointment; this arrangement continues subject to ISI obtaining an independent legal opinion as to the validity and enforceability of the security held by Vector and retaining independent counsel in the event that there is a potential conflict between the positions of ISI and Vector.

47. Additionally, in the event that ISI is appointed as receiver, Vector will be requesting that the court grant a first ranking charge (the “Receiver’s Charge”) over the Properties to secure repayment of its and its legal counsel’s fees and disbursements.

48. Vector will also be requesting ISI to borrow up to \$500,000.00 subject to further order of the court so that it will have funds available to, among other things, pay monthly rent to the Landlord under the Lease. As security for the borrowing, Vector will request that the court grant a charge over the Properties which will rank a priority over all other claims and encumbrances other than the Receiver's Charge.

49. This affidavit is sworn in support of Vector's application for appointment of a receiver and for no other or improper purpose.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on
January 19, 2017



Commissioner for Taking Affidavits
(or as may be)

DARIA KRYSIK



MICHAEL BARATZ

This is Exhibit "A" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke, positioned above a horizontal line.

Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

Request ID: 019808522
 Transaction ID: 63295075
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2017/01/17
 Time Report Produced: 10:30:09
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
2129240	VAUGHAN CROSSINGS INC.	2007/03/02
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address		Date Amalgamated
		Amalgamation Ind.
7501 KEELE STREET		NOT APPLICABLE
		NOT APPLICABLE
Suite # 306		New Amal. Number
CONCORD		Notice Date
ONTARIO		NOT APPLICABLE
CANADA L4K 1Y2		NOT APPLICABLE
		Letter Date
Mailing Address		NOT APPLICABLE
		NOT APPLICABLE
7501 KEELE STREET		Revival Date
		Continuation Date
		NOT APPLICABLE
		NOT APPLICABLE
Suite # 306		Transferred Out Date
CONCORD		Cancel/Inactive Date
ONTARIO		NOT APPLICABLE
CANADA L4K 1Y2		NOT APPLICABLE
		EP Licence Eff.Date
		EP Licence Term.Date
		NOT APPLICABLE
		NOT APPLICABLE
		Date Commenced In Ontario
		Date Ceased in Ontario
		NOT APPLICABLE
		NOT APPLICABLE
Activity Classification	Number of Directors Minimum Maximum	
NOT AVAILABLE	00001 00010	

Request ID: 019808522
 Transaction ID: 63295075
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2017/01/17
 Time Report Produced: 10:30:09
 Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number

2129240

Corporation Name

VAUGHAN CROSSINGS INC.

Corporate Name History

VAUGHAN CROSSINGS INC.

Effective Date

2007/03/02

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

NO

Administrator:

Name (Individual / Corporation)

ANTHONY
 DECRISTOFARO

Address

64 CARMEN CRESCENT

WOODBIDGE
 ONTARIO
 CANADA L4L 5P5

Date Began

2011/11/15

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 019808522
 Transaction ID: 63295075
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2017/01/17
 Time Report Produced: 10:30:09
 Page: 3

CORPORATION PROFILE REPORT

Ontario Corp Number

2129240

Corporation Name

VAUGHAN CROSSINGS INC.

Administrator:
 Name (Individual / Corporation)

ANTHONY
 DECRISTOFARO

Address

64 CARMEN CRESCENT

 WOODBRIDGE
 ONTARIO
 CANADA L4L 5P5

Date Began

2011/11/15

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

SECRETARY

Resident Canadian

Y

Administrator:
 Name (Individual / Corporation)

ALBERT
 VINCENT
 GUIDO

Address

7501 KEELE STREET

 Suite # 306
 CONCORD
 ONTARIO
 CANADA L4K 1Y2

Date Began

2010/07/13

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 019808522
 Transaction ID: 63295075
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2017/01/17
 Time Report Produced: 10:30:09
 Page: 4

CORPORATION PROFILE REPORT

Ontario Corp Number

2129240

Corporation Name

VAUGHAN CROSSINGS INC.

Administrator:
 Name (Individual / Corporation)

PINO
 FRANCO
 GUIDO

Address

7501 KEELE STREET
 Suite # 306
 CONCORD
 ONTARIO
 CANADA L4K 1Y2

Date Began

2016/01/12

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Administrator:
 Name (Individual / Corporation)

ANTHONY
 PETRONACI

Address

258 WILSON AVENUE
 TORONTO
 ONTARIO
 CANADA M3H 1S6

Date Began

2011/11/15

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 019808522
Transaction ID: 63295075
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2017/01/17
Time Report Produced: 10:30:09
Page: 5

CORPORATION PROFILE REPORT

Ontario Corp Number

2129240

Corporation Name

VAUGHAN CROSSINGS INC.

Administrator:
Name (Individual / Corporation)

ANTHONY
PETRONACI

Address

258 WILSON AVENUE

TORONTO
ONTARIO
CANADA M3H 1S6

Date Began

2011/11/15

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

OTHER

Resident Canadian

Administrator:
Name (Individual / Corporation)

RAJ
SINGH

Address

7501 KEELE STREET

Suite # 306
CONCORD
ONTARIO
CANADA L4K 1Y2

Date Began

2016/01/12

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

OTHER

Resident Canadian

Request ID: 019808522
Transaction ID: 63295075
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2017/01/17
Time Report Produced: 10:30:09
Page: 6

CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2129240

VAUGHAN CROSSINGS INC.

Last Document Recorded

Act/Code Description

Form

Date

CIA CHANGE NOTICE

1

2016/01/18 (ELECTRONIC FILING)

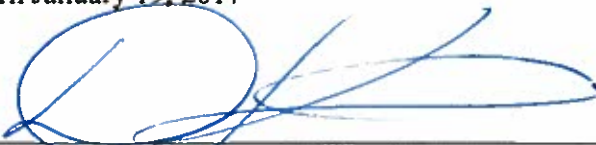
THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

PLEASE NOTE THAT WHEN THE SAME INDIVIDUAL HOLDS MULTIPLE 'OTHER UNTITLED' OFFICER POSITIONS, AS INDICATED ON A FORM 1 UNDER THE *CORPORATIONS INFORMATION ACT*, ONLY ONE OF THESE 'OTHER UNTITLED' POSITIONS HELD BY THAT INDIVIDUAL WILL BE REFLECTED ON THIS REPORT.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

This is Exhibit "B" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK



ServiceOntario

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND
REGISTRY
OFFICE #65

03274-0103 (LT)

PAGE 1 OF 5
PREPARED FOR ISteinberg
ON 2017/01/18 AT 08:42:41

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

PROPERTY DESCRIPTION: PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VAB4766 ASSIGNED BY R312155 ; VAUGHAN

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

OWNERS' NAMES
VAUGHAN CROSSINGS INC.

RECENTLY:
RE-ENTRY FROM 03274-0197
CAPACITY SHARE

PIN_CREATION_DATE:
1999/06/25

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
	2000/07/29			"BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN**		
				EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1999/06/25		
				HAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/06/25		
				** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/06/25 **		
				**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:		
				SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *		
				AND ESCHEATS OR FORFEITURE TO THE CROWN.		
				THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF		
				IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY		
				CONVENTION.		
				ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.		
				**DATE OF CONVERSION TO LAND TITLES: 1999/06/28 **		
64R7307	1978/12/01	PLAN REFERENCE				C
VAB4766	1980/03/13	TRANSFER EASEMENT			MINISTRY OF GOVERNMENT SERVICES	C
		REMARKS: LIMITED INTEREST				
R312155	1983/03/23	ASSIGNMENT GENERAL				C
		REMARKS: EASEMENTS; HAI09466 ;MULTI				
R332718	1983/11/30	TRANSFER		*** DELETED AGAINST THIS PROPERTY ***	570632 ONTARIO LIMITED	C
		CORRECTIONS: **TRANSFEREE' CHANGED FROM '570632 ONTARIO LTD' TO '570632 ONTARIO LIMITED' ON 1999/06/25 BY LAND REGISTRAR #35.				
R348846	1984/07/17	CHARGE		*** COMPLETELY DELETED ***	GUARDIAN TRUST COMPANY	
R366697	1985/04/15	AGR AM CH		*** 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.



Ontario ServiceOntario

LAND
REGISTRY
OFFICE #65

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 2 OF 5
PREPARED FOR ISteinberg
ON 2017/01/18 AT 08:42:41

03274-0103 (LT)

* 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
65R11525	1988/02/03	PLAN REFERENCE		... COMPLETELY DELETED ... GUARDIAN TRUST COMPANY		C
LT1572499	2001/01/18	DISCH OF CHARGE		... COMPLETELY DELETED ... LAND REGISTRAR		
YR955250	2007/06/04	LR'S ORDER		... COMPLETELY DELETED ... B & M HANDELMAN INVESTMENTS LIMITED		C
YR1048381	2007/09/04	TRANSFER	\$900,000	... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	VAUGHAN CROSSINGS INC.	
YR1048415	2007/09/04	CHARGE		... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	B & M HANDELMAN INVESTMENTS LIMITED PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. E. HANSON INVESTMENTS LIMITED	
YR1048463	2007/09/04	CHARGE		... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	2133334 ONTARIO LIMITED	
YR1048465	2007/09/04	NO ASSGN RENT GEN		... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	2133334 ONTARIO LIMITED	
YR1588958	2010/12/15	CHARGE		... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	B & M HANDELMAN INVESTMENTS LIMITED PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. E. HANSON INVESTMENTS LIMITED	
YR1588959	2010/12/15	CHARGE		... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	HANDELMAN, ANNE GOLDBERG, RICHARD H HANDELMAN, STEPHEN HANDELMAN, MARTIN	
YR1588977	2010/12/15	DISCH OF CHARGE		... COMPLETELY DELETED ... B & M HANDELMAN INVESTMENTS LIMITED		

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NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

03274-0103 (LT)

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
YR1589266	2010/12/16	CHARGE		PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. E. MANSON INVESTMENTS LIMITED		
REMARKS: YR1048415.						
YR1589267	2010/12/16	NO ASSGN RENT GEN		... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	2133334 ONTARIO LIMITED	
REMARKS: YR1589266.				... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	2133334 ONTARIO LIMITED	
YR1589271	2010/12/16	DISCH OF CHARGE		... COMPLETELY DELETED ... 2133334 ONTARIO LIMITED		
REMARKS: YR1048463.						
YR1956630	2013/03/19	CHARGE		... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1956631	2013/03/19	NO ASSGN RENT GEN		... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
REMARKS: YR1956630.						
YR1956652	2013/03/19	DISCH OF CHARGE		... COMPLETELY DELETED ... 2133334 ONTARIO LIMITED		
REMARKS: YR1589266.						
YR1956799	2013/03/19	DISCH OF CHARGE		... COMPLETELY DELETED ... B & M WANDELMAN INVESTMENTS LIMITED PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. E. MANSON INVESTMENTS LIMITED		
REMARKS: YR1588958.						
YR1956800	2013/03/19	DISCH OF CHARGE		... COMPLETELY DELETED ... WANDELMAN, ANNE GOLDBERG, RICHARD M WANDELMAN, STEPHEN WANDELMAN, MARTIN		
REMARKS: YR1588959.						
YR1980994	2013/05/24	CHARGE		... COMPLETELY DELETED ... VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	

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03274-0103 (LT)

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

REC. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHMD
YR1980995	2013/05/24	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
	REMARKS: YR1980994.					
YR1989963	2013/06/14	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
YR2001128	2013/07/09	LIEN		*** COMPLETELY DELETED *** HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE		
YR2010667	2013/07/29	CERTIFICATE		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED	VAUGHAN CROSSINGS INC.	
	REMARKS: YR1989963					
YR2048941	2013/10/18	CHARGE	\$14,800,000	VAUGHAN CROSSINGS INC.	SCOLLARD TRUSTEE CORPORATION	C
YR2048949	2013/10/18	NO ASSGN RENT GEN		VAUGHAN CROSSINGS INC.	SCOLLARD TRUSTEE CORPORATION	C
	REMARKS: YR2048941.					
YR2049132	2013/10/18	TRANSEER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY SCOLLARD TRUSTEE CORPORATION	C
	REMARKS: YR2048941.					
YR2049278	2013/10/21	DIS CONSTRUCT LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
	REMARKS: YR1989963.					
YR2049412	2013/10/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
	REMARKS: YR1954630.					
YR2049413	2013/10/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
	REMARKS: YR1980994.					
YR2051345	2013/10/24	DISCHARGE INTEREST		*** COMPLETELY DELETED *** HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE		
	REMARKS: YR2001128.					
YR2060284	2013/11/14	TRANSEER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY	C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

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03274-0103 (LT)

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
YR2078550	2013/12/24	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	SCOLLARD TRUSTEE CORPORATION	C
YR2092552	2014/02/06	CHARGE	\$32,500,000	VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
YR2092553	2014/02/06	NO ASSGN RENT GEN		VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
YR2092569	2014/02/06	POSTPONEMENT		SCOLLARD TRUSTEE CORPORATION	VECTOR FINANCIAL SERVICES LIMITED	C
YR2415393	2016/01/13	CONSTRUCTION LIEN	\$1,898,264	SORA CONSTRUCTION LTD.		C
YR2422509	2016/01/28	CONSTRUCTION LIEN	\$210,567	TRIXAXIS CONSTRUCTION LIMITED		C
YR2423085	2016/01/28	CONSTRUCTION LIEN	\$196,799	KOHN PARTNERSHIP ARCHITECTS INC.		C
YR2427861	2016/02/08	CONSTRUCTION LIEN	\$121,836	2388208 ONTARIO INCORPORATED		C
YR2436540	2016/02/29	CERTIFICATE		SORA CONSTRUCTION LTD.		C
YR2439974	2016/03/07	CERTIFICATE		TRIXAXIS CONSTRUCTION LIMITED	VAUGHAN CROSSINGS INC. GOODHAN, RUTH SCHWARTZBERG, BARBARA KATZ, SARAH KRANC, SARAH VECTOR FINANCIAL SERVICES LIMITED OLYMPIA TRUST COMPANY SCOLLARD TRUST COMPANY	C
YR2445729	2016/03/18	CERTIFICATE		2388208 ONTARIO INCORPORATED		C
YR2452308	2016/04/01	CERTIFICATE		KOHN PARTNERSHIP ARCHITECTS INC.		C
YR2572906	2016/11/03	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	GRANT THORNTON LIMITED	C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

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03274-0104 (LFI)

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

PROPERTY DESCRIPTION: PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN

PROPERTY REMARKS:
ESTATE/OVALLELER:
FEE SIMPLE
LT CONVERSION QUALIFIED
OWNERS' NAMES
VAUGHAN CROSSINGS INC.
CAPACITY SHARE
ROBN

RECENTLY:
RE-ENTRY FROM 03274-0198

PIN CREATION DATE:
1999/06/25

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
				EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN		
				WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/06/25		
				** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/06/25 **		
				**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:		
				SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *		
				AND ESCHEATS OR FORFEITURE TO THE CROWN.		
				THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF		
				IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY		
				CONVENTION.		
				ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.		
				**DATE OF CONVERSION TO LAND TITLES: 1999/06/28 **		
VA63950	1969/03/13	AGREEMENT		*** COMPLETELY DELETED ***		
VA79025	1977/04/06	OPTION TO PURCHASE		*** COMPLETELY DELETED ***		
				REMARKS: EXPIRED INTEREST DELETED MAY 7, 2004, D. WALTERS.		
64R7307	1978/12/01	PLAN REFERENCE				C
65R11525	1988/02/03	PLAN REFERENCE				C
65R14039	1990/02/02	PLAN REFERENCE				C
R550441	1990/08/27	TRANSFER		*** DELETED AGAINST THIS PROPERTY ***		
				TOWNSHIP OF VAUGHAN		
				878610 ONTARIO INC.		

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

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03274-0104 (LT)

* 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
R564112	1991/03/19	CHARGE		*** COMPLETELY DELETED ***	THE TORONTO-DOMINION BANK	
R617860	1993/05/07	CHARGE		*** COMPLETELY DELETED ***	THE TORONTO-DOMINION BANK	
YR403589	2003/12/12	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		
		REMARKS: RE: R564112				
YR403594	2003/12/12	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		
		REMARKS: RE: R617860				
YR470405	2004/05/19	CERT TAX ARREARS		*** COMPLETELY DELETED *** THE CORPORATION OF THE CITY OF VAUGHAN		
YR521318	2004/08/19	APL (GENERAL)		*** COMPLETELY DELETED *** DISERA, SALVATORE		
		REMARKS: CERT. OF PENDING LIT.				
YR634526	2005/05/05	APL (GENERAL)		*** COMPLETELY DELETED *** THE CORPORATION OF THE CITY OF VAUGHAN		
		REMARKS: TAX ARREARS CANCELLATION CERT. FOR YR470405.				
YR972923	2007/04/17	TRANSFER	\$3,250,000	878610 ONTARIO INC.	VAUGHAN CROSSINGS INC.	C
		REMARKS: PLANNING ACT STATEMENTS.				
YR972990	2007/04/17	CHARGE		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	B & H HANDELMAN INVESTMENTS LIMITED E. MANSON INVESTMENTS LIMITED H. HIMEL HOLDINGS INC. PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. RABARDO CORPORATION TEPERMAN, MARVIN SASFAM FAMILY TRUST CELMAR INVESTMENTS CORP MICHAEL HABER HOLDINGS LTD. MAXOREN INVESTMENTS INC. SHEILACO INVESTMENTS INC.	
YR972990	2007/04/17	CHARGE		*** COMPLETELY DELETED ***		

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0274-0104 (LT)

* 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
YR972991	2007/04/17	NO ASSGN RENT GEN		VAUGHAN CROSSINGS INC.	2133334 ONTARIO LIMITED	
	REMARKS: YR972990			*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	2133334 ONTARIO LIMITED	
YR987329	2007/05/18	APL AMEND ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	DISERA, SALVATORE	
	REMARKS: DELETE YR521318					
YR1048416	2007/09/04	CHARGE		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	B & M HANDELMAN INVESTMENTS LIMITED PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. E. MANSON INVESTMENTS LIMITED	
YR1048464	2007/09/04	CHARGE		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	2133334 ONTARIO LIMITED	
YR1048466	2007/09/04	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	2133334 ONTARIO LIMITED	
	REMARKS: YR1048464					
YR1588958	2010/12/15	CHARGE		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	B & M HANDELMAN INVESTMENTS LIMITED PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. E. MANSON INVESTMENTS LIMITED	
YR1588959	2010/12/15	CHARGE		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	HANDELMAN, ANNE GOLDBERG, RICHARD M HANDELMAN, STEPHEN HANDELMAN, MARTIN	
YR1588976	2010/12/15	DISCH OF CHARGE		*** COMPLETELY DELETED *** B & M HANDELMAN INVESTMENTS LIMITED PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. E. MANSON INVESTMENTS LIMITED		
	REMARKS: YR1048416.					
YR1589266	2010/12/16	CHARGE		*** COMPLETELY DELETED ***		

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03274-0104 (LT)

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
YR1589267	2010/12/16	NO ASSGN RENT GEN REMARKS: YR1584266.		VAUGHAN CROSSINGS INC. *** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	2133334 ONTARIO LIMITED	
YR1589268	2010/12/16	POSTPONEMENT		*** COMPLETELY DELETED *** 2133334 ONTARIO LIMITED	B&M HANDELMAN INVESTMENTS LIMITED PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. E.MANSON INVESTMENTS LIMITED	
YR1589269	2010/12/16	POSTPONEMENT REMARKS: YR972390 & YR972991 TO YR1588958		*** COMPLETELY DELETED *** 2133334 ONTARIO LIMITED	HANDELMAN, ANNE GOLDBERG, RICHARD M HANDELMAN, STEPHEN HANDELMAN, MARTIN	
YR1589270	2010/12/16	DISCH OF CHARGE REMARKS: YR1044464.		*** COMPLETELY DELETED *** 2133334 ONTARIO LIMITED	VECTOR FINANCIAL SERVICES LIMITED	
YR1956630	2013/03/19	CHARGE		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1956631	2013/03/19	NO ASSGN RENT GEN REMARKS: YR1954630.		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1956651	2013/03/19	DISCH OF CHARGE		*** COMPLETELY DELETED *** 2133334 ONTARIO LIMITED		
YR1956652	2013/03/19	DISCH OF CHARGE REMARKS: YR1584266.		*** COMPLETELY DELETED *** 2133334 ONTARIO LIMITED		
YR1956799	2013/03/19	DISCH OF CHARGE		*** COMPLETELY DELETED *** B & M HANDELMAN INVESTMENTS LIMITED PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD.		

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03274-0104 (LT)

* 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
YR1956800	2013/03/19	DISCH OF CHARGE		E. HANSON INVESTMENTS LIMITED *** COMPLETELY DELETED *** HANDELMAN, ANNE GOLDBERG, RICHARD H HANDELMAN, STEPHEN HANDELMAN, MARTIN		
YR1956801	2013/03/19	DISCH OF CHARGE		*** COMPLETELY DELETED *** B & M HANDELMAN INVESTMENTS LIMITED E. HANSON INVESTMENTS LIMITED M. HIMEL HOLDINGS INC. PANJEE ENTERPRISES LTD. FLORDALE INVESTMENTS LTD. RABARDO CORPORATION TEPERMAN, HARVIN SASEAH FAMILY TRUST CELMAR INVESTMENTS CORP MICHAEL HABER HOLDINGS LTD. MAXOREN INVESTMENTS INC. SHELLACO INVESTMENTS INC.		
YR1971383	2013/04/30	APL (GENERAL)		*** COMPLETELY DELETED *** THE CORPORATION OF THE CITY OF VAUGHAN		
YR1980994	2013/05/24	CHARGE		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1980995	2013/05/24	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1989963	2013/06/14	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
YR2001717	2013/07/10	LIEN		*** COMPLETELY DELETED *** HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE		
YR2010867	2013/07/29	CERTIFICATE		*** COMPLETELY DELETED ***		

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03274-0104 (LT)

* 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
YR2048941	2013/10/18	CHARGE	\$14,800,000	EROSION CONTROL GABLIONS LIMITED	VAUGHAN CROSSINGS INC.	C
YR2048949	2013/10/18	NO ASSGN RENT GEN		VAUGHAN CROSSINGS INC.	SCOLLARD TRUSTEE CORPORATION	C
YR2049132	2013/10/18	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	SCOLLARD TRUSTEE CORPORATION	C
YR2049278	2013/10/21	DIS CONSTRUCT LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABLIONS LIMITED	OLYMPIA TRUST COMPANY SCOLLARD TRUSTEE CORPORATION	C
YR2049412	2013/10/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
YR2049413	2013/10/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
YR2051362	2013/10/24	DISCHARGE INTEREST		*** COMPLETELY DELETED *** HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE		
YR2060284	2013/11/14	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY SCOLLARD TRUSTEE CORPORATION	C
YR2078550	2013/12/24	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY SCOLLARD TRUSTEE CORPORATION	C
YR2092552	2014/02/06	CHARGE	\$32,500,000	VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
YR2092553	2014/02/06	NO ASSGN RENT GEN		VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
YR2092569	2014/02/06	POSTPONEMENT		SCOLLARD TRUSTEE CORPORATION	VECTOR FINANCIAL SERVICES LIMITED	C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

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03274-0104 (LT)

* 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
YR2415393	2016/01/13	CONSTRUCTION LIEN	\$1,896,264	SORA CONSTRUCTION LTD.		C
YR2422509	2016/01/28	CONSTRUCTION LIEN	\$210,567	TRIAxis CONSTRUCTION LIMITED		C
YR2423085	2016/01/28	CONSTRUCTION LIEN	\$196,799	KOHN PARTNERSHIP ARCHITECTS INC.		C
YR2427861	2016/02/08	CONSTRUCTION LIEN	\$121,836	238E208 ONTARIO INCORPORATED		C
YR2436540	2016/02/29	CERTIFICATE		SORA CONSTRUCTION LTD.		C
YR2439974	2016/03/07	CERTIFICATE		TRIAxis CONSTRUCTION LIMITED	VAUGHAN CROSSINGS INC. GOODMAN, RUTH SCHWARTZBERG, BARBARA KATZ, SHARON KRANG, SARAH VESTOR FINANCIAL SERVICES LIMITED OLYMPIA TRUST COMPANY SCOLLARD TRUST COMPANY	C
YR2445729	2016/03/18	CERTIFICATE		238E208 ONTARIO INCORPORATED		C
YR2452308	2016/04/01	CERTIFICATE		KOHN PARTNERSHIP ARCHITECTS INC.		C
YR2572906	2016/11/03	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	GRANT THORNTON LIMITED	C

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This is Exhibit "C" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK



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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

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03274-0106 (LT)

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

PROPERTY DESCRIPTION: PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN

PROPERTY REMARKS:
ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
RE-ENTRY FROM 03274-0199

OWNERS' NAMES
KRANC, SARAH
GOODMAN, RUTH
SCHWARTZBERG, BARBARA
KATZ, SHARON
SCHWARTZBERG, LEIB - ESTATE
KRANC, SARAH
KRANC, HARRY - ESTATE

CAPACITY SHARE
TCOM 25% INT.
TWM
TWM
TWM
50% INT.
TWM 25% INT.

FIN_CREATION_DATE:
1999/06/25

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
EFFECTIVE 2000/07/29	THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN					
WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/06/25						
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/06/25 **						
**SUBJECT, DN FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 1999/06/28 **						
VA62067	1968/04/26	CHARGE		*** COMPLETELY DELETED ***	SUTTON, CHARLES	C
64R2048	1972/04/26	PLAN REFERENCE				C
65R7717	1985/01/10	PLAN REFERENCE				C
65R11525	1988/02/03	PLAN REFERENCE				C
R723593	1998/06/18	TRANSFER	\$275,000	H.M. THE QUEEN FOR ONTARIO	KRANC, HARRY	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.

03274-0106 (LT)

* 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
YR1002445	2007/06/18	LR'S ORDER		*** COMPLETELY DELETED *** LAND REGISTRAR	KRANC, SARAH SCHWARTZBERG, LEIB	C
YR1146680	2008/04/09	TRANSFER	52	REMARKS: DELETING CHARGE V62067 DOES NOT AFFECT THIS LOT/SEE D.M R732613 KRANC, HARRY KRANC, SARAH	KRANC, HARRY KRANC, SARAH	C
YR1963446	2013/04/09	TRANSMISSION-LAND		SCHWARTZBERG, LEIB SCHWARTZBERG, LEJB	GOODMAN, RUTH SCHWARTZBERG, BARBARA KATZ, SHARON	C
YR1966805	2013/04/18	TRANSMISSION-LAND		KRANC, HARRY	KRANC, SARAH	C
YR1969778	2013/04/26	LR'S ORDER		LAND REGISTRAR LR0865		C
YR1980699	2013/05/24	NOTICE OF LEASE	52	GOODMAN, RUTH KATZ, SHARON KRANC, SARAH SCHWARTZBERG, BARBARA KRANC, SARAH	VAUGHAN CROSSINGS INC.	C
YR1980700	2013/05/24	NO OPTION PURCHASE	52	GOODMAN, RUTH KATZ, SHARON SCHWARTZBERG, BARBARA KRANC, SARAH KRANC, SARAH	VAUGHAN CROSSINGS INC.	C
YR1980996	2013/05/24	NO CHARGE LEASE		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1980997	2013/05/24	NO ASSGN REHT GEN		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1989963	2013/06/14	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
YR2010867	2013/07/29	CERTIFICATE		*** 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.

03274-0106 (LT)

* 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/ CHND
YR2049278	2013/10/21	DIS CONSTRUCT LIEN		EROSION CONTROL GABIONS LIMITED	VAUGHAN CROSSINGS INC.	
	REMARKS: YR1984963					
YR2049414	2013/10/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
	REMARKS: YR1984963.					
YR2092557	2014/02/06	NO CHARGE LEASE	\$32,500,000	*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED	VECTOR FINANCIAL SERVICES LIMITED	C
	REMARKS: YR1984699.					
YR2092558	2014/02/06	NO ASSGN RENT GEN		VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
	REMARKS: YR2092557					
YR2415393	2016/01/13	CONSTRUCTION LIEN	\$1,898,264	SORA CONSTRUCTION LTD.		C
YR2422509	2016/01/28	CONSTRUCTION LIEN	\$210,567	TRIAxis CONSTRUCTION LIMITED		C
YR2423085	2016/01/28	CONSTRUCTION LIEN	\$196,799	KOHN PARTNERSHIP ARCHITECTS INC.		C
YR2427861	2016/02/08	CONSTRUCTION LIEN	\$121,836	2388208 ONTARIO INCORPORATED		C
YR2436540	2016/02/29	CERTIFICATE		SORA CONSTRUCTION LTD.		C
	REMARKS: YR2415393					
YR2439974	2016/03/07	CERTIFICATE		TRIAxis CONSTRUCTION LIMITED	VAUGHAN CROSSINGS INC. GOODMAN, RUTH SCHWARTZBERG, BARBARA KATZ, SHARON KRANG, SARAH VESTOR FINANCIAL SERVICES LIMITED OLYHEIA TRUST COMPANY SCOLLARD TRUST COMPANY	C
YR2445729	2016/03/18	CERTIFICATE		2388208 ONTARIO INCORPORATED		C
	REMARKS: YR2427861					
YR2452308	2016/04/01	CERTIFICATE		KOHN PARTNERSHIP ARCHITECTS INC.		C
	REMARKS: CERTIFICATE OF ACTION YR2423085					

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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LAND
REGISTRY
OFFICE #65

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 1 OF 3
PREPARED FOR Isteinberg
ON 2017/01/18 AT 08:47:37

03274-0107 (LT)

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

UT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; CITY OF VAUGHAN

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

OWNERS' NAMES

KRANC, SARAH
GOODHAN, RUTH
SCHWARTZBERG, BARBARA
KATZ, SHARON
SCHWARTZBERG, LEIB - ESTATE
KRANC, SARAH
KRANC, HARRY - ESTATE

RECENTLY:

RE-ENTRY FROM 03274-0200

CAPACITY SHARE

TCOM 25% INT.

TWM

TWM

TWM

TWM 50% INT.

TWM 25% INT.

FIN CREATION DATE:

1999/06/25

PROPERTY DESCRIPTION:

UT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; CITY OF VAUGHAN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
EFFECTIVE 2000/07/29	THE NOTATION OF THE	"BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN				
WAS REPLACED WITH THE	*PIN CREATION DATE*	OF 1999/06/25				
** PRINTOUT	INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/06/25 **					
**SUBJECT,	ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO					
**	SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES					
**	AND ESCHEATS OR FORFEITURE TO THE CROWN.					
**	THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF					
**	IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY					
**	CONVENTION.					
**	ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.					
**DATE OF CONVERSION TO LAND TITLES:	1999/06/28 **					
NOTE: THIS PROPERTY WAS RETIRED ON 2015/04/14. THIS PROPERTY IS NOW DIVIDED INTO THE FOLLOWING PROPERTIES: 03274-0272 TO 03274-0273						
65R11525	1988/02/03	PLAN REFERENCE				C
R496585	1989/01/30	ORDER IN COUNCIL				C
R723593	1998/06/18	TRANSFER	\$275,000	H.M. THE QUEEN FOR ONTARIO	KRANC, HARRY KRANC, SARAH SCHWARTZBERG, LEIB	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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LAND
REGISTRY
OFFICE #65

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 2 OF 3

PREPARED FOR Isteinberg
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03274-0107 (LT)

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
YR1146680	2008/04/09	TRANSFER	\$2	KRANC, HARRY KRANC, SARAH	KRANC, HARRY KRANC, SARAH	C
YR1963446	2013/04/09	TRANSMISSION-LAND		SCHWARTZBERG, LEIB SCHWARTZBERG, LEJB	GOODMAN, RUTH SCHWARTZBERG, BARBARA KATZ, SHARON	C
YR1966805	2013/04/18	TRANSMISSION-LAND		KRANC, HARRY	KRANC, SARAH	C
YR1969778	2013/04/26	LR'S ORDER OWNERSHIP FIELD.		LAND REGISTRAR LRO#65		C
YR1980699	2013/05/24	NOTICE OF LEASE	\$2	GOODMAN, RUTH KATZ, SHARON KRANC, SARAH SCHWARTZBERG, BARBARA KRANC, SARAH	VAUGHAN CROSSINGS INC.	C
YR1980700	2013/05/24	NO OPTION PURCHASE	\$2	GOODMAN, RUTH KATZ, SHARON SCHWARTZBERG, BARBARA KRANC, SARAH	VAUGHAN CROSSINGS INC.	C
YR1980996	2013/05/24	NO CHARGE LEASE		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
REMARKS: YR1980699.						
YR1980997	2013/05/24	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
REMARKS: YR1980996						
YR1989963	2013/06/14	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
YR2010867	2013/07/29	CERTIFICATE		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED	VAUGHAN CROSSINGS INC.	
REMARKS: YR1984963						
YR2045278	2013/10/21	DIS CONSTRUCT LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
REMARKS: YR1984963.						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 3 OF 3
PREPARED FOR ISteinberg
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03274-0107 (LT)

* 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
YR2049414 REMARKS: YR1984096.	2013/10/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
YR2092557 REMARKS: YR1984699.	2014/02/06	NO CHARGE LEASE	\$32,500,000	VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
YR2092558 REMARKS: YR2092557	2014/02/06	NO ASSGN RENT GEN		VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
6SR34917	2014/04/23	PLAN REFERENCE				C
YR2275120 REMARKS: 1 & 2	2015/04/07	PLAN EXPROPRIATION			THE REGIONAL MUNICIPALITY OF YORK	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND
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OFFICE #65

03274-01B5 (LT)

PAGE 1 OF 4
PREPARED FOR ISteinberg
ON 2017/01/18 AT 08:46:47

PROPERTY DESCRIPTION: PT. LT. 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120; CITY OF VAUGHAN

PROPERTY REMARKS:

ESTATE/QUALIFIER:

REF. SIMPLE

LT CONVERSION QUALIFIED

RECENTLY:
RE-ENTRY FROM 03274-0228

PIN CREATION DATE:
1999/06/25

OWNERS' NAMES

KRANC, SARAH
GOODMAN, RUTH
SCHWARTZBERG, BARBARA
KATZ, SHARON
SCHWARTZBERG, LEJB - ESTATE
KRANC, SARAH
KRANC, HARRY - ESTATE

CAPACITY SHARE
TCOM 25% INT.
TMW
TMW
TMW
50% INT
25% INT.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
EFFECTIVE 2000/07/29		THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN				
WAS REPLACED WITH THE *PIN CREATION DATE* OF 1999/06/25						
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/06/25 **						
**SUBJECT.		ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO				
**		SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES				
**		AND ESCHEATS OR FORFEITURE TO THE CROWN.				
**		THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF				
**		IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY				
**		CONVENTION.				
**		ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.				
**DATE OF CONVERSION TO LAND TITLES: 1999/06/28 **						
64RT307	1978/12/01	PLAN REFERENCE				C
65R8928	1986/01/28	PLAN REFERENCE				C
R405206	1986/08/01	TRANSFER	\$50,355	HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF GOVERNMENT SERVICES	KRANC, HARRY KRANC, SARAH SCHWARTZBERG, LEJB	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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OFFICE #65

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 2 OF 4
PREPARED FOR Isteinberg
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03274-0185 (LT)

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
65R11525	1988/02/03	PLAN REFERENCE				C
65R14039	1990/02/02	PLAN REFERENCE				C
R566724	1991/04/29	ASSIGNMENT GENERAL		*** COMPLETELY DELETED ***		
		REMARKS: RENTS: R566725 DELETED BY YR593371. DELETED BY CATHY BULMER 20/01/2012				
R566725	1991/04/29	CHARGE		*** COMPLETELY DELETED ***	CIBC MORTGAGE CORPORATION	
R572779	1991/07/12	AGR AM CH		*** COMPLETELY DELETED ***		
		REMARKS: R566725				
YR593371	2005/01/28	DISCH OF CHARGE		*** COMPLETELY DELETED ***		
		REMARKS: RE: R566725		CANADIAN IMPERIAL BANK OF COMMERCE		
YR1146680	2008/04/09	TRANSFER	\$2	KRANC, HARRY KRANC, SARAH	KRANC, HARRY KRANC, SARAH	C
		REMARKS: SEVERANCE CERTIFIED INCORRECTLY. AMENDED OWNERSHIP FOR HARRY AND SARAH TO THEREFORE SHOW "AS TO PT 50% INT.			AS TENANTS IN COMMON"	
YR1773807	2012/01/20	LR'S ORDER		LAND REGISTRAR LRO#65		C
		REMARKS: AMEND OWNERSHIP FIELD TO REFLECT TENANTS IN COMMON FOR HARRY AND SARAH AS TO PT. 50% INT.				
YR1963446	2013/04/09	TRANSMISSION-LAND		SCHWARTZBERG, LEIB SCHWARTZBERG, LEJB	GOODMAN, RUTH SCHWARTZBERG, BARBARA KATZ, SHARON	C
YR1966805	2013/04/18	TRANSMISSION-LAND		KRANC, HARRY	KRANC, SARAH	C
YR1969778	2013/04/26	LR'S ORDER		LAND REGISTRAR LRO#65		C
		REMARKS: AMEND OWNERSHIP FIELD.				
YR1980699	2013/05/24	NOTICE OF LEASE	\$2	GOODMAN, RUTH KATZ, SHARON	VAUGHAN CROSSINGS INC.	C
		REMARKS: AMEND OWNERSHIP FIELD.				
YR1980700	2013/05/24	NO OPTION PURCHASE	\$2	GOODMAN, RUTH KATZ, SHARON	VAUGHAN CROSSINGS INC.	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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03274-0185 (LT)

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
YR1980996	2013/05/24	NO CHARGE LEASE		SCHWARTZBERG, BARBARA KRANC, SARAH KRANC, SARAH		
	REMARKS: YR1980699.			*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1980997	2013/05/24	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
	REMARKS: YR1980996			*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
YR1989963	2013/06/14	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
YR2010867	2013/07/29	CERTIFICATE		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED	VAUGHAN CROSSINGS INC.	
	REMARKS: YR1989963			*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
YR2049278	2013/10/21	DIS CONSTRUCT LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
	REMARKS: YR1989963.			*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
YR2049414	2013/10/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
	REMARKS: YR1980996.			*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
YR2092557	2014/02/06	NO CHARGE LEASE	\$32,500,000	VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
	REMARKS: YR1980699.			VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
YR2092558	2014/02/06	NO ASSGN RENT GEN		VAUGHAN CROSSINGS INC.	THE REGIONAL MUNICIPALITY OF YORK	C
	REMARKS: YR2092557					
65R34917	2014/04/23	PLAN REFERENCE				C
YR2725120	2015/04/07	PLAN EXPROPRIATION				C
	REMARKS: 5					
YR2415393	2016/01/13	CONSTRUCTION LIEN	\$1,898,264	SORA CONSTRUCTION LTD.		C
YR2422509	2016/01/28	CONSTRUCTION LIEN	\$210,567	TRIAXIS CONSTRUCTION LIMITED		C
YR2423085	2016/01/28	CONSTRUCTION LIEN	\$196,799	KOHN PARTNERSHIP ARCHITECTS INC.		C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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LAND
REGISTRY
OFFICE #65

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 4 OF 4

PREPARED FOR Isteinberg
ON 2017/01/18 AT 08:46:47

0274-0185 (LT)

* 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/ CHKO
YR2427861	2016/02/08	CONSTRUCTION LIEN	\$121,836	2388208 ONTARIO INCORPORATED		C
YR2436540	2016/02/29	CERTIFICATE		SORA CONSTRUCTION LTD.		C
		REMARKS: YR2415393				
YR2439974	2016/03/07	CERTIFICATE		TRIAxis CONSTRUCTION LIMITED	VAUGHAN CROSSINGS INC. GOODMAN, RUTH SCHWARTZBERG, BARBARA KATZ, SHARON KRANC, SARAH VESTOR FINANCIAL SERVICES LIMITED OLYMPIA TRUST COMPANY SCOLLARD TRUST COMPANY	C
		REMARKS: YR242509. CERTIFICATE OF ACTION.				
YR2445729	2016/03/18	CERTIFICATE		2388208 ONTARIO INCORPORATED		C
		REMARKS: YR2427861				
YR2452308	2016/04/01	CERTIFICATE		KOHN PARTNERSHIP ARCHITECTS INC.		C
		REMARKS: CERTIFICATE OF ACTION YR2423085				

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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LAND
REGISTRY
OFFICE #65

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

03274-0186 (LTY)

PAGE 1 OF 4
PREPARED FOR Isteinberg
ON 2017/01/18 AT 08:48:22

PROPERTY DESCRIPTION: PT. LT. 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT. 2 65R14039; PT. LOTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT. 3 65R14039 EXCEPT PT. 1, 65R8928; S/T VA84765 ASSIGNED BY R312155; CITY OF VAUGHAN

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT. CONVERSION QUALIFIED

OWNERS' NAMES

KRANC, SARAH
GOODMAN, RUTH
SCHWARTZBERG, BARBARA
KATZ, SHARON
SCHWARTZBERG, LEJB - ESTATE
KRANC, SARAH
KRANC, HARRY - ESTATE

RECENTLY:

RE-ENTRY FROM 03274-0229

CAPACITY SHARE

TCOM 25% INT.
TMM
TMM
TMM
50% INT.
TMM 25% INT.

PIN CREATION DATE:

1999/06/25

* 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
EFFECTIVE 2000/07/29		THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN				
WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/06/25						
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/06/25 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 1999/06/28 **						
NOTE: THIS PROPERTY WAS RETIRED ON 2015/04/14. THIS PROPERTY IS NOW DIVIDED INTO THE FOLLOWING PROPERTIES: 03274-0274 TO 03274-0275						
VA63950	1969/03/13	AGREEMENT			TOWNSHIP OF VAUGHAN	
VA76828	1977/02/23	TRANSFER	\$2		KRANC, HARRY KRANC, SARAH SCHWARTZBERG, LEJB	C
REMARKS:	ADDED ON 1999/06/22 BY LAND REGISTRAR #34					

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.



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LAND
REGISTRY
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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 2 OF 4

PREPARED FOR ISteinberg
ON 2017/01/18 AT 08:48:22

03274-0186 (LT)

* 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
VA79025	1977/04/06	OPTION TO PURCHASE		*** COMPLETELY DELETED ***		
		REMARKS: EXPIRED INTEREST DELETED MAY 7, 2004, D. WALJERS.				
64R7307	1978/12/01	PLAN REFERENCE				C
VAB4765	1980/03/13	PLAN EXPROPRIATION				C
		REMARKS: LIMITED INTEREST			MINISTRY OF GOVERNMENT SERVICES	
65R4441	1981/10/19	PLAN REFERENCE				C
R312155	1983/03/23	ASSIGNMENT GENERAL				C
		REMARKS: EASEMENTS; NA109466 ;MULTI				
65R11525	1988/02/03	PLAN REFERENCE				C
65R14039	1990/02/02	PLAN REFERENCE				C
R566724	1991/04/29	ASSIGNMENT GENERAL		*** COMPLETELY DELETED ***		C
		REMARKS: RENTS, R566725 DELETED BY YR593371. DELETED BY CATHY BULMER 20/01/2012				
R566725	1991/04/29	CHARGE		*** COMPLETELY DELETED ***		
		REMARKS: R566725			CIBC MORTGAGE CORPORATION	
R572779	1991/07/12	AGR AM CH		*** COMPLETELY DELETED ***		
YR466152	2004/05/10	LR'S ORDER		*** COMPLETELY DELETED ***		
		REMARKS: R566725				
YR593371	2005/01/28	DISCH OF CHARGE		*** COMPLETELY DELETED ***		
		REMARKS: RE: R566725				
YR1146680	2008/04/09	TRANSFER	\$2	KRANC, HARRY KRANC, SARAH	KRANC, HARRY KRANC, SARAH	C
YR1963446	2013/04/09	TRANSMISSION-LAND		SCHWARTZBERG, LEIB SCHWARTZBERG, LEJIB	GOODMAN, RUTH SCHWARTZBERG, BARBARA KATZ, SHARON	C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 3 OF 4
PREPARED FOR ISteinberg
ON 2017/01/18 AT 08:48:22

03274-0186 (LT)

* 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
YR1966805	2013/04/18	TRANSMISSION-LAND		KRANC, HARRY	KRANC, SARAH	C
YR1969778	2013/04/26	LR'S ORDER REMARKS: AMEND OWNERSHIP FIELD.		LAND REGISTRAR LRO465		C
YR1971383	2013/04/30	APL (GENERAL)		*** COMPLETELY DELETED *** THE CORPORATION OF THE CITY OF VAUGHAN		
YR1980699	2013/05/24	NOTICE OF LEASE	\$2	GOODMAN, RUTH KATZ, SHARON KRANC, SARAH SCHWARTZBERG, BARBARA KRANC, SARAH	VAUGHAN CROSSINGS INC.	C
YR1980700	2013/05/24	NO OPTION PURCHASE	\$2	GOODMAN, RUTH KATZ, SHARON SCHWARTZBERG, BARBARA KRANC, SARAH KRANC, SARAH	VAUGHAN CROSSINGS INC.	C
YR1980996	2013/05/24	NO CHARGE LEASE REMARKS: YR1980699.		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1980997	2013/05/24	NO ASSGN RENT GEN REMARKS: YR1980996		*** COMPLETELY DELETED *** VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	
YR1989963	2013/06/14	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
YR2010867	2013/07/29	CERTIFICATE REMARKS: YR1989963		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED		
YR2049278	2013/10/21	DIS CONSTRUCT LIEN REMARKS: YR1989963.		*** COMPLETELY DELETED *** EROSION CONTROL GABIONS LIMITED	VAUGHAN CROSSINGS INC.	
YR2049414	2013/10/21	DISCH OF CHARGE REMARKS: YR1980996.		*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		

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D3274-0186 (LT)

* 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/ CHRD
YR2092557	2014/02/06 REMARKS: YR1984699.	NO CHARGE LEASE	\$32,500,000	VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
YR2092558	2014/02/06 REMARKS: YR2092557	NO ASSGN RENT GEN		VAUGHAN CROSSINGS INC.	VECTOR FINANCIAL SERVICES LIMITED	C
65R34917	2014/04/23	PLAN REFERENCE				C
YR2275120	2015/04/07 REMARKS: 3 & 4	PLAN EXPROPRIATION			THE REGIONAL MUNICIPALITY OF YORK	C

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This is Exhibit "D" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

THIS LEASE made as of and effective from the 11th day of April, 2007,

BETWEEN:

**THE ESTATE OF HARRY KRANC, as to a 25% interest,
SARAH KRANC, as to a 25% interest, and
THE ESTATE OF LEJB SCHWARTZBERG, as to a 50% interest
(collectively, the "Landlord")**

AND

VAUGHAN CROSSINGS INC.

(the "Tenant")

WITNESSETH AS FOLLOWS:

ARTICLE 1.00 - BASIC TERMS, DEFINITIONS

1.1 Basic Terms

- (a) **Landlord:** THE ESTATE OF HARRY KRANC, as to a 25% interest, SARAH KRANC, as to a 25% interest and THE ESTATE OF LEJB SCHWARTZBERG, as to a 50% interest
- Address:** The Estate of Harry Kranc and Sarah Kranc: 1131 Steeles Ave. W., PH105, Toronto ON M2R 3W8
- The Estate of Lejb Schwartzberg: c/o Sharon Katz, 182 Choquette Dollard Des Ormeaux, QC H9A 3H1
- (b) **Tenant:** VAUGHAN CROSSINGS INC.
- Address:** 7501 Keele Street, Suite 401, Vaughan, Ontario, L4K 1Y2
- (c) **Lands:** the lands situated on the west side of Dufferin Street north of Centre Street, in Thornhill ON, illustrated in Schedule "A", legally described in Schedule "B" and municipally known as 7818 Dufferin Street, Vaughan, Ontario
- (d) **Area of the Lands:** approximately 3.75 acres
- (e) **Term:** 35 years, subject to Section 2.2

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- (f) Possession Date: July 16, 2007
- (g) Commencement Date: October 14, 2007
- (h) End of Term: October 13, 2042, subject to Section 2.2
- (i) Ground Rent (Section 4.1):

Period	Per Year	Per Month
Years 1-5 inclusive	\$325,000.00	\$27,083.33
Years 6-10 inclusive	\$400,000.00	\$33,333.33
Years 11-15 inclusive	\$450,000.00	\$37,500.00
Years 16-20 inclusive	\$500,000.00	\$41,666.67
Years 21-25 inclusive	\$625,000.00	\$52,083.33

from Year 26 to end of Term in accordance with Section 4.2

- (j) Permitted Use (Section 8.1): to construct and/or renovate or reconstruct and operate from the Premises a retail plaza or any other use that the Tenant wishes to conduct, or product or service that the Tenant wishes to sell or provide, from the Premises which is permitted by Applicable Laws subject to and in accordance with the terms and conditions of this Lease.
- (k) Extension Rights, if any: None.
- (l) Schedules forming part of this Lease:
 - Schedule "A", Sketch of Lands
 - Schedule "B", Legal Description
 - Schedule "C", Plan Showing Initial Buildings and Improvements
 - Schedule "D", Additional Terms
 - Schedule "E", Notice to Trades

1.2 Definitions

In this Lease, unless there is something in the subject matter or context inconsistent therewith, the following terms have the following respective meanings:

- (a) "Additional Rent" means all sums of money or charges required to be paid by the Tenant under this Lease (except Ground Rent and Rental Taxes) either to the Landlord or otherwise including, without limitation, payment of Taxes and charges for water, gas, electricity, telephone and other utilities and other charges which may give rise to a lien upon the interest of the Landlord in the Lands, whether or not the same are designated as "Additional Rent".

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- (b) **"Applicable Laws"** means all laws, by-laws, rules, codes, orders, covenants and regulations and any other requirements of any governmental or quasi-governmental authority with jurisdiction over any matter which now or at any time during the Term or Interim Period are applicable to the Premises or any part of them, the use or operation thereof or the Landlord's and/or the Tenant's covenants and obligations hereunder. Without limiting the foregoing, **"Applicable Laws"** includes all Environmental Laws and all police fire, occupational health and safety, health and sanitary rules, regulations imposed by any governmental or quasi-governmental authority with jurisdiction over any matter or made by the insurers.
- (c) **"Buildings"** means all existing and future buildings and structures located on the Lands and all related amenities, alterations and additions thereto from time to time and all Improvements thereon or thereunder from time to time.
- (d) **"Business Day"** means a day other than a Saturday, Sunday or other day which is a statutory holiday in the province in which the Lands are located;
- (e) **"Capital Taxes"** means any tax or taxes levied against the Landlord and any owner of the Lands and/or Buildings by any governmental authority having jurisdiction (including, without limitation, the "large corporations tax" imposed under the *Income Tax Act* (Canada) and the tax imposed under any applicable provincial corporate tax legislation) based upon or computed by reference to the paid-up capital or place of business of the Landlord or any owner of the Lands or the taxable capital employed in Canada by the Landlord or any owner of the Lands as determined for the purposes of such tax or taxes;
- (f) **"Changes"** has the meaning set out in Section 7.4;
- (g) **"Claim"** or **"Claims"** means all actions, causes of action, liabilities, suits, costs (including, without limitation, all legal and/or other professional fees, costs and disbursements), expenses, sanctions, taxes, fees, fines, penalties, losses, charges, demands, damages, claims and expenses;
- (h) **"Commencement Date"** means the date specified in Section 1.1(g).
- (i) **"C.P.I."** means (a) the Consumer Price Index (All Items) for the city of Toronto published by Statistics Canada (or by a successor or other governmental agency), or (b) if the Consumer Price Index is no longer published, an index published in substitution for the Consumer Price Index or any replacement index designated by the Landlord.
- (j) **"Environmental Laws"** means all statutes, laws, ordinances, codes, rules, regulations, orders, notices and directives now or at any time hereafter in effect regulating, relating to or imposing liability or standards of conduct concerning any material, substance or thing which may be at any time in, on, under or about the Lands or any part thereof or emanate therefrom including the Environmental

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Protection Act, R.S.O., 1990 and all other Environmental Laws in respect of environmental land use or health and safety matters.

- (k) "Event of Default" has the meaning set out in Section 14.1;
- (l) "Expert" has the meaning set out in Section 16.1;
- (m) "Fair Market Rent" means, in respect of the Premises, the annual amount that the Premises would realize if the Premises were vacant, unimproved, free from encumbrance and immediately available for new development, and may lawfully be used: (i) for the purposes for which they are to be used under the terms of this Lease; or (ii) for the purposes for which they might on the relevant date lawfully be used, whichever purpose is the greatest, highest and most valuable purpose then available, and without regard to the existence of this Lease or the Improvements then standing thereon, and were sold in the open market by a willing seller to a willing buyer, as determined pursuant to Section 4.3;
- (n) "Ground Rent" means the Ground Rent payable by the Tenant pursuant to Article 4.00.
- (o) "Hazardous Substance" means any contaminate, dangerous or potentially dangerous substance, noxious substance, toxic substance, hazardous waste or flammable material or explosive substance, radio-active material or any other waste, substance or material whatsoever covered by or regulated under any Environmental Laws.
- (p) "Improvements" means all chattels, equipment and machinery used in connection with the operation of the Premises or any part thereof, all of the fixtures annexed thereto or located thereat or thereunder, including, without limitation, all heating, plumbing, electrical, sprinkler, drainage, mechanical and ventilating systems, boilers, air-conditioners, compressors and transformers, and all service equipment, cleaning supplies and replacement and maintenance inventories located thereat in order to make the Buildings fully operational, including any additions, substitutions, alterations or replacements thereto or thereof.
- (q) "Initial Improvements" means the initial Buildings and Improvements to be constructed by the Tenant in accordance with the Initial Plans as the same may be amended in accordance with Section 6.5(a) and other terms hereof;
- (r) "Initial Plans" means the initial conceptual plans for the Initial Improvements as prepared by the Tenant's Architect and approved by the Landlord prior to the date of execution hereof, which Initial Plans are listed in Schedule "C";
- (s) "Initiating Party" has the meaning set out in Section 16.3;
- (t) "Interim Period" means the period specified in Section 2.3;

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- (u) **"Lands"** means the lands identified in Section 1.1(c) and having the area as set out in Section 1.1(d);
- (v) **"Lease"** means this lease, as amended from time to time;
- (w) **"Leasehold Mortgage"** means any mortgage or other security against the Buildings and/or the Tenant's interest in this Lease, from time to time;
- (x) **"Leasehold Mortgagee"** means the holder of any Leasehold Mortgage from time to time;
- (y) **"Lease Year"** or **"lease year"** means a period of time, the first lease year commencing on the Commencement Date and ending twelve (12) calendar months after the Commencement Date. Thereafter, lease years shall consist of consecutive periods of twelve (12) calendar months, save for the last lease year of the Term which shall terminate upon the expiration or earlier termination of this Lease, as the case may be.
- (z) **"Mortgage"** means any mortgage, charge, trust deed, debenture or other security against the Landlord's interest in the Premises and/or the Lands and/or the Landlord's interest in this Lease, from time to time;
- (aa) **"Mortgagee"** means the holder of any Mortgage from time to time;
- (bb) **"Premises"** means the Lands and the Buildings;
- (cc) **"Prime Rate"** means the annual rate of interest from time to time publicly quoted by The Toronto-Dominion Bank as its reference rate of interest (commonly known as its **"prime rate"**) for determining rates of interest chargeable in Toronto on Canadian dollar amount loans to commercial customers;
- (dd) **"Rent"** means all Ground Rent and Additional Rent;
- (ee) **"Rental Taxes"** means any and all existing and/or future sales tax, goods and services tax, harmonised sales tax, value added tax, or any other tax, levy and/or duty imposed on the Landlord with respect to Rent, or in respect of the rental of the Lands, whether characterized as a sales tax, goods and services tax, harmonised sales tax, value added tax, excise taxes or duties, business transfer tax or otherwise;
- (ff) **"Responding Party"** has the meaning set out in Section 16.3;
- (gg) **"Stipulated Rate"** means the Prime Rate plus three percent (3%) per annum;
- (hh) **"Substantially Completed"** means the date that the contract(s) pursuant to which any work to be carried out by the Tenant are to be completed have been substantially performed as defined in the *Construction Lien Act*, R.S.O. 1990, as amended from time to time, or other applicable legislation, and, in the case of the

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construction of the Initial Leasehold Improvements, the Tenant's Architect has also certified to the Landlord that:

- (i) all work of a structural nature has been properly completed;
 - (ii) all building equipment and services, including heating and air-conditioning systems and utilities, have been completed and are operating properly and available for use by tenants and all lobbies, stairwells and other areas intended for the common use of tenants are completed except for work of a decorative or superficial nature, which is both minor in character and of a type which, owing to the likelihood of damage, is reasonably to be deferred until the Initial Improvements are partially or substantially occupied by the Tenant;
 - (iii) all building by-laws and other regulations have been complied with and all necessary permits for occupancy have been obtained;
 - (iv) all rentable space is completed for occupancy by the Tenant, except for work of a superficial nature which is dependent upon individual lessee's requirements as yet unascertained (such as painting and the installation of lighting fixtures, dividing partitions and lessee's fixtures) and work which is reasonably and customarily allocated to lessees to complete;
 - (v) all areas are clean and all surplus building material and rubbish is removed;
 - (vi) the Initial Improvements generally are in a condition in which they can be leased to and occupied by lessees and any work that is still unfinished is work that can be completed promptly and is work the incompleteness of which a reasonable tenant would not object to; and
 - (vii) the Initial Improvements have been completed in all material respects in a good and workmanlike manner in accordance with the Initial Plans, except for any requirements of the Initial Plans which have been waived or varied by the Landlord in writing and except for faults and defects which, in the opinion of the Tenant's Architect, are minor and the correction of which is adequately assured;
- (ii) "Taxes" means all existing and future taxes, duties, levies, charges, school and local improvement rates and assessments whatsoever (including local improvements rates) levied, rated, assessed or charged against the Premises or any part thereof or against the Landlord on account of its ownership of the Premises, or any part thereof, or its interest therein by any lawful authority, whether federal, provincial, municipal, school or otherwise, and including any amounts levied, rated, assessed or charged in substitution for or in lieu of any such taxes, whether of the foregoing character or not, and whether or not in existence at the date hereof, and all costs incurred in contesting or appealing such taxes, but excluding only such taxes as capital gains taxes, corporate, income, capital taxes, profit or

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excess profit taxes to the extent such taxes are not levied in lieu of any of the foregoing against the Premises or the Landlord in respect thereof. In addition to the foregoing, Taxes shall include any and all taxes, charges, levies or assessments that may in the future be levied, rated, charged or assessed in lieu thereof or in addition thereto.

- (jj) "Tenant's Architect" means Global Architects Inc. of the City of Toronto, the architect responsible for supervising the construction of the Initial Improvements as hereinafter defined, or from time to time any other architect as the Tenant may have appointed in their stead with the written approval of the Landlord, who shall be an architect duly qualified in the province in which the Lands are located and a member in good standing of the provincial association of architects.
- (kk) "Term" means the period specified in Section 2.1 and, where the context requires, any renewal, extension or overholding thereof.
- (ll) "Transfer" means, (i) an assignment, sale, conveyance, sublease, disposition, or licensing of this Lease or the Premises, or any part of them, or any interest in this Lease (whether or not by operation of law) or in a partnership that is a Tenant under this Lease, (ii) a mortgage, charge, lien or debenture (floating or otherwise) or other encumbrance of this Lease (save and except for a general security agreement given by the Tenant securing all of its assets in connection with a bona-fide financing of the Tenant's business) or the Premises or any part of them or of any interest in this Lease, (iii) a parting with or sharing of possession of all or part of the Premises, or (iv) a transfer or issue by sale, assignment, bequest, inheritance, operation of law or other disposition, or by subscription of all or part of the corporate shares of the Tenant or an "Affiliate" of the Tenant which results in a change in the effective voting control of the Tenant. "Transferor" and "Transferee" have meanings corresponding to the definition of "Transfer" set out above.
- (mm) "Trustee" has the meaning set out in Section 9.3.

ARTICLE 2.00 - DEMISE AND TERM

2.1 Demise

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord demises and leases to the Tenant, and the Tenant leases from the Landlord, the Premises to have and to hold for the Term upon and subject to the payment of Rent and the observance and performance by the Tenant of the terms, covenants and conditions set out in this Lease. Save and except for any representations and warranties of the Landlord expressly set out in this Lease, and except as otherwise expressly provided in this Lease, the Tenant accepts the Premises on an "as is, where is" basis.

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2.2 Term

The Term shall commence on the Commencement Date, run for the period set out in Section ~~11(c)~~, and end on the date set out in Section ~~11(d)~~, unless terminated earlier pursuant to the provisions of this Lease.

2.3 Interim Period

(a) The Landlord acknowledges and agrees that the Tenant (subject only to the Landlord's right contained in Section 2.3(c) hereof) shall be entitled to possession of the Premises on the Possession Date. During the period between the Possession Date and the Commencement Date (the "Interim Period") the Tenant shall be granted possession of the Premises for the purpose of demolishing the existing buildings and other improvements currently located on the Premises as may be required by the Tenant, and constructing at its sole expense for its use and occupation its Buildings and Improvements (the "Tenant's Facility") for the operation of the Permitted Use provided that the Tenant may not demolish the existing structures until it has fulfilled its obligations pursuant to Sections 2.3(c) and 3.6(c). The Landlord acknowledges and confirms that the Tenant's obligations pursuant to Sections 2.3(c) and 3.6(c) have been fulfilled.

(b) The Tenant shall not be liable for payment of Ground Rent during the Interim Period but will pay all items of Additional Rent, including, without limitation, Taxes, during the Interim Period and all other terms of this Lease shall govern. Any demolition and construction by the Tenant shall be carried out in accordance with all Applicable Laws and the Tenant shall obtain at its sole cost and expense all requisite permits, approvals and consents which may be required pursuant to any Applicable Laws evidence of which shall be provided by the Tenant to the Landlord prior to the Tenant commencing any such demolition or construction.

(c) Motel Chattels: The parties acknowledge and agree that all of the chattels and fixtures attached to or contained within the structure(s) on the Premises which existed as of April 11, 2007, are/were the property of the Landlord, and that the Landlord has removed all such chattels and fixtures which it intended to remove prior to demolition of the said existing structures by the Tenant. Any such existing chattels and fixtures remaining on the Premises may be removed and disposed of by the Tenant, without liability to the Landlord.

2.4 Overholding

If, at the expiration of the initial Term or any subsequent renewal or extension thereof, the Tenant shall continue to occupy the Lands without further written agreement, there shall be no tacit renewal of this Lease, and the tenancy of the Tenant thereafter shall be from month to month only, and may be terminated by either party on one (1) month's notice. Rent shall be payable in advance on the first day of each month equal to the sum of one hundred and twenty-five percent (125%) of the monthly installment of Ground Rent payable during the last year of the Term and one-twelfth (1/12) of all Additional Rent charges provided for herein, and all terms and conditions of this Lease shall, so far as applicable, apply to such monthly tenancy.

2.5 Landlord's Covenants, Representations and Warranties

The Landlord warrants and represents to the Tenant that as at the date of this Lease the Landlord has good and marketable title to the Lands and that to the best of the Landlord's knowledge and belief, the Lands are subject to no encumbrances, liens, or restrictive covenants save as disclosed to the Tenant in this Lease or as disclosed by the registered title to the Lands.

ARTICLE 3.00 – RENT

3.1 Covenant to Pay, Net Lease

(a) The Tenant covenants to pay Rent as and when due and as provided in this Lease. All Rent and other amounts to be paid by the Tenant and other amounts payable by the Tenant under this Lease will be paid without any deduction, abatement, set-off or compensation whatsoever, except as set out in this Lease or otherwise permitted by law and the Tenant waives the benefit of any statutory or other rights in respect of abatement, set-off or compensation in its favour on the date of this Lease or at any future time.

(b) This Lease is a completely and absolutely net and carefree lease to the Landlord, except as otherwise expressly set out herein. Save and except, and only to the extent, as otherwise expressly provided in this Lease, the Landlord is not responsible for any costs relating to the Premises, or its use, occupancy or contents, or the business carried on in it, and the Tenant will pay all charges, impositions, costs and expenses relating to the Premises. Without limiting the generality of the foregoing, it is agreed that, except as expressly set out in this Lease: (i) the Tenant is solely responsible for the condition, operation, maintenance and management of the Premises, the Buildings and other Improvements thereon in accordance with the requirements of this Lease, and the Landlord shall not be liable for any Claims in connection with the Premises or any property of the Tenant or any other Person at any time upon the Premises on any account or for any reason whatsoever except as expressly set out in this Lease; and (ii) except as expressly set out in this Lease, the Tenant shall be responsible, at its own expense, throughout the Term, for all maintenance, repairs and replacements relating to the Premises (including all Buildings and other Improvements) and, except as expressly set out in this Lease, the Tenant shall also be responsible, at its own expense, for all costs, charges, taxes, expenses and outlays of any nature whatsoever arising from or relating to the Premises or this Lease, whether foreseen or unforeseen, ordinary or extraordinary and for all the performance of all obligations and covenants under any agreements entered into by, on behalf or for the benefit of, the Tenant relating to all or any part of the Premises. All obligations of the Tenant under this Lease shall be absolute obligations and no event, act, circumstance or other matter whatsoever, whether foreseen or unforeseen, ordinary or extraordinary, shall relieve the Tenant from its obligations under this Lease. This Section will not be interpreted to make the Tenant responsible for Landlord's income taxes and debt service on any Mortgage.

3.2 Rental Taxes

- (a) The Tenant shall pay to the Landlord the Rental Taxes assessed upon:
- (i) the Rent;

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- (ii) the Landlord; and/or
- (iii) the Tenant;

pursuant to the laws, rules and regulations governing the administration of the Rental Taxes by the authority having jurisdiction, and as such may be amended from time to time during the Term of this Lease or any extension thereof.

- (b) The Rental Taxes shall not be deemed to be Additional Rent under this Lease, but may be recovered by the Landlord as though they were Additional Rent.

3.3 Payment Method

The Landlord may, at any time and from time to time, require the Tenant to provide to the Landlord a series of monthly post-dated cheques, each cheque in the amount of the monthly instalment of Rent. In the event of any change in the estimates of Additional Rent, the Landlord may require a new series of monthly post-dated cheques.

3.4 Rent Past Due

If the Tenant shall fail to pay any Rent when the same is due and payable, such unpaid amount shall bear interest at the Stipulated Rate, such interest to be calculated from the time such Rent becomes due until paid in full by the Tenant.

3.5 Partial Periods

If the Term commences on any day other than the first day of the month, or ends on any day other than the last day of the month, Rent for the fraction of a month at the commencement or end of such period shall be calculated on a *pro rata* basis and shall be payable on the first day of the partial month.

3.6 Pre-Paid Rent & Deposits

(a) The Tenant has deposited with the Landlord's solicitors, Marciano Beckenstein LLP, In Trust, the sum of Fifty Seven Thousand Four Hundred and Sixteen Dollars and Sixty Seven Cents (\$57,416.67) to be held in trust and to be credited towards the Ground Rent due and payable for the first two (2) months of the Term of this Lease.

(b) (i) The Tenant has deposited with the Landlord, the sum of Eighty Eight Thousand Three Hundred and Thirty Three Dollars and Thirty Three cents (\$88,333.33) to be held by the Landlord as a security deposit to secure the faithful performance of the Tenant's terms, conditions, covenants and obligations pursuant to the Lease (the "Security Deposit").

(ii) If at any time during the Term the Rent or other sums payable by the Tenant to the Landlord hereunder are overdue and unpaid or if the Tenant fails to keep and perform any of the terms, covenants and conditions of this Lease to be kept, observed and performed by the Tenant, then, the Landlord, at its option, may, in addition to any and all other rights and remedies provided for in this Lease or by law, appropriate and apply the entire amount of the Security

Deposit or so much thereof as is necessary to compensate the Landlord for loss or damage sustained or suffered by the Landlord due to such breach on the part of the Tenant. If the entire amount of the Security Deposit or any portion thereof, is appropriated and applied by the Landlord for payment of overdue Rent or other sums due and payable to the Landlord by the Tenant hereunder, then the Tenant shall, upon written demand, forthwith remit to the Landlord the amount required to reimburse it for the amounts so applied, and the Tenant's failure to do so within five (5) business days after receipt of such demand constitutes a breach of this Lease. The Security Deposit, or such portion thereof as shall remain with the Landlord, shall be held by the Landlord in an interest-bearing account and the Security Deposit plus all accrued interest shall be returned to the Tenant within five (5) business days following the expiration of the Term so long as the Tenant was not in default under the Lease at the expiry of the Term..

(iii) The Landlord may deliver the aforesaid Security Deposit to any purchaser of the Landlord's interest in the Premises or any part thereof, whereupon the Landlord will immediately be discharged from any further liability with respect to the Security Deposit. The Tenant will not assign or encumber its interest in the deposit except in connection with a permitted Transfer, in which case the Tenant's interest in the deposit will be deemed to have been assigned to the permitted Transferee as of the date of the Transfer.

(d) Rent Security Deposit: (i) (1) In further consideration of the Landlord providing possession of the Lands to the Tenant on the Possession Date and allowing the Tenant to demolish existing buildings and improvements, the Tenant has delivered to and in favour of the Landlord, an irrevocable letter of credit in the amount of Five Hundred and Twenty-Five Thousand Dollars (\$525,000.00) (the "Rent Security Deposit"). The Rent Security Deposit shall be in addition to any other security or other deposits contemplated in this Lease and shall be in form acceptable to the Landlord, acting reasonably. The Rent Security Deposit shall have a term of not less than one (1) year and must provide for automatic annual renewal and must be issued by one of the five (5) largest Canadian banks. In the event this Lease is terminated prior to the full reduction and release of the Rent Security Deposit (as hereinafter set out) due to the default of the Tenant, or if this Lease is terminated, disclaimed or repudiated in the event of any bankruptcy, insolvency, winding-up or other creditors' proceeding prior to the full reduction and release of the Rent Security Deposit (as hereinafter set out), the Tenant agrees that the Rent Security Deposit (or any portion thereof remaining in accordance with paragraph (d)(ii) below) is forfeited and shall immediately become the property of the Landlord, and to the extent that the Rent Security Deposit (or any portion thereof remaining) is in the form of a letter of credit, the Tenant hereby consents to the Landlord immediately drawing on such letter of credit, and the payor thereunder is hereby irrevocably directed to draw on such letter of credit in favour of the Landlord. The provisions of this paragraph shall survive any termination, repudiation or disclaimer of this Lease.

(2) If at any time prior to the full reduction and release of the Rent Security Deposit (as hereinafter set out) any Rent payable under this Lease shall be overdue beyond any applicable curative period, all or any portion of the Rent Security Deposit (or the balance thereof then remaining) shall, at the Landlord's option, be applied to the payment of any Rent then due and owing. Further, if the Tenant defaults in the performance of any of the terms, covenants, conditions and provisions of this Lease as and when the same are due to be performed by the Tenant beyond any applicable curative period, then all or any part of the Rent Security Deposit

shall, at Landlord's option, be applied on account of any losses or damages sustained by the Landlord as a result of such default.

(3) If all or any part of the Rent Security Deposit is applied by the Landlord on account of the payment of Rent or on account of any default or any losses or damages sustained by the Landlord as aforesaid, then the Tenant shall, within three (3) business days after demand from Landlord, remit to Landlord a sufficient amount in cash or by certified cheque to restore the Rent Security Deposit to the original sum required to be deposited as set forth herein (subject to the reductions set out below) plus interest on the amount of such default, loss or damages sustained by Landlord at a rate of three (3%) percent per annum in excess of the rate of interest known as the prime rate of interest charged by Landlord's bank in Ontario and which serves as the basis on which other interests rates are calculated for Canadian dollar loans in Ontario from time to time, from the date of default to the date the Rent Security Deposit is restored as aforesaid.

(ii) The Rent Security Deposit shall be reduced in the following manner:

(I) The amount of the Rent Security Deposit shall be reduced on the following dates and times and in the following amounts:

(A) By \$200,000.00 on the date that is two (2) years from the date of completion of the Tenant's Facility, provided that the Landlord has received all Rent owing pursuant to this Lease, in full, to such date;

(B) By \$325,000.00 on the date that is three (3) years from the date of completion of the Tenant's Facility, provided that the Landlord has received all Rent owing pursuant to this Lease, in full, to such date.

(e) The rights of Landlord hereunder in respect of the Rent Security Deposit shall continue in full force and effect and shall not be waived, released, discharged, impaired or affected by reason of the release or discharge of the Tenant, if any, in any receivership, bankruptcy, insolvency, winding-up or other creditor's proceedings, including, without limitation, any proceedings under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies Creditors Arrangement Act* (Canada), or the surrender, disclaimer, repudiation or termination of this Lease (individually and collectively referred to herein as "Disclaimed") in any such proceedings and shall continue with respect to the periods thereto and thereafter as if this Lease had not been Disclaimed.

(f) As at the date of execution of this Lease, the Landlord acknowledges that the Tenant has paid to the Landlord the sum of \$508,500.00 (\$450,000.00 plus applicable HST) as a pre-payment, and in full satisfaction, of Ground Rent and HST for the period of May 14, 2013 to and including June 13, 2014 plus a portion of the Ground Rent for the period of June 14, 2014 to July 13, 2014. The foregoing pre-paid Ground Rent is the absolute property of the Landlord and is non-refundable notwithstanding any termination, disclaimer or repudiation of this Lease.

ARTICLE 4.00 - GROUND RENT**4.1 Ground Rent**

The Tenant covenants and agrees to pay, from and after the Commencement Date, to the Landlord at the office of the Landlord or to such other person or at such other location as the Landlord shall direct by notice in writing, in lawful money of Canada, without any prior demand therefor and without any deduction, abatement or set-off whatsoever, as annual Ground Rent, the sum(s) set out in Section 1.1(i) of this Lease, in equal monthly instalments in advance in the amount(s) set out in Section 1.1(i), on the first day of each and every month during the Term, subject to the adjustments provided for in Section 4.2.

4.2 Adjusted Ground Rent

(a) The annual Ground Rent for the period from and after the commencement of the twenty-sixth (26th) lease year to the end of the thirtieth (30th) lease year shall be calculated in accordance with the following:

- (i) during the period commencing on the first day of the twenty-sixth (26th) lease year until the expiration of the twenty-sixth (26th) lease year, annual Ground Rent shall be the greater of (the "Year 26 Base Rent"):
 - (1) the greater of (1) the annual Ground Rent payable during the twenty-fifth (25th) lease year, and (2) the annual Ground Rent payable during the twenty-fifth (25th) lease year multiplied by the percentage increase, if any, in the C.P.I. from the month in which the twenty-fifth (25th) lease year commenced to the last month of the twenty-fifth (25th) lease year; and
 - (2) the Fair Market Rent;
- (ii) the Tenant acknowledges that the annual Ground Rent for each of lease years 27 to 30 inclusive shall be the greater of (i) the Year 26 Base Rent, and (ii) the annual Ground Rent payable during the previous lease year multiplied by the percentage increase, if any, in the C.P.I. from the month in which the previous lease year commenced to the last month of the previous lease year.

(b) The annual Ground Rent for the period from and after the commencement of the thirty-first (31st) lease year to the end of the thirty-fifth (35th) lease year shall be calculated in accordance with the following:

- (i) during the period commencing on the first day of the thirty-first (31st) lease year until the expiration of the thirty-first (31st) lease year, annual Ground Rent shall be the greater of (the "Year 31 Base Rent"):
 - (1) the greater of (1) the annual Ground Rent payable during the thirtieth (30th) lease year, and (2) the annual Ground Rent payable during the thirtieth (30th) lease year multiplied by the percentage increase, if any, in the C.P.I.

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from the month in which the thirtieth (30th) lease year commenced to the last month of the thirtieth (30th) lease year; and

- (2) the Fair Market Rent;
- (ii) the Tenant acknowledges that the annual Ground Rent for each of lease years 32 to 35 inclusive shall be the greater of (i) the Year 31 Base Rent, and (ii) the annual Ground Rent payable during the previous lease year multiplied by the percentage increase, if any, in the C.P.I. from the month in which the previous lease year commenced to the last month of the previous lease year

4.3 Calculation of Fair Market Rent

The Fair Market Rent for the lease year in question shall be mutually agreed upon between the Landlord and the Tenant within six (6) months prior to the expiry of the then current lease year. In the event the parties fail to agree within such six (6) month period, then the Fair Market Rent shall be fixed by arbitration in accordance with the provisions of Article 16.00 of this Lease. Any arbitrator shall be a disinterested person of recognized competence in the real estate business in the City of Toronto.

ARTICLE 5.00 - ADDITIONAL RENT

5.1 Additional Rent

- (a) In addition to the Ground Rent reserved in favour of the Landlord, the Tenant shall, throughout the Interim Period and the Term, pay to the Landlord or as otherwise provided in this Lease, in lawful money of Canada, without any deduction, abatement or set-off whatsoever (except as set out in this Lease or otherwise permitted by law), as Additional Rent, the following costs:
 - (i) all Taxes levied, rated, charged or assessed on or in relation to the Premises or any parts thereof as provided for in Section 5.2 of this Lease;
 - (ii) all charges, costs, accounts and any other sums payable by reason of the supply of the utilities and services to the Premises or any parts thereof; and
 - (iii) all other sums, amounts, costs, cost escalations and charges specified in this Lease to be payable by the Tenant.
- (b) All of the payments set out in this Lease (other than Rental Taxes and Ground Rent) shall constitute Additional Rent, and shall be deemed to be and shall be paid as Additional Rent, whether or not any payment is payable to the Landlord or otherwise, and whether or not as compensation to the Landlord for expenses to which it has been put. The Landlord has all the rights against the Tenant for default in payment of Additional Rent that it has against the Tenant for default in payment of Ground Rent.

5.2 Taxes

(a) The Tenant covenants to pay to the lawful taxing authorities, in a timely manner, on or before the due date therefor, as Additional Rent, all Taxes which are due and payable during the Term, or which are attributable to any period of time during the Term, and provide written evidence of said payment to the Landlord on an annual basis within thirty (30) days of the date the final instalment of Taxes is due, and otherwise at the written request of the Landlord from time to time. The Tenant shall pay Taxes on or before the due date during every year of the Term and before any fine, penalty, interest or costs shall accrue for the non-payment thereof. Provided the Tenant is not in default hereunder, the Tenant may take advantage of any Applicable Law whereby Taxes may be paid by installments or deferred for some portion of the fiscal year to which they relate, provided that no fine, penalty, interest or costs are incurred thereby. Taxes payable to the relevant authority shall constitute Additional Rent.

(b) If any Taxes relate to a fiscal period a part of which is subsequent to the expiration or earlier termination of the Term and the Tenant is otherwise obligated by the provisions of this Section 5.2 to pay such Taxes, the Tenant shall be responsible for payment only for that portion of such Taxes which are applicable to the Term. Similarly, the Tenant shall forthwith remit to the Landlord any rebates, credits, refunds, settlements, reduction, adjustments, discounts and the like in connection with Taxes in connection with the period prior to the Commencement Date.

The obligation of the Tenant to pay Taxes shall commence as of the start of the Interim Period, and shall be apportioned for the current taxation year between the Landlord and Tenant as at such date on a *per diem* basis. Upon the expiry or termination of this Lease, Taxes during the taxation year of termination shall be similarly apportioned between the parties as at the termination date.

(c) If the Tenant fails to pay any Taxes when due to the appropriate taxing authorities in situations where the Tenant (or persons on its behalf) is not contesting Taxes in accordance with the provisions of Section 5.3, then the Landlord may itself, after notice to the Tenant as required herein, pay the Taxes, and the amount paid by the Landlord on account of Taxes, plus interest at the Stipulated Rate from the date paid by the Landlord, shall be immediately repaid by the Tenant to the Landlord as Additional Rent under this Lease together with an administration fee equal to 15% of such amounts.

5.3 Contesting Taxes

(a) So long as the Tenant is not in default hereunder, and subject to Section 5.3(b) below, the Tenant will have the right, in its sole and absolute discretion and at its sole cost and expense, to contest or appeal the validity or the amount of any Taxes, but this shall not relieve the Tenant of its obligations to pay Taxes or authorize the Tenant to defer payment of Taxes in their entirety and in a timely manner unless and only to the extent such deferment is lawful. At least twenty (20) days before the last day for filing appeals, the Tenant will deliver to the Landlord notice of any appeal the Tenant intends to institute with respect to Taxes, payable by the Tenant.

(b) The Tenant shall prosecute such proceedings with due diligence.

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(c) If the Tenant wishes to take advantage of any lawful right to defer payment of any Taxes, pending the outcome of any proceedings being taken by the Tenant to contest or appeal Taxes, and if the entire amount (including fines, penalties, interest and cost) for which the Tenant might be liable, if unsuccessful, exceeds ten percent (10%) of the Taxes, as the case may be, payable hereunder in respect of the prior Lease year and provided such deferral does not affect the title to and/or result in an Encumbrance affecting the Premises, the Tenant shall deposit with the Landlord's solicitors, to be held in the name of the Landlord in a trust account with a Canadian Schedule I chartered bank or trust company regulated under Canadian law, as the Landlord may direct in writing, as security for the payment of Taxes, a sum sufficient in the opinion of the Landlord, acting reasonably, to pay Taxes, together with all fines, penalties, interest and costs in connection therewith and any amounts that may be assessed against or become a charge upon the Premises or any part thereof as a result of the proceedings being taken by the Tenant. The Tenant shall prosecute such proceedings with due diligence. If it shall at any time become unlawful to further defer the payment of Taxes, and if Taxes shall remain unpaid, the Landlord may (in addition to any other rights or remedies it may have hereunder or at law) apply or direct the application of the sum so deposited, or so much thereof as may be necessary for the purpose, to the payment of Taxes, but otherwise upon the termination of the proceedings taken by the Tenant, the sum so deposited shall be applied to so much of the Taxes, (and any fines, penalties, interest and costs resulting thereto) as shall then remain unpaid, and the balance, if any, shall be repaid to the Tenant provided there is no default under this Lease. In the event that the money so deposited shall at any time become insufficient in the Landlord's reasonable opinion to pay the Taxes, and all fines, penalties, interest and costs relating thereto, the Tenant shall, upon demand, deposit such additional sum as may be requested to render the sum on deposit sufficient for such purpose, and if at any time the sum on deposit shall be applied to the payment of Taxes, fines, penalties, interest and costs of discharging the same, shall be insufficient for the purpose, the Tenant shall forthwith upon demand pay any balance. Any interest earned on the sum from time to time on deposit pursuant to this Section shall be added to the sum on deposit and be dealt with as a part thereof.

(d) If the Tenant is disputing, contesting and/or appealing in good faith the amount or validity of any Taxes and it is necessary in the Tenant's opinion for the Landlord to join therein or consent thereto in order to prosecute any such proceedings, the Landlord shall, at the Tenant's sole cost and expense, join in or consent as may be required, provided the Tenant shall reimburse, indemnify and save harmless the Landlord from all Claims relating thereto and has first delivered such written assurances and posted such security as the Landlord, acting reasonably, may require in connection therewith.

(d) The Tenant will in any event indemnify and hold the Landlord harmless from and against payment of all Claims occasioned by or arising from all Taxes, Business Taxes and Rental Taxes payable by the Tenant and any taxes which may in future be levied in lieu of or in addition to such amounts or any portion thereof which may be assessed against any rentals payable pursuant to this Lease in lieu of such amounts, whether against the Landlord or the Tenant, including, without limitation, any increase in Taxes, Business Taxes or Rental Taxes arising directly or indirectly out of any appeal or contestation by the Tenant.

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(f) The Tenant shall be entitled to any rebate of any Taxes with respect to periods during the Term of this Lease unless such Taxes have been paid by the Landlord in accordance with Section 5.2 and the Tenant has not reimbursed the Landlord.

5.4 Business and Other Taxes

In each and every year during the Interim Period and the Term, the Tenant shall pay directly to the appropriate taxing authority as and when due, or to the Landlord within ten (10) days of invoice if billed to the Landlord, and indemnify the Landlord from and against payment of, and any interest or penalty in respect of, the following:

- (a) every tax, licence fee, rate, duty and assessment of every kind with respect to any business carried on by the Tenant on the Lands or by any subtenant, licensee, concessionaire or franchisee or anyone else, or in respect of the use or occupancy of the Lands by the Tenant, its subtenants, licensees, concessionaires or franchisees, or anyone else (other than such taxes as income, profits or similar taxes assessed upon the income of the Landlord); and
- (b) all Taxes in respect of the Tenant's fixtures, Improvements, equipment or facilities on or about the Lands, and any Taxes occurring as a result of any reason peculiar to the Tenant.

5.5 Capital Taxes

The Tenant shall not be responsible for payment of any portion of Capital Taxes which are assessed against the Landlord in connection with the Landlord's ownership of the Lands but Tenant shall be responsible for Capital taxes to the extent they relate to Tenant's development, redevelopment and/or operations on the Lands or if such Capital Taxes are imposed as a replacement for real property taxes.

5.6 Utilities and Services

The Tenant shall be solely responsible for and shall promptly pay or cause to be paid promptly, prior to delinquency, all utility charges and rates, deposits, license fees, and similar taxes, rates, charges and assessments, including payments in lieu of them, which may be charged, levied, assessed or otherwise imposed by any public authority or quasi-public authority or supplier or any agency of a public authority on or against the Tenant, any subtenant, licensee or occupant of any part of the Premises, the Premises, or any part of them, including, without limitation, where non-payment would create a lien or charge upon the Landlord's interest in the Premises. This obligation of the Tenant extends to and is not limited to water, gas, electricity, telephone and all other utilities and services serving, used or consumed in, or on, the Premises. The Tenant shall cause the accounts for such utilities and services to be set up in the name of the Tenant. The Tenant will indemnify and save harmless the Landlord from any failure to provide, or to ensure the continuous availability of any utility or other service in connection with the Premises, or any part of them and from any liability or damages pertaining to utilities or other such services. In no event is the Landlord liable for, nor has the Landlord any obligation with respect to, an interruption or cessation of or a failure in the supply of any utilities, services or systems in, to or

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serving the Premises or any part thereof unless and only to the extent caused by the intentional or wilful misconduct of the Landlord or those for whom the Landlord is in law responsible.

ARTICLE 6.00 - CONSTRUCTION OF INITIAL IMPROVEMENTS

6.1 Tenant to Construct Initial Improvements

It is the intention of the parties hereto that the Tenant is to erect the Initial Improvements on the Lands subject to and in accordance with the terms and conditions of this Lease. It is further agreed that the Initial Improvements, and all future Buildings and Improvements, shall be constructed and located entirely within the boundaries of the Lands and shall not be connected in any manner to, or be constructed or located partially on, any lands adjoining or abutting the Lands. For greater certainty, the Tenant shall construct the Tenant's Facilities, including the Initial Improvements, within the boundaries of the Premises' property lines and in accordance with all Applicable Laws including, without limitation, setback requirements. The Tenant shall construct and complete the Initial Improvements expeditiously and in good and workmanlike manner and substantially in accordance with the plans and specifications first approved by the Landlord, acting reasonably and without delay and in accordance with the provisions of this Article 6.00.

6.2 Development

The Tenant will supply and install all improvements required for the Tenant's development of the Premises and the Tenant will pay for each and every cost associated with developing the Premises for the Tenant's use, including, without limitation, the costs of the following, if required by the Tenant, in its discretion, or by the municipality or other lawful authorities, for the development of the Premises:

- (i) obtain all necessary site plan approvals for the property and zoning;
- (ii) obtain all demolition and building permits for the Premises;
- (iii) an electrical service sufficient to meet the Tenant's requirements;
- (iv) setting the grades for the overall site, as per the approved Site Plan Agreement;
- (v) any road widening on Dufferin Street or Highway 7;
- (vi) any frontage charges for water mains and sanitary sewers;
- (vii) all storm water management requirements to the perimeter of the Lands;
- (viii) any traffic light changes at the entry to the Premises;
- (ix) urbanization along Dufferin Street or Highway 7, including, but not limited to, curbs, gutters, sidewalks, etc.; and
- (x) all site services to the property line of the Lands including, without limitation, sanitary sewer, storm sewer, municipal water, hydro and natural gas.

6.3 Intentionally Deleted.

6.4 Commencement of Construction of Initial Improvements

Before commencing excavation or any work on the Premises for the construction of the Initial Improvements, the Tenant shall have:

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- (a) furnished proof of the insurance required by Section 6.6;
- (b) obtained the approval of the Landlord.

6.5 Duties of Tenant in Construction

The Tenant shall perform and comply with the following covenants and requirements in the construction of the Initial Improvements:

- (a) the Initial Improvements shall be constructed substantially in accordance with the plans and specifications approved by the Landlord in writing, subject to such changes as may be required by governmental authorities or otherwise any substantial changes as approved in writing by the Landlord, such approval not to be unreasonably withheld or delayed;
- (b) all necessary building permits shall be obtained and all municipal by-laws and legal requirements pertaining to the conduct of the work shall be complied with;
- (c) the construction work shall be conducted expeditiously in a good and workmanlike manner and otherwise in accordance with Applicable Laws and the provisions of this Lease;
- (d) the Tenant, through the Tenant's Architect or other qualified consultant or project manager, shall properly supervise the work;
- (e) the Landlord and its agents and engineers shall at all times, at its own expense, have the right to inspect the work, and to protest to the Tenant or the Tenant's Architect any default or non-compliance with the construction contract or this Lease, and the Tenant shall forthwith deal with the protest and remedy any default or non-compliance;
- (f) the Landlord may require the Tenant, at its own expense, to submit at reasonable intervals certificates of the Tenant's Architect, consultant or project manager, as to the status of the work, the existence and extent of any faults or defects, the value of the work then done and to be done under any contract, the amount owing to any contractor and the amounts paid or retained by the Tenant on any contract, and the Tenant shall also, whenever requested by the Landlord, furnish copies of certificates furnished to it by contractors or by the Tenant's Architect in connection with construction;
- (g) the Tenant covenants and agrees to deliver to the Landlord, from time to time as requested by the Landlord, copies of the following in respect of the Initial Improvements, to the extent that same are in the possession or control of the Tenant, its subtenants, agents, employees, architects, consultants or contractors or others over whom Tenant exercises control:
 - (i) soil tests;

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- (ii) architects' and development plans and drawings;
 - (iii) consultants' reports;
 - (iv) applications to amend by-laws;
 - (v) site plan applications and approvals;
 - (vi) building permit applications;
 - (vii) building permits issued; and
 - (viii) all other documents or information pertaining to the development of the Initial Improvements in the possession or control of the Tenant.
- (h) the Tenant hereby covenants and agrees that it shall comply with all provisions of the *Construction Lien Act* (Ontario), including all holdback provisions. The Tenant covenants that it shall promptly pay, when due, all costs incurred by or on behalf of the Tenant in constructing, altering, repairing, improving the Premises, whether for work, services or materials. Tenant covenants to take all steps required to discharge any construction and similar liens from title to the Lands and indemnify and save harmless the Landlord therefrom. The Tenant agrees to attach a notice, in the form attached as Schedule "E" to this Lease (the "CLA Notice"), to all construction and supply contracts and agrees that at all times during the Tenant's construction of the improvements and the Tenant's Facility on or about the Premises, that it will keep posted on all entrances in visible places the said CLA Notices.

6.6 Fire and Liability Insurance During Construction

- (a) The Tenant shall obtain or shall cause its contractor or contractors to obtain prior to the commencement of construction of the Initial Improvements, and shall maintain and keep in force until the insurance required under Article 9.00 has been obtained, insurance naming the Landlord and the Tenant as insureds and:
- (i) protecting both the Tenant and the Landlord (without any rights of cross claim or subrogation against the Landlord) against claims for personal injury, death or property damage or other third party or public liability claims arising from any accident or occurrence upon, in or about the Lands and from any cause, including the risks occasioned by the construction of the Initial Improvements, and to an amount of not less than fifteen million dollars (\$15,000,000) for any personal injury, death, property or other claims in respect of any one accident or occurrence; and
 - (ii) protecting both the Tenant and the Landlord from loss or damage (without any rights of cross claim or subrogation against the Landlord) to the Initial Improvements and all buildings, structures, fixtures, equipment, improvements and building materials on the Premises from time to time,

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both during and after construction (but which may be by policies obtained from time to time covering the risk during different phases of construction) against fire and extended perils under a standard extended form of fire insurance policy in such amounts and on such terms and conditions as would be carried by a prudent owner of a similar project during construction to the full insurable value thereof at all times (to be computed upon a replacement cost basis with deduction only of the cost of excavation and foundations and of the value of building materials from time to time on the site but not incorporated in the Initial Improvements, and in any event in an amount sufficient to prevent the Landlord being deemed a co-insurer).

- (b) The proceeds of insurance which may become payable under any policy of insurance obtained pursuant to Section 6.6(a)(ii) shall be payable to the Trustee in accordance with Section 9.3.
- (c) All the provisions of Article 9.00 respecting insurance which are of general application apply to the insurance during construction of the Initial Improvements required by this Section 6.6.

6.7 Landlord Consents and Assurances

(a) Subject to the terms of this Lease, the Tenant shall have the right to develop and manage the Premises in accordance with the Permitted Use and subject to compliance with all Applicable Laws. The Landlord shall co-operate in all respects with the Tenant, at the Tenant's sole cost and expense (including, without limitation, all reasonable legal and professional fees incurred by the Landlord in connection therewith) and will execute and deliver promptly upon request any applications, consents or other documents, in a form acceptable to the Landlord acting reasonably, reasonably required by the Tenant to obtain permits or otherwise carry out any demolition, construction or any alterations and/or improvements to the Leased Premises from time to time, provided any such applications, consents or other documents shall be at the Tenant's sole cost. The Landlord shall, at Tenant's sole cost and expense (including, without limitation, all legal and professional fees incurred by the Landlord in connection therewith), provide all consents, authorizations and approvals, as well as all easements and conveyances (for example, for road widening) as may be required by any Applicable Authority and approved by the Landlord acting reasonably, and enter into all usual and necessary agreements as may be required for such purpose including as to any re-zoning, variances and site plan approvals which are sought by the Tenant for the purpose of constructing and operating the Initial Improvements and all other Buildings and Improvements on the Lands, so long as the aforesaid do not result in any expense or obligation of the Landlord, whether within or outside the boundaries of the Premises, in respect of which the Landlord is not fully indemnified and saved harmless, and so long as the Buildings and Improvements contemplated by such agreements are in compliance with the terms hereof. The Tenant shall be responsible for any costs in relation to any matters referred to in any such agreement(s) and for all of Landlord's reasonable costs incurred in reviewing and approving any such agreement(s). The Tenant shall forthwith deliver to the Landlord from time to time complete copies of all applications and supporting documentation to be submitted, and submitted, by or on behalf of the Tenant to the authorities. The Tenant shall

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maintain all such agreements in good standing at all times and covenants and agrees with the Tenant to perform all covenants and obligations of the Tenant or the Landlord under such agreements at the Tenant's sole cost and expense and to the complete exoneration of the Landlord.

(b) The Landlord is not responsible for any matters relating to the development or redevelopment of the Premises (including, without limitation, any work required to be carried out outside the boundaries of the Premises) and specifically is not responsible for any costs whatsoever relating, directly or indirectly, to the development, re-development operation, maintenance, repair or replacement of the Premises or any part thereof or anything serving or for the benefit of the Premises except as otherwise expressly set out in this Lease.

(c) Notwithstanding the foregoing or anything else contained herein, the Tenant acknowledges, covenants and agrees in favour of the Landlord: (i) that the Landlord shall not incur any direct or indirect costs and/or expenses in connection with the Landlord's co-operation with the Tenant pursuant to this Article 6.00; and (ii) to indemnify and save harmless the Landlord and/or those for whom the Landlord is at law responsible from time to time from any and all Claims affecting the Landlord and/or those for whom the Landlord is at law responsible from time to time in connection with any aspects of this Article 6.0 (including, without limitation, the Tenant's failure to abide by or perform any and all of the terms, conditions and obligations set out in any such agreements on the part of the Tenant or the Landlord to perform or abide by).

ARTICLE 7.00 - OWNERSHIP, MAINTENANCE AND REPAIR

7.1 Ownership of Improvements and Fixtures

- (a) The Tenant's Facility and all Improvements and the equipment, fixtures, elevators, heating and plumbing apparatus, motors and machinery appurtenant thereto, and other chattel assets located in or about the Tenant's Facility and constructed and/or acquired by the Tenant are (subject only to the rights of the lender to the Tenant (the "Lender") as mortgagee) and remain the property of the Tenant and, other than Tenant's trade fixtures and personal property, shall become the property of the Landlord upon the expiration or earlier termination of the Term notwithstanding that the Tenant may have paid for them. The Tenant shall upon the expiration, or other sooner termination, for any reason whatsoever, of the Term, or any renewal or extension thereof, yield up and surrender to the Landlord the Tenant's Facility and all Improvements, together with the equipment, fixtures, elevators, heating and plumbing apparatus, motors and machinery appurtenant thereto, and other chattel assets, other than Tenant's trade fixtures and personal property, all in good working order, condition and repair, and free and clear of all claims, liens and encumbrances of the Tenant or of any person, firm or corporation claiming by, through or under the Tenant.
- (b) All dealings by the Tenant with the Buildings or Improvements which in any way affect title thereto shall be made expressly subject to the provisions of Section 7.1(a), and the Tenant shall not assign, encumber or otherwise deal with the

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Buildings and/or Improvements separately from any permitted dealing with the leasehold interest under this Lease, to the intent that no person who does not at the same time hold a like interest in the Buildings and the Improvements shall hold or enjoy any interest in this Lease acquired from the Tenant.

- (c) The provisions of Section 7.1(a) shall not be construed to prevent the Tenant from conferring on lessees or occupants of the Buildings the right of property in, or the right to remove, trade fixtures or improvements which are of the nature of usual tenants' fixtures and normally removable by lessees, and which are not part of the structure or any essential part of the Buildings or any building services. The Tenant shall make good, or shall cause the lessees to make good, all damage to the Premises (including all Buildings and Improvements) caused by any removal of the Tenant's, subtenant's or occupants fixtures.
- (d) The Tenant shall, at or immediately before the expiration of the Term, remove its furniture, chattels and other usual tenants' fixtures not forming any part of the structure of the Improvements or any building services and, provided the Tenant is not in default, the Tenant may from time to time, when not in default, remove such tenants' fixtures in the ordinary course of its business or in the event of any Changes made pursuant to this Lease, provided that the Tenant shall, except upon the expiration of the Term, cause the Tenant's fixtures to be replaced with fixtures having a value and utility at least equal to that of the fixtures so removed, considering the need to replace obsolete or defective fixtures and to substitute improved fixtures, and the consequences of any reconstruction, changes and alterations to the Improvements.
- (e) Upon the expiry or earlier termination of the Term, the Tenant shall, at the request of the Landlord, remove its trade fixtures and equipment, and all Tenant's and subtenants' names, marks and other distinctive colours (including canopy banding), all resale merchandise, and subtenant's fixtures and equipment.
- (f) The Tenant shall, at its own expense, repair any damage caused to the Premises by the leasehold improvements or trade fixtures or the removal thereof. In the event that the Tenant fails to remove its trade fixtures prior to the expiry or earlier termination of the Term, such trade fixtures shall, at the option of the Landlord, become the property of the Landlord and may be removed from the Premises and sold or disposed of by the Landlord in such manner as it deems advisable or may be stored by the Landlord at the sole cost and expense of the Tenant. For greater certainty, the Tenant's trade fixtures shall not include any Improvements, Buildings, HVAC Equipment or light fixtures. Notwithstanding anything in this Lease, the Landlord shall be under no obligation to repair or maintain all of any part of the Tenant's Facility or installations.

7.2 Maintenance and Repair of Lands and Improvements

- (a) The Tenant shall, at its own cost and expense, during the entire Term, operate the Premises as a first class development and keep in first class order and condition the Lands,

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Buildings and Improvements, and the appurtenances and equipment thereof (including, without limitation, those outside of the Lands but which serve the Premises), both inside and outside, and shall promptly carry out, at Tenant's sole cost and expense, all necessary repairs, replacements, substitutions, improvements and additions of or to the Premises and the Buildings and Improvements from time to time thereon or used in connection therewith, or any part thereof, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise and whether or not any repairs, replacements, rebuilding or reconstruction are major or commonly known as a repair, replacement, rebuilding or reconstruction of a capital nature. Without limiting in any way the generality of the foregoing, the Tenant will maintain, repair, replace, rebuild and reconstruct the buildings, structures, erections, roofs, foundations and appurtenances, entrances, elevators, glass windows, plumbing, heating, ventilating and air conditioning systems, and electrical systems, water, sewer and gas connections, wiring, pipes, drains and mains attributable to the Premises and/or which serve the Premises, interior and exterior signs, sidewalks, parking facilities, and all other machinery, and facilities belonging to or connected with the Premises or any part thereof, or used in the operation of the Premises including the buildings thereon. Such repairs shall be completed in a good and workmanlike manner and in all respects consistent in quality and workmanship appropriate for a similar first class project in the vicinity, and shall meet the requirements of all Applicable Laws and the fire insurance underwriters.

(b) The Tenant shall promptly upon notice in writing from the Landlord make all repairs, replacements, and maintenance, which the Tenant has herein covenanted to perform. In the event of default by the Tenant under any of the provisions of Article 7.00 hereof, the Landlord shall, unless the nature of the default shall endanger any part of the Premises and in which event (except in the case of an emergency) reasonable written notice shall be given by the Landlord to the Tenant, give written notice to the Tenant requiring the Tenant to repair such default within thirty (30) days thereafter, and if the Tenant fails to remedy such default within the aforesaid thirty (30) day period, or such longer period as may be reasonably necessary having regard to the nature of the default complained of (provided the Tenant commences to remedy such default within such thirty (30) day period and thereafter diligently proceeds to remedy such default), the Landlord may take such steps as it may reasonably deem necessary under the circumstances to remedy such default, and the Tenant will forthwith upon the Landlord's demand, pay the cost of remedying or attempting to remedy such default (including any legal fees), plus an administration fee equal to 15% of such costs and expenses, as Additional Rent.

7.3 Inspection by Landlord

The Landlord, its servants, agents and contractors shall be entitled to enter upon the Premises at any time during normal business hours, on reasonable prior notice, for the purpose of inspecting the Lands, Buildings and Improvements. The Tenant shall not be entitled to compensation for any inconvenience, nuisance or discomfort occasioned thereby. The Landlord shall take reasonable precautions and attempt to schedule such inspections so as not to unreasonably interfere with the operation of any subtenant's business and to minimize interference with the Tenant's use and enjoyment of the Premises.

7.4 Repairs, Alterations and Replacements

- (a) Provided the Tenant replaces the Tenant's Facility with buildings and/or structures and/or Improvements which are of equal or greater value and quality than those existing at the time, the Tenant shall have the unfettered right during the first twenty-five (25) years of the Term of this Lease, at its own expense, to construct, reconstruct and replace buildings, structures and other improvements on or at the Premises and make alterations and/or improvements thereto, provided that all such construction, alterations and/or improvements shall be made in conformity with all Applicable Laws, and the Tenant shall obtain the prior consent of the Landlord, which consent will not be unreasonably withheld, to any major alteration, renovation or improvement involves alteration to the frame or permanent structure or base building systems of any of the Buildings or Improvements at the Premises, and it is understood and agreed that the Landlord's right of approval in such circumstances will be limited to approval of such major alteration(s) to the frame or permanent structure or base building systems.
- (b) Notwithstanding anything in this Lease to the contrary, the Tenant shall not be entitled to demolish any Buildings, structures, or Improvements on or at the Premises after the 25th year of the Term of this Lease, and if the Tenant should demolish any part or parts of any Buildings or Improvements on the Premises contrary to this paragraph, the Tenant shall be required to pay to the Landlord a fee of Five Million (\$5,000,000.00) Dollars (the "Demolition Fee") payable within ten (10) days of any such demolition.
- (c) The construction, alterations, renovations and/or improvements shall be constructed by the Tenant, without cost to the Landlord, in a good and workmanlike manner, using first-class materials. Before requesting (where required) the Landlord's approval of any construction, alterations, renovations and/or improvements, the Tenant shall submit to the Landlord conceptual plans of the proposed construction, alterations, renovations and/or improvements for the Landlord's approval. Within fifteen (15) days after receiving such plans from the Tenant, the Landlord, acting reasonably, shall advise the Tenant in writing whether or not it approves of the construction, alterations, renovations and/or improvements, and if not, request modifications to such plans and other items. Within fifteen (15) days after the Tenant receives the Landlord's request, the Tenant shall submit revised plans and other similar material for the Landlord's approval, acting reasonably, and the parties agree to negotiate in good faith to modify the proposed construction, alterations, renovations and/or improvements in order to obtain the Landlord's consent thereto within the limits of the Landlord's rights to withhold consent set out in this Section 7.4. If the Landlord does not respond to the Tenant's request within the time period as aforesaid, the Tenant shall provide the Landlord with written notice of its failure to respond and if the Landlord does not respond within ten (10) days of receipt of said second notice, Landlord shall be deemed to have approved the proposed construction, alterations, renovations and/or improvements.

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- (d) Save and except as may be expressly set out in this Lease, the Tenant shall not demolish any Buildings or structures or Improvements comprising the Tenant's Facility.

7.5 Waste, Nuisance

The Tenant shall not commit or suffer any waste or injury to the Lands and Improvements or any part thereof save and except any demolition and alteration respecting the Improvements on the Lands as herein permitted, and shall not use or occupy or permit to be used or occupied the Lands and Improvements or any part thereof so as to constitute a nuisance or for any illegal or unlawful purpose, nor in any manner which may contravene any lawful restrictions of the use thereof by any municipal or governmental authorities. The Tenant shall at all times, at its own expense, keep the sidewalks, curbs and passageways within, and, if required by any lawful authority, adjacent to, the Lands and Improvements clean from rubbish, ice and snow and shall not encumber or obstruct the same or allow the same to be encumbered or obstructed in any manner. The Tenant shall not injure or disfigure the Lands and Improvements or permit the same to be injured or disfigured in any way save and except as herein permitted.

7.6 Services

The Tenant covenants that it shall install or cause to be installed all municipal services required to be constructed and installed in connection with any development of the Lands, and shall pay all levies, imposts, deposits and charges required by the municipality or any public utility or other authority having jurisdiction, which services may be installed as local improvements. The Tenant shall indemnify and save harmless the Landlord of and from all claims and demands relating to such services, it being the intention of the parties that the Landlord shall not be required at any time to pay any levies, imposts, deposits or other charges whatever in connection with the servicing or preparation of the Lands from time to time for building, use or occupancy. Without limiting the generality of the foregoing, the Tenant shall, at its own expense, install or cause to be installed paved roadways, sanitary sewers, storm sewers, sidewalks, curbs, street lighting, sprinklers, water pipes and underground hydro facilities as may be required by the municipality or other relevant authorities. The Tenant further covenants that it shall construct, renew and repair all services with respect to the Premises as the municipality, utilities or other relevant authorities shall require from time to time without expense to or contribution from the Landlord.

7.7 Lien Claims

- (a) The Tenant will not permit any lien under the *Construction Lien Act* (Ontario) or any similar statute (a "Construction Lien") to be filed or registered against the Premises or any part of them, by reason of work, labour, services or materials supplied or claimed to have been supplied to the Tenant or anyone holding an interest in any part of the Premises through or under the Tenant. If a Construction Lien is filed or registered, the Tenant will procure registration of its discharge, or cause same to be vacated from title, within ten (10) days after the Tenant becomes aware of the lien's filing or registration. If the Tenant shall fail to discharge or otherwise remove from title to the Premises such Construction Lien within such period, then, in addition to any other right or remedy of the Landlord, the Landlord may, but shall not be

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obligated to, remove the same from title by procuring the discharge of such lien by the deposit of monies into court or bonding, and in such event the Landlord shall be entitled, if the Landlord so elects, to compel the prosecution of any action for such construction lien by the lien claimant and, in the event of judgment in favour of the lien claimant, to pay the amount of the judgment, if any, in favour of the lien claimant with interest, costs and allowances. Any amount paid by the Landlord for any of the aforesaid purposes or for the satisfaction of any other lien, not caused or claimed to be caused by the Landlord, and all reasonable legal and other expenses of Landlord, including, without limitation, reasonable counsel fees, in defending any such action or in or about procuring the discharge of such lien, with all necessary disbursements in connection therewith, with interest thereon at the Stipulated Rate from the date of payment, shall be repaid by the Tenant to the Landlord on demand, and if unpaid may be treated and collected as Additional Rent as provided in this Lease. Nothing in this Section will be construed, however, to authorize the Tenant or permit it to subject the Landlord's estate and interest in the Premises to any lien.

(b) The Tenant will ensure that no lien under the *Workers' Compensation Act* (Ontario), no lien under any other statute (whether or not it is similar to the *Workers' Compensation Act*) and no claim as a result of anything done or permitted to be done by the Tenant, its contractors, subcontractor or materialmen is registered or filed against the Premises or any part of them and that no proceedings for the enforcement of any lien or claim against the Premises or any part of them or against the Landlord or its assets are taken. The Landlord may, but will not be required to, discharge any lien filed or registered or may satisfy any claim made if in the Landlord's judgment, exercised reasonably, the Landlord's interest in the Premises or any part of them becomes liable to forfeiture or sale or may otherwise be in jeopardy, and any amount paid by the Landlord in doing so, together with all reasonable costs and expenses of the Landlord, will be reimbursed to the Landlord by the Tenant on demand.

(c) The Tenant agrees to attach a notice, in the form attached as Schedule "E" to this Lease (the "CLA Notice"), to all construction and supply contracts and agrees that at all times during the Tenant's construction of the improvements and the Tenant's Facility on or about the Premises, that it will keep posted on all entrances in visible places the said CLA Notices.

7.8 End of Term – Surrender of Premises

(a) At the expiration or earlier termination of the Term, the Tenant shall surrender to the Landlord the Premises and all then existing Buildings and Improvements thereon and all improvements, together with the equipment, fixtures, elevators, heating and plumbing apparatus, motors and machinery appurtenant thereto, all in working order, condition and repair, and deliver vacant possession of the Premises to the Landlord, free and clear of all claims, liens and encumbrances of the Tenant or of any person, firm or corporation claiming by, through or under the Tenant, provided that each of the subtenants permitted under Section 10.4(a) of this Lease will be permitted to remain in occupation of their respective sublet premises in accordance with the then existing subleases to the extent that the Landlord has specifically previously agreed in writing that a specific subtenant is permitted to do so.

(b) At the expiration or earlier termination of the Term, the Tenant shall do the following:

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- (i) upon the Landlord's request, remove all Tenant's and subtenant's names, marks and other distinctive colours (including canopy banding), all resale merchandise, its subtenants' trade fixtures and equipment;
 - (ii) upon the Landlord's request, remove all of its equipment;
 - (iii) deliver to the Landlord photocopies or originals of all of the Tenant's files and records for the then current subtenants and business records for the previous twelve (12) months in connection with the operation of the Premises (subject to the right of the Tenant to retain copies thereof);
 - (iv) deliver all keys, pass cards and the like for the Premises and give to the Landlord the combination of any locks, safes and vaults on the Premises which are then in the Tenant's possession and control;
 - (v) prepare and deliver all notices and directions to each of the subtenants in the manner required by the Landlord, including without limitation, those notices and directions relating to rent and insurance; and
 - (vi) ensure that title to the Premises (including, without limitation, all Buildings and Improvements) are free and clear from any encumbrances caused to be registered by the Tenant and arising out of this Lease, save and except for any municipal agreements, easements or similar instruments registered, with the Landlord's consent (which consent shall not be unreasonably withheld), in connection with the development of the Lands. For greater certainty, all Leasehold Mortgages granted pursuant to Subsection 10.5 hereof must be discharged by the Tenant.
- (c) Immediately prior to the expiration or earlier termination of the Term, the Tenant shall be deemed to have automatically assigned to the Landlord, all rents, rights, remedies and benefits of the Tenant pursuant to the subleases arising after the end of the Term and which the Landlord has agreed to assume.
- (d) At the expiration or earlier termination of the Term, where and if applicable, all income and expense items customarily adjusted in real estate transactions shall be apportioned between the Landlord and the Tenant as of the date of expiration or earlier termination of the Term.

ARTICLE 8.00 - USE, COMPLIANCE WITH LAWS

8.1 Use

The Tenant covenants that at all times the use made of the Premises shall be solely for the use set out in Section 1.1(j). The Tenant shall be entitled to sub-let the Premises (and/or any portion(s) thereof) to retail subtenants and/or for any other use(s) which is/are permitted by Applicable Laws. The Tenant shall have the right but not the obligation to keep the Premises open for business the maximum number of hours permitted by applicable by-law. The Tenant shall not be required to continuously operate its (or any) business at the Premises, however the Tenant shall not abandon the Premises during the Term or any renewals thereof.

8.2 Compliance with Laws

The Tenant covenants that at all times the use made of the Premises shall be in conformity with all of the requirements of the zoning by-laws and any other municipal or governmental regulations which may affect the Lands. The Tenant shall comply with all police, fire and sanitary regulations imposed by any local, municipal or provincial or federal authorities or recommendations or requirements made by fire insurance underwriters, and observe and obey all Applicable Laws governing the conduct of any businesses carried out on the Premises or with respect to the use of the Premises. The Tenant shall indemnify and save the Landlord harmless against any and all liabilities, claims, damages, interest, penalties, fines, monetary sanctions, losses, costs and expenses whatsoever (including, without limitation, counsel and solicitor's fees on a substantial indemnity basis, reasonable costs of professional advisors, consultants and experts) arising out of non-compliance with or violation of any of the said laws and regulations by the Tenant, its agents, employees, subtenants, contractors or those for whom the Tenant is in law responsible, or from any liability for costs for damage or injury to any person or property resulting therefrom on and after the start of the Interim Period. Notwithstanding the provisions of this Section 8.2, the Tenant shall not be responsible for, nor be required to indemnify the Landlord with respect to, any Existing Contamination (as hereinafter defined).

8.3 SIGNS

Provided all Applicable Laws and municipal requirements are complied with,

- (a) The Tenant shall be permitted to install on the Premises signage typically used by the Tenant in other similar retail plazas in use from time to time for the Tenant's business, which may include the Tenant's or its subtenants trade name and logo together with other messages related to the Tenant's business such as hours of operation and key business activities, all in its standard type face and all in the Tenant's corporate colours or such other colours as it may adopt from time to time;
- (b) The Tenant shall have the right at its own expense to erect on the Premises two (2) pylon signs for its exclusive use and one or more enter/exit and directional signs of such size and in such location(s) as the Tenant shall determine;
- (c) There shall be no restrictions on interior building signage, whether or not such interior signage is visible from outside the Buildings upon the Premises; and
- (d) The Landlord agrees that the Tenant may remove and/or replace all signs installed by it, in its discretion, whether or not same are or are deemed at law to be fixtures, at any time and from time to time during the Term.

The Landlord will co-operate with the Tenant and will execute and deliver promptly upon request any applications, consents or other documents, which may be required by the Tenant to obtain permits or approvals for the Tenant's signs.

ARTICLE 9.00 - INSURANCE AND INDEMNITY**9.1 Tenant's Indemnity**

Subject to the Landlord's obligations under this Article 9.00, throughout the Interim Period and the Term, the Tenant covenants and agrees to indemnify and save the Landlord harmless against any and all liabilities, claims, damages, interest, penalties, fines, monetary sanctions, losses, costs and expenses whatsoever (including, without limitation, counsel and solicitor's fees on a substantial indemnity basis, reasonable costs of professional advisors, consultants and experts) arising from injury to property or injury to any person or entity, caused by the use, occupancy or presence of the Tenant, its agents, employees, subtenants, contractors or any others for whom the Tenant is responsible in law, at, in, on or upon the Lands or the Premises.

9.2 Tenant's Insurance

- (a) The Tenant will take out and maintain, at its sole cost and expense, the insurance described below throughout the Term and any period when it is in possession of the Premises, and each policy of that insurance will name, as insureds, the Tenant and the Landlord, and, if applicable, the Landlord's Mortgagee as its respective interest may appear. The insurance which the Tenant is required to take out and maintain is as follows:
- (i) "all risks" property insurance, including insurance on each of the Buildings, the Improvements, trade fixtures and the machinery, boilers and equipment contained therein (including the Landlord's property) against perils covered by an "all risks" policy including sprinkler leakage, flood, earth movement (including earthquake) and sewer back-up for the full replacement cost without deduction for depreciation
 - (ii) broad form boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident for the full replacement cost (with a replacement cost endorsement) of all boilers, pressure vessels, equipment (including, heating and air-conditioning equipment and miscellaneous electrical apparatus owned or operated by the Tenant or by others);
 - (iii) comprehensive general liability insurance, including premises and operations, broad form property damage, personal injury liability, occurrence coverage, contractual liability, non-owned automobile liability including contractual employers' liability and owners' and contractors' protective insurance coverage with respect to the Premises and the Tenant's use thereof, with coverage including the activities and operations conducted by the Tenant and any other Person on the Premises and by the Tenant and any other Person performing work on behalf of the Tenant and those for whom the Tenant is in law responsible, in any part of the Premises. Such policies shall (1) be written on a comprehensive basis with inclusive limits of at least Fifteen Million Dollars (\$15,000,000.00) per

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occurrence for bodily injury for any one or more Persons, or property damage, and (2) contain a severability of interests clause and cross liability clauses;

- (iv) business interruption insurance in an amount that will reimburse the Tenant for loss of earnings attributable to all perils insured against under Sections 9.2(a)(i) and 9.2(a)(ii), and other perils commonly insured against by prudent tenants, or attributable to prevention of access to the Premises or the Shopping Centre as a result of those perils;
 - (v) Tenant's legal liability insurance for the actual cash value of the Premises, including loss of use thereof ;
 - (vi) standard owner's form automobile policy providing third party liability insurance with \$5,000,000.00 inclusive limits, and accident benefits insurance, covering all licensed vehicles owned or operated by or on behalf of the Tenant; and
 - (vii) any other form of insurance, in such amounts and against such risks, as Landlord may in its discretion require.
- (b) The policies specified under Sections 9.2(a)(i), 9.2(a)(ii) and 9.2(a)(iv) will contain the Mortgagee's standard mortgage clause and a waiver of subrogation rights which the Tenant's insurers may have against the Landlord, the Mortgagee, and those for whom all, or any, of them are in law responsible, or a permitted prior release clause achieving the same effect, in either case whether or not the damage is caused by their act, omission or negligence.
- (c) All policies will (i) be taken out with insurers reasonably acceptable to the Landlord; (ii) be in a form reasonably satisfactory to the Landlord; (iii) contain reasonable deductibles; (iv) be non-contributing with, and will apply only as primary and not excess to any other insurance available to all and any of the Landlord and the Mortgagee; (v) not be invalidated with respect to the interests of all and any of the Landlord and the Mortgagee by reason of any breach or violation of warranties, representations, declarations or conditions contained in the policies; and (vi) contain an undertaking by the insurers to notify the Landlord and the Mortgagee in writing not less than thirty (30) days before any cancellation or termination.
- (d) Certificates of insurance will be delivered to the Landlord before the Tenant obtains possession of the Premises for any purpose. Certificates or certified copies of the Tenant's insurance policies will be provided by the Tenant to the Landlord within thirty (30) days prior to the expiry dates of such policies to evidence their renewal and continuous coverage. No review or approval of any insurance certificate by the Landlord diminishes its rights or the Tenant's obligations in this Lease.

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- (e) All proceeds of any insurance shall first be used by the Tenant for the costs of repairing, reconstructing or replacing, as the case may be, the damaged or destroyed portions of the Buildings and/or Improvements to the standard set out herein, except as otherwise provided for in this Lease.
- (f) The Tenant hereby releases the Landlord, its directors, officers, servants, agents, employees, contractors and those for whom the Landlord is in law responsible from all Claims of any kind in respect of which the Tenant is insured or would have been insured had the Tenant maintained the insurance the Tenant is required to maintain pursuant hereto save and except where such losses, damages or claims were caused by the negligence of the Landlord, its directors, officers, servants, agents, employees or those for whom the Landlord is in law responsible.

9.3 Insurance Trustee

Where a partial or complete destruction occurs and the Tenant is required to rebuild, and the cost of such rebuilding exceeds the sum of \$250,000.00, the following procedures shall apply:

- (a) the insurance proceeds shall be paid to a trustee (the "Trustee") jointly named by the Landlord and the Tenant and any Mortgagee, and the Trustee shall be expressly instructed to act on behalf of both the Landlord and the Tenant and any Mortgagee according to their interests. The Trustee shall be instructed to invest the insurance proceeds, insofar as possible, with a bank or trust company so as to earn interest pending their distribution as contemplated by this Section 9.3. Work-in-progress shall be paid for in instalments as progress payments out of the insurance proceeds, and provision shall be made to ensure that no increase in the cost over the amount of the original estimate shall be the responsibility of the Landlord or the Trustee, so that the Trustee at all times retains in its hands sufficient insurance proceeds to pay for the estimated cost of repair outstanding at the date it makes any progress payment;
- (b) before any contract having a value in excess of \$250,000.00 is entered into by the Tenant for the carrying out of any repair work, copies of the estimates for any work and the contracts for the completion of the work shall be submitted to the Trustee, and it shall distribute such copies to the Landlord, the Mortgagee and the Tenant. Such contracts shall be deemed to be approved unless notice to the contrary is delivered to the Trustee within fourteen (14) business days of receipt of the contract from the Trustee;
- (c) any progress payments to be made under this Section 9.3 by the Trustee shall not be made without the submission of a statement, certified by the architect or engineer of the party to whom the payments are to be made, stating the estimated amount required to complete the work or repair at the date of the certificate, the amount owing on work already done, and the amount of any payments made at that date for work already done, and verifying the standard and quality of the work already done, and the Trustee shall be required to retain in its hands, at the date of any payment, an amount sufficient to pay the estimated outstanding cost of

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completion, even if that has the effect that the payment made becomes less than the amount certified to be due;

- (d) in making any payment under this Section 9.3, the Trustee shall have regard to construction lien or similar legislation applicable in the province in which the Lands are located and shall retain within its control for the period specified in such legislation the amount of any hold-back required;
- (e) the fees and expenses of the Trustee shall be borne by the Tenant and shall be paid, to the extent available, out of the moneys held by the Trustee;
- (f) in the case of any dispute as to the terms of any contract or the amount of any estimate or any matter relating to the actual work or repair, such dispute shall be decided by an Expert pursuant to the terms hereof; and
- (g) should the insurance moneys, if any, be insufficient to pay the entire cost of the work of restoring and repairing the Buildings and Improvements, the Tenant agrees to pay the deficiency. Upon the completion of such work and payment in full therefor by the Tenant, the Landlord shall, upon receipt of proof that such work has been paid for in full and that there is no outstanding lien claim, release to the Tenant any insurance moneys then remaining and in the possession or control of the Trustee and shall so authorize the Trustee.

9.4 Landlord's Right to Insure

If the Tenant fails to obtain and maintain the policies of insurance required hereunder, or should any of that insurance not be approved by the Landlord, the Landlord may itself, at its sole option and without obligation, after not less than twenty-four (24) hours' notice to the Tenant, obtain such policies at the Tenant's cost and all costs of the Landlord will be immediately paid by the Tenant to the Landlord as Additional Rent, together with an administration fee of 15% of such costs representing the Landlord's overhead. Interest shall accrue on all such payments made by the Landlord, calculated at the Stipulated Rate, on the various amounts from the respective dates of payment thereof by the Landlord. Any sum so expended by the Landlord, together with such interest as aforesaid, shall constitute Rent hereunder and be collectable as such Rent payable on demand. This right is without prejudice to the other rights and remedies of the Landlord under this Lease.

9.5 Cancellation of Insurance

If any insurance policy upon the Premises or any part thereof shall be cancelled or threatened to be cancelled or the coverage thereunder reduced by reason of the use of the Premises, and if the Tenant fails to remedy such condition within 48 hours after notice, the Landlord may, at its option, at the Tenant's cost, (i) exercise its rights under Article 14.00, or (ii) enter upon the Premises and remedy the condition giving rise to such cancellation, threatened cancellation or reduction. The Landlord shall not be liable for any damage or injury caused to any property located on the Premises as a result of any such entry.

9.6 Loss or Damage

Neither the Landlord nor its affiliates, directors, officers, employees, shareholders, agents or those for whom the Landlord is in law responsible (collectively, "Released Persons" and individually, a "Released Person") shall be liable for death or injury arising from any occurrence in, upon, at, or relating to the Premises or damage to property of the Tenant or of others located on the Premises or elsewhere, nor will they be responsible for loss of or damage to, or loss of use of property of the Tenant or others from any cause (whether or not it results from the negligence or misconduct of a Released Person) unless and to the extent caused by the intentional or wilful misconduct of a Released Person and then only to the extent the Tenant is not insured or required to be insured under the provisions of this Lease. Without limiting the general intent of the previous sentence, no Released Person is liable for injury or damage to Persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, flood, snow or leaks from or onto any part of the Premises or from pipes, appliances, plumbing works, roof or subsurface of any floor or ceiling, or from the street or any other place, or by dampness, the existence of any Hazardous Substances in any part of the Premises or resulting by any other cause and no Released Person is liable for damage caused by other tenants or Persons in or upon the Premises or by occupants of property adjacent to the Premises, or the public, or caused by construction or by any private, public, or quasi-public work unless and to the extent caused by the intentional or wilful misconduct of a Released Person and then only to the extent the Tenant is not insured or required to be insured under the provisions of this Lease. All property shall be so kept at the risk of the Tenant only and the Tenant releases and agrees to indemnify and save harmless the Released Persons and save them harmless from any Claims arising out of any damage to the same, including any subrogation claims by the Tenant's insurers save and except to the extent caused by the intentional or wilful misconduct of a Released Person and then only to the extent the Tenant is not insured or required to be insured under the provisions of this Lease.

9.7 Indemnification of Landlord

Despite anything else in this Lease, the Tenant will indemnify the Released Persons and save them harmless from all loss (including loss of Rent payable by the Tenant under this Lease), claims, actions, damages, liability and expenses in connection with loss of life, personal injury, damage to property or any other loss or injury arising from this Lease, or any occurrence in, on, or at the Premises, or from the occupancy or use by the Tenant of the Premises, or any part of them, occasioned wholly or in part by an act or omission of the Tenant or by anyone for whom the Tenant is responsible in law. However, the Tenant is not required to indemnify the Released Persons or save them harmless from loss, claims, actions, damages, liability or expenses to the extent they arise in whole or in part from the negligence, act or omission of the Landlord, any Released Person or Persons for whom the Landlord is responsible in law.

ARTICLE 10.00 - TRANSFERS

10.1 Transfers by Tenant

Except as may otherwise be provided in this Article 10.00, the Tenant will not effect or permit a Transfer without the consent of the Landlord which consent will not be unreasonably withheld or

unduly delayed. If the Tenant intends to effect a Transfer, the Tenant shall first give written notice to the Landlord specifying the identity of the proposed Transferee and provide such financial, business or other information relating to the proposed Transferee and its principals as the Landlord requires, acting reasonably, together with copies of any Transfer documents. Within twenty (20) days after having received such notice and all requested information, notify the Tenant either that the Landlord consents or does not consent to the Transfer. In the event that the Landlord does not provide its response within such 20-day period, the Tenant may deliver written notice to the Landlord of its failure to respond and if the Landlord does not respond within ten (10) days of receipt of said second notice Landlord shall be deemed to have consented to such Transfer.

10.2 Granting Consent

- (a) Despite anything in the *Commercial Tenancies Act* and despite any other statute or law, without limiting the grounds upon which a Transfer may be refused (provided the Landlord is acting reasonably), in deciding whether to give its consent to a Transfer the Landlord may refuse to give its consent if:
- (A) the Tenant is in default under this Lease;
 - (B) the Transferee, (A) does not have a good credit rating and a net worth sufficient, in the Landlord's reasonable opinion, to finance the business to be operated in the Premises, or (B) has a history of defaults under commercial leases either by the Transferee or by companies or partnerships in which the Transferee was a principal shareholder or partner at the time of the defaults or (C) is not suitable to the Landlord, acting reasonably, on the basis of the proposed Tenant's business and characteristics in accordance with its financial capability, its business history, experience and ability to operate the business required to be operated under this Lease;
 - (C) the Landlord, acting reasonably, does not receive sufficient information from the Tenant or the Transferee to enable it to make a determination concerning the matters set out above or does not receive its fees under Section 10.3(g).
- (b) Section 10.2(a) does not apply to (i) a Transfer described in Subsection (iv) of the definition of Transfer which occurs when the Tenant is a corporation (a "Public Corporation") whose shares are traded and listed on a stock exchange in Canada or the United States, or (ii) a Transfer that occurs when (1) the Tenant is a "subsidiary body corporate" (as that term is defined on the date of this Lease under the *Canada Business Corporations Act*, R.S.C. 1985, c.C-44) of a Public Corporation and (2) it is the shares of the Public Corporation and not of the Tenant that are transferred or issued.

10.3 Terms and Conditions of Transfer

The following terms and conditions apply in respect of any Transfer:

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- (a) the consent by the Landlord is not a waiver of the requirement for consent to subsequent Transfers;
- (b) no acceptance by the Landlord of Rent or other payments by a Transferee is, (i) a waiver of the requirement for the Landlord to consent to the Transfer, (ii) the acceptance of the Transferee as Tenant, or (iii) a release of the Tenant from its obligations under this Lease;
- (c) the Landlord may apply amounts collected from the Transferee to any unpaid Rent;
- (d) the Transferor, unless the Transferee is a sub-tenant of the Tenant, will retain no rights under this Lease in respect of obligations to be performed by the Landlord or in respect of the use or occupation of the Premises after the Transfer;
- (e) save and except with respect to a Leasehold Mortgage granted pursuant to Section 10.5 or a sublease entered into pursuant to Section 10.4(a) of this Lease, the Transferee will execute an agreement directly with the Landlord agreeing to be bound by this Lease as if the Transferee had originally executed this Lease as Tenant and agreeing to deliver to the Landlord an additional security deposit equal to six (6) months Rent, but the Transferor will remain jointly and severally responsible with the Transferee for the fulfilment of all obligations to be performed after the Transfer by the Transferee including the punctual payment of Rent under this Lease during the remainder of the Term and, if required by the Landlord, the Transferor will execute an indemnity agreement on the Landlord's standard form, to give full force and effect to the foregoing. This obligation of the Transferor will survive any termination, repudiation, disaffirmation, disclaimer or surrender (except with the consent of the Landlord) of this Lease by any trustee in bankruptcy or by a court representative;
- (f) except for the subleases contemplated in Section 10.4(a), in the case of a sublease, the Transferee shall waive any rights it may have under any legal or equitable rule of law or under the *Commercial Tenancies Act* (Ontario), as amended from time to time, or any other applicable legislation, to apply to a court or to otherwise elect to (i) retain the unexpired Term of this Lease or the unexpired sublease term, (ii) obtain any right to enter into any lease or other agreement directly with the Landlord for the Premises or the subleased premises, or (iii) otherwise remain in possession of any portion of the subleased premises or the Premises, in any case where this Lease is terminated, surrendered or otherwise cancelled, including a disclaimer of this Lease by a trustee in bankruptcy of the Tenant. The Tenant and the Transferee shall promptly execute any agreement required by the Landlord to give effect to the foregoing terms; and
- (g) In the event of any Transfer, the Tenant shall be responsible for and shall pay or reimburse the Landlord forthwith upon demand, in advance if required by the Landlord, for all expenses incurred (or to be incurred) by the Landlord's solicitors in connection with the preparation and/or review of all documents required and information delivered pursuant to this Article 10.00.

10.4 Permitted Transfers

- (a) The Tenant shall however have the right to sublet the Leased Premises, in parts, but not as a whole, at any time, without the prior consent of the Landlord, provided that (i) the Tenant shall not enter into any subleases which contain terms and/or extensions and/or renewal rights beyond the last day of the Term of this Lease without the prior written consent of the Landlord, which consent may be arbitrarily withheld, and (ii) the Landlord has pre-approved the Tenant's standard form of sub-lease (which must be in compliance with the terms of this Lease), the standard form of Tenant's sub-lease has been used, and the Tenant promptly delivers copies of all executed sub-leases to the Landlord. Notwithstanding any subletting, the obligations of the Tenant under this Lease shall continue in full force and effect and the Tenant shall remain liable thereunder. For greater certainty, the Tenant shall be prohibited from entering into any subleases which impose financial or monetary obligations (including without limitation, rent free periods, inducements and/or improvements) upon the Landlord following the expiration of the Term;
- (b) Notwithstanding the provisions of Section 10.1, the Tenant shall be entitled to assign the whole, and not part, of this Lease to a an affiliate corporation (as such term is defined in the *Business Corporations Act (Ontario)*) without the consent of the Landlord, but on at least ten (10) business days prior written notice to the Landlord, provided that (i) the Transferor will remain jointly and severally responsible with the Transferee for the fulfilment of all obligations to be performed after the Transfer by the Transferee including the punctual payment of Rent under this Lease during the remainder of the Term and, if required by the Landlord, the Transferor will execute an indemnity agreement on the Landlord's standard form, to give full force and effect to the foregoing, (ii) the new tenant shall execute any and all documentation required by the Landlord (acting reasonably) in connection with such assignment, (iii) the Tenant shall reimburse the Landlord for all expenses incurred in connection therewith. The obligations of the Transferor will survive any termination, repudiation, disaffirmation, disclaimer or surrender (except with the consent of the Landlord) of this Lease by any trustee in bankruptcy or by a court representative.

10.5 Tenant Financing

- (a) The Landlord agrees that the Tenant may, with the consent of the Landlord, which consent shall not be unreasonably or arbitrarily withheld and shall be delivered without an unreasonable delay, mortgage its entire right, title and interest in the Premises by granting a Leasehold Mortgage to a *bona fide* Leasehold Mortgagee. If required by the Tenant, so long as the Tenant is not in default hereunder, each of the Tenant, the Leasehold Mortgagee and the Landlord will enter into a mutually acceptable leasehold mortgage agreement (a "Leasehold Mortgage Agreement"), each party acting reasonably. The Tenant acknowledges and agrees that the Landlord's refusal to subordinate this Lease to the Leasehold Mortgage is reasonable.

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- (b) The Leasehold Mortgage shall be subject to the Landlord's rights and remedies under this Lease and at law and the rights and remedies granted to the Leasehold Mortgagee shall in no way alter or prejudice any of the rights or remedies available to the Landlord against the Tenant or any other rights or remedies available to the Landlord under this Lease or at law except as may otherwise be specifically agreed to the contrary in the Leasehold Mortgage Agreement.
- (c) The Landlord shall not be deemed to have acknowledged or approved of any of the terms of the Leasehold Mortgage as between the Leasehold Mortgagee and the Tenant, except for the granting itself of the Leasehold Mortgage and the Landlord shall not be bound by nor be deemed to have knowledge of any of the terms of the Leasehold Mortgage except as may otherwise be specifically agreed to the contrary in the Leasehold Mortgage Agreement.
- (d) The Tenant shall be responsible for and promptly pay all out-of-pocket costs, fees and expenses incurred by the Landlord in respect of the Leasehold Mortgage and/or the Leasehold Mortgage Agreement and all related agreements or security from time to time including all legal costs incurred in connection with the preparation and negotiation of the Leasehold Mortgage Agreement and all related agreements or security from time to time and any further documentation related thereto from time to time. The Tenant shall also indemnify and hold harmless the Landlord from and against any Claims which may be made or brought against the Landlord or which the Landlord may suffer or incur, directly or indirectly in connection with the Leasehold Mortgage and/or the Leasehold Mortgage Agreement and all related agreements or security from time to time. The Tenant's covenants, indemnity and obligations pursuant to this Section 10.5 shall survive the expiration, repudiation, rejection, disclaiming, unenforceability or termination of this Lease or the Leasehold Mortgage Agreement.
- (e) Subject to the provisions of this Section 10.5, any Leasehold Mortgagee hereunder may enforce its Leasehold Mortgage and acquire title to such leasehold estate in any lawful way and, without limitation, such Leasehold Mortgagee may, by its representatives or by a receiver, as the case may be, take possession of and manage the Lands and the improvements thereon provided that such Leasehold Mortgagee shall cure all curable defaults under this Lease and agree in writing with the Landlord to observe and perform all obligations of the Tenant under this lease during such time as the Leasehold Mortgagee (or its representative or receiver) has ownership or possession of such leasehold estate and, upon foreclosure of, or without foreclosure upon exercise of any contractual or statutory power of sale under any such Leasehold Mortgage, may sell or assign the leasehold estate and such Leasehold Mortgagee shall be liable to perform the obligations imposed on the Tenant by this Lease only so long as such Leasehold Mortgagee has ownership or possession of such leasehold estate. Such Leasehold Mortgagee shall only be entitled to assign or sell the leasehold estate created hereby if this Lease is otherwise in good standing, the provisions of Sections 10.1, 10.2 and 10.3 have been complied with and the Landlord has received all payments required to be received by it to the date of such sale or assignment.

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- (f) No Leasehold Mortgage shall be made by the Tenant unless the Leasehold Mortgagee shall covenant with the Landlord:
- (i) to be bound by all the covenants and obligations of the Tenant hereunder as soon as such mortgagee or encumbrancer enters into possession of the Tenant's interest or otherwise takes steps to enforce its security which have the effect of depriving the Tenant of the ability to perform fully those covenants and obligations, and such covenant shall continue to bind such mortgagee or encumbrancer so long as the Leasehold Mortgagee continues in possession or continues to enforce its security with the effect as aforesaid;
 - (ii) to obtain, upon any exercise of any power of sale (which power of sale shall be subject to the consent of the Landlord as set out in Section 10.1), a covenant from the assignee approved by the Landlord, in favour of the Landlord to perform all of the Tenant's obligations under this Lease, but as soon as the assignee becomes bound by the Tenant's obligations, the Leasehold Mortgagee shall be relieved from its covenant.

10.6 Landlord's Sale

In the event of the sale, transfer or other disposition by the Landlord of its interest in the Lands or any part thereof, or the assignment by the Landlord of this Lease or any interest of the Landlord hereunder, the Landlord shall cause the purchaser, transferee or assignee thereof to directly assume the covenants and obligations of the Landlord hereunder and, thereupon, the Landlord shall, without further agreement, be freed and relieved of all liability with respect to such covenants and obligations under this Lease relating to matters arising prior to and from and after such assignment.

ARTICLE 11.00 - STATUS STATEMENT, SUBORDINATION AND ATTORNMENT

11.1 Status Certificates

Each party shall, on ten (10) days' notice from the other, execute and deliver to the other and any Mortgagee or Leasehold Mortgagee (as applicable), a statement as prepared by the other in writing certifying the following:

- (a) that this Lease is unmodified and in full force and effect, or, if modified, stating the modifications and that the same is in full force and effect as modified;
- (b) the Commencement Date and the expiry date of the Term;
- (c) the amount of the Ground Rent then being paid;
- (d) the dates to which Ground Rent, by installments or otherwise, and Additional Rent and charges hereunder have been paid;

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- (e) whether there are any set-offs, defences or counterclaims against enforcement of the obligations to be performed by the Landlord or the Tenant under this Lease;
- (f) whether or not there is any existing default by the Tenant in the payment of any Rent or other sum of money under this Lease and whether or not there is any other existing or alleged default by the Landlord or the Tenant under this Lease and if there is any such default, specifying the nature and extent thereof; and
- (g) such other reasonable items as the party requesting the statement may require in connection with this Lease.

11.2 Subordination and Non-Disturbance of Tenant

- (a) At the Landlord's option this Lease, and all of the rights of the Tenant hereunder, shall be prior to, or shall be subject and subordinate in all respects to, any and all existing and future Mortgages and any renewals or extensions thereof now or hereinafter in force however, the Landlord shall use commercially reasonable efforts to have any such Mortgagees postpone their respective encumbrances to the interest of the Tenant, or, alternative, to provide the Tenant with a Non-Disturbance Agreement. The Tenant, on request by and without cost to Landlord, shall execute and deliver any and all instruments further evidencing such priority or subordination in such form or forms as the Landlord or the Mortgagee may reasonably require (and subject to review and approval of the form and content thereof by the Tenant and its solicitors, acting reasonably), subject to delivery of the Non-Disturbance Agreement as aforesaid.
- (b) If the interest of Landlord is transferred to any person (herein called a "Purchaser") by reason of foreclosure or other proceedings for enforcement of any such Mortgage, or by delivery of a deed in lieu of such foreclosure or other proceedings, or if any Mortgagee or other encumbrance holder shall take possession of the Lands and/or the Buildings the Tenant shall, at the option of the Purchaser or Mortgagee, immediately attorn to the Purchaser or Mortgagee. Landlord may require Tenant, at Tenant's cost, to enter into an agreement in the form required by any Purchaser or Mortgagee to attorn to the Purchaser or Mortgagee in order to give effect to what is stated above. If the Tenant fails to execute and deliver the required agreement, the Tenant hereby irrevocably appoints Landlord the true and lawful attorney of Tenant to execute any and all instruments necessary to give effect to what is stated above.
- (c) Upon attornment the obligations of the Tenant under this Lease shall continue in full force and effect upon all the same terms, conditions and covenants in this Lease.

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ARTICLE 12.00- QUIET ENJOYMENT**12.1 Quiet Enjoyment**

The Tenant, upon paying the Rent hereby reserved and performing and observing the covenants and provisions herein required to be performed and observed on its part, shall peaceably enjoy the Lands for the Interim Period and the Term subject to the other provisions of this Lease.

ARTICLE 13.00 - DAMAGE AND DESTRUCTION**13.1 Damage or Destruction of Improvements**

(a) The complete or partial destruction or damage, by fire, the elements, accident or other casualty, of the Buildings and/or Improvements shall not, except as provided herein, terminate this Lease or entitle the Tenant to surrender possession of the Premises or to have or to demand any abatement or reduction of the Rent or other charges payable under this Lease.

(b) If at any time during the Term, the Premises, or any parts thereof, are destroyed or damaged (including, without limitation, smoke and water damage) as a result of fire, the elements, accident or other casualty, the Tenant shall forthwith commence diligently and thereafter proceed diligently to repair, replace or rebuild (or to cause to be repaired, replaced or rebuilt) the Premises to or in at least the same condition as it existed immediately prior to the damage or destruction (and, in any event, to or in the state of repair required pursuant to the provisions of this Lease). There shall be no abatement of Rent or other charges payable by the Tenant pursuant to this Lease under any circumstances. All insurance moneys shall be made available to the Tenant pursuant to the terms of this Lease to pay for the cost of such restoration, reconstruction and repair and, should the insurance moneys be insufficient to pay the entire cost, the Tenant agrees to pay the deficiency.

(c) Notwithstanding any other provision contained herein, the Tenant shall not be obligated to restore the Premises in the event that the damage or destruction occurs within the last two (2) years of the Term provided that the Tenant has maintained the insurance required to be maintained by the Tenant under this lease and provided that all proceeds of insurance with respect to the Buildings and Improvements are paid to the Landlord.

13.2 Expropriation

Each of the Landlord and the Tenant agrees to co-operate with the other in respect of any expropriation of all or any part of the Premises so that each may receive the maximum award to which it is entitled to at law.

ARTICLE 14.00 - DEFAULT**14.1 Default and Right to Re-enter**

Any of the following constitutes an Event of Default under this Lease:

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- (a) the Tenant fails to pay any Rent on the day or dates appointed for the payment thereof and fails to pay the same within five (5) days of written notice to the Tenant of such failure;
- (b) save as set out in the balance of this Section 14.1 below (where no notice is required), the Tenant defaults in the performance of its terms, covenants, conditions and/or obligations under this Lease and the default is not remedied within thirty (30) days after notice from the Landlord to the Tenant, or if the default would reasonably take more than thirty (30) days to remedy, the Tenant fails to commence to take steps to remedy and diligently proceed to remedy the default within the thirty (30) day period, in good faith and as would a prudent owner of property similar to the Premises;
- (c) the Tenant becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, an assignment or arrangement with its creditors, or any steps are taken or proceedings commenced by any person for the dissolution, winding-up or other termination of the Tenant's existence or the liquidation of its assets;
- (d) a trustee, receiver, receiver/manager or a person acting in a similar capacity is appointed with respect to the business or assets of the Tenant;
- (e) the Tenant makes a sale in bulk of all or a substantial portion of its assets, other than in conjunction with an assignment or sublease approved by the Landlord;
- (f) the Tenant purports to make a Transfer not in compliance with this Lease; or
- (g) this Lease or any of the Tenant's assets are taken under a writ of execution and such writ is not stayed or vacated within fifteen (15) days after the date of such taking.

14.2 Default and Remedies

If and whenever an Event of Default occurs, then the full amount of the current month's Rent together with, in the case of Section 14.1(c) hereinabove, the next 3 months' instalments of Rent, all of which shall accrue on a day-to-day basis, shall immediately become due and payable as accelerated Rent and without prejudice to any other rights and remedies which the Landlord has pursuant to this Lease or at law, the Landlord shall have the following rights and remedies, which are cumulative and not alternative:

- (a) to terminate this Lease by notice to the Tenant or to re-enter the Lands and repossess them and, in either case, enjoy them as of its former estate, and to remove all persons and property from the Lands and store such property at the expense and risk of the Tenant or sell or dispose of such property in such manner as the Landlord sees fit without notice to the Tenant. If the Landlord enters the Lands without notice to the Tenant as to whether it is terminating this Lease under this Section 14.2(a) or proceeding under Section 14.2(b) or any other provision of this Lease, the Landlord shall be deemed to be proceeding under Section 14.2(b),

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and the Lease shall not be terminated, nor shall there be any surrender by operation of law, but the Lease shall remain in full force and effect until the Landlord notifies the Tenant that it has elected to terminate this Lease. No entry by the Landlord shall have the effect of terminating this Lease without written notice to that effect to the Tenant;

- (b) to atorn all rents and revenues pursuant to any subleases or other occupancy agreements provided the Tenant shall remain solely responsible for each of the lessor's covenants and obligations thereunder;
- (c) to enter the Premises as agent of the Tenant to do any or all of the following:
 - (i) relet the Premises for whatever length of time and on such terms as the Landlord, in its discretion, may determine, and to receive the Rent therefor;
 - (ii) take possession of any property of the Tenant on the Lands, store such property at the expense and risk of the Tenant, or sell or otherwise dispose of such property in such manner as the Landlord sees fit without notice to the Tenant;
 - (iii) make alterations to the Lands to facilitate their reletting; and
 - (iv) apply the proceeds of any such sale or reletting, first, to the payment of any expenses incurred by the Landlord with respect to any such reletting or sale, second, to the payment of any indebtedness of the Tenant to the Landlord other than Rent, and, third, to the payment of Rent in arrears, with the residue to be held by the Landlord and applied to payment of future Rent as it becomes due and payable, provided that the Tenant shall remain liable for any deficiency to the Landlord; and/or
- (d) to remedy or attempt to remedy any default of the Tenant under this Lease for the account of the Tenant and to enter upon the Lands for such purposes. The Landlord shall not be liable to the Tenant for any loss, injury or damages caused by acts of the Landlord in remedying or attempting to remedy such default. The Tenant shall pay to the Landlord all expenses incurred by the Landlord in connection therewith; and/or
- (e) to recover from the Tenant all damages, costs and expenses incurred by the Landlord as a result of any default by the Tenant including, if the Landlord terminates this Lease, any deficiency between those amounts which would have been payable by the Tenant for the portion of the Term following such termination and the net amounts actually received by the Landlord during such period of time with respect to the Premises. The Landlord covenants to use reasonable commercial efforts to mitigate its damages should it exercise its right to terminate this Lease pursuant to the provisions of this Section 14.2.

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14.3 Distress

Notwithstanding any other provisions hereof, the Landlord hereby waives and renounces the benefit of any present or future laws, statutory or otherwise, granting, expanding or purporting to grant or expand the right to distress or remove the personal property of the Tenant. If the Landlord makes any claim against the goods and chattels of the Tenant by way of distress, this provision may be pleaded as an estoppel against the Tenant in any action brought to test the right of the Landlord to levy such distress.

14.4 Costs

The Tenant shall pay to the Landlord all damages, costs and expenses (including, without limitation, all legal fees on a substantial indemnity basis) incurred by the Landlord in enforcing the terms of this Lease, or with respect to any matter or thing which is the obligation of the Tenant under this Lease, or in respect of which the Tenant has agreed to insure or to indemnify the Landlord, together with the Landlord's reasonable administration fee.

14.5 Remedies Cumulative

Notwithstanding any other provision of this Lease, the Landlord may from time to time resort to any or all of the rights and remedies available to it in the event of any default hereunder by the Tenant, either by any provision of this Lease, by statute or common law, all of which rights and remedies are intended to be cumulative and not alternative. The express provisions contained in this Lease as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to the Landlord by statute or common law.

ARTICLE 15.00 – ENVIRONMENTAL MATTERS**15.1 Environmental Matters**

- (a) The Landlord represents and warrants that, as at the effective date of this Lease, it has not received nor is it aware of any notice, citation, directive, order, claim, litigation, proceeding, judgment, letter or other communication, written or oral, from any person or governmental department or agency in respect of the environmental condition in, on or under the Lands and that, as at the effective date of this Lease, the Lands are in compliance with all applicable Environmental Laws.
- (b) The Tenant shall have no responsibility or liability for any Hazardous Substances or contravention of Environmental Laws which may exist prior to the Commencement Date on, in or under the Lands (the "Existing Contamination").
- (c) Any Hazardous Substance which is brought onto or used on the Premises, or any part thereof, by the Tenant, or those for whom the Tenant is in law responsible, shall be transported, used and stored only in accordance with all Applicable Laws. The Tenant will not do or permit or omit to be done in, on or from the Premises anything which may cause or increase the likelihood of the escape, seepage, leakage, spillage, release or discharge of any such Hazardous Substances on, from or under the Premises. The Tenant will promptly notify the Landlord upon becoming aware of any actual, threatened or

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potential escape, seepage, leakage, spillage, release or discharge of any such Hazardous Substances on, from or under the Premises. Subject to Section 15.1(b), the Tenant shall be responsible for all costs relating to the clean up and remediation of the Premises related in any way to the Tenant's use and/or occupancy of the Premises and Tenant hereby indemnifies the Landlord from all liabilities, Claims, damages, interest, penalties, fines, losses, including costs of professional consultants and experts in respect of investigation, remedial action and clean-up costs resulting therefrom.

- (d) The Landlord may perform an audit of all discharges (whether they are permitted or not), at its sole expense. Where a prohibited discharge occurs that was caused by the Tenant or its officers, agents, servants, employees or persons or entities for whom the Tenant is responsible in law, the Tenant will immediately notify the Landlord and all authorities having jurisdiction and the Tenant will immediately clean up such discharge and restore the environment affected by such discharge to the satisfaction of the authorities and the Landlord. The Tenant will further provide the Landlord with a certificate from the Tenant's duly qualified consulting engineer and the Authorities indicating that said clean-up and restoration has occurred in accordance with all Applicable Laws. For the purpose of liability, the Tenant and not the Landlord is the owner of all Hazardous Substances that the Tenant authorizes, causes, or permits to be discharged by its officers, agents, servants, employees, contractors or Persons for whom the Tenant is responsible in law.
- (e) The Tenant will comply with all Applicable Laws pertaining to waste reduction in connection with the Premises and the Tenant's conduct of business. Without limiting this requirement, the Tenant will:
 - (i) perform all waste audits and waste reduction work plans required by Applicable Laws;
 - (ii) implement all waste reduction work plans required by Applicable Laws; and
 - (iii) provide to the Landlord, within ten (10) days of the Landlord's request in each case, copies of all evidence that the Landlord, acting reasonably, requires concerning compliance. The Tenant will also do whatever else is reasonably requested by the Landlord in connection with any waste audits, waste reports, and waste reduction work plans that the Landlord prepares.
- (f) The Tenant will fully comply with the orders of all authorities concerning pollution control and environmental clean-ups of the Premises or the Lands in relation to an environmental problem caused by the Tenant, its officers, agents, servants, employees, contractors or Persons for whom the Tenant is responsible in law, and if the Landlord is required by the authorities to do anything in relation to an environmental problem caused by the Tenant, the Tenant will, upon receipt of notice from the Landlord, carry out the order at the Tenant's expense. If the Tenant fails or refuses to promptly and fully carry out such an order or if, in the Landlord's reasonable opinion, the Tenant is not competent to carry out the order, the Landlord may, upon notice to the Tenant, carry out the whole or any part of such order and the Tenant will pay to the Landlord all reasonable costs incurred by the Landlord in so doing, together with an administration fee of fifteen

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percent (15%) of such costs

- (g) The Tenant will complete, at its expense, a current Phase 2 Environmental Soil Assessment ("ESA") and Soil Compaction Assessment ("SCA") for the Premises, both addressed to the Landlord, for the Landlord's review and approval. The Tenant agrees to fully indemnify and save harmless the Landlord and those for whom in law it is responsible, from any and all claims or actions arising from entry upon the Leased Premises by the Tenant's environmental and/or soil testing consultants in connection with the completion of said Assessments.
- (h) It is also agreed and understood that the ESA referred to above will be added as a schedule to this Lease and shall become a benchmark for the environmental condition of the Premises at the Commencement Date of this Lease (the "Benchmark ESA"). In the event the Tenant elects not to perform the ESA and/or SCA, and/or elects to perform other investigations and/or accept other types of investigations and/or reports in lieu thereof as the Benchmark ESA, then to the extent such Benchmark ESA does not disclose environmental contamination on the Premises, it shall be deemed for the purposes of this Section and this Lease to have not existed on the Premises at the Commencement Date.
- (i) Upon the expiry or earlier termination of this Lease, the Tenant shall complete a Phase II Environmental Soil and Groundwater Assessment and environmental soil assessment in accordance with Applicable Laws then in force (the "Exit ESA") and shall cause the report to be addressed to the Landlord and the Tenant and provide a copy of the report to the Landlord. The Tenant agrees to remediate, at the expense of the Tenant, any contamination of the Premises which is attributable to the Tenant's use and occupation of the Premises and to the extent required at the time of termination of the Lease pursuant to then applicable Environmental Laws. In the event the levels of contamination contained in the Exit ESA are in excess of those allowed pursuant to Environmental Laws at the time of the expiry or termination of this Lease, then the Tenant agrees to remediate the Premises (including, without limitation, the Lands) to those levels as required by Environmental Laws as of the expiry or termination of this Lease. Tenant shall indemnify the Landlord against all liabilities, Claims, damages, interest, penalties, fines, losses, including costs of professional consultants and experts in respect of investigation, remedial action and clean-up costs. The Tenant will also indemnify the Landlord and save them harmless from every loss, cost, claim, expense, penalty, fine and liability whether imposed by any Applicable Laws, or otherwise arising from a breach of any of the Tenant's covenants or obligations set out in this Article 15.00.
- (j) The provisions of this Article 15:00 shall survive the expiry or earlier termination of the Term of this Lease.

ARTICLE 16.00 - SETTLEMENT OF DISPUTES

16.1 Settlement by an Expert

Where any dispute arises between the parties hereto as to any matter expressly subject to this Article 16.00, the parties may determine that the resolution of such dispute ought to be by

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recourse to a person generally recognized in the business community as having familiarity with and expertise in the matter which is the subject of the dispute (an "Expert"). If either party is of such view, it may give written notice to the other party to that effect, listing its choice of Expert. If, within ten (10) days after delivery of such written notice, the parties are able to agree to the use of an Expert for the resolution of the matter in dispute, to the person or persons to be the Expert(s) for such purpose, and as to the time period within which the Expert(s) is (are) to determine such matter, the matter shall be resolved on such basis and the decision of such Expert(s) shall be final and binding on the parties who shall bear equally the costs related to the procedures. If the parties do not agree to any or all of such items within the prescribed time period, the dispute shall not be resolved by an Expert.

16.2 Disputes Subject to Arbitration

Any dispute arising between the Landlord and the Tenant hereunder where recourse is expressly provided to arbitration, or any other dispute arising between the Landlord and the Tenant with regard to this Lease which the parties jointly determine in writing shall be resolved by arbitration, shall be resolved in accordance with Sections 16.3 and 16.4.

16.3 Initiation of Proceedings

Wherever any arbitration is expressly permitted or expressly required under this Lease, arbitration proceedings shall be commenced by the party desiring arbitration (the "Initiating Party") giving notice to the other party (the "Responding Party") specifying the matter in dispute and requesting that it be resolved. Within ten (10) days of receipt of such notice, the parties shall meet and shall consider whether they wish to have the dispute in question resolved by an Expert pursuant to Section 16.1 (unless the parties have already disagreed as to the use of an Expert). In the event that, within ten (10) days after such meeting, the parties agree to the use of an Expert and agree to the other matters referred to in Section 16.1, the dispute in question shall be resolved pursuant to Section 16.1. In the event that the parties do not agree as to the use of an Expert within such ten (10) day period, the parties shall attempt to agree upon an arbitration procedure within fifteen (15) days after the expiry of such ten (10) day period. If the parties cannot agree upon an arbitration procedure within such fifteen (15) day period, the Initiating Party shall, by written notice to the Responding Party, designate an arbitrator. The Responding Party shall, within fifteen (15) days thereafter, be entitled to appoint an arbitrator by written notice to the Initiating Party, and the two (2) arbitrators so appointed shall meet and select a third arbitrator acceptable to both of them. If the Responding Party fails to appoint an arbitrator within the fifteen (15) day period, then the arbitration will proceed before the arbitrator appointed by the Initiating Party who will act as a sole arbitrator. If the two (2) arbitrators so appointed are unable to agree upon a third arbitrator, then the Initiating Party shall make an application to the appropriate court pursuant to the *Arbitration Act, 1991* (Ontario for the selection of a third arbitrator, and the provisions of the *Arbitration Act, 1991* (Ontario) shall govern such selection. In the alternative to the foregoing, the parties may appoint one (1) jointly selected arbitrator to proceed with the arbitration as aforesaid.

16.4 Arbitration Procedure

When the conditions set out in Section 16.3 have been fulfilled, the resulting arbitration panel shall thereupon proceed to hear the submissions of the parties and shall render a decision within thirty (30) days after the appointment of the third arbitrator, if applicable. The decision of a majority of the arbitration panel shall be deemed to be the decision of the arbitration panel, and that decision shall be final and binding upon the parties and not subject to appeal. The arbitration panel shall have the authority to assess the costs of the arbitration panel against either or both of the parties; however, each party shall bear its own witness and counsel fees.

ARTICLE 17.00 - GENERAL**17.1 Entry**

- (a) The Landlord shall be entitled, without notice to or consent by the Tenant:
 - (i) at any time during the last twelve (12) months of the Term, to place upon the exterior of the Lands the Landlord's usual notice(s) that the Lands are for rent; and
 - (ii) at any time during the last twelve (12) months of the Term, on reasonable prior notice, to enter upon the Lands during normal business hours for the purpose of exhibiting same to prospective tenants.
- (b) The Landlord may enter the Lands at any time during the Construction Period and the Term, upon reasonable notice, for the purpose of exhibiting the Lands to prospective Mortgagees and/or purchasers, or for the purpose of inspecting the Lands. The Landlord may place a "for sale" (or similar) sign on or appurtenant to the Lands in a location approved by the Tenant, acting reasonably.
- (c) The Landlord shall exercise its rights pursuant to the foregoing at all times in a manner so as to minimize any interference with the use and occupancy of the Premises by the Tenant, its sub-tenants, and/or any other occupants or users of the Premises.

17.2 Force Majeure

Notwithstanding any other provision contained herein, in the event that either the Landlord or the Tenant should be delayed, hindered or prevented from the performance of any act required hereunder by reason of any unavoidable delay, including strikes, lockouts, unavailability of materials, inclement weather, acts of God or any other cause beyond its reasonable care and control, but not including insolvency or lack of funds, then performance of such act shall be postponed for a period of time equivalent to the time lost by reason of such delay. The provisions of this Section 17.2 shall not under any circumstances operate to excuse the Tenant from prompt payment of Rent and/or any other charges payable under this Lease.

17.3 Waiver

No waiver by any party hereto of any breach by any other party of any of its covenants, agreements or obligations contained in this Lease shall be or be deemed to be a waiver of any subsequent breach thereof or the breach of any other covenants, agreements or obligations, nor shall any forbearance by any party hereto to seek a remedy for any breach by any other party be a waiver by the party so forbearing of its rights and remedies with respect to such breach or any subsequent breach. To be effective, any waiver by the Landlord and/or the Tenant of any breach by the other of any term or condition of this Lease shall be in writing and no waiver shall constitute a waiver of such party's rights in respect of any continuing or subsequent breach. No waiver shall be inferred from or implied by any conduct of the Landlord. The subsequent acceptance of Rent by the Landlord shall not be deemed a waiver of any preceding breach by the Tenant of any term, covenant or condition regardless of the Landlord's knowledge of such preceding breach at the time of the acceptance of such Rent. All Rent and other charges payable by the Tenant to the Landlord hereunder shall be paid without any deduction, set-off or abatement whatsoever, and the Tenant hereby waives the benefit of any statutory or other right in respect of abatement or set off in its favour at the time hereof or at any future time.

17.4 Notices

- (a) Any notice required hereunder shall be in writing and any such notice and any delivery, payment or tender of money or document(s) to the parties hereunder may be delivered personally or sent by prepaid registered mail or prepaid courier to the address for such party as set out in Section 1.1(a) and 1.1(b) as applicable, and any such notice, delivery or payment so delivered or sent shall be deemed to have been given or made and received upon delivery of same or on the third (3rd) business day following the mailing of same, as the case may be. Each party may, by notice in writing to the others from time to time, designate an alternative address in Canada to which notices given more than ten (10) days thereafter shall be addressed.
- (b) Notwithstanding the foregoing, any notice, delivery, payment or tender of money or document(s) to be given or made to any party hereunder during any disruption in the service of Canada Post shall be deemed to have been received only if delivered personally or sent by prepaid courier.

17.5 Registration

- (a) The Tenant, at its sole cost, shall be entitled to register notice of this Lease on title to the Lands and the Landlord hereby consents to the electronic registration of any such notice. Neither party shall register this Lease in full.
- (b) Upon the expiration or earlier termination of the Term, the Tenant shall immediately discharge or otherwise vacate any such notice or caveat.

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17.6 Number, Gender, Effect of Headings

Words importing the singular number only shall include the plural and *vice versa*, words importing the masculine gender shall include the feminine and neuter genders, and words importing persons shall include firms and corporations and *vice versa*. The division of this Lease into Articles and Sections and the insertion of headings are for convenience of reference only, and shall not affect the construction or interpretation of this Lease.

17.7 Severability, Subdivision Control

(a) Should any Article or Section or part or parts of an Article or Section in this Lease be illegal or unenforceable, it or they shall be considered separate and severable from the Lease and the remaining provisions of this Lease shall remain in full force and effect and shall be binding upon the Landlord and the Tenant as though such Article or Section or part or parts thereof had never been included in this Lease.

(b) The Landlord hereby covenants, represents and warrants that it has no ownership or other interest in any lands which are adjacent to the Lands. Accordingly, the parties acknowledge that no consent is required for this Lease under the subdivision control provisions of the *Planning Act (Ontario)*.

17.8 Liability of Landlord.

It is agreed among all of the parties to this Lease that notwithstanding any other provision of this Lease or any provision elsewhere, that each party comprising the Landlord is entering into this Lease solely: (A) as an individual party and not as partner of the other Landlord parties or anyone else; (B) on a several basis as to its Landlord's percentage interest in the Premises and not on a joint or joint and several basis. The provisions of this Section 17.8 shall survive expiration or earlier termination of this Lease.

17.9 Survival of Obligations

Notwithstanding anything else contained herein, all covenants and/or obligations of the Landlord or Tenant under this Lease which remain unfulfilled at the determination of this Lease and the Landlord's or Tenant's rights in respect of any failure by the other to perform any of its obligations under this Lease shall survive and remain in full force and effect notwithstanding the expiration or earlier termination of the Term.

17.10 No Contra Proferentem

This Lease has been negotiated and approved by the parties and, notwithstanding any rule or maxim of law or construction to the contrary, any ambiguity or uncertainty will not be construed against either of the parties by reason of the authorship of any of the provisions of this Lease.

17.11 Entire Agreement

There are no covenants, representations, warranties, agreements or other conditions expressed or implied, collateral or otherwise, forming part of or in any way affecting or relating to this Lease,

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save as expressly set out or incorporated by reference herein, and this Lease constitutes the entire agreement duly executed by the parties hereto, and no amendment, variation or change to this Lease shall be binding unless the same shall be in writing and signed by the parties hereto.

17.12 Successors and Assigns

The rights and liabilities of the parties shall enure to the benefit of their respective heirs, executors, administrators, successors and assigns, subject to any requirement for consent by the Landlord hereunder.

17.13 Time of the Essence

Time is of the essence of this Lease and of every part of it.

17.14 Amendment or Modification

No alteration or amendment to this Lease shall be binding upon the Landlord or the Tenant unless in writing and signed by the Tenant or the Landlord.

17.15 Governing Law

This Lease shall be construed in accordance with and governed by the laws of the Province of Ontario.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the parties hereto have duly executed this Lease.

Witness:

Albert Guido

Sarah Kranc
Name: Sarah Kranc

The Estate of Lejb Schwartzberg
By its executors/estate trustees:

Ruth Goodman
Ruth Goodman

Barbara Schwartzberg
Barbara Schwartzberg

Sharon Katz

We have the authority to bind the Estate

The Estate of Harry Kranc
By its executor/estate trustee:

Sarah Kranc
Name: Sarah Kranc

I have the authority to bind the Estate

VAUGHAN CROSSINGS INC

Per:

Albert Guido
Name: Albert Guido
Title: AS

Per:

[Signature]
Name: [Signature]
Title: [Signature]

I/We have the authority to bind the Corporation

Witness:

Albert Guido

Sarah Kranc
Name: Sarah Kranc

The Estate of Lejb Schwartzberg
By its executors/estate trustees:

Ruth Goodman
Ruth Goodman

Barbara Schwartzberg
Barbara Schwartzberg

Sharon Katz
Sharon Katz

We have the authority to bind the Estate

The Estate of Harry Kranc
By its executor/estate trustee:

Sarah Kranc
Name: Sarah Kranc

I have the authority to bind the Estate

VAUGHAN CROSSINGS INC

Per:

Albert Guido
Name: Albert Guido
Title: AS

Per:

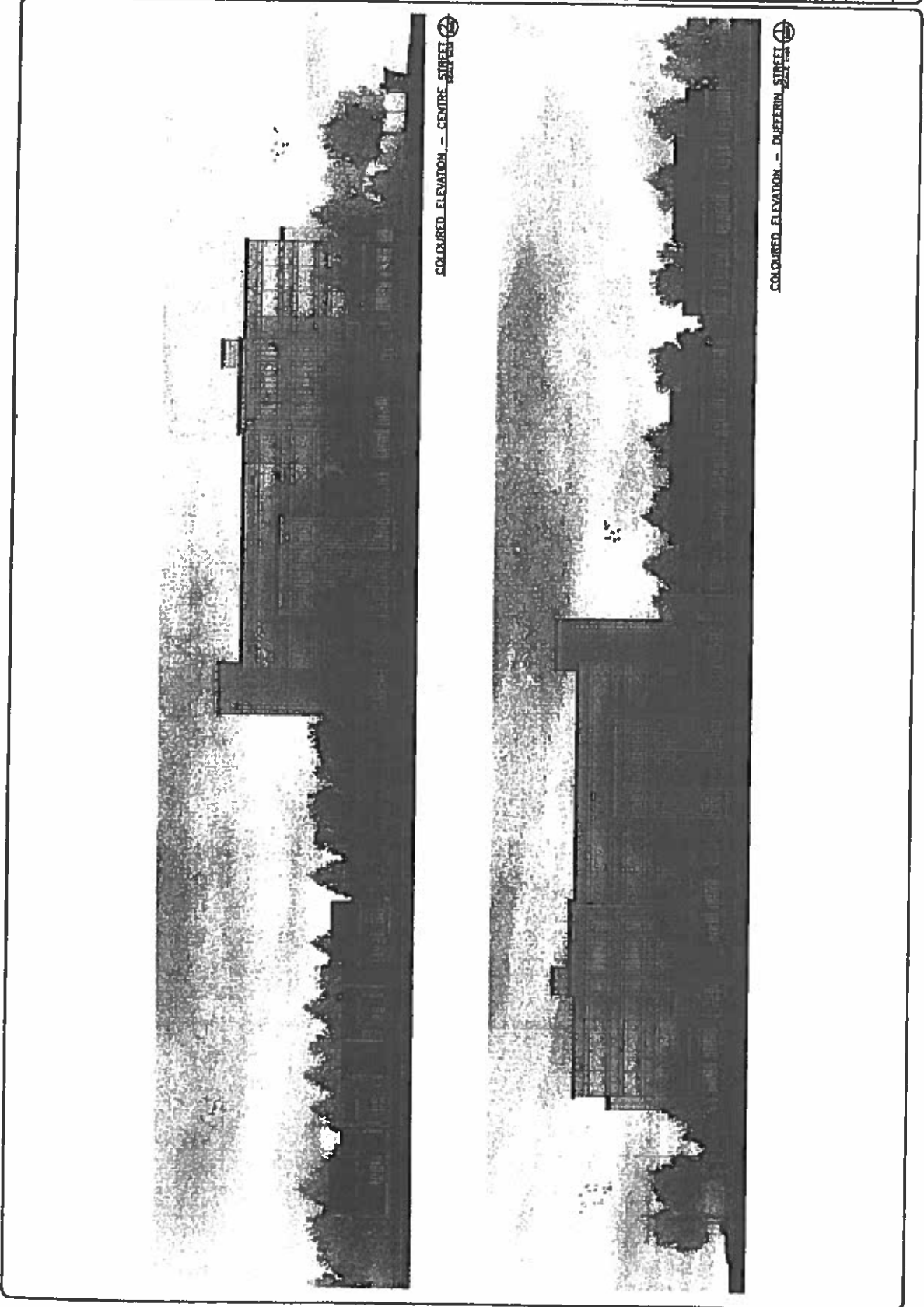
[Signature]
Name: [Signature]
Title: [Signature]

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SCHEDULE "A"

[site plan to be inserted showing Lands]

PROJECT NO. _____ DATE: _____ DRAWN BY: _____ CHECKED BY: _____ APPROVED BY: _____		VALUFORM CROSSBOND INC. 228 King St. W. #100 TORONTO, ONT. M5H 1K1 TEL: (416) 593-8888 FAX: (416) 593-8889 WWW.VALUFORM.COM	VALUFORM CROSSBOND - PHASE 1 10-19 SK001
SHEET NO. _____ OF _____ TOTAL SHEETS _____		COLOURED ELEVATIONS	



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SCHEDULE "B"

Legal Description

Firstly

Part Lot 22, Registrar's Compiled Plan 10309, Vaughan Designated as Part 1, Plan 65R8928;
Vaughan PIN Number 03274-0185 (LT)

Secondly

Part of Lots 25 and 26, Registrar's Compiled Plan 10309, Vaughan Designated as Part 3, Plan
65R14039, save and except Part 1 on Plan 65R-8928; S/T VA84765 assigned by R312155;
Vaughan

Part Lot 25, Registrar's Compiled Plan 10309, Vaughan Designated as Part 2, Plan 65R14039;
Vaughan

PIN Number 03274-0186 (L T)

Thirdly

Part Lot 28, Registrar's Compiled Plan 10309, Vaughan Designated as Part 2, Plan 65R11525;
Vaughan

PIN Number 03274-0106 (LT)

Fourthly

Lot 27, Registrar's Compiled Plan 10309, Vaughan; Vaughan PIN Number 03274-0107 (LT)

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SCHEDULE "C"
INITIAL PLANS

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SCHEDULE "D"

SPECIAL PROVISIONS

1. PAYMENT OF RENT

Notwithstanding anything in this Lease to the contrary, the Tenant agrees that for the purpose of payment of Rent to the Landlord, and until otherwise changed by the Landlord by notice in writing to the Tenant, the Tenant shall deliver separate cheques, proportionately as set out herein, on a monthly basis to the individuals comprising the Landlord, as follows:

(i)	Ruth Goodman, Sharon Schwartzberg and Barbara Fisher, Estate Trustees for THE ESTATE OF LEJB SCHWARTZBERG (50%) at:	c/o Sharon Katz, 182 Choquette Dollard Des Ormeaux, QC H9A 3H1
(ii)	THE ESTATE OF HARRY KRANC (25%) at:	1131 Steeles Ave. W., PH105, Toronto ON M2R-3W8
(iii)	SARAH KRANC (25%) at:	1131 Steeles Ave. W., PH105, Toronto ON M2R-3W8

2. OPTION TO PURCHASE

- (a) In the event the Tenant is not in default under this Lease, the Tenant shall have the option (the "Option") to be exercised at any time during the period starting with the date that is twelve (12) months prior to the end of the 35th year of the Term and ending with the date that is six (6) months prior to the end of the 35th year of the Term (the "35th Year Purchase Option Period") to purchase the Lands upon delivering to the Landlord, at any time during the 35th Year Purchase Option Period, written notice of its intention to purchase the Lands at a purchase price equal to the fair market value (the "FMV Purchase Price") of the Lands. Following the exercise of the Option, the parties shall attempt to mutually agree on the FMV Purchase Price and failing agreement within twenty (20) days from the date of exercise of the Option the FMV Purchase Price shall be determined by taking the average of two (2) fair market value appraisals of the Lands from two accredited commercial property appraisers (the "Appraiser"), one chosen by the Landlord and one chosen by the Tenant. The Landlord and Tenant shall have thirty (30) days from the date the Option is exercised to elect an Appraiser. Should either party fail to do so, it shall be bound by the appraisal given by the Appraiser chosen by the other party. In the event the parties cannot agree on the FMV Purchase Price the matter will be submitted to arbitration in accordance with the *Arbitrations Act*. The FMV Purchase Price as determined by the arbitrators will be based on the fair market value for similar lands (zoned Service Commercial Zone (C7) or the equivalent thereof at that time should Vaughan amend their General Zoning By-Law) on the basis of vacant unimproved lands

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in a comparable area . The Landlord will deliver the title of the property free and clear of all mortgages, charges or encumbrances (other than encumbrances created by or consented to by the Tenant (including, without limitation, municipal agreements and any reciprocal easement and operating agreements)), and the Tenant shall have thirty (30) days from the date of exercise of the Option to conduct its title search and submit requisitions. The transaction will close on the last day of the 35th year of the Term of the Lease (or if such date is a day when the Land Registry Office is closed for business, the closing date shall be the first business day after the last day of the 35th year of the Term of the Lease), and will be subject to such adjustments as are normal and customary for a transaction of this nature.

(b) In the event the Tenant is not in default under this Lease, the Tenant shall have the option to be exercised at any time during the period starting with the date that is twelve (12) months prior to the end of the 25th year of the Term and ending with the date that is the six (6) months prior to the end of the 25th year of the Term (the "25th Year Purchase Option Period") to purchase the Lands upon delivering to the Landlord, at any time during the 25th Year Purchase Option Period, written notice of its intention Purchase the Lands at a purchase price equal to the FMV Purchase Price at that time, plus One Million Five Hundred Thousand (\$1,500,000.00) Dollars, with the FMV Purchase Price being determined in the same manner as in 2(a) above. The Landlord will deliver the title of the property free and clear of all mortgages, charges or encumbrances (other than encumbrances created or consented to by the Tenant (including, without limitation, municipal agreements and any reciprocal easement and operating agreements)) and the Tenant shall have thirty (30) days from the date of exercise of the option to purchase to conduct its title search and submit requisitions. The transaction will close on the last day of the 25th year of the Term of the Lease (or if such date is a day when the Land Registry Office is closed for business, the closing date shall be the first Business Day after the last day of the 25th year of the Term of the Lease) and will be subject to such adjustments as are normal and customary for a transaction of this nature.

(c) The following provisions shall also be applicable to such option to purchase transaction and the agreement of purchase and sale arising herefrom:

- (i) the agreement shall be subject to compliance with the *Planning Act* (Ontario) as amended, including, if legally necessary, the obtaining of Consent to Severance by the Tenant at the Tenant's sole cost and expense and the Tenant shall diligently and actively pursue such approval and keep the Landlord fully apprised as to the status of the application;
- (ii) if consent or approval under the Planning Act is required, the closing date shall be the later of (i) the last day of the 25th year or 35th year, as the case may be, of the Term of the Lease (or if such date is a day when the Land Registry Office is closed for business, the closing date shall be the first Business Day after the last day of

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the 25th year or 35th year, as the case may be, of the Term of the Lease) and (ii) the first Business Day that is 30 days after the date that the consent or approval under the *Planning Act*, if required, becomes final and binding and unappealable;

- (iii) the Tenant shall continue to pay Ground Rent and Additional Rent from the giving of the Tenant's purchase notice to the closing as herein set out with an adjustment on the closing date for any partial month's Ground Rent and Additional Rent due and payable to the date preceding the closing date together with all other usual adjustments involved in the purchase and sale of similar properties and the Landlord shall deliver on the closing date all deeds, instruments, assurances and other customary closing documents as may be reasonably required by the Tenant and its legal counsel and approved by the Landlord and Landlord's legal counsel;
- (iv) the Landlord shall, at the request and expense of the Tenant, execute such further assurances in respect of the Tenant's Option to Purchase as may be necessary in order to permit a separate registration of the Tenant Option to Purchase against the Lands in the appropriate Land Registry Office. The Landlord further consents to such registration by the Tenant;
- (v) the Landlord acknowledges that the benefit of the foregoing Tenant Option to Purchase is intended to run with the Lands and to be assigned and exercisable by the Tenant's successors in title to the Tenant's leasehold interest in the Lands, but shall not enure to the benefit of any subtenant of the Tenant.

(d) The Term of this Lease shall terminate on the closing of the sale transaction should the Tenant exercise either of its options to purchase the Lands as provided for in this Section 2.

(e) If the Tenant fails to exercise either of its options to purchase the Lands within the time periods specified in Section 2(a) and 2(b) above, then the options shall be null and void and of no further force or effect.

3. RIGHT OF FIRST REFUSAL

If at any time during the Term of this Lease the Landlord obtains a bona fide offer to purchase the Lands (the "Offer"), which the Landlord is prepared to accept, the Landlord shall deliver a copy of such Offer to the Tenant. The Tenant shall have fourteen (14) days next following delivery of the Offer by the Landlord to the Tenant to notify the Landlord, in writing, that it will purchase the Lands on the same terms and conditions as the Offer. Upon receipt of the Tenant's notice exercising its right of first refusal, an agreement of purchase and sale shall be deemed to have been entered into between the Landlord and the Tenant on the terms and conditions set out

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in the Offer. If the Tenant fails to exercise its right of first refusal within the aforesaid time period, the Tenant shall be deemed not to have exercised its right of first refusal and the Landlord shall be entitled to accept the Offer and proceed with the sale of the Lands in accordance with the Offer, which transaction shall close within ninety (90) days thereafter. This right of first refusal shall be an ongoing right and shall not be extinguished by the Tenant's failure or refusal to exercise same at any given time and/or by the sale or transfer of the Lands.

4. SUBLEASES AS SECURITY

The Tenant covenants and agrees to assign all sub-leases relating to the Lands to the Landlord as security for the due performance of the Tenant's obligations herein; provided that such assignment shall not be used by the Landlord to collect rents from the sub-tenants unless and until the Tenant is in default of the Lease beyond any applicable cure period (and, in such event, only for such time as the default shall continue). The form of assignment agreement shall be in a form acceptable to both the Landlord and the Tenant both parties acting reasonably and in good faith. The assignment agreements shall provide that the Landlord may not collect rents from the sub-tenants unless the Tenant is in default under this Lease. The Tenant shall deliver in the form and substance satisfactory to the Landlord and Tenant and their respective solicitors, and concurrently with the execution of the Lease, a formal assignment of all subleases which are in existence at any time during the Term of the Lease granted by the Tenant.

5. DEMOLITION OF EXISTING STRUCTURES

Notwithstanding that the Tenant shall be responsible for carrying out (at its expense) the demolition of the existing structures on the Lands, the parties recognize that as a result of Tenant's requirements with respect to its intended use of the Lands, the Landlord may be in a position to declare a terminal loss on the existing buildings upon the Lands for tax purposes, and the Tenant hereby agrees to do all such acts and execute any such documents that the Landlord may reasonably require to be done or to be executed in order for the Landlord to avail themselves of any taxable benefit resulting from the demolition of the buildings (existing as of the date of the Tenant's possession of the Lands) on the Lands.

6. NAMING OF ROADS

As a material inducement for the Landlord entering into this Lease, the Tenant covenants and agrees that upon first developing the Tenant's Facility in and upon the Premises, the Tenant covenants and agrees that, subject to the approval of the City of Vaughan and any other applicable governmental authority, if approval is required, it shall cause one (1) of the streets/roadways within the development to be named after "Lejb Schwartzberg", and one (1) of the streets/roadways within the development to be named after "Harry Kranc". Prior to finalising the naming of the two (2) streets, the Tenant shall submit the proposed street names to the Landlord for Landlord's approval, such approval not to be unreasonably withheld or unduly delayed and to be delivered within five (5) days of written request.

7. CROSS ACCESS AND EASEMENT AGREEMENT

The Tenant acknowledges that access and egress from Dufferin Street to the Lands require

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access over the Adjacent Lands owned by the Tenant as shown on the Initial Plans approved by the Landlord. The Tenant covenants and agrees to enter into a cross-access and easement agreement with the Landlord (which shall also include provision for cost sharing for the ongoing maintenance of such easements as are customary in such agreements), at the Tenant's expense (including, without limitation, all legal and professional fees incurred by the Landlord in connection therewith), in a form acceptable to the Landlord and the Tenant, both parties acting reasonably and in good faith, permitting the Landlord, its employees, customers, tenants and invitees an easement in perpetuity over the Adjacent Lands for access to and from Dufferin Street. The Landlord acknowledges and agrees that, upon the reasonable request of the Tenant, the parties shall enter into a cross-access, servicing and easement agreement, at the Tenant's expense (including, without limitation, all legal and professional fees incurred by the Landlord in connection therewith), to provide for easements for access and servicing across the Lands in favor of the Adjacent Lands in the connection with the joint development of the Lands and the Adjacent Lands as may be reasonably required by the Tenant or any Applicable Authority and approved by the Landlord acting reasonably and in good faith, so long as the aforesaid do not result in any expense or obligation of the Landlord, whether within or outside the boundaries of the Premises, in respect of which the Landlord is not fully indemnified and saved harmless until the date of expiry of the Term of this lease (as renewed or extended). In consideration of the Landlord entering into the cross-access and easement agreement(s), the Tenant covenants and agrees with the Landlord to observe and perform all obligations of the Landlord under the cross-access and easement agreement(s), including, without limitation, payment of any amounts due thereunder, until the date of expiry or earlier termination of this Lease, and failure to comply with and perform the obligations of the Landlord under said agreement(s) during the Term of this Lease (as renewed or extended) shall be deemed to be a default under this Lease. For greater certainty, the consideration for the granting of the above easements shall be \$2.00 and neither party shall charge or request any additional payments (other than as provided for in this Section 7) or consideration for the granting of such easements and/or the entering into the agreements as aforesaid.

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SCHEDULE "E"**NOTICE TO ALL TRADES**

TO : **ALL TRADES**

FROM : **The Owner of 7818 Dufferin Street**
(the "Owner")

RE : **7818 Dufferin Street, Vaughan, Ontario**

THE OWNER, ● , PURSUANT TO SECTION 19(1) OF THE CONSTRUCTION LIEN ACT (ONTARIO), HEREBY NOTIFIES YOU THAT IT ASSUMES NO RESPONSIBILITY WHATSOEVER FOR ANY IMPROVEMENTS BEING MADE TO THE PREMISES UNDER ANY CONTRACTS ENTERED INTO BY THE TENANT, ● (the "Tenant") OR ANY OTHER ENTITY.

DATE:

OWNER / LANDLORD

Per: _____

Per: _____

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LRO # 65 Notice Of Lease

In preparation on 2013 05 17 at 12:45

This document has not been submitted and may be incomplete.

yyyy mm dd Page 1 of 2

Properties

PIN 03274 - 0186 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1,65R8928; S/T VA84765 ASSIGNED BY R312155 ; VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0107 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN ; VAUGHAN
Address VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525 ; VAUGHAN
Address VAUGHAN

Consideration

Consideration \$ 2.00

Party From(s)

Name GOODMAN, RUTH
 Acting as an individual
Address for Service 160 Rimmington Drive
 Thornhill, Ontario
 L4J 6K1

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

Name KATZ, SHARON
 Acting as an individual
Address for Service 182 Choquette
 Dollard-Des-Ormeaux
 Quebec H9A 3H1

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

Name KRANC, SARAH
 Acting as an individual
Address for Service 1131 Steeles Avenue West
 P.H. 105
 Toronto, Ontario
 M2R 3W8

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

Name SCHWARTZBERG, BARBARA
 Acting as an individual
Address for Service 134 Thornway Crescent
 Thornhill, Ontario
 L4J 7Z3

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

LRO # 65 Notice Of Lease

In preparation on 2013 05 17 at 12:45

This document has not been submitted and may be incomplete.

yyyy mm dd Page 2 of 2

Party From(s)

Name KRANC, SARAH
Acting as an individual
Address for Service 1131 Steeles Avenue West
P.H. 105
Toronto, Ontario
M2R 3W8

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

Party To(s)**Capacity****Share**

Name VAUGHAN CROSSINGS INC.
Acting as a company
Address for Service 7501 Keele Street
Suite 401
Vaughan, Ontario
L4K 1Y2

Statements

The applicant is prepared to produce the document for inspection within fourteen (14) days of the request and the applicant consents to the cancellation of the document on presentation of proof satisfactory to the Land Registrar that the document was not produced upon request.

Term: 35 years Expiry date: 2042/10/13

Right or option to purchase, See Schedules

Schedule: Sarah Kranc, Estate Trustee with a Will for the deceased Harry Kranc, as to a 25% interest. Ruth Goodman, Sharon Katz and Barbara Schwartzberg, Estate Trustees with a Will for the deceased Lejb Schwartzberg and Lejb Schwartzberg, as to a 50% interest.

Calculated Taxes

Provincial Land Transfer Tax \$0.00

File Number

Party To Client File Number : 207958

2013/05/17 12:45

LAND TRANSFER TAX STATEMENTS

In the matter of the conveyance of: 03274 - 0186 PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1,65R8928; S/T VA84765 ASSIGNED BY R312155; VAUGHAN

03274 - 0185 PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ;; CITY OF VAUGHAN

03274 - 0107 LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN ; VAUGHAN

03274 - 0106 PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525 ; VAUGHAN

BY: GOODMAN, RUTH
KATZ, SHARON
KRANC, SARAH
SCHWARTZBERG, BARBARA
KRANC, SARAH

TO: VAUGHAN CROSSINGS INC.

%(all PINs)

1. VINCENT ALBERT GUIDO AND ANTHONY DECRISTOFARO

I am

- (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
- (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
- (c) A transferee named in the above-described conveyance;
- (d) The authorized agent or solicitor acting in this transaction for ____ described in paragraph(s) () above.
- (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for VAUGHAN CROSSINGS INC. described in paragraph(s) (c) above.
- (f) A transferee described in paragraph () and am making these statements on my own behalf and on behalf of ____ who is my spouse described in paragraph () and as such, I have personal knowledge of the facts herein deposed to.

3. The total consideration for this transaction is allocated as follows:

(a) Monies paid or to be paid in cash	2.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price)	0.00
(ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	2.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	2.00

4.

Explanation for nominal considerations:

r) lease term of which including any renewals cannot exceed 50 years

5. The land is not subject to an encumbrance

PROPERTY Information Record

A. Nature of Instrument:	Notice Of Lease		
	LRO 65	Registration No.	Date:
B. Property(s):	PIN 03274 - 0186	Address 7818 DUFFERIN STREET VAUGHAN	Assessment Roll No 1928000 - 20107800
	PIN 03274 - 0185	Address 7818 DUFFERIN STREET VAUGHAN	Assessment Roll No 1928000 - 20107800
	PIN 03274 - 0107	Address VAUGHAN	Assessment Roll No -
	PIN 03274 - 0106	Address VAUGHAN	Assessment Roll No -
C. Address for Service:	7501 Keele Street Suite 401 Vaughan, Ontario L4K 1Y2		
D. (i) Last Conveyance(s):	PIN 03274 - 0186	Registration No.	
	PIN 03274 - 0185	Registration No.	
	PIN 03274 - 0107	Registration No.	

2013/05/17 12:45

LAND TRANSFER TAX STATEMENTS

D. (i) Last Conveyance(s): PIN 03274 - 0106 Registration No.

(ii) Legal Description for Property Conveyed : Same as in last conveyance? Yes No Not known

SCHEDULE TO NOTICE OF LEASE**RIGHT OF FIRST REFUSAL**

If at any time during the Term of the Lease the Landlord obtains a bona fide offer to purchase the Lands (the "Offer"), which the Landlord is prepared to accept, the Landlord shall deliver a copy of such Offer to the Tenant. The Tenant shall have fourteen (14) days next following delivery of the Offer by the Landlord to the Tenant to notify the Landlord, in writing, that it will purchase the Lands on the same terms and conditions as the Offer. Upon receipt of the Tenant's notice exercising its right of first refusal, an agreement of purchase and sale shall be deemed to have been entered into between the Landlord and the Tenant on the terms and conditions set out in the Offer. If the Tenant fails to exercise its right of first refusal within the aforesaid time period, the Tenant shall be deemed not to have exercised its right of first refusal and the Landlord shall be entitled to accept the Offer and proceed with the sale of the Lands in accordance with the Offer, which transaction shall close within ninety (90) days thereafter. This right of first refusal shall be an ongoing right and shall not be extinguished by the Tenant's failure or refusal to exercise same at any given time and/or by the sale or transfer of the Lands.

OPTION TO PURCHASE

- (1) In the event the Tenant is not in default under the Lease, the Tenant shall have the option to be exercised at any time during the period starting with the date that is twelve (12) months from the end of the 25th year of the Term and ending with the date that is six (6) months prior to the end of the 25th year of the Term (the "25th Year Purchase Option Period") to purchase the lands described in the Lease on the terms set out in the Lease.
- (2) In the event the Tenant is not in default under the Lease, the Tenant shall have the option to be exercised at any time during the period starting with the date that is twelve (12) months from the end of the 35th year of the Term and ending with the date that is six (6) months prior to the end of the 35th year of the Term (the "35th Year Purchase Option Period") to purchase the lands described in the Lease on the terms set out in the Lease.

PURPOSE OF NOTICE OF LEASE

This Notice of Lease is for informational and notice purposes only and nothing contained herein shall be deemed in any way to modify or otherwise affect any of the terms and conditions of the Lease which terms and conditions are incorporated herein by reference. This instrument is merely a notice of the Lease and is subject to all of the terms, provisions and conditions of the Lease. In the event of any inconsistency between the terms of the Lease and this Notice, the terms of the Lease shall prevail.

This is Exhibit "E" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK


Vector Financial Services Limited

Brokerage Licence # 10160 Administrator Licence # 11205

25 Imperial Street, Suite 500, Toronto, Ontario, M5P 1B9 Tel: 416-483-8018 Fax: 416-483-9763
LOAN PROPOSAL

November 27, 2013

 Vaughan Crossing Inc.
 c/o 401 – 7501 Keele Street
 Vaughan, Ontario L4K 1Y2

Attention: Albert Guido

Dear Sir,

**Re: Vector Financial Services Limited (the "Lender") First Mortgage Financing on 7818 Dufferin Street, Vaughan, ON (the "Project") to Vaughan Crossings Inc. (the "Borrower")
 Our Ref: 13-18**

This Proposal will serve to express interest on behalf of the Lender, subject to receipt and satisfactory review by the Lender of all deliveries and information required herein, to arrange first (1st) mortgage financing for the Project, on the following terms:

1. **BORROWER:** Vaughan Crossing Inc.
2. **JOINT AND SEVERAL GUARANTORS:** Albert Guido and Anthony DeCristofaro
3. **SYNDICATOR/ BROKERAGE:** Vector Financial Services Limited licensed Brokerage, License #10160 and through Vector Financial Services Limited, Administrator License #11205, hereinafter referred to as the Brokerage.
4. **LENDER:** Vector Financial Services Limited, In Trust
5. **LOAN AMOUNT:** The Loan amount will be \$32,500,000, advanced as a first (1st) mortgage pursuant to item 10 hereto, secured by the security described in item 11.1(a) below owned by the Borrower and pursuant to the Advance provisions in item 10, as follows ("Loan"):

Facility A:	Land Segment	\$ 5,200,000
	Site Servicing Segment	3,600,000
	Construction Segment	<u>22,200,000</u>
		<u>\$31,000,000</u>
Facility B:	Cash to secure	
	Letters of Credit	<u>\$ 1,000,000</u>
Facility C:	Construction float	<u>\$ 500,000</u>

6. **TERM:** Thirty one (31) months from the Interest Adjustment Date, being January 10, 2014.
7. **LOAN FEES:** The Syndicator shall be paid a non-refundable fee of \$568,750 payable as follows:
1. \$25,000 (“Earnest Fee”) payable upon acceptance of this Proposal to be held in trust pending receipt of a Commitment Letter on the terms and conditions set out herein.
 2. A further \$175,000 (“Land and Site Servicing Segments Commitment Fee”) deemed earned after acceptance of the Lender’s commitment, and shall be payable forthwith on closing of the initial land portion advance of \$5,200,000.
 3. A further \$368,750 (“Construction Segment Commitment Fee”) after acceptance of the Lender’s Commitment to fund the Construction Segment, which shall be payable in three (3) equal installments out of the initial three (3) Construction Segment advances.

It is understood and agreed that if this Proposal is accepted by the Borrower in accordance with the terms and conditions outlined, or if there are any changes to this Proposal by the Borrower which are acceptable to the Syndicator/Lender and a commitment is issued by the Lender, the Earnest Fee will be retained by the Syndicator and will be considered fully earned as consideration for the time, effort, and expense incurred by the Syndicator, Syndicator employees and officers involved in reviewing the material, documents, financial information, and inspections necessary to prepare an application for approval from the Lenders. Should the Lender, at its absolute discretion, acting reasonably, determine that there exists material differences as between the Borrower’s representation and facts uncovered by the Lender, as part of its due diligence review, than the Earnest Fee shall be deemed earned by the Lender to compensate the Lender for work done. The Borrower agrees that determination of actual time, cost and expense so incurred is not feasible and that said sum represents a reasonable estimate of said compensation. Once a Commitment Letter has been accepted by the Borrower, if the loan is not advanced, through no fault of the Lender, the Borrower agrees to pay the balance of the loan fees forthwith.

8. INTEREST:

Advances under the Loan for the initial **eighteen months (18)** of the term shall bear interest at the rate of **8.5%** per annum, calculated and compounded monthly on the outstanding balance from time to time. For the period from the **nineteenth month (19th)** up to and including the **thirtieth month (30th)** of the term interest shall be calculated at **CIBC Prime Interest Rate plus 5.5% or 8.5%, whichever is greater**. Commencing on the **thirty first (31st)** month of the term, interest shall be calculated at **CIBC Prime Interest Rate plus 9% or 12%, whichever is greater**. Interest will be paid monthly on the outstanding balance on the **tenth (10th)** day of each month (the "Interest Payment Date").

9. PREPAYMENT:

When not in default, the Loan is open for full repayment on any payment date **eighteen (18) months** following Interest Adjustment Date on payment of **one (1) month's** interest, on account of early repayment, provided that each advance of the herein Loan shall earn interest for at least **four (4) months**. Should the Lender not fund the Construction Segment of the Loan, the Land and Site Servicing Segments of the Loan, and Facility "B" when not in default, shall be open for repayment, on any Payment Date **six (6) months** following the Interest Adjustment Date, on payment of **one (1) month's** interest on account of early repayment.

10. ADVANCES:

The Loan will be advanced on closing, scheduled for ~~Thursday, January 9, 2014~~, as follows:

Facility A

Initial Advance: Land Loan: \$ 5,200,000 on closing

Subsequent Advances: Site Servicing: 3,600,000 see notes below

Construction: 22,200,000 see notes below
\$31,000,000

Facility B

Letters of Credit: \$ 1,000,000 February 10, 2014

Facility C

Construction float: \$ 500,000 With initial Construction Segment advance

Nothing in this Loan Proposal shall compel the Lender to proceed with the Construction Segment of the Loan. The Lender, at its' sole discretion, may proceed with the Construction Segment of the Loan provided that the foregoing pre-funding conditions are met, which conditions are not limited to the generality of the foregoing;

- i) Pre-leasing equal a minimum of to 60% of the gross floor area of the Project being achieved (86,700 square feet), representing at least \$2,400,000 in net rental income. Pre-leasing must be evidenced by signed and unconditionally accepted Offers to Lease, or Leases accompanied by Estoppel Certificates, in a form acceptable to the Lender, in its sole discretion.
- ii) \$14,500,000 in capital has been injected in the form of cash equity.

The Borrower shall direct that the sum of \$480,000 be retained by the Lender out of the Construction Segment of the Loan, as and on account of a contingency reserve as herein provided (the "Contingency Reserve"). The Borrower shall acknowledge that the Contingency Reserve has been advanced and shall bear interest upon the same terms as the balance of the Loan advanced to the Borrower on closing. The Contingency Reserve, together with interest earned thereon, shall be pledged by the Borrower to the Lender as Security for the Loan. In the event of default under the Loan, the Lender shall be entitled to utilize and apply all or any part of the Contingency Reserve toward payment of any or all principal, interest, costs or other monies owing under the Loan. All interest earned from time to time on the Contingency Reserve shall be added to and form part of the Contingency Reserve and be held by the Lender as herein provided. Upon the Loan maturing or otherwise becoming due and payable in full, the Lender will apply any remaining balance of the Contingency Reserve toward repayment of the loan. To the extent that the Contingency Reserve has been depleted while the herein Loan is still outstanding the Borrower and Guarantors undertake to replenish the reserve to its original balance within thirty (30) days. Failure to do so shall constitute a default under the herein Loan.

The Site Servicing Segment of the Loan will be advanced in two (2) equal monthly installments of \$1,800,000 each, commencing March 1, 2014.

The Construction Segment of the Loan shall be advanced in no more than seven (7) installments of not less than \$2,500,000 each, and not more frequently than once per month or less frequently than every second month. The Borrower shall give the Lender a minimum of sixty (60) days advanced notice as to the advance schedule required by the Borrower. For certainty, the Lender's obligation to fund the herein Loan shall at all times be limited to the Cost to Complete, as certified by the project's Cost Consultants. The

Lender shall have no obligations to further fund negative variance and cost over-runs that remain outstanding and which are the responsibility of the Borrower and Guarantors.

All advances (including the Site Servicing and Construction Segments), when made, shall be deposited with the Lender's solicitor in an interest bearing account to the credit of the Borrower and released to the Borrower on a Cost to Complete ("CTC") basis based on authorization and certification of completion issued by the Project's Cost Consultant and confirmation from Trades, engaged in the construction of the Project, that they have been paid and that no liens have been registered against title to the property. Workplace Safety and Insurance Board ("WSIB") clearances must be obtained prior to payment being released to the Borrower. Provisions of Item 12.9 shall apply.

Both sites in 11.1(a) and 11.1(b) (collectively the "Project") will be developed as a 144,500 square foot (more or less), mixed commercial/retail complex with predominant medical/health and ancillary uses.

The Construction float in the amount of \$500,000 will be advanced as part of the initial Construction Segment advance should the Lender proceed in financing the construction. The float is to be used by the Borrower to pay for current construction related expenditures. Prior to each advance under the Construction Segment the Borrower will add construction related paid invoices to the regular draw requests and will replenish the float back to its original balance. For greater certainty once the initial float amount has been advanced to the Borrower interest will be charged on the full amount of the float regardless if the float has been replenished or not considering that the float is under the direct and absolute control of the Borrower.

11. SECURITY:

The Loan will be secured by the following, each to be, in form and substance, satisfactory to the Lender and its solicitors. It is understood that all security will be in the first position. Without limiting the generality of the foregoing the security ("Security") will include:

- 1.(a) First (1st) Mortgage for the full amount of the Loan, fees and interest, in the amount of \$32,500,000 over approximately 5 acres, legally described as Part 8, Part 1, Plan 65R-14039 PIN 03274-0104 (LT) and municipally known as 7818 Dufferin Street, Vaughan, Ontario. The site is zoned C7 and Site Plan approved for commercial structures accommodating office and retail uses as intended by the Borrower.

- (b) **First (1st) assignment of a Land Lease over the adjacent parcel of land, being a 3.75 acre site, legally described as PIN #s 03274-0186(LT), 03274-0185(LT), 03274-0107(LT) and 03274-0106(LT). The Land Lease is for a term of 25 years with one 10 year renewal option. The site is zoned C7 and Site Plan Approved for commercial structures accommodating office and retail uses as intended by the Borrower.**
 - (c) **First (1st) assignment of Contingency Reserve described in Item 10, herein,**
 - (d) **First (1st) assignment of all Leases, Offers to Lease and Agreements of Purchase and Sale, present and future, relating to the Project.**
- 2. **General security agreement registered in Ontario under Personal Property Security Act (“PPSA”), providing a first charge over all accounts receivable, inventory, chattels, equipment, plans and permits, if any, other than leased assets as detailed in financial statements on or about the property. Schedule to include financial covenants as described above.**
 - 3. **Postponement of the Borrower’s Shareholder Loans, if any.**
 - 4. **Joint and Several Guarantees of the Loan by Albert Guido and Anthony DeCristofaro.**
 - 5.(a) **First (1st) Assignment of third (3rd) party liability Insurance in the minimum amount of \$2,000,000, per occurrence, naming the Lender as loss payee and first (1st) mortgagee.**
 - (b) **First (1st) Assignment of Builder’s Risk Insurance satisfactory to the Lender and it’s Insurance Consultants in an amount of not less than \$10,000,000, naming the Lender as first mortgagee and loss payee. The cost of the Lender’s Insurance Consultant shall be borne by the Borrower.**
 - (c) **First (1st) Assignment of Comprehensive General and Building Risk Insurance over the Project in an amount not less than the herein Loan naming the Lender as loss payee and first (1st) mortgagee. The Lender’s Insurance Consultants must be satisfied with the coverage and other terms of the insurance binder. The cost of said Consultant shall be borne by the Borrower.**

6. Solicitor's favourable Letter of Opinion, confirming the validity of the Lender's first (1st) charge over 7818 Dufferin Street, Vaughan, Ontario, qualified as to what an up to date location survey may reveal **Title Insurance will be required.**
 7. **First (1st) assignment of all plans, site plans, studies, reports, and any material contracts and agreements relating to the development and ongoing management of the Project in the Borrower's possession. The Borrower shall be responsible for the payment in full to all the Project's consultants. *Project plans must be fully paid for by the Borrower.***
 8. **First (1st) assignment of all deposits, levies, and fees made by the Borrower, from time to time, in connection with the development of the Project.**
 9. **First (1st) assignment of all Letters of Credit given to government authorities in connection with the herein Project and financed by Facility B. The Borrower shall execute a Direction Letter to all recipients of said Letters of Credit to pay, on maturity and in all circumstances of redemption or default, all proceeds to the Lender.**
 10. **Any other or further security and documentation as may be required by the Lender or its' Counsel to complete the security.**
12. **OTHER CONDITIONS:**
- 1.(a) Receipt and satisfactory review by the Lender of current and previous **three (3) years Financial Statements of the Borrowers, satisfactory to the Lender, and prepared by the Borrower's external accountants.**
 - (b) Receipt of copies of the Articles of Incorporation.
 - 2.(a) Receipt and satisfactory review by the Lender of current Environmental and Geological Reports for the lands prepared by consultants acceptable to the Lender with transmittal letters stating that the Lender and Assigns may rely on such reports.
 - (b) Receipt and satisfactory review by the Lender, of a current appraisal report, addressed to the Lender and prepared by a consultant named acceptable to the Lender. The appraisal report shall indicate a completed value of the Project, described in 11.1(a)

and 11.1(b), of not less than \$65,000,000. A transmittal letter from the Appraiser will be required, stating that the Lender may rely on such report.

- 3.(a) Receipt by the Lender of satisfactory confirmation by the Project's Planning Consultant that the Project's present zoning permits Commercial and Retail Development, having a gross floor area of 144,500 square feet. A Site Plan Agreement will suffice.
- (b) Receipt of a current dated survey, prepared by an accredited surveyor and showing all boundaries and improvements, if any.
- 4.(a) The Borrower shall have provided evidence in sufficient detail, satisfactory to the Lender and verified by the Project's Cost Consultant, who is yet to be determined but who will have to be acceptable to the Lender, acting reasonably, that the total costs for the Project, including land, hard and soft costs, and interest during the construction and the sell-out period shall not exceed \$46,200,000 (including H.S.T. costs). This shall include receipt and approval by the Lender and Cost Consultant, as to both form and content, of a construction management contract and fixed price contracts from all major construction, supply or consulting contractors which contract(s) shall be specifically assigned to the Lender, as recommended by the Cost Consultant, with acknowledgement from the general contractor(s) and shall be subject of tri-party agreement(s) satisfactory to the Lender.
- (b) Receipt of confirmation that fixed unit price/guaranteed maximum price contracts, bona fide quotations and/or letters of intent on terms and conditions satisfactory to the administrative agent, the Lenders, and the Cost Consultants are in place for 50% of the hard construction costs of the project prior to the first advance, under the Construction Segment, being made.
- (c) 100% of all cost over-runs shall be the responsibility of the Borrower and the Guarantors.
5. The Borrower shall have delivered to the Lender, for approval, and to the Lender's Cost Consultant, for its inspection and comment, copies of all final plans and specifications upon which the construction costs are based. The Borrower shall also provide to the Lender, at the earliest possible date, for approval by the Lender, copies of site plans, Project floor plans and any other

survey materials relating to the Project that were not provided prior to the issuance of the Commitment.

6. The Borrower will not make any single change in excess of \$300,000, or any changes cumulatively in excess of \$1,000,000, in the plans and specifications for the Project or the contracts for the construction of the Project, or in the terms of any agreements prejudicially affecting the Security of the Lender, without the prior written consent of the Lender.
7. The Lender and its Cost Consultants are to receive satisfactory confirmation that the Borrower has injected \$14,500,000 of cash equity into the Project, which shall remain invested until such time as the Lender has been fully repaid all principal and interest.
8. All requests for advances shall be in writing and will include the following, each in form and substance satisfactory to and subject to inspection of the Lender:
 - i) Details of costs in place and references to the Budget.
 - ii) Certificate from the Lender's Cost Consultant indicating:
 - a) Cost of work in place;
 - b) That the work to date is in accordance with the plans and specifications previously submitted to the Lender;
 - c) Interest, the amount of holdbacks held by the Borrower and cost to complete; and
 - d) Estimated completion date.
9. The Lender reserves the right in its sole discretion to make progress advances directly to the sub-trades and/or suppliers, if the Borrower is in default or if advances are being diverted from the project. For each advance, the Borrower shall sign a Statutory Declaration, satisfactory in substance to the Lender's legal counsel, confirming that all loan proceeds are being used solely to pay for payables in respect to the Project, which are being financed by the Lender pursuant to the various Loan facilities provided for in this Proposal (e.g. third party hard construction cost payables only), and for no other purposes whatsoever,



either in respect to the Project or otherwise. Any use of any such funds for any purpose, either within the Project, or otherwise, except as set out herein, shall constitute a default in this Loan.

10. The Borrower and/or Guarantors shall provide to the Lender:
 - i) Within 90 days of each fiscal year during the term of the Loan facility, unaudited financial statements for the Borrower and each Corporate Guarantor. In addition, the Lender will process credit reports for unincorporated Guarantors.
 - ii) Updated financial statements and/or net worth statements annual for each personal Guarantor;
 - iii) Such other financial and supporting information as the Lender may request.
11. No financing subsequent to the Loan facility shall be permitted without the prior written consent of the Lender. The Borrower shall disclose to the Lender all existing or proposed financing related to the Project and the Security and shall not pledge or otherwise encumber its interest in the Project or the Security to any other party other than the Lender without the written consent of the Lender. The Borrower will provide evidence, satisfactory to the Lender, as to the source of the Borrower's required equity in the Project.
12. In the event of the Borrower failing to pay any amount when due, or being in breach of any covenant, condition or term of the Proposal, Commitment Letter, if issued, or the Security, or if any representation made by the Borrower, the Guarantors, or their agents, or any information provided by them is found to be untrue or incorrect, or if any Event of Default, as defined in the Security, occurs, relating to the Borrower, the Borrower shall, at the option of the Lender, be in default of its obligations to the Lender and the Lender may cease or delay further funding or may exercise any and/or all remedies available to it at law or in equity. Further, the Lender may, at its option, on notice to the Borrower, declare the principal and interest on the Loan, and any other amount, due under the Proposal and Commitment, forthwith due and payable, whereupon the same shall be and become immediately due and payable in full.

13. The waiver by the Lender, of any breach or default by the Borrower, of any provisions contained herein, shall not be construed as a waiver of any other or subsequent breach or default by the Borrower. In addition, any failure by the Lender to exercise any rights or remedies hereunder, or under the Security, shall not constitute a waiver thereof.
14. The Proposal, Commitment Letter, if issued, and Loan facility shall be governed by, and construed, under laws of the Province of Ontario.
15. The Borrower and Guarantors agree that if any one or more of the provisions contained in this Proposal, or in the Commitment Letter, if issued, shall for any reason be held to be invalid, illegal, or unenforceable, in any respect, such invalidity, illegality, or unenforceability shall, at the option of the Lender, not affect any or all other provisions of this Proposal or the Commitment, if issued, and this Proposal and the Commitment Letter, if issued, shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
16. Time is of the essence in both the Proposal and the Commitment Letter, if issued.
17. The Borrower will substantially complete the Project in accordance with plans and specifications by July 1st, 2015 and pay its taxes, protect its properties by contest of adverse claims, maintain required insurance, perform its obligations under contracts and agreements, obtain, with all necessary approvals for construction and use of the Project, comply with all governmental rules and regulations, permit reasonable inspections by the Lender and its agents of the Project, and all records pertaining to the Project.
18. If, at any time during construction, the actual costs incurred exceed the costs budgeted and approved by the Lender, the Borrower shall immediately so notify the Lender, and if the Lender shall conclude that the aggregate undisbursed balance of the Loan Facility shall be or become insufficient to pay for the completion of the construction of the Project, and all expenses and charges in connection therewith, the Borrower shall contribute the amount of such excess toward the Project before any disbursements of the Loan Facility shall be made by the Lender.



19. If a lien is filed against the Project, or if the Borrower, Guarantors, or Lender receives notice that one is about to be filed, then, at the option of the Lender, and in addition to any other remedies it may have, the Lender shall not be required to make any further advances until funds sufficient to cover such lien have been deposited with the Lender, or until such time as the said lien has been discharged.

20. The Borrower and Guarantors shall indemnify, and save harmless, the Lender, it's officers, agents, trustees, employees, contractors, licensees, or invitees from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature, whatsoever, arising out of the provisions of this Proposal, the Commitment Letter, if issued, and the Security, any letters of credit, letters of guarantee issued, sale or lease of the Project and/or the use or occupation of the Project, including, without limitation, those arising from the right to enter the Project, from time to time, and to carry out the various tests, inspections, and other activities permitted by the Proposal, Commitment Letter, if issued, and the Security. In addition to any liability imposed on the Borrower and Guarantors, under any instrument evidencing or securing the Loan indebtedness, the Borrower and Guarantors shall be liable for any and all of the Lender's costs, expenses, damages, or liabilities, including, without limitation, all reasonable legal fees, directly, or indirectly arising out of, or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under, or about the Project of any hazardous or noxious substances. The representations, warranties, covenants and agreements of the Borrower and Guarantors set forth in this subparagraph:
 - i) Are separate and distinct obligations from the Borrower's and Guarantors' other obligations;
 - ii) Survive the payment and satisfaction of their other obligations and the discharge of the Security, from time to time, taken as Security therefore;
 - iii) Are not discharged or satisfied by foreclosure of the charges created by any of the Security; and
 - iv) Shall continue in effect after any transfer of the land including, without limitation, transfers



pursuant to foreclosure proceedings (whether judicial or non-judicial) or by any transfer in lieu of foreclosure.

21. The Borrower and Guarantor will provide the usual warranties and representations, respecting; accuracy of financial statements and that there has been no material adverse change in either the Borrowers, or Guarantors' financial condition or operations, as reflected in the financial statements used to evaluate this credit; title to the Project charged by the Security; power and authority to execute and deliver documents; accuracy of documents delivered, and representations made to the Lender; no pending adverse claims; no outstanding judgments; no defaults under other agreements relating to the proceedings; payment of all taxes; no consents, approvals or authorizations necessary, in connection with documentation; compliance of construction of permitted encumbrances; all necessary services available to the Project; no hazardous substances used, stored, discharged or present on the mortgaged lands, and will warrant such other reasonable matters, as Lender, or its legal counsel may require.
22. The Borrower will be required to publish the date of substantial completion of the Project in an appropriate trade publication.
23. The Borrower and the Lender specifically acknowledge and agree that they are not entering into a joint venture or partnership agreement by virtue of this Loan transaction.
24. The Borrower agrees to comply, at all times, with the Construction Lien Act.
25. The Lender reserves the right to syndicate an interest in this Loan to one or more lenders who may be related to the Broker herein.
26. If a commitment is issued it is not assignable by the Borrower.
27. Loan disbursement(s) shall take place only on title to the Project, being acceptable to the Lender's Counsel, and all matters in connection with the priority, validity and enforceability of the Security and other documentation deemed necessary or advisable by Lender's Counsel being complied with by the Borrower and the Guarantors.

28. Whether or not the transaction contemplated herein shall be completed, the Borrower agrees to pay the reasonable legal fees and disbursements of the Lender's Counsel for the Security and all other documents resulting here from. Legal fees are estimated at \$20,000 plus disbursements.

In addition, the Borrower shall pay forthwith, on demand, all other reasonable fees and disbursements incurred or to be incurred in connection with the Security and all other documents, including, but not limited to, registrations costs, discharge costs, appraisal fees, surveyor's costs, and monitoring costs.

29. This Agreement shall be read in conjunction with the Lender's form of charge documents, and in all cases, where the interpretation of the terms hereof and the intention of the parties hereto may be in question, where applicable, the terms recited in the relevant charge document shall prevail.
30. Section headings are not to be considered part of this agreement and are included solely for the convenience of reference and are not intended to be a full or accurate description of the contents thereof.
31. In this Agreement, words importing the singular number include the plural and vice versa, and words importing the masculine gender include the feminine and neuter genders.
32. The Lender shall have the right to provide up to three (3) signs, at its cost, no greater than 2' x 3' advertising the fact that Project financing was provided by the Lender. The sign shall be erected, by the Developer/Borrower, at his cost in a prominent location on or about the hording or construction fence at a location to be approved by the Borrower and the Lender.
33. This Proposal and, if issued, a Commitment Letter, the Loan and the Security may all be assigned, transferred or otherwise disposed of by the Lender to a non-arm's length party without the Borrower's or the Guarantors consent.

13. STATUS OF BORROWER:

The Solicitors for the Borrower are to certify, without qualification, that the loan documents have been properly executed and they have confirmed the identity of the person(s) signing.

The Borrower shall be required to produce identification acceptable to the Lender and to the Lender's solicitor at the time the documentation is signed, and prior to any funds being advanced, for the purpose of compliance with the provisions of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) and Regulations there under. Such identification shall include at least two documents, with at least one document including photo ID, together with a solicitor's confirmation that the identity of all persons signing as or on behalf of the Borrower have been identified as the proper persons to sign. The Lender is to be provided with clear and legible copies [front and back] of any identification documents together with a solicitor's certification that the copies are true copies of the original documents. Ontario Health Cards are not acceptable identification documents.

14. BORROWER'S REPRESENTATIONS:

The Borrower and Guarantor represent and warrant that as of the date of the acceptance of this Commitment and as of the Closing Date:

1. They have the power, capacity and authority to enter into this Commitment and to perform and complete the transaction contemplated herein, all of which have been duly authorized where required by all necessary corporate action and that no consents are necessary;
2. They have not withheld any information of a material nature relating to the Property or to the Borrower or Guarantor;
3. All existing environmental assessments, audits, tests and reports relating to the Property within the knowledge of the Borrower and Guarantor have been delivered to the Lender.

Vaughan Crossing Inc.
 Construction Loan Proposal – 7818 Dufferin St., Vaughan, ON
 November 27, 2013

15. **BORROWER'S**

ACKNOWLEDGEMENTS: The Borrower acknowledges and represents that:

1. It has considered the risks entailed in private borrowing and has been informed of the risks involved in the Loan;
2. The Terms and the Interest Rate in this Commitment may be higher and more onerous than that of institutional Lenders;
3. It has had an opportunity to consult its legal counsel and accountant or other financial advisors;
4. If the Lender does not advance the Loan by a certain date, the Borrower may be unable to satisfy the intended purpose for the Loan;
5. In the event the Borrower is unable to pay monthly payments, property taxes, fire insurance premiums or the principal amount when the Loan is due, the Lender could obtain a court judgment and enforce all remedies available by law, including three (3) month's of interest payments, and income could be seized to pay the judgment or the Lender could keep the Property or sell it;
6. When the Loan is due, if the Lender cannot or will not renew the Loan and cannot pay the outstanding balance, the Property may have to be sold in order to repay the Loan; and
7. The Lender has disclosed the material risks of the Loan.

Disclosure Requirements under the new Mortgage Brokers, Lenders and Administrator's Act, Bill 65:

1. The Brokerage and Broker act for the Lender;
2. Cost of Borrowing ("COB") and Actual Percentage Rate ("APR") are disclosed in the Statement of Mortgage, which will be prepared should the Lender proceed to issue a Loan Commitment Letter.
3. Notwithstanding Item 2, there are no conflicts of interest, which neither the Brokerage nor the Broker are aware of.
4. The risk factors, which the Brokerage/Broker have identified as being associated with the herein loan are noted below, but are not limited to the generality of the foregoing;

Vaughan Crossing Inc.
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- i) The herein loan bears interest only. With the exception of permitted or required periodic principal repayments, the entire loan principal as well as expenses, recoveries and unpaid interest, if any, will be due on maturity date as determined and defined from time to time;
- ii) Default under any term of the herein loan may result in the Borrower's equity being at risk;
- iii) The loan guarantor(s) may be called upon to make good on shortfalls required to fully discharge the herein loan.
- iv) The Borrower's ability to refinance the herein loan is solely dependent upon external factors over which the Borrower has no control. This may include, but is not limited to, the Lender's refusal to renew the herein loan on maturity, the lack of other refinancing alternatives and/or adverse market conditions. In such circumstances the Lender may exercise its remedies accorded to it under the herein charge and other relevant statutes and acts.
- v) The Borrower's ability to service the herein loan may be dependent upon factors beyond the Borrower's control, such as the impairment of the sources of cash flows used to service the herein loan. The inability to service the loan will result in defaults under the term of the herein loan, which may result in any one of the consequences described above.

By signing and accepting this Loan Proposal, the Borrower(s) and Guarantor(s) acknowledge that the herein Loan, if granted, is not life insured. The Borrower is encouraged to seek relevant protection from its' insurance professionals.

The foregoing reflects the general terms and conditions on which the Lender will proceed with this loan and process a Commitment Letter. If a Commitment Letter is not issued, through no fault of the Borrower, on the terms and conditions stated herein, the Earnest Fee will be returned to the Borrower.

The Borrowers hereby grants permission to the Lender to obtain credit reports to be used in determining the acceptability of credit risk in connection with this Loan.

If the terms and conditions of this application are acceptable, please so indicate by signing the attached copy of this Letter, together with the \$25,000 Earnest Fee and return it to the writer's attention by November 25, 2013.

Yours very truly,

VECTOR FINANCIAL SERVICES LIMITED

Per:

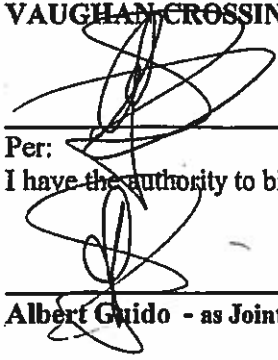

 Mickey Baratz, Director of Finance

Vaughan Crossing Inc.
Construction Loan Proposal - 7818 Dufferin St., Vaughan, ON
November 27, 2013

ACCEPTANCE OF LOAN PROPOSAL


ACCEPTED, on the terms and conditions herein provided this 20 day of Nov, 2013.

VAUGHAN CROSSING INC. - As Borrower



Per: _____
I have the authority to bind the corporation.

Albert Guido - as Joint & Several Guarantor



Witness:

Next Page.

Anthony DeGustofaro - as Joint & Several Guarantor

Witness:



Vaughan Crossing Inc.
Construction Loan Proposal - 7818 Dufferin St., Vaughan, ON
November 27, 2013

ACCEPTANCE OF LOAN PROPOSAL

ACCEPTED, on the terms and conditions herein provided this 16 day of Nov, 2013.


VAUGHAN CROSSING INC. - As Borrower

Per:
I have the authority to bind the corporation.

Albert Guido - as Joint & Several Guarantor


Anthony DeGustofaro - as Joint & Several Guarantor

Witness:



Witness:



This is Exhibit "F" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK



Vector Financial Services Limited

Brokerage License # 10160 Administrator License # 11205

25 Imperial Street, Suite 500, Toronto, Ontario, M5P 1B9 Tel: 416-483-8018 Fax: 416-483-9763

COMMITMENT LETTER

December 6, 2013

Vaughan Crossings Inc.
401 - 7501 Keele Street
Vaughan, ON L4K 1Y2

Attention: Albert Guido

Dear Sir,

Re: Vector Financial Services Limited (the "Lender") First Mortgage Financing on 7818 Dufferin Street, Vaughan, ON (the "Subject Property") to Vaughan Crossings Inc. (the "Borrower")
Our Ref: 13-18

This letter confirms that our clients represented by Vector Financial Services Limited ("VFSL") are prepared to approve your loan on the terms set out in this letter and on our Loan Proposal of November 27, 2013 as accepted November 28, 2013 (the "Loan Proposal"). This commitment (the "Commitment"), however, is subject to receipt and satisfactory review by the Lender of the required deliveries of our Loan Proposal (any terms not defined herein shall have the meanings ascribed in the Loan Proposal).

Commitment Expiry: December 31, 2013. At the option of the Lender, this loan may be cancelled in the event that the representations of the Borrower are found to be inaccurate, or if title to the security is not satisfactory, or if funds are not advanced, due to no fault of the Lenders, by the above- mentioned date.

Interest Adjustment Date: The Interest Adjustment date shall be the 10th day of the month following the date of each advance of funds to be disbursed under the Loan Proposal. Interest shall accrue from the date the advance of funds is made to our solicitors, which will be one (1) day before the advance of funds on this mortgage loan.

Legal Fees: Please note that the legal work on our behalf will be done by:

Ron Melvin
Rose, Persiko, Rakowski, Melvin LLP
390 Bay Street Suite 600
Toronto ON M5H 2Y2

Telephone: (416) 868-1908

Commitment Letter
Vaughan Crossings Inc. - Construction Loan - 7818 Dufferin Street, Vaughan, ON
December 6, 2013

- All legal costs & fees incurred, in connection with this mortgage loan shall be paid by the Borrower. All questions should be directed to Mr. Melvin. An estimate of fees to be subject by Counsel plus disbursements & HST shall be deducted and paid out of the advance.
- Title Insurance:** The Lender shall require, as a pre-condition to proceeding with the mortgage loan, a Lender's Policy of Title Insurance to be issued by the preferred company recommended by the Lenders Counsel, the cost of which shall be borne by the Borrower and deducted at the time of the first advance.
- Mortgage:** The terms and conditions of the Loan Proposal and this Commitment shall continue to apply notwithstanding the preparation, execution and registration of the mortgage and other documents. The Loan Proposal and this Commitment, and each of their provisions, shall continue in full force and effect until the loan has been repaid in full. Provided that in case of any inconsistency or conflict between any provision or provisions of the Loan Proposal, this Commitment and any provision or provisions of the mortgage and other security documentation, the mortgage and other security documentation shall prevail.
- Title and Legal Requirements:** The advance of funds shall be made subject to the Lenders and our solicitors being satisfied with title to the Subject Property secured and all legal aspects, required of the transaction.
- Solicitors and Documentation:** All legal matters and documentation shall be satisfactory to the Lenders' solicitors, whose fees, disbursements and HST the Borrower agrees to pay whether or not this transaction is completed as contemplated herein.
- Standard Charge Terms:** The Borrower acknowledges and agrees the mortgage shall incorporate by reference Standard Charge Terms (Ontario), but that the mortgage shall not be limited to the Standard Charge Terms and shall incorporate such additional provisions as are contemplated by the Loan Proposal and this Commitment, and/or any other terms and provisions as may be considered required by the Lender or its solicitors.
- Covenant to Give Notice of Casualty or Legal Claim:** The Borrower hereby covenants and agrees that it will give immediate notice in writing to the Lender of any damage caused by fire, or any other casualty to or legal claim against the Subject Property, or of any legal or beneficial conveyance, transfer, or change of ownership or possession of the Subject Premises.

Commitment Letter
Vaughan Crossings Inc. - Construction Loan - 7818 Dufferin Street, Vaughan, ON
December 6, 2013

- Mortgage Statements:** The Borrower shall pay for each Mortgage Statement prepared for and provided by the Lender on their behalf, on request, the then current fee for the preparation and providing of such statement. In addition, upon any assumption of this loan, if approved by the Lender, the Borrower shall pay to the Lender the then current fee of \$450.00 for amending its records to reflect the assumption of this loan. The aforementioned fee shall be forthwith payable to the Lenders.
- Right of Inspection:** The Borrower shall permit the Lender, or their agent or agents, at all reasonable times, to make investigation or examination concerning the performance by the Borrower of its obligations under the loan security, forming part of the Subject Property for the purpose of inspecting or protecting the same. The Borrower shall take all reasonable steps, including legal proceedings, to protect its own right, title, and interest in any of the Subject Property and to enable the Lender to defend the interest of the Lender therein.
- Subsequent Encumbrances:** The Borrower shall not further charge or place subsequent encumbrances on the Subject Property without the prior written consent of the Lender, otherwise, at the option of the Lenders, such mortgage loan will become due and payable in full.
- Non-Transferable:** It is agreed and understood that in the event of a legal or beneficial sale, conveyance, lease or transfer of the title to the Subject Property to a purchaser, grantee, transferee, mortgagee, or lessee not approved in writing by the Lender, then at the option of the Lenders all monies secured under the mortgage with accrued interest shall forthwith become due and payable and the Borrower's liability hereunder shall remain in full force and effect until all monies owing to the Lender in connection with this indebtedness is paid in full.
- Realty Taxes:** Realty Taxes are to be paid to the date of the first advance and must be kept current during the term of the mortgage loan. The Borrower covenants and agrees to provide evidence to the Lender, in the form of a receipt from the appropriate taxing authorities, showing all realty taxes in respect of the Subject Property, have been paid in full on or before their respective due dates, within thirty (30) days after each payment due date.
- Zoning:** The use of the Subject Property shall comply with all relevant laws, and shall be in accordance with the provisions of all agreements with governmental (Municipal, Provincial and Federal Statutes) or other authorities providing services to the Subject Property, throughout the term of the mortgage.

Commitment Letter
Vaughan Crossings Inc. - Construction Loan - 7818 Dufferin Street, Vaughan, ON
December 6, 2013

- Survey:** We require an original up to date survey of the land and premises prepared by a qualified Ontario Land Surveyor under seal, showing no encroachments, and showing all improvements on the Subject Property constructed in compliance with the local zoning by-laws or Title Insurance.
- Pre-authorized Chequing Plan:** All payments made under this loan by the Borrower shall be made by a pre-authorized cheque payment plan, electronically debiting the Drawee's account ("EFT") as approved by the Lender. The Lender shall not be obligated to accept any payment other than payment made by EFT. If so required by the Lender, failure to make all payments by EFT shall be an event of default within the meaning of this loan and the Lender shall be entitled to pursue any and all of their remedies under their loan security and/or at law as they may deem necessary at its option. The Borrower shall complete all forms required by the Lenders in this regard.
- Failed Debit under an EFT Plan:** In the event that any of the Borrower's debits under an EFT Plan are not honoured when presented or processed for payment, the Borrower shall pay to the Lender, for each such occasion, the sum of \$300.00 as a liquidated amount to cover the Lenders' administrative costs and not as a penalty and each sum shall be a charge upon the Subject Property and shall bear interest at the rate set out in the mortgage. In the event a failed EFT Debit has not been corrected following notice being provided to the Borrower, the Lender shall be entitled to a further servicing and administration fee as hereinbefore set out for each written request thereafter which is sent to the Borrower and shall bear interest at the rate set out in the mortgage as hereinbefore stated until paid in full.
- Fire Insurance:** We require fire insurance coverage acceptable to the Lender, equivalent to the mortgage loan or full replacement containing the terms and provisions in the Loan Proposal. Such policy must contain a standard mortgage clause and must indicate the interest of the Lender as first mortgagee and Loss Payee.
- Provided further that in the event that the Lenders receive notice that the insurance coverage has or is about to be cancelled, the Lender shall have the right to place a new policy of insurance on the Subject Property without notice to the Borrower and add the cost thereof, with an administrative charge of \$300.00 to the principal amount outstanding under the mortgage which shall bear interest at the rate set out in the mortgage.

Commitment Letter
Vaughan Crossings Inc. - Construction Loan - 7818 Dufferin Street, Vaughan, ON
December 6, 2013

Default:

Provided further that in the event there is any kind of default under this loan and a collection letter is issued by the Lenders the Lender shall be entitled to a fee of \$450.00 for each collection letter written, whether in connection with one default or more.

Other Terms and Provisions:

1. The Borrower acknowledges the fact that at the Lenders' sole discretion the mortgage loan may be assigned and/or hypothecated.
2. Upon a payout of the mortgage loan in which the Lender are in receipt of the funds after 3:00 p.m. on any day, the Borrower agrees to pay the interest up to and including the next business day.
3. The Borrower acknowledges that parties related to the Mortgage Broker may be advancing funds on this mortgage loan.
4. In addition to the various loan security documents referred to in the Loan Proposal, the Borrower and Guarantors agree to provide and deliver to the Lender and the Lenders' solicitors such further security and documents the Lenders' and the Lenders' solicitors may require, all of which shall be in a form and content acceptable to the Lenders and their solicitors.
5. The Lender shall have received certified or notarized copies of the constating documents of the Borrower, a government issued certificate confirming that the Borrower is in good standing and an opinion from the Borrower's counsel addressed to the Lender confirming the Borrower's capacity to grant the security required herein and the due authorization, execution and delivery of the security documents and their enforceability in form and content satisfactory to the Lenders.
6. The Borrower and Guarantors represent and warrant to the Lender that all information and material submitted and all representations made to the Lenders by the Borrower and Guarantors are true, complete and accurate and each of the foregoing parties acknowledges that the Lenders have relied on such information, material and representations in approving the loan. Any breach of this representation and warranty shall constitute a default under the security documents which shall entitle the Lender to exercise all of their rights and remedies for default in payment there-under.

Commitment Letter
Vaughan Crossings Inc. – Construction Loan - 7818 Dufferin Street, Vaughan, ON
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7. The Borrower and Guarantors authorize the Lender to make inquiries concerning the character, general reputation, personal characteristics, financial and credit data of the Borrower and Guarantors, including their respective directors, officers, shareholders, and principals, and to verify any information provided to the Lender hereunder, all for the purpose of underwriting and servicing the loan.
8. Pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, the Lenders are required to obtain specific information with respect to the Borrower, the Guarantors and any third party involved in the transaction. The Borrower and Guarantors hereby covenant and agree to provide, promptly, such information and documentation as may be requested by the Lender to ensure the Lenders' compliance with this Act. In the interest of timely funding of this loan, the Borrower authorizes the Lenders' solicitors and the Borrower's solicitors to communicate directly with each other respecting the information required by the Lenders.
9. The Guarantors hereby acknowledge and agree that each of them is jointly and severally liable for all covenants and obligations of the Borrower under the Loan Proposal, this Commitment and under the loan security.
10. The mortgage and related security documents shall contain representations, warranties and covenants and an indemnity with respect to environmental matters.

**Conditions Precedent to
Each Advance:**

The obligation of the Lender to make any and all advances, will be subject to the following:

- (a) All conditions precedent to funding set out in the Loan Proposal and this Commitment shall have been satisfied; and
- (b) No default or event of default shall have occurred and be continuing.

All conditions precedent to advances expressed herein are for the sole benefit of the Lenders and may be waived by the Lenders at their option. The Borrower covenants and agrees that it shall do everything necessary to meet all such conditions precedent.

Assignment:

Neither this Commitment nor any of the Loan proceeds may be assigned by the Borrower. This Commitment and the security documents may be assigned in whole or in part by the Lenders at any time before or after the advance.

Commitment Letter
Vaughan Crossings Inc. - Construction Loan - 7818 Dufferin Street, Vaughan, ON
December 6, 2013

- Entire Agreement:** This Commitment, when accepted by the Borrower and Guarantors, will constitute the entire agreement and understanding between the parties hereto with respect to the loan and supercede all other agreements, understandings or commitments, oral or written, save and except for the Loan Proposal which is to be read in conjunction with this Commitment and forms a part of the loan terms.
- Approvals and Consents:** Any approvals or consents required to be made or given by the Lenders hereunder must be expressly given pursuant hereto and shall not be implied or construed by the delivery or receipt of documents.
- Amendments and Waivers:** Except as otherwise expressly provided herein, the Loan Proposal and this Commitment cannot be waived, altered, amended, discharged or terminated other than by an agreement in writing signed by the party against whom enforcement of any such waiver, alteration, amendment, discharge or termination is sought.
- Communications:** All communications provided for hereunder shall be in writing, personally delivered, sent by prepaid first class mail or sent by electronic transmission, and if to the Lenders addressed to the address above-noted and if to the Borrower to the address noted above. The date of receipt of any such communication shall be deemed to be the date of delivery, if delivered as aforesaid, or the third Business Day following the date of mailing, if mailed, as aforesaid. If sent by electronic transmission before 4:00 pm on any Business Day, such communication shall be deemed to have been received on the date sent; if sent after 4:00 pm on any Business Day or if sent on a day which is not a Business Day, such communication shall be deemed to have been received on the next following Business Day. Any party hereto may change its address for service from time to time by notice in the manner herein provided. In the event of a postal disruption or an anticipated postal disruption, prepaid first class mail will not be an acceptable means of communication.
- Further Assurances:** The Borrower and Guarantors shall, at the Lenders' request, execute or deliver such further documentation and enter into such other agreements as are necessary for the securing of the loan and the fulfilling of the terms contained herein.
- Time of the Essence:** Time shall be of the essence of the Loan Proposal and this Commitment in all respects.

Commitment Letter
Vaughan Crossings Inc. – Construction Loan - 7818 Dufferin Street, Vaughan, ON
December 6, 2013

Governing Law: This Commitment shall be governed by and construed in accordance with the laws of the Province in which the Subject Property is situated.

Representation & Credit: By acceptance of this Commitment you covenant that the representations and information submitted by you in connection with this mortgage loan are a full disclosure and are true and accurate. The Lender, in their sole discretion, must be satisfied that no material change in your credit standing has occurred prior to any advances. You hereby authorize the Lenders to have credit checks performed.

Interpretation:

- (i) The headings of all provisions herein are inserted as a matter of convenience only and not to define the intent of this document. The necessary changes in grammar and gender required to apply to the parties hereto shall be assumed as though expressed.
- (ii) "Business Day" means a day of the week, other than Saturday, Sunday or any other day which is a statutory or a municipal holiday in the municipality in which the Subject Property is situated.
- (iii) The words "hereto", "herein", "hereunder", "hereof", "hereby", "this Commitment", "this agreement" and similar expressions used in this Commitment, including the schedules attached hereto, mean or refer to this Commitment as a whole and not to any particular provision, section or paragraph or other portion of this Commitment and include any instrument supplemental or ancillary hereto.

Acceptance Date: This Commitment is open for acceptance until December 16, 2013.

The Borrower acknowledges having executed a Statement of Mortgage and a copy has been delivered to the same. In case of any inconsistency or conflict between any provisions of this Commitment, the Loan Proposal and any provisions of the mortgage loan security, such provision or provisions of the mortgage loan security shall prevail.

Yours truly,

VECTOR FINANCIAL SERVICES LIMITED


 Mickey Baratz, Director of Finance

**Commitment Letter
Vaughan Crossings Inc. - Construction Loan - 7818 Dufferin Street, Vaughan, ON
December 6, 2013**

ACCEPTANCE OF COMMITMENT LETTER

I/we hereby accept this Commitment and covenant and agree with you to duly carry out the same terms and conditions.

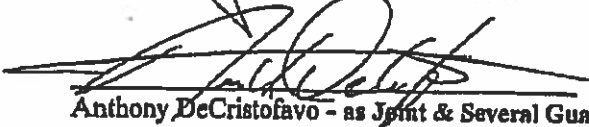
VAUGHAN CROSSINGS INC. - As Borrower




Per: Albert Guido
I have the authority to bind the corporation.



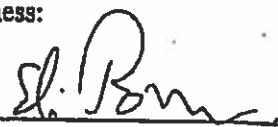
Albert Guido - as Joint & Several Guarantor



Anthony DeCristofavo - as Joint & Several Guarantor



Witness:



Witness:



Mortgage Brokers, Lenders and Administrators Act

Page 1 of 2

Statement of Mortgage

Transaction No: 13-18

Important

This Statement of Mortgage must be completed by the mortgage broker and an amortization schedule for the mortgage must be attached to it. A copy of the Statement of Mortgage signed by the mortgage broker must be given to you at least 72 hours (excluding Sundays and holidays) before you are asked to sign the mortgage instrument or a commitment to enter into the mortgage. This 72-hour period does not apply if:

- 1) no brokerage fee is payable by you to the mortgage broker, AND
- 2) the lender is a bank, loan or trust corporation, insurance company, credit union or finance company.

If the 72-hour period applies to your mortgage, it may be reduced to 24 hours, but only if you obtain independent legal advice. **YOU ARE STRONGLY ADVISED TO OBTAIN INDEPENDENT LEGAL ADVICE ABOUT THIS MORTGAGE BEFORE YOU SIGN THE MORTGAGE CONTRACT.**

If the principal amount of the mortgage is \$200,000 or less, the mortgage broker cannot require you to make, and cannot accept, an advance payment or deposit for services to be rendered or expenses to be incurred by the mortgage broker or any other person.

1. Property to be mortgaged:	P1 L1 B, P1 1, Plan 66R-14039 7818 Dufferin Street, Vaughan, ON		
2. Is the mortgage broker, or any party with other than an arm's length business relationship to the mortgage broker acting as lender for this mortgage loan?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes If "Yes", describe nature of relationship, and name and address of lender: Parties related to Vector Financial Services Limited will invest in this mortgage		
A signed commitment to fund the mortgage as described below was obtained on <u>December 6, 2013</u>			
3. Principal amount of the	Regular <small>(regular or continuous)</small>	First Mortgage <small>(1st, 2nd, 3rd)</small>	mortgage to be repaid by the borrower
			\$32,500,000
4. The principal amount of the mortgage will bear interest at	<u>8.50%</u> per year or at the variable interest rate of		
<u>N/A</u> , and will be repayable in	<u>Monthly</u> instalments of	<u>\$238,298.33</u>	<u>only</u> interest.
5. The Mortgage will be amortized over	<u>N/A</u>	years and interest is to be compounded	<u>N/A</u>
6. Fees and costs payable by the borrower: Check if amount is to be deducted from principal			
i) Mortgage Brokers fee or commission:	Vector Financial Services Limited (Lender Fees)	392,000.00	X
ii) Co-operating Broker	Co-Lender (Co-Lender Fees)	176,750.00	X
iii) Other lender's fees:			
iv) Lender's legal fees and estimated disbursements:	Rose Perleto Rakowsky Melvin LLP (Legal fees)	20,000.00	X
v) Inspection and appraisal fees:			
vi) Other costs or fees payable to persons other than broker or lender (itemize; e.g. registration fees, mortgage fees, insurance fees)			
vii) Any other amount payable by borrower regarding this mortgage: (itemize)			
		TOTAL:	588,750.00
Principal Amount:	<u>32,500,000</u>		
Less: Fees ("X" in item 6)	<u>-588,750</u>		
equals NET ADVANCE OF FUNDS:	<u>31,911,250</u>		
		TOTAL COST OF BORROWING:	<u>9.281%</u>
<small>(i.e. costs, including rate of interest shown on mortgage and all costs itemized in paragraph 6, expressed as a percentage accurate to within one eighth of 1 per cent)</small>			
		Date	<u>Jan 13/2013</u>

Statement of Mortgage

Transaction No: 13-18

7. This mortgage will become due and payable in 31 months, at which time the borrower, If all payments are made on the due date and any prepayment is not used will owe \$32,500,000.

8. The mortgage is not renewable on the same terms and conditions as described in Items 4 and 6 and does not contain any privileges or penalties (including charges for NSF cheques), except as follows:
At the discretion of the lender

9. Other terms and conditions of the mortgage:
Interest only for the initial 38 months at 8.50%. Thereafter at CIBC Prime plus 5.50% for months 19 to 39 and CIBC plus 9.00% for months 31 and thereafter if loan not repaid.

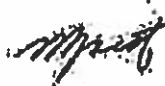
10. This mortgage shall be arranged on or before December 16, 2013

11. Vector Financial Services Limited, 10160
 (Name of mortgage brokerage) (Registration no.)
 is presently registered and in good standing as a mortgage brokerage under the *Mortgage Brokerages, Lenders and Administrators Act*.

12. The mortgage broker has not requested or required the borrower to sign the mortgage instrument (whether completed or blank) or any commitment to enter into the mortgage, and will not do so until permitted to do so by the regulations made under the *Mortgage Brokerages, Lenders and Administrators Act*.

13. I have fully completed the above Statement of Mortgage in accordance with the *Mortgage Brokerages, Lenders and Administrators Act*, and regulations.

December 6, 2013
 Date


 Signature of Mortgage Broker, or of a person authorized to sign on behalf of the mortgage broker
Mickey Baratz
 Print name of person signing


ACKNOWLEDGEMENT

I, Vanhan Crossings Inc. of 40 Eglington Avenue East, Suite 887, Toronto ON M4P 2A3, the
Print name Address
 borrower under the proposed mortgage, have read and fully understand the above Statement of Mortgage furnished to me by: Vector Financial Services Limited, 25 Imperial Street, Suite 500, Toronto ON M5P 1B9
Name and address of mortgage brokerage

I have not yet signed the mortgage instrument (whether completed or blank) or a commitment to enter into the mortgage.

I acknowledge receipt of a fully completed copy of this Statement of Mortgage, signed by the mortgage brokerage.

Dee Baratz
 Dated by Borrower


 Signature of Borrower

This is Exhibit "G" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

LRO # 65 Charge/Mortgage

Received as YR2092552 on 2014 02 06 at 12:18

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

yyyy mm dd Page 1 of 17

Properties

PIN 03274 - 0103 LT **Interest/Estate** Fee Simple

Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307
EXCEPT PT 1 EXPROP PL R650078; S/T VAB4766 ASSIGNED BY R312155 ;
VAUGHAN

Address DUFFERIN STREET
VAUGHAN

PIN 03274 - 0104 LT **Interest/Estate** Fee Simple

Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ;
VAUGHAN

Address 7818 DUFFERIN STREET
VAUGHAN

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 VAUGHAN CROSSINGS INC.

Address for Service 7501 Keele Street, Suite 401
Vaughan, Ontario
L4K 1Y2

I, VINCENT ALBERT GUIDO, President, and ANTHONY DECRISTOFARO, Secretary, have the authority to bind the corporation.

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

Chargee(s)**Capacity****Share**

Name VECTOR FINANCIAL SERVICES LIMITED

Address for Service 25 Imperial Street, Suite 500
Toronto, Ontario
M5P 1B9

(VSFL Loan No. 13-18)

Provisions

Principal \$ 32,500,000.00 **Currency** CDN

Calculation Period See Schedule

Balance Due Date 2016/08/10

Interest Rate See Schedule

Payments

Interest Adjustment Date 2014 01 10

Payment Date 10th day of each month

First Payment Date 2014 02 10

Last Payment Date 2016 08 10

Standard Charge Terms N/A

Insurance Amount full insurable value

Guarantor

Additional Provisions

See Schedules

LRO # 65 Charge/Mortgage

Received as YR2092552 on 2014 02 06 at 12:18

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

yyyy mm dd Page 2 of 17

Signed By

Alyssa Kinsley Tippie	600-390 Bay Street Toronto M5H 2Y2	acting for Chargor(s)	Signed	2014 02 06
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Tel 416-868-1900

Fax 416-868-1708

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

Submitted By

ROSE, PERSIKO, RAKOWSKY, MELVIN LLP	600-390 Bay Street Toronto M5H 2Y2	2014 02 06
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Tel 416-868-1900

Fax 416-868-1708

Fees/Taxes/Payment

Statutory Registration Fee \$60.00

Total Paid \$60.00

File Number

Chargee Client File Number : 20130354 - VAUGHAN - FREEHOLD

**SCHEDULE - PAGE 1 OF 15
ADDITIONAL PROVISIONS**

1. **Defined Terms** - Unless otherwise expressly defined in this Charge, or unless otherwise required by the context, the following words and phrases shall have the following meanings when used in this Charge:

- (a) "Applicable Laws" means, in respect of any Person, property, transaction or event, all applicable statutes, laws, by-laws, regulations, rules, codes, policies and guidelines, orders, directives, permits, licences, authorizations, approvals and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction and all applicable common law or equitable principles in force and effect during the currency of this Charge;
- (b) "Business Day" means any day of the week other than Saturday, Sunday or any other day which is a statutory or a municipal holiday in the municipality in which the Lands are situate;
- (c) "Borrower Entity" means the Chargor, each Guarantor, each indemnitor of all or part of the Loan Indebtedness or in respect of or related to the Lands or any part thereof, and any Person having a beneficial ownership interest in all or any part of the Lands from time to time;
- (d) "Charge" means, for the non-electronic paper based registration system, the Charge/Mortgage of Land (Form 2) to which this Schedule is attached, this Schedule and all other schedules thereto, or for the electronic registration system, the Charge/Mortgage prepared in the electronic format and registered electronically pursuant to Part III of the Land Registration Reform Act (Ontario) including this Schedule and all other schedules thereto;
- (e) "Chargee" means, individually and collectively, each Person in whose favour this Charge is given and who is or are named in this Charge as chargee, and any other Person who acquires all or part of the rights, title and interest of the Chargee under the Loan Documents;
- (f) "Chargor" means, individually and collectively, each Person named as chargor in this Charge and who has given and executed this Charge as chargor;
- (g) "Commitment" means each and every loan proposal, letter of commitment, loan approval, term sheet or other similar agreement establishing or pertaining to the loan secured by this Charge or pursuant to which this Charge has been given including, without limitation, a Loan Proposal dated November 27, 2013 and a Commitment Letter dated December 6, 2013 both issued by the Chargee to or on behalf of the Chargor, as amended, and all amendments thereto and renewals or replacements thereof from time to time;
- (h) "Costs" includes all costs and expenses of every nature and kind whatsoever incurred by the Chargee or paid by the Chargee to any other party in connection with the protection and preservation of the Lands or any other security held by the Chargee, or for the purpose of preserving and maintaining the enforceability and priority of this Charge and any such other security, or in connection with any and all demands and enforcement proceedings of every nature and kind made or carried out by or on behalf of the Chargee under or pursuant to this Charge, and includes, without limitation, legal costs incurred by the Chargee on a solicitor and client scale;
- (i) "Event of Default" or "default" means any one or more of the following events or circumstances:
 - (i) failure by the Chargor or any Guarantor to pay any instalment of principal, interest and/or Realty Taxes under this Charge or under any charge or other encumbrance of the Lands, on the date upon which any of the payments for same become due;
 - (ii) failure by the Chargor or any Guarantor to strictly and fully observe or perform any condition, agreement, covenant or term set out in the application or Commitment for the Loan, the provisions of this Charge, or any other document giving contractual relationship as between them or any of them or if it is found at any time that any representation to the Chargee with respect to the Loan or in any way related thereto is incorrect or misleading;
 - (iii) default by the Chargor in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any charge or other encumbrance affecting the Lands, whether or not it has priority over this Charge;
 - (iv) the occurrence of any other event or circumstance which is expressly or impliedly defined or described as a default under this Charge or any other Loan Document;
 - (v) the registration of any construction lien against the Lands which is not discharged or vacated on or before the date which is the earlier of 21 days after the date of registration of such construction lien and the day immediately preceding the last date upon which a legal action can be commenced in respect of such construction lien;
 - (vi) if any Hazardous Substance is discovered in, on or under the Lands or any part thereof in contravention of Environmental Laws and the Chargee does not within seven (7) days after demand therefor by the Chargee immediately commence and thereafter diligently proceed to completely remove the same to the entire satisfaction of the Chargee;
 - (vii) if the Lands are abandoned or there is any cessation of the business activities or any material part thereof now being conducted upon the Lands by the Chargor or the beneficial owner of the Lands or any of their respective officers, agents, employees, tenants or invitees; and
 - (viii) if the Chargor or any Guarantor commits an act of bankruptcy or becomes insolvent or has a receiver or

**SCHEDULE - PAGE 2 OF 15
ADDITIONAL PROVISIONS**

receiver and manager appointed for it or over any of its assets or if any creditor takes possession of any of its assets or if any execution, distress or other like process is levied or enforced upon the Lands or any part thereof or if any compromise or arrangement with creditors is made by any of them;

- (j) "Environmental Laws" means any and all Applicable Laws in connection with or pertaining to any Hazardous Substance or to the protection of the natural environment or the health or welfare of any living thing;
- (k) "Guarantor" means, individually and collectively, each party to this Charge expressly defined as such and each Person who has directly, indirectly, as principal debtor or as surety covenanted to pay or guaranteed payment of the whole or any part of the Loan Indebtedness or who have covenanted to perform or guaranteed performance by the Chargor of its obligations under this Charge or any other Loan Document;
- (l) "Hazardous Substance" means any pollutant, contaminant, waste or other substance (i) the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled or regulated or licensed under any Environmental Law; or (ii) which in the Lender's opinion, acting reasonably, may, immediately or in the future, directly or indirectly, cause harm or degradation to the environment or to the health or welfare of any living thing;
- (m) "Lands" means all legal and beneficial right, title, estate and interest in and to the lands and premises described in this Charge, and all buildings, structures and improvements of every nature and kind now or hereafter situate or constructed thereon, and all easements, rights-of-way and other appurtenances thereto, and all machinery, equipment, appliances, furniture, furnishings, decorations and other fixtures of every nature and kind (whether or not affixed in law) attached thereto or placed, installed or erected thereon or used in connection therewith;
- (n) "Lender Entity" means each of the Chargee, its servicer, the lender named in the Commitment Letter, each Person having an ownership interest in the Loan from time to time, any receiver and their respective employees, officers and directors;
- (o) "Loan" means the loan in the principal amount as set out in this Charge (or the portion thereof advanced and outstanding at any time and from time to time) made by the Chargee to the Chargor pursuant to the Commitment and in accordance with and as evidenced by this Charge and the other Loan Documents;
- (p) "Loan Documents" means, collectively, all documents, instruments, agreements and opinions now or hereafter evidencing, securing, guaranteeing and/or relating to the Loan and the Loan Indebtedness or any part thereof, including the Commitment Letter and this Charge;
- (q) "Loan Indebtedness" means the aggregate of: (i) the outstanding principal balance secured by this Charge at any time and from time to time; (ii) all accrued and unpaid interest and compound interest payable under this Charge at any time and from time to time, whether or not then due, at the rate provided by this Charge; (iii) all Costs; (iv) if applicable, any yield maintenance charge and other amount or amounts payable under this Charge or pursuant to any other Loan Document in connection with any prepayment of any monies secured by this Charge; (v) any amount, cost, charge, expense or interest added to the Loan Indebtedness under the Loan Documents or Applicable Laws or which is otherwise due and payable thereunder or secured thereby from time to time; and (vi) the payment, performance, discharge and satisfaction of all other obligations of any Borrower Entity under or in respect of the Loan and Loan Documents;
- (r) "Person" means any individual, general or limited partnership, joint venture, sole proprietorship, corporation, unincorporated association or organization, trust, trustee, executor, administrator, legal representative or governmental authority;
- (s) "Prime Rate" means the prime rate of interest announced from time to time by Canadian Imperial Bank of Commerce at its head office in Toronto, Ontario as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada;
- (t) "Realty Taxes" means all taxes, duties, rates, imposts, levies, assessments and other similar charges, whether general or special, ordinary or extraordinary, or foreseen or unforeseen, including municipal taxes, school taxes and local improvement charges, and all related interest, penalties and fines which at any time may be levied, assessed, imposed or be a lien on the Lands or any part thereof; and
- (u) "Receiver" means any receiver, receiver and manager, receiver-manager or trustee of the Lands as may be appointed from time to time by the Chargee pursuant to the provisions of this Charge or by any court of competent jurisdiction.

2. **Interpretation** - In this Charge: (a) the word "including" shall mean "including, without limitation,"; (b) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced from time to time, and any successor statute thereto; (c) any reference to the Commitment, any Loan Document, any lease or other agreement or instrument shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto from time to time; (d) reference to any Lender Entity, Borrower Entity, beneficial owner of the Lands and/or any other Person shall include their respective heirs, executors, administrators, legal representatives, successors and assigns, and reference to "corporation" shall include a company or other form of body corporate; (e) all dollar amounts are expressed in Canadian dollars; (f) the Chargee's right to give or withhold any consent or approval, make any determination or exercise any discretion may be exercised by the Chargee in its sole discretion unless otherwise expressly provided, and the Chargee shall not be liable to the Chargor in damages or otherwise for its failure or refusal to give or withhold such consent or approval, and all costs of obtaining such consent or approval shall be for the account of the Chargor; (g) time shall be of the

**SCHEDULE - PAGE 3 OF 15
ADDITIONAL PROVISIONS**

essence; (h) all obligations of the Chargor in this Charge will be deemed to be covenants by the Chargor in favour of the Chargee; and (i) where any Borrower Entity is comprised of more than one Person, the representations, warranties, covenants and agreements of such Persons shall be joint and several. This Charge shall be read and construed with all changes of gender and number of the party or parties referred to in each case as required by the context. The headings set forth in this Charge and the division of this Charge into sections and subsections are inserted for convenience and reference only and shall in no way define or limit the intent or interpretation of any of the provisions hereof. If any provision of this Charge shall be void for any reason, it shall be severed herefrom and all other provisions of this Charge shall remain in full force and effect notwithstanding such severance. Where any reference is made in this Charge to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the trust) by or with respect to, a trust, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the trust) by or with respect to, the trustee(s) of the trust. This Charge shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein without application of any principle of conflict of laws which may result in laws other than the laws in force in Ontario applying to this Charge; and the Chargor consents and attorns to the jurisdiction of the courts of the Province of Ontario.

3. **Proviso for Redemption and Defeasance** - Provided this Charge to be void upon payment of the principal sum hereby secured, in lawful money of Canada, with interest as herein provided and taxes and performance of statute labour and performance of all covenants and agreements contained in this Charge.

4. **Payment Provisions** -

(a) Provided this Charge to be void upon payment at the office of the Chargee at Toronto, Ontario of THIRTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$32,500,000.00) of lawful money of Canada with interest at the rate and calculated and payable monthly not in advance as herein set forth, both before and after maturity, default and judgment, as follows:

(i) The outstanding balance of the said principal sum of \$32,500,000.00 shall become due and payable on August 10, 2016, together with interest thereon and other charges as herein set forth;

(ii) The amount advanced from time to time shall bear interest, calculated and payable monthly not in advance, both before and after maturity, default and judgment, at the rate per annum which is:

(A) eight and one-half percent (8.5%) for the period from and including December 19, 2013 to and including June 9, 2015,

(B) for the period from and including June 10, 2015 to and including June 9, 2016, the greater of: (i) eight and one-half percent (8.5%), and (ii) the Prime Rate plus five and one-half percent (5.5%), which interest shall be adjusted daily as to fluctuations from time to time in the Prime Rate, and

(C) for any period from and after June 10, 2016, the greater of: (i) twelve percent (12.0%), and (ii) the Prime Rate plus nine percent (9.0%), which interest shall be adjusted daily as to fluctuations from time to time in the Prime Rate,

and which interest shall be calculated and payable not in advance on such portion of the principal as remains from time to time unpaid on January 10, 2014 (the "Interest Adjustment Date") and thereafter on the tenth (10th) day of each month in each year until the principal is fully paid; the first payment of interest to be computed from the date of the first advance of funds to become due and payable on the 10th day of the month immediately following the month in which the first advance takes place; and

(iii) The Chargee shall be entitled to deduct from any advance hereunder (A) interest accrued and to accrue from the date of the first advance of funds to and including the day prior to the Interest Adjustment Date (notwithstanding anything contained herein to the contrary), and (B) any amount due and owing by the Chargor on account of interest and Costs secured hereby.

(b) In case default shall be made in payment of any sum to become due for interest at any time appointed for payment thereof as aforesaid, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, shall bear interest at the rate aforesaid, and in case the interest and compound interest are not paid in one (1) month from the time of default a rest shall be made, and compound interest at the rate aforesaid shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the Lands.

5. **Exclusion of Statutory Covenants** - The implied covenants deemed to be included in a charge under sub-section 7(1) of the Land Registration Reform Act (Ontario) shall be and are hereby expressly excluded and replaced by the terms hereof which are covenants by the Chargor, for and on behalf of the Chargor, with the Chargee.

6. **Short Form of Mortgages Act** - If any of the forms of words contained herein are substantially in the form of words contained in Column One of Schedule B of the Short Form of Mortgages Act, R.S.O. 1980, c. 474, 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 Two of Schedule B of the said Act distinguished by the same number, and this Charge shall be interpreted as if the said Act was still in full force and effect.

7. **Release** - The Chargor releases to the Chargee all its claims upon the Lands subject to the proviso for redemption

**SCHEDULE - PAGE 4 OF 15
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herein.

8. **Advance of Funds** - The Chargor agrees that neither the preparation, execution nor registration of this Charge shall bind the Chargee to advance the monies hereby secured, nor shall the advance of a part of the principal sum herein bind the Chargee to advance any unadvanced portion thereof, but nevertheless the estate hereby charged shall take effect forthwith upon the execution of this Charge by the Chargor, and the expenses of the examination of the title and of this Charge and valuation are to be secured hereby in the event of the whole or any balance of the principal sum herein not being advanced, the same to be charged hereby upon the Lands, and shall be without demand thereof, payable forthwith with interest at the rate provided for in this Charge, and in default the remedies herein shall be exercisable.

9. **Chargor's Covenants** - The Chargor covenants with the Chargee as follows:

- (a) that the Chargor will pay the principal sum herein and interest and observe the proviso for redemption herein, and will pay as they fall due all Realty Taxes and when required by the Chargee, shall transmit the receipts therefor to the Chargee;
- (b) that the Chargor will pay all amounts which are payable hereunder or which are capable of being added to the principal sum herein pursuant to the provisions of this Charge including, without limiting the generality of the foregoing, all servicing or other fees, costs or charges provided for herein; all insurance premiums; the amount paid for the supply of any fuel or utilities to the Lands, all costs, commissions, fees and disbursements incurred by the Chargee in constructing, inspecting, appraising, selling, managing, repairing or maintaining the Lands; all costs incurred by the Chargee, including legal costs on a solicitor and his own client basis, with respect to the Charge or the enforcement thereof or incurred by the Chargee arising out, of or in any way related to this Charge; any amounts paid by the Chargee on account of any encumbrance, lien or charge against the Lands and any and all costs incurred by the Chargee arising out of, or in any way related to, the Chargee realizing on its security by sale or lease or otherwise;
- (c) that the Chargor has a good title in fee simple to the Lands and has good right, full power and lawful and absolute authority to charge the Lands and to give this Charge to the Chargee upon the covenants contained in this Charge;
- (d) that the Chargor has not done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the Lands, or any part or parcel thereof, is or shall or may be in any way impeached, charged, affected or encumbered in title, estate or otherwise, except as the records of the land registry office disclose; and free from all encumbrances except as may be permitted by the Chargee;
- (e) that the Chargor will execute such further assurances of the Lands as may be requisite; and
- (f) that the Chargor will produce the title deeds and allow copies to be made at the expense of the Chargor.

10. **Compliance with Applicable Laws** - The Chargor shall, in its ownership, operation and use of the Lands, promptly and at all times observe, perform, execute and comply with all Applicable Laws with respect to the same, and further agrees at its cost and expense to take any and all steps or make any improvements or alterations thereto, structural or otherwise, ordinary or extraordinary, which may be required at any time hereafter by any such present or future Applicable Laws.

11. **Change of Use** - Except for development of the Lands as contemplated by the Commitment, the Chargor will not change or permit to be changed the existing use or uses of the Lands without the prior written consent of the Chargee.

12. **Alterations or Additions** - Except for development of the Lands as contemplated by the Commitment, the Chargor will not make or permit to be made any alterations or additions to the Lands without the prior written consent of the Chargee, which consent may be withheld in the Chargee's sole discretion or may be given only subject to compliance with such terms and conditions at the cost of the Chargor as the Chargee may impose.

13. **Lands Include All Additions** - The Lands shall include all structures and installations brought or placed on the Lands for the particular use and enjoyment thereof or as an integral part of or especially adapted for the buildings thereon whether or not affixed in law to the Lands including, without limiting the generality of the foregoing, piping, plumbing, electrical equipment or systems, arials, refrigerators, stoves, clothes washers and dryers, dishwashers, incinerators, radiators and covers, fixed mirrors, fitted blinds, window screens and screen doors, storm windows and storm doors, shutters and awnings, floor coverings, fences, air conditioning, ventilating, heating, lighting, and water heating equipment, cooking and refrigeration equipment and all component parts of any of the foregoing and that the same shall become fixtures and an accession to the freehold and a part of the realty

14. **Repair** - Except for development of the Lands as contemplated by the Commitment, the Chargor will keep the Lands including the buildings, erections and improvements thereon in good condition and repair according to the nature and description thereof, and the Chargee may, whenever it deems necessary, enter upon and inspect the Lands, and the cost of such inspection shall be added to the indebtedness secured hereunder, and if the Chargor neglects to keep the Lands in good condition and repair, or commits or permits any act of waste on the Lands (as to which the Chargee shall be sole judge) or makes default as to any of the covenants or provisos herein contained, the principal sum herein shall, at the option of the Chargee, forthwith become due and payable, and in default of payment thereof with interest as in the case of payment before maturity, the powers of entering upon and leasing or selling hereby given may be exercised forthwith and the Chargee may make such repairs as it deems necessary, and the cost thereof with interest at the rate aforesaid shall be added to the monies hereby secured and shall be payable forthwith and be a charge upon the Lands prior to all claims thereon subsequent to this Charge.

15. **Hazardous Substances** - The Chargor represents, warrants, covenants and agrees as follows:

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- (a) except as disclosed in writing by the Chargor to the Chargee prior to the initial Loan advance, that the Chargor has not and, to the best of its knowledge, information and belief after making due inquiry, no other Person has caused or permitted any Hazardous Substance to be placed, stored, located or disposed of on, under or at the Lands;
- (b) except as disclosed in writing by the Chargor to the Chargee prior to the initial Loan advance, that the Chargor and its tenants, invitees and other occupiers of the Lands have and will at all times and, to the best of its knowledge, information and belief after making due inquiry, all prior owners and occupiers of the Lands have at all times carried out all business and other activities upon the Lands in compliance with all Environmental Laws; and without limiting the generality of the foregoing, (i) that the Lands have never been used as a land fill site or to store Hazardous Substances either above or below ground, in storage tanks or otherwise; (ii) that all Hazardous Substances used in connection with the business conducted at the Lands have at all times been received, handled, used, stored, treated, shipped and disposed of in strict compliance with all Environmental Laws; (iii) that no Hazardous Substances have been released into the environment or deposited, discharged, placed or disposed of at, on or near the Lands as a result of conduct of business on the Lands; and (iv) that no notices of any violation of any matters referred to above relating to the Lands or the use thereof have been received by the Chargor and there are no directions, writs, injunctions, orders or judgements outstanding, no law suits, claims, proceedings or investigations pending or threatened, relating to the ownership, use, maintenance or operation of the Lands nor is there any basis for such law suits, claims, proceedings or investigations being instituted or filed;
- (c) except as disclosed in writing by the Chargor to the Chargee prior to the initial Loan advance, no order, direction, enforcement action or other governmental or regulatory action or notice, nor any action, suit or proceeding relating to any Hazardous Substance, or to any Environmental Laws or any breach thereof, or to the environment generally has been issued or is otherwise threatened or pending with respect to the Lands;
- (d) each of the foregoing representations and warranties shall remain true and accurate in all respects up to and including the date of the first advance of funds hereunder and thereafter until all amounts secured by this Charge are paid in full; and the Chargee may delay or refuse to make any advance to the Chargor if the Chargee believes that any of the foregoing representations and warranties were not true and accurate when made or at any time thereafter;
- (e) that the Chargor will not bring onto, use, release or store any Hazardous Substance, or permit any Hazardous Substance to be brought onto, used, released or stored in, on or under the Lands, save and except in accordance with Environmental Laws;
- (f) that the Chargor will comply with, and will promptly remedy the breach of, all Environmental Laws and all orders, decrees or judgments of governmental authorities or courts having jurisdiction relating to the use, collection, storage, treatment, control, removal or cleanup of Hazardous Substances in, on, or under the Lands;
- (g) that the Chargor will forthwith notify the Chargee if (i) any Hazardous Substance is brought onto, used, released or stored in, on or under the Lands in breach of Environmental Laws; (ii) the Chargor breaches any Environmental Law; (iii) the Chargor receives any order, direction, enforcement action or other governmental or regulatory action or notice, or notice of any action, suit or proceeding, whether issued or threatened, relating to any Hazardous Substance, or to any Environmental Law or any breach thereof, or to the environment generally; or (iv) the Chargor receives any notice, demand or other communication respecting any permit that may be required by the Chargor pursuant to any Environmental Law; and that the Chargor will provide to the Chargee copies of all relevant documentation in connection any and all of the foregoing;
- (h) that the Chargor will promptly cause to be conducted, at its own expense, such investigations, searches, tests, drilling and sampling of the Lands as are required from time to time by the Chargee, acting reasonably, and will promptly forward the results of such investigations, searches, tests, drilling and sampling to the Chargee upon receipt;
- (i) that if, now or hereafter, there is any Hazardous Substance in, on or under the Lands, or incorporated in any improvements thereon, the Chargor shall promptly and diligently take such actions and incur such costs and expenses as are necessary to remove such Hazardous Substance from the Lands and improvements and shall promptly thereafter repair any damage to the Lands and improvements caused by such removal;
- (j) the Chargee may, but shall not be obliged to, enter upon the Lands and conduct, acting reasonably and at the Chargor's expense, any and all tests, inspections, appraisals and environmental audits of the Lands so as to determine and ensure and take such actions and incur such costs and expenses so as to effect such compliance as it deems advisable with the representations, warranties, covenants and agreements set forth in this Section; and without limiting the foregoing, the Chargee may, acting reasonably, conduct soil tests and review and copy any records relating to the Lands or the businesses and other activities conducted thereon at any time and from time to time; and the Chargor shall reimburse the Chargee on demand for the full amount of all reasonable costs and expenses incurred by the Chargee in connection with such compliance activities; and
- (k) the Chargor agrees to indemnify and save harmless the Chargee and its officers, directors, employees, agents and shareholders from and against any and all losses, damages, costs and expenses of any and every nature and kind whatsoever which at any time or from time to time may be paid or incurred by or asserted against any of them as a direct or indirect result of a breach of any of the representations, warranties, covenants and agreements of the Chargor as set forth in this Charge, and the provisions of all representations, warranties, covenants, agreements and indemnifications set out in this Section shall survive the repayment and satisfaction of the indebtedness secured by this Charge and any release or discharge of or enforcement or realization pursuant to this Charge or any other security held by the Chargee.

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16. **Inspection** - The Chargee shall have access to and the right to inspect the Lands at all reasonable times.
17. **Realty Taxes** -
- (a) The Chargor shall transmit to the Chargee all assessment notices, tax bills and other notices pertaining to the imposition of Realty Taxes forthwith after requested by the Chargee.
- (b) The Chargee may deduct from any advance of the monies secured by this Charge an amount sufficient to pay all Realty Taxes which have become due and payable during any calendar year.
- (c) The Chargee may at its sole option estimate the amount of the Realty Taxes payable in each year and the Chargor shall forthwith upon demand of the Chargee pay to the Chargee one-twelfth (1/12) of the estimated annual amount of such Realty Taxes on the 1st day of each and every month during the term of this Charge commencing with the 1st day of the first full month of the term of this Charge. The Chargee may at its option apply such payments to the Realty Taxes so long as the Chargor is not in default under any covenant or agreement contained in this Charge, but nothing herein contained shall obligate the Chargee to apply such payments on account of Realty Taxes more often than yearly. Provided however, that if the Chargor shall pay any sum or sums to the Chargee to apply on account of Realty Taxes, and if before such payments have been so applied by the Chargee, there shall be default by the Chargor in respect of any payment of principal or interest as herein provided, the Chargee may at its option apply such sum or sums in or towards payment of the principal and interest in default. If the Chargor desires to take advantage of any discounts or avoid any penalties in connection with the payment of Realty Taxes, the Chargor may pay to the Chargee such additional amounts as are required for that purpose.
- (d) In the event that the Realty Taxes actually charged in a calendar year, together with any interest and penalties thereon, exceed the amount estimated by the Chargee as aforesaid, the Chargor shall pay to the Chargee, on demand, the amount required to make up the deficiency. The Chargee may at its option, pay any of the Realty Taxes when payable, either before or after they are due, without notice, or may make advances therefor in excess of the then amount of credit held by the Chargee for Realty Taxes. Any excess amount advanced by the Chargee shall be secured as an additional principal sum under this Charge and shall bear interest at the rate as provided for in this Charge until repaid by the Chargor.
- (e) The Chargor shall pay to the Chargee, in addition to any other amounts required to be paid hereunder, the amount required by the Chargee in its sole discretion for a reserve on account of future liability for Realty Taxes.
- (f) In no event shall the Chargee be liable for any interest on any amount paid to it on account of Realty Taxes and the monies so received may be held with its own funds pending payment or application thereof as herein provided, provided that in the event that the Chargee does not utilize the funds received on account of Realty Taxes in any calendar year, such amount or amounts may be held by the Chargee on account of any pre-estimate of Realty Taxes required for the next succeeding calendar year, or at the Chargee's option the Chargee may repay such amount to the Chargor without any interest.
- (g) The Chargor shall in all instances be responsible for the payment of any and all penalties resulting from any arrears of Realty Taxes or any late payment of current instalments thereof, and at no time shall such penalties be the responsibility of the Chargee.
- (h) In the event the Chargee does not collect payments on account of Realty Taxes as aforesaid, the Chargor shall deliver to the Chargee on or before December 31st in each calendar year, written evidence from all taxing authorities having jurisdiction to the effect that all Realty Taxes for the then current calendar year and any preceding calendar years have been paid in full, failing which, the Chargee shall be entitled to charge a servicing fee for each written inquiry directed to such taxing authorities or the Chargor for the purpose of ascertaining the status of the Realty Taxes together with any costs payable to such taxing authorities for such information.
18. **Utilities** - The Chargor covenants that it will pay all utility and fuel charges related to the Lands as and when they are due and, except as may be necessary during the course of any development of or construction upon the Lands as contemplated by the Commitment, that the Chargor will not allow or cause the supply of utilities or fuel to the Lands to be interrupted or discontinued and that, if the supply of fuel oil or utilities is interrupted or discontinued, the Chargor will take all steps that are necessary to ensure that the supply of utilities or fuel is restored forthwith.
19. **Insurance** -
- (a) The Chargor will insure and keep insured during the term of this Charge the buildings and other improvements on the Lands (now or hereafter erected) on an all-risks basis in an amount of not less than the greater of the full replacement value of the buildings located thereon from time to time, or the principal money herein, with no co-insurance provisions and with the Chargee's standard mortgage clause forming part of such insurance policy. The Chargor shall carry such liability, rental, boiler, plate glass and other insurance coverage as is required by the Chargee to be placed with such insurance companies and in such amounts and in such form as may be acceptable to the Chargee. All such policies shall provide for loss payable to the Chargee and contain such additional clauses and provisions as the Chargee may require. An original of all insurance policies and endorsements from the insurer to the effect that coverage has been bound and/or extended for a minimum period of at least one year and that all premiums with respect to such term of such coverage have been paid for in full, shall be produced to the Chargee prior to any advance and at least thirty (30) days before expiration of any term of any such respective policy, failing which the Chargee may provide therefor and charge the premium paid therefor and interest thereon at the aforesaid rate to the Chargor and any amounts so paid by the Chargee shall be payable forthwith to the Chargee and shall also be a charge upon the Lands and secured by this Charge. It is further agreed that the Chargee may at

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any time require any insurance on the said buildings to be cancelled and new insurance effected with a company to be named by it, and also may, of its own accord, effect or maintain any insurance herein provided for, and any amount paid by the Chargee therefor shall be forthwith payable to it, together with interest at the rate aforesaid by the Chargor (together with any costs of the Chargee as herein set out), and shall be a charge upon the Lands and secured by this Charge.

- (b) In the event that the evidence of continuation of such insurance as herein required has not been delivered to the Chargee within the required time, the Chargee shall be entitled to a servicing fee for each written inquiry which the Chargee shall make to the insurer or the Chargor pertaining to such renewal (or resulting from the Chargor's non-performance of the within covenant). In the event that the Chargee pursuant to the within provision arranges insurance coverage with respect to the Lands, the Chargee, in addition to the aforesaid servicing fee, shall be entitled to a further servicing fee for arranging the necessary insurance coverage.
- (c) In the event of any loss or damage, the Chargor shall forthwith notify the Chargee in writing and notwithstanding any other provision to the contrary, statutory or otherwise, in the event of any monies becoming payable pursuant to any insurance policy herein required, the Chargee may, at its option, require the said monies to be applied by the Chargor in making good the loss or damage in respect of which the money is received, or in the alternative, may require that any or all of the monies so received be applied in or towards satisfaction of any or all of the indebtedness hereby secured whether or not such indebtedness has become due. No damage may be repaired nor any reconstruction effected without the approval in writing of the Chargee in any event.
- (d) The Chargor, upon demand, will transfer all policies of insurance provided for herein and the indemnity which may become due therefrom to the Chargee. The Chargee shall have a lien for the indebtedness hereby secured on all the said insurance proceeds and policies, and may elect to have these insurance monies applied as it may deem appropriate, including payment of monies secured hereby, whether due or not, but the Chargee shall not be bound to accept the said monies in payment of any principal not yet due.

20. **Remittance and Application of Payments** - All payments of principal, interest and other monies payable hereunder to the Chargee shall be payable at par in lawful money of Canada at the Chargee's address for service as set out in this Charge or at such other place as the Chargee shall designate in writing from time to time. In the event that any of the monies secured by this Charge are forwarded to the Chargee by mail, payment will not be deemed to have been made until the Chargee has actually received such monies and the Chargor shall assume and be responsible for all risk of loss or delay. Notwithstanding anything herein to the contrary, in the event of any default under this Charge, the Chargee may apply any payments received in whatever order the Chargee may elect as between principal, interest, Realty Taxes, insurance premiums, repairs, costs and any other advances or payments made by the Chargee hereunder.

21. **Receipt of Payment** - Any payment received after 3:00 p.m. on any date shall be deemed, for the purpose of calculation of interest to have been made and received on the next bank Business Day and the Chargee shall be entitled to interest on the amount due it, to and including the date on which the payment is deemed by this provision to have been received.

22. **No Deemed Re-investment** - Except in the case where this Charge provides for blended payments of principal and interest whether paid monthly or otherwise, the parties hereto agree that the Chargee shall not be deemed to reinvest any monthly or other payments received by it hereunder.

23. **Pre-authorized Chequing Plan** - If and when required by the Chargee, all payments made under this Charge by the Chargor, his heirs, executors, administrators, successors and assigns shall be made by a pre-authorized cheque payment plan as approved by the Chargee. The Chargee shall not be obligated to accept any payment other than payment made by pre-authorized cheque. Failure to make all payments by pre-authorized cheque shall be an act of default within the meaning of this Charge and the Chargee shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option.

24. **Postdated Cheques** - The Chargor shall, if and when required by the Chargee, deliver to the Chargee upon the first advance of moneys hereunder or upon request and thereafter on each anniversary date thereof in each year for the duration of the term of this Charge, postdated cheques for the payments of principal, interest and estimated Realty Taxes required to be made herein during the twelve month period commencing on each such anniversary date. In the event of default by the Chargor in delivery to the Chargee of the postdated cheques as herein provided, this Charge shall be deemed in default and the Chargee shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option. In addition, the Chargee upon the Chargor's failure to deliver such postdated cheques as required hereunder shall be entitled to a servicing fee for each written request that it makes to the Chargor for the purpose of obtaining such postdated cheques. Any step taken by the Chargee hereunder by way of a request for further postdated cheques shall be without prejudice to the Chargee's rights hereunder to declare the Charge to be in default in the event that such postdated cheques are not delivered within the required time.

25. **Dishonoured Cheques** - In the event that any of the Chargor's cheques are not honoured when presented for payment to the drawee, the Chargor shall pay to the Chargee for each such returned cheque a servicing fee to cover the Chargee's administration costs with respect to same. In the event that the said cheque which has not been honoured by the drawee is not forthwith replaced by the Chargor, the Chargee shall be entitled to a further servicing fee for each written request therefor which may be necessitated by the Chargor not forthwith replacing such dishonoured cheque.

26. **Financial and Operating Statements** - The Chargor covenants that, within the periods of time hereinafter specified, or within such other period(s) of time as may be specified by the Commitment, the Chargor shall deliver or cause to be delivered to the Chargee the following:

- (a) within 90 days after the end of each fiscal year of operation of the Lands, an annual operating statement in respect

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of the Lands for the immediately preceding fiscal year setting forth the gross rents and other income derived from the Lands, the cost and expenses of operation and maintenance of the Lands and such other information and explanations in respect of the same as may be required by the Chargee;

- (b) within 90 days after the end of each fiscal year of each Chargor and Guarantor which is a corporation, the annual financial statements of each such corporation for its immediately preceding fiscal year including, without limitation, the balance sheet of the corporation as at its fiscal year end with comparative figures for prior years, statements of earnings, retained earnings and changes in financial position as at the fiscal year end with comparative figures for prior fiscal years, any supporting schedules and notes thereto and such other information and explanations as may be required by the Chargee; and
- (c) with respect to each Chargor and Guarantor who is an individual and within 30 days after each anniversary of the date of the Commitment, an annual updated net worth statement of each such individual in such form and including such content and other information and explanations as may be required by the Chargee.

All such operating and financial statements shall be prepared at the expense of the Chargor and in accordance with generally accepted accounting principles applied on a consistent basis and by a duly qualified chartered accountant or certified public accountant which is acceptable to the Chargee, and may be submitted in unaudited form, and the completeness and correctness of such statements shall be supported by an affidavit of an authorized officer of the Chargor or Guarantor, as the case may be.

27. **Estoppel Acknowledgements** - If and whenever the Chargee requests an acknowledgement from the Chargor as to the statement of account with respect to this Charge or the status of the terms and conditions of this Charge, the Chargor shall execute such an acknowledgement in such form as may be required by the Chargee provided that the contents of such form are correct, and the Chargor shall do so forthwith upon request and without cost to the Chargee and shall return such acknowledgement duly executed within forty-eight (48) hours of such request.

28. **Statements of Account** - The Chargor shall be entitled to receive upon written request, a statement of account with respect to this Charge as of any payment date under this Charge and the Chargee shall be entitled to a servicing fee for each such statement.

29. **Renewal or Extension of Time - Attention Subsequent Interests** - No renewal or extension of the term of this Charge given by the Chargee to the Chargor, or anyone claiming under him, or any other dealing by the Chargee with the owner of the equity of redemption of the Lands, shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other Person liable for the payment of the monies hereby secured, and this Charge may be renewed by an agreement in writing at maturity for any term with or without an increased rate of interest, or amended from time to time as to any of its terms, including, without limitation, an increase of interest rate or principal amount notwithstanding that there may be subsequent encumbrancers; and it shall not be necessary to register any such agreement in order to retain priority for this Charge so altered over any instrument registered subsequent to this Charge; provided that nothing contained in this Section shall confer any right of renewal upon the Chargor.

Provided further that the terms of this Charge may be amended or extended from time to time by mutual agreement between the Chargor and the Chargee and the Chargor hereby further covenants and agrees that, notwithstanding that the Chargor may have disposed of his interest in the Lands hereby secured, the Chargor will remain liable as a principal debtor and not as a surety for the observance of all of the terms and provisions herein and will in all matters pertaining to this Charge well and truly do, observe, fulfill and keep all and singular the covenants, provisos, conditions, agreements and stipulations in this Charge or any amendment or extension thereof notwithstanding the giving of time for the payment of the Charge or the varying of the terms of the payment thereof or the rate of interest thereon or any other indulgence by the Chargee to the Chargor.

The Chargor covenants and agrees with the Chargee that no agreement for renewal hereof or for extension of the time for payment of any monies payable hereunder shall result from, or be implied from, any payment or payments of any kind whatsoever made by the Chargor to the Chargee after the expiration of the original term of this Charge or of any subsequent term agreed to in writing between the Chargor and the Chargee, and that no renewal hereof or extension of the time for payment of any monies hereunder shall result from, or be implied from, any other act, matter or thing, save only express agreement in writing between the Chargor and the Chargee.

30. **Construction Liens** - The Chargee may, at its option, withhold from any advances for which the Chargor may have qualified such amounts as the Chargee, in its sole discretion, considers advisable so as to ensure the priority of all advances over all liens arising under any construction lien legislation until such time as the Chargee is fully satisfied that all lien periods have expired and that there are no preserved or perfected liens outstanding. Nothing in this Charge shall be construed to make the Chargee an "owner" or "payer" as defined under any construction lien legislation, nor shall there be or be deemed to be any obligation by the Chargee to retain any holdback which may be required by the said legislation. Any holdback which may be required to be retained by the "owner" or "payer" pursuant to any construction lien legislation shall remain solely the Chargor's obligation. The Chargor hereby covenants and agrees to comply in all respects with the provisions of all construction lien legislation.

31. **Expropriation** - If the Lands or any material part thereof shall be expropriated by any government, authority, body or corporation clothed with the powers of expropriation, at the option of and upon demand therefore by the Chargee, the outstanding principal sum hereof shall forthwith become due and payable together with interest thereon at the rate provided for herein to the date of payment and together with a bonus equal to the aggregate of (a) one month's interest at the rate provided for herein calculated on the said outstanding principal sum, plus (b) one month's interest at the rate provided for herein calculated on the said outstanding principal sum for each month or part thereof that remains between the date of such demand and the date of expiry of the first four (4) months following the Interest Adjustment Date; and in any event all the proceeds of any expropriation shall be paid to the Chargee at its option in priority to the claims of any

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other party.

32. **Letters of Credit** - The parties to this Charge hereby acknowledge and agree that, in addition to all other amounts advanced and/or secured hereby, this Charge shall stand as good and valid security with respect to any and all letters of credit, letters of guarantee or similar instruments (collectively the "Letters of Credit") issued by or on behalf of the Chargee in favour of the Chargor or any other party as may be requested or directed by the Chargor from time to time, and that the total amount of the financial obligations under each Letter of Credit shall be deemed to have been advanced and fully secured under this Charge as of and from the date of issuance of each such Letter of Credit regardless of when the same may be called upon by the holder thereof. In the event that at any time the Chargee is of the opinion, in its sole and unfettered discretion, that the Lands or such part(s) thereof as remain undischarged are insufficient to secure the aggregate amount of all of the Chargee's outstanding obligations under, pursuant to or in connection with such Letters of Credit from time to time outstanding, the Chargee shall be entitled to retain out of any payment received under this Charge or out of the proceeds of any sale or revenue received in respect of the Lands or any part(s) thereof or out of the proceeds of any amounts received by the Chargee upon the enforcement of this Charge, an amount equal to the aggregate amount of all of the Chargee's outstanding obligations under, pursuant to or in connection with Letters of Credit as remain from time to time outstanding without being obliged to apply any portion of such amount on account of any principal, interest or other monies otherwise outstanding and secured by this Charge; and the Chargee shall be entitled to retain such amount for such period of time as any of the Letters of Credit remain outstanding and the Chargee is hereby irrevocably authorized and directed to utilize the same in order to satisfy payment of any amounts called upon for payment pursuant to the Letters of Credit.

33. **Sale or Change of Control** - In the event of a further encumbrance or a sale, conveyance or transfer of the Lands or any portion thereof, or a change in control of the Chargor or a change in the beneficial ownership of the Lands or any portion thereof or a lease of the whole of the Lands, all sums secured hereunder shall, at the Chargee's option, become due and payable forthwith unless the written consent of the Chargee has been first obtained. The rights of the Chargee pursuant to this provision shall not be affected or limited in any way by the acceptance of payments due under this Charge from the Chargor or any Person claiming through or under him and the rights of the Chargee hereunder shall continue without diminution for any reason whatsoever until such time as the Chargee has consented in writing as required by this provision. No permitted sale or other dealing by the Chargor with the Lands or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other Person liable for payment of the monies hereby secured.

34. **Acceleration** - Without limiting any of the provisions of this Charge, upon the occurrence of any Event of Default and at the option of the Chargee exercised by demand upon and notice in writing to the Chargor, the whole of the Loan Indebtedness shall become immediately due and payable.

35. **Default** - The Chargee may, on default of payment or in the performance of any covenant in this Charge contained or implied by law or statute, enter on and lease the Lands or in default of payment or in default in performance of any covenant in this Charge contained or implied by law or statute for at least fifteen (15) days may, on at least thirty-five (35) days' notice sell the Lands. Such notice shall be given to such Persons and in such manner and form and within such time as provided under the Mortgages Act, as amended from time to time. In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable it is agreed that notice may be effectually given by leaving it with a grown-up Person on the Lands, if occupied, or by placing it on the Lands if unoccupied, or at the option of the Chargee, by mailing it in a registered letter addressed to the Chargor at his last known address, or by publishing it once in a newspaper published in the county or district in which the Lands are situate; and such notice shall be sufficient although not addressed to any Person or Persons by name or designation; and notwithstanding that any Person to be affected thereby may be unknown, unascertained, or under disability. If there be legal personal representatives of the Chargor on the death of the Chargor, such notice may, at the option of the Chargee, be given in any of the above modes or by personal service upon such representatives.

Provided further, without prejudice to the statutory powers of the Chargee under the preceding proviso, that in case default be made in the payment of the said principal or interest or any part thereof and such default continues for two months after any payment of either principal or interest falls due, the Chargee may exercise the powers given under the preceding proviso with or without entry on the Lands without any notice, it being understood and agreed, however, that if the giving of notice by the Chargee shall be required by law then notice shall be given to such Persons and in such manner and form and within such time as so required by law. And that the Chargee may sell the whole or any part or parts of the Lands by public auction or private contract, or partly one or partly the other; and that the proceeds of any sale hereunder may be applied in payment of any costs, charges and expenses incurred in taking, recovering or keeping possession of the Lands or by reason of non-payment or procuring payments of monies secured hereby or otherwise; and that the Chargee may sell any of the Lands on such terms as to credit and otherwise as shall appear to him most advantageous and for such prices as can reasonably be obtained therefor and may make any stipulations as to title or evidence or commencement of title or otherwise which it shall deem proper; and may buy in or rescind or vary any contract for the sale of the whole or any part of the Lands and resell without being answerable for loss occasioned thereby, and in the case of a sale on credit the Chargee shall be bound to pay the Chargor only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder and the title of a purchaser or lessee upon a sale or lease made in professed exercise of the above power shall not be liable to be impeached on the ground that no cause had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given, but any Person damaged by an unauthorized, improper or irregular exercise of the power shall have his remedy against the Person exercising the power in damages only.

And it is hereby agreed between the parties hereto that the Chargee may pay all premiums of insurance and all Realty Taxes which shall from time to time fall due and be unpaid in respect of the Lands, and that such payments together with all costs, charges and legal fees (between a solicitor and his own client), and expenses which may be incurred in taking, recovering

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and keeping possession of the Lands, and of negotiating the Loan, investigating title, and registering this Charge and other necessary deeds, and generally in any other proceedings taken in connection with or to realize this security, (including legal fees, real estate commissions, appraisal costs and other costs incurred in leasing or selling the Lands or in exercising the power of entering, leasing and selling herein contained) shall be with interest at the rate aforesaid and shall be a charge upon the Lands in favour of the Chargee and that the Chargee may pay or satisfy any lien, charge or encumbrance now existing or hereafter created or claimed upon the Lands, and that any amount paid by the Chargee shall be added to the monies hereby secured and shall be payable forthwith with interest at the rate herein, and in default this Charge shall immediately become due and payable at the option of the Chargee, and all powers in this Charge conferred shall become exercisable. In the event of the Chargee paying the amount of any such encumbrance, lien or charge, taxes or rates, either out of the money advanced on the security of this Charge or otherwise, the Chargee shall be entitled to all the rights, equities and securities of the Person so paid and is hereby authorized to obtain an assignment or discharge thereof, and to retain same, for whatever period the Chargee shall deem it proper to do so.

Provided that wherever a power of sale is hereby conferred upon the Chargee, all provisions hereof relating to exercising such power, including, without in any way limiting the generality of the foregoing, the Persons to whom notice of exercising such power shall be given and the manner of giving such notice, shall be deemed to have been amended so as to comply with the requirements of Applicable Laws from time to time in force with respect to exercising such power of sale, and wherever there shall be a conflict between the provisions of this Charge relating to exercising such power of sale and the requirements of such Applicable Laws, the provisions of such Applicable Laws shall govern. Insofar as there is no such conflict, the provisions of this Charge shall remain unchanged.

Provided that the Chargee may lease or sell as aforesaid without entering into possession of the Lands.

Provided that the Chargee may distrain for arrears of interest and that the Chargee may distrain for arrears of principal and arrears of Realty Taxes in the same manner as if the same were arrears of interest.

Provided that in default of the payment of the interest hereby secured the principal hereby secured shall become payable at the option of the Chargee, together with interest thereon.

Provided that upon default of payment of instalments of principal promptly as the same become due, the balance of the principal and interest shall immediately become due and payable at the option of the Chargee.

Provided that, upon default under this Charge, the Chargee shall be entitled and shall have full power to assume control of, manage, operate and carry on the business of the Chargor being conducted at or upon the Lands on the date of this Charge or at any time thereafter.

Provided that until default hereunder the Chargor shall have quiet possession of the Lands.

And that on default the Chargee shall have quiet possession of the Lands.

Provided that the Chargee may in writing at any time or times after default waive such default and upon such waiver the time or times for payment of the principal secured herein shall be as set out in the proviso for redemption herein. Any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default. No waiver shall be effective or binding on the Chargee unless made in writing.

And it is further agreed by and between the parties that the Chargee may at its discretion at any time, release any part or parts of the Lands or any other security or any surety for the money hereby secured either with or without any sufficient consideration therefor, without responsibility therefor, and without thereby releasing any other part of the Lands or any Person from this Charge or from any of the covenants herein contained, it being especially agreed that every part or lot into which the Lands are or may hereafter be divided does and shall stand charged with all of the monies hereby secured and no Person shall have the right to require the principal secured hereunder to be apportioned; further the Chargee shall not be accountable to the Chargor for the value thereof, or for any monies except those actually received by the Chargee. No sale or other dealing by the Chargor with the equity of redemption in the Lands or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other Person liable for payment of the monies hereby secured.

It is further agreed that the Chargee may exercise all remedies provided for in this Charge concurrently or in such order and at such times as it may see fit and shall not be obligated to exhaust any remedy or remedies before exercising its rights under any other provisions contained in this Charge.

And without limiting any other provision of this Charge, the Chargor acknowledges and agrees that, upon the occurrence of any default under this Charge and whether or not the monies hereby secured have been fully advanced, the Chargee may, at any time and from time to time as the Chargee shall determine at its sole option and discretion, advance such further sums under this Charge as are necessary to pay any arrears of Realty Taxes, utilities or other charges capable of constituting a lien upon the Lands *pari passu* with or in priority to this Charge, to pay all amounts due under any encumbrance having priority over this Charge, to pay all amounts required to discharge or vacate any construction lien registered against the Lands whether or not priority is claimed over this Charge, to maintain in good standing any policies of insurance in respect of the Lands, to maintain, repair, operate and/or manage the Lands and any or all improvements thereon, to complete construction or renovation of any improvements on the Lands, to realize upon any security held by the Chargee for the Loan and generally to enforce all of the Chargee's rights, title and interest hereunder and to protect the Lands and to preserve the enforceability and priority of this Charge, and to pay any and all Costs; and all amounts advanced by the Chargee for any of the purposes as aforesaid shall bear interest at the rate applicable under this Charge from the date so advanced until repaid in full and shall be secured by this Charge in the same priority as the principal amount hereof.

36. **Right of Chargee to Repair** - The Chargor covenants and agrees with the Chargee that in the event of default in

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the payment of any instalment or other monies payable hereunder by the Chargor or on breach of any covenant, proviso or agreement herein contained, after all or any of the monies hereby secured have been advanced, the Chargee may, at such time or times as the Chargee may deem necessary and without the concurrence of any Person, enter upon the Lands and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the Lands or for inspecting, taking care of, leasing, collecting the rents of and generally managing the Lands, as the Chargee may deem expedient; and all reasonable costs, charges and expenses including, but not limited to, allowances for the time and services of any employee of the Chargee or other Person appointed for the above purposes, and a servicing fee shall be forthwith payable to the Chargee by the Chargor and shall be a charge upon the Lands and shall bear interest at the aforesaid rate until paid.

37. Appointment of a Receiver - It is declared and agreed that at any time and from time to time when there shall be default under the provisions of this Charge, the Chargee may at such time and from time to time and with or without entering into possession of the Lands appoint in writing a Receiver of the Lands, or any part thereof, and of the rents and profits thereof and with or without security and may from time to time by similar writing remove any such Receiver and appoint another in its place and stead, and in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor. The Chargor hereby irrevocably agrees and consents to the appointment of such Receiver of the Chargee's choice and without limitation whether pursuant to this Charge, the Mortgages Act (Ontario), the Construction Lien Act (Ontario), or the Trustee Act (Ontario) as the Chargee may at its sole option require. Without limitation, the purpose of such appointment shall be the orderly management, administration and/or sale of the Lands or any part thereof and the Chargor hereby consents to a Court Order for the appointment of such Receiver, if the Chargee in its discretion chooses to obtain such order, and on such terms and for such purposes as the Chargee at its sole discretion may require, including, without limitation, the power to manage, charge, pledge, lease and/or sell the Lands and/or to complete or partially complete any construction thereon and to receive advances of monies pursuant to any charges, pledges and/or loans entered into by the Receiver or the Chargor, and if required by the Chargee, in priority to any existing encumbrances affecting the Lands, including without limitation, charges and construction lien claims. Upon the appointment of any such Receiver from time to time the following provisions shall apply:

- (a) A Statutory Declaration made by the Chargee or by any authorized representative of the Chargee as to default under the provisions of this Charge shall be conclusive evidence thereof;
- (b) Every such Receiver shall be the irrevocable agent or attorney of the Chargor for the collection of all rents falling due in respect to the Lands, or any part thereof, whether in respect of any tenancies created in priority to this Charge or subsequent thereto and with respect to all responsibility and liability for its acts and omissions;
- (c) The Chargee may from time to time fix the remuneration of every such Receiver which shall be a charge on the Lands, and may be paid out of the income therefrom or the proceeds of sale thereof;
- (d) The appointment of every such Receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the Receiver in any respect and such appointment or anything which may be done by any such Receiver or the removal of any such Receiver or the termination of any such receivership shall not have the effect of constituting the Chargee a chargee in possession in respect of the Lands or any part thereof;
- (e) The Receiver shall have the power to rent any portion of the Lands for such term and subject to such provisions as it may deem advisable or expedient and shall have the authority to execute any lease of the Lands or any part thereof in the name and on behalf of the Chargor and the Chargor undertakes to ratify and confirm, and hereby ratifies and confirms whatever acts such Receiver may do on the Lands;
- (f) In all instances, the Receiver shall be acting as the attorney or agent of the Chargor;
- (g) Every such Receiver shall have full power to complete any unfinished construction upon the Lands;
- (h) Such Receiver shall have full power to manage, operate, amend, repair, alter or extend the Lands or any part thereof in the name of the Chargor for the purposes of securing the payment of rental from the Lands or any part thereof;
- (i) The Receiver shall have full power to assume control of, manage, operate and carry on the business of the Chargor being conducted at or upon the Lands on the date of this Charge or at any time thereafter;
- (j) The Receiver shall have full power to do all acts and execute all documents which may be considered necessary or advisable in order to protect the Chargee's interest in the Lands including, without limiting the generality of the foregoing, increasing, extending, renewing or amending all charges, mortgages and other encumbrances which may be registered against the Lands from time to time, whether or not any of the same are prior to the interest of the Chargee in the Lands; sale of the Lands; borrowing money on the security of the Lands; applying for and executing all documents in any way related to any re-zoning applications, severance of lands pursuant to the provisions of the Planning Act, as amended, subdivision agreements and development agreements and agreements for the supply or maintenance of utilities or services to the Lands, including grants of lands or easements or rights of way necessary or incidental to any such agreements; executing all grants, documents, instruments and agreements related to compliance with the requirements of any competent governmental authority, whether pursuant to a written agreement or otherwise and applying for and executing all documents in any way related to registration of the Lands as a condominium; completing any application for first registration pursuant to the provisions of the Land Titles Act (Ontario) or pursuant to the Certification of Titles Act (Ontario); and for all and every of the purposes aforesaid it does hereby give and grant unto the Receiver full and absolute power and authority to do and execute all acts, deeds, matters and things necessary to be done as aforesaid in and about the Lands, and to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in and about the Lands, as fully and effectually to all intents and purposes as it itself could do if

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personally present and acting therein; and

- (k) Such Receiver shall not be liable to the Chargor to account for monies or damages other than cash received by it in respect of the Lands or any part thereof and out of such cash so received every such Receiver shall pay in the following order: (i) its remuneration; (ii) all payments made or incurred by it in the exercise of its powers hereunder; and (iii) any payment of interest, principal and other money which may from time to time be or become charged upon the Lands in priority to the monies owing hereunder and all taxes, insurance premiums and every other proper expenditure made or incurred by it in respect of the Lands or any part thereof.

The Chargor hereby irrevocably appoints the Chargee as his attorney to execute such consent or consents and all such documents as may be required in the sole discretion of the Chargee and/or its solicitors so as to give effect to the foregoing provisions and the signature of such attorney shall be valid and binding on the Chargor and all parties dealing with the Chargor, the Chargee and/or the Receiver and/or with respect to the Lands in the same manner as if such documentation was duly executed by the Chargor himself.

38. **Chargee Not to Be Deemed Chargee in Possession** - The Chargor acknowledges and agrees that, in exercising any of the rights given to the Chargee under this Charge, the Chargee shall be deemed not to be a chargee or mortgagee in possession.

39. **Enforcement of Additional Security** - In the event that, in addition to the Lands charged hereby, the Chargee holds further security on account of the monies secured hereby, it is agreed that no single or partial exercise of any of the Chargee's powers hereunder or under any of such security, shall preclude other and further exercise of any other right, power or remedy pursuant to any of such security. The Chargee shall at all times have the right to proceed against all, any, or any portion of such security in such order and in such manner as it shall in its sole discretion deem fit, without waiving any rights which the Chargee may have with respect to any and all of such security, and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Chargor under the remaining security, provided however, that upon payment of the full indebtedness secured hereunder the rights of the Chargee with respect to any and all such security shall be at an end.

40. **Taking of Judgement Not a Merger** - The taking of a judgement or judgements on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Chargee's right to interest at the rate and times herein provided; and further that the said judgement shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until the said judgement shall have been fully paid and satisfied.

41. **Bankruptcy and Insolvency Act** - The Chargor hereby acknowledges and agrees that:

- (a) the security held by the Chargee is not all or substantially all of the inventory, accounts receivable or other property of the Chargor acquired for or used in relation to any business carried on by the Chargor;
- (b) notwithstanding any act of the Chargee by way of appointment of any Person for the purposes of taking possession of the Lands as agent on behalf of the Chargor or otherwise or by taking possession of the Lands itself pursuant to any rights that the Chargee may have with respect thereto shall not constitute the Chargee or any such Person, a receiver within the meaning of subsection 243(2) of the Bankruptcy and Insolvency Act (Canada), and that any and all requirements of Part XI of the said Act as it may pertain to obligations of receivers shall not be applicable to the Chargee with respect to the transaction pursuant to which this Charge has been given or with respect to enforcement of this Charge or any other security held by the Chargee;
- (c) no action shall lie against the Chargee as a receiver and manager or otherwise for any loss or damage arising from non-compliance with any obligations of a receiver pursuant to the provisions of the Bankruptcy and Insolvency Act (Canada) whether or not the Chargee had reasonable grounds to believe that the Chargor was not insolvent; and
- (d) any and all Costs as may be incurred from time to time by the Chargee in order to effect compliance or avoid any adverse ramifications of the Bankruptcy and Insolvency Act (Canada) shall be entirely for the account of the Chargor; and the Chargee shall be entitled to incur any such Costs, including any costs of its personnel in administering any requirements of the said Act and to add the same to the indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Chargee for the indebtedness owing to the Chargee in the same manner and in the same priority as the principal secured hereunder.

42. **Permissible Interest Rate** - It is not the intention of this Charge to violate any provisions of the Interest Act (Canada), the Criminal Code (Canada) or any other statute dealing with permitted rates of interest in the Province of Ontario or in Canada. Notwithstanding any provisions set out herein, in no event shall the "interest" (as that term is defined in the Criminal Code) exceed the "criminal rate" (as defined therein) of interest on the "credit advanced" (as defined therein) lawfully permitted under the said legislation. In the event that it is determined at any time that, by virtue of any Loan Document, the payments of interest required to be made by the Chargor exceed the "criminal rate", then the Chargor shall only be required to pay interest at the highest rate permitted by law. Nothing herein shall invalidate any requirements for payment pursuant to the Commitment, this Charge or such other security documents, and any excess interest paid to the Chargee shall be refunded to the Chargor and the provisions of this Charge shall in all respects be deemed to be amended accordingly.

43. **Non-merger** - Notwithstanding the registration of this Charge and the advance of funds pursuant hereto, the terms and conditions of the Commitment shall remain binding and effective on the parties hereto, and shall not merge in this Charge or in any other Loan Document, and the terms of the Commitment are incorporated herein by reference. In the event of any inconsistency between the terms of the Commitment and any of the Loan Documents, or any inconsistency as between any of the Loan Documents, unless otherwise provided by any other Loan Document, the Lender shall decide in its

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sole discretion the provisions of which document shall prevail. Any default under this Charge shall constitute concurrent default under all other Loan Documents and any default under any other Loan Document shall constitute concurrent default under this Charge. No single or partial exercise by the Chargee of any right, power or remedy under any Loan Document shall preclude other and further exercise of any other right, power or remedy under such Loan Document or any other Loan Document, and the Chargee shall at all times have the right to proceed under any or all of the Loan Documents and in respect of any or all assets secured thereby in such order and in such manner as it shall in its sole discretion deem fit.

44. **Notices** - All notices or other communications to be given pursuant to or in connection with this Charge shall be in writing, signed by the party giving such notice or by its solicitors, and shall be personally delivered or sent by registered mail or facsimile transmission to the party or parties intended at its or their respective addresses for service as set out in this Charge. Any party may from time to time by notice given as provided herein change its address for the purpose of this provision.

45. **Priority over Vendor's Lien** - The Chargor hereby acknowledges that this Charge is intended to be prior to any vendor's lien, whether in favour of the Chargor or otherwise, and the Chargor covenants that he has done no act to give priority over this Charge to any vendor's lien, nor is he aware of any circumstances that could create a vendor's lien. Further, the Chargor covenants to do all acts and execute or cause to be executed all documents required to give this Charge priority over any vendor's lien and to give effect to the intent of this clause.

46. **Family Law Act (Ontario)** - The Chargor shall forthwith after any change or happening affecting any of the following, namely, (a) the spousal status of the Chargor, (b) the qualification of the Lands or any part thereof as a matrimonial home within the meaning of Part II of the Family Law Act (Ontario), (c) the ownership of the equity of redemption in the Lands or any part thereof, and (d) a shareholder of the Chargor obtaining rights to occupy the Lands or any part thereof by virtue of shareholding within the meaning of Section 18(2) of the Family Law Act (Ontario), or any successor provision thereof, as the case may be, the Chargor will advise the Chargee accordingly and furnish the Chargee with full particulars thereof, the intention being that the Chargee shall be kept fully informed of the names and addresses of the owner or owners for the time being of the said equity of redemption and of any spouse who is not an owner but who has a right of possession in the Lands by virtue of Section 19 of the Family Law Act (Ontario) or any successor provision thereof. In furtherance of such intention, the Chargor covenants and agrees to furnish the Chargee with such evidence in connection with any of (a), (b) (c), and (d) above as the Chargee may from time to time request.

47. **Independent Legal Advice** - The Chargor and Guarantor(s) acknowledge that they have full knowledge of the purpose and essence of this transaction, and that they have been appropriately and independently legally advised in that regard or have been advised of their right to independent legal advice and have declined same. Such parties agree to provide to the Chargee a Certificate of Independent Legal Advice as and when same may be required, regarding their knowledge and understanding of this transaction.

48. **Discharge** - The Chargee shall have a reasonable period of time after payment in full of the monies hereby secured within which to prepare and execute a discharge of this Charge; and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Chargee; and all legal and other expenses for the preparation and execution of such discharge shall, together with the Chargee's fee for providing same, be borne by the Chargor. The discharge shall be prepared and executed by such Persons as are specifically authorized by the Chargee and the Chargee shall not be obligated to execute any discharge other than a discharge which has been so authorized. If this Charge, the Commitment or any other document provides for the giving of partial discharges of this Charge, it is agreed that, notwithstanding any other provision to the contrary, the Chargor shall not be entitled to request or receive any such partial discharge if and for so long as the Chargor is in default under this Charge, the Commitment or such other document.

49. **Execution In Counterparts** - This Charge may be executed and/or registered in counterparts, each of which when so executed and/or registered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, and shall be deemed to be dated as of the date of execution of the last counterpart to be executed.

50. **Servicing Fees** - All servicing and administration fees as herein provided are intended to and shall be in an amount sufficient in the sole opinion of the Chargee to compensate the Chargee for its administrative costs and shall not be deemed a penalty. The amount of such servicing and administration fees if not paid shall be added to the principal amount secured hereunder, and shall bear interest at the rate aforesaid and the Chargee shall have the same rights with respect to collection of same as it does with respect to collection of principal and interest hereunder or at law. Such servicing and administration fees shall include, but shall not be limited to, the following:

- (a) the Chargee's then current fee (currently \$350.00) for each mortgage statement provided by the Chargee at the request of the Chargor;
- (b) the Chargee's then current fee (currently \$450.00) for amending the Chargee's records in connection with any permitted assumption of this Charge by any purchaser of the Lands or any interest therein (plus all reasonable financial review, appraisal, legal and other professional or consultant's costs incurred in connection therewith);
- (c) the Chargee's then current fee (currently \$300.00) for each payment hereunder made by the Chargor which is not honoured by its bank (in addition to all bank charges incurred in connection with the same);
- (d) the Chargee's then current fee (currently \$300.00) for each placement or renewal of any insurance on or in respect of the Lands which is arranged by the Chargee in consequence of default by the Chargor in such regard (in addition to all insurance premiums and other costs of such insurance); and
- (e) the Chargee's then current fee (currently \$450.00) for each demand letter or other communication sent by the Chargee to the Chargor in consequence of any default by the Chargor hereunder (in addition to all legal and other professional costs incurred in connection therewith).

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51. **No Agency** - The Chargor acknowledges that (i) the Chargee is not acting as the Chargor's agent or otherwise in any fiduciary capacity in relation to the Chargor in connection with the Loan, and (ii) the Chargee or any other Lender Entity may receive a fee in connection with the servicing of the Loan.
52. **Loan Syndication** - The Chargor acknowledges that the Chargee may be administering the Loan and holding one or more interests therein as manager and/or trustee on behalf of certain investors, participants, co-lenders or other persons (including, without limitation, any mortgage broker, agent or other party who or which may have assisted in arranging the loan) whose interest may or may not be shown on the Loan Documents.
53. **Sale or Securitization of Loan** - The Chargee or any other Lender Entity may at any time and from time to time sell (including any sale or securitization into secondary markets), transfer or assign the Loan (or securities or certificates backed by or representing any interest in the Loan or a pool of loans which includes the Loan), the Loan Indebtedness and the Loan Documents, or any interest therein, without notice to or the consent of the Chargor or any other Borrower Entity; and thereafter the Lender shall have no further obligations under or in respect of the Loan or the Loan documents; and for such purposes, each Borrower Entity consents to the disclosure to all interested parties (including by way of offering memorandum, prospectus or other disclosure document regardless of the format or scope of distribution) and to all governmental authorities of any and all information relating to the Loan, the Lands and each Borrower Entity, without restriction and without notice to or the consent of the Chargor or any other Borrower Entity. The Chargor acknowledges that the Chargee or any other Lender Entity may receive a fee or commission in connection with any transaction as described in this Section.
54. **Restriction on Further Financing** - The Chargor agrees not to enter into any further financing of the Lands and not to further encumber same in any manner without the prior written approval of the Chargee.
55. **Prepayment Privilege** -
- (a) The loan secured by this Charge is closed and not open for prepayment in whole or in part during the first eighteen (18) months following the Interest Adjustment Date, except as provided in Sub-section 55(b) hereof.
 - (b) If, within thirty (30) days after the Chargor has satisfied the pre-leasing and capital injection requirements set out in Section 10 at the top of page 4 of the Loan Proposal dated November 27, 2013 forming part of the Commitment, the Chargee does not confirm to the Chargor in writing that the Chargee will proceed with the Construction Segment (as defined in the said Loan Proposal), when not in default under this Charge and on any monthly interest payment date which is after the expiry of six (6) months following the Interest Adjustment Date, the Chargor may, with or without prior notice to the Chargee, prepay the whole (but not part) of the outstanding principal sum secured hereby together with all accrued and unpaid interest thereon plus one (1) month's interest as an additional bonus.
 - (c) When not in default under this Charge and on any monthly interest payment date which is after the expiry of eighteen (18) months following the Interest Adjustment Date, the Chargor may, with or without prior notice to the Chargee, prepay the whole (but not part) of the outstanding principal sum secured hereby together with all accrued and unpaid interest thereon plus (i) one (1) month's interest as an additional bonus, and (ii) interest on any amount(s) advanced within four (4) months of the date of prepayment to the extent that such amount(s) have not yet accrued at least four (4) months' interest.
56. **Related Charge**. This Charge is given to secure the same indebtedness secured by a certain Charge of Lease (the "Related Charge") made by the Chargor in favour of the Chargee and registered or to be registered against title to the lands and premises comprising a leasehold interest in Part Lot 22, 25, 26, 27 & 28, RCP 10309, PINs 03274-0106 LT, 03274-0107 LT, 03274-0185 LT & 03274-0186 LT, 7818 Dufferin Street, Vaughan. The Chargor covenants and agrees that any and all payment or default under this Charge shall constitute concurrent payment or default under the Related Charge, and likewise, any and all payment or default under the Related Charge shall constitute concurrent payment or default under this Charge. The said indebtedness shall at all times and from time to time be fully secured by this Charge, the Related Charge and all other Loan Documents. In the event of default under this Charge, the Related Charge or any other Loan Document, the Chargee shall be entitled to exercise any and all remedies available to it pursuant to any and all Loan Documents and with respect to any or all of the Property defined and described by this Charge and the Related Charge. Notwithstanding anything to the contrary set out in any Loan Document other than this Charge and the Related Charge, all references to the Property in any such Loan Documents mean all of the Property defined and described by this Charge and the Related Charge.
57. **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 Lands, the parties hereto covenant and agree that the following conditions shall apply:
- (a) All construction on the Lands shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed.
 - (b) The renovations to the building and structures located on the Lands having been commenced shall be continued in a good and workmanlike manner, with all due diligence and substantially in accordance with the plans and specifications delivered to the Chargee, without any subsequent material changes except as approved by the Chargee acting reasonably, and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
 - (c) Provided that should construction on the project on the Lands cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Chargor excepted), for a period of thirty (30)

**SCHEDULE - PAGE 15 OF 15
ADDITIONAL PROVISIONS**

consecutive days (Saturdays, Sundays and Statutory holidays excepted), then, at the option of the Chargee, this Charge shall immediately become due and payable. In the event that construction does cease, then the Chargee 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 Chargee 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 Chargee. 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 Chargee shall have the same rights and remedies with respect to collection of same as it would have with respect to collection of principal and interest hereunder or at law.

- (d) At all times there shall be sufficient funds unadvanced under this Charge and retained by the Chargee to complete the construction and/or renovation of the project on the Lands and as may be necessary to retain the Chargee's priority with respect to any deficiency in the holdbacks required to be retained by the Chargor under the Construction Lien Act (Ontario).
- (e) This Charge will be advanced in stages as construction upon the Lands proceeds or as the conditions as enumerated by the Commitment are complied with.
- (f) 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 Chargee with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Chargor 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 Lands. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building
- (g) The Chargor shall pay to the Chargee on each occasion when an inspection of the Lands is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Chargee may charge from time to time for each such inspection and the Chargee's solicitors shall be paid their reasonable fees and disbursements for each subsearch and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Chargee 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.
- (h) The Chargor covenants and agrees upon completion of the project to be erected on the Lands to deliver as further security for the loan herein secured, a Chattel Mortgage or Security Agreement covering the goods, equipment and chattels to be installed in the said building, said Chattel Mortgage or Security Agreement to be in a form approved by the solicitor for the Chargee.

58. **Deemed Advances** - It is acknowledged and agreed that all principal amounts and other monies on account of the Loan which are, in accordance with Commitment, advanced and paid by the Chargee to and deposited in trust with the Chargee's solicitors shall be deemed to have been advanced to the Chargor on and as of each date of doing so from time to time, and shall bear interest as herein provided from and after the such date notwithstanding that all or part of any such amounts may be thereafter held in trust by the Chargee's solicitors until subsequently released to the Chargor in accordance with the terms and conditions of the Commitment and all other Loan Documents.

LRO # 65 Notice Of Assignment Of Rents-General
The applicant(s) hereby applies to the Land Registrar.

Registered as YR2092553 on 2014 02 06 at 12:18
yyyy mm dd Page 1 of 5

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307
EXCEPT PT 1 EXPROP PL R650078, S/T VA84766 ASSIGNED BY R312155 ; VAUGHAN
Address DUFFERIN STREET
VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ;
VAUGHAN
Address 7818 DUFFERIN STREET
VAUGHAN

Applicant(s)

The assignor(s) hereby assigns their interest in the rents of the above described land. The notice is based on or affects a valid and existing estate, right, interest or equity in land.

Name VAUGHAN CROSSINGS INC.
Address for Service 7501 Keele Street, Suite 401
Vaughan, Ontario
L4K 1Y2

I, VINCENT ALBERT GUIDO, President, and ANTHONY DECRISTOFARO, Secretary, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Party To(s)

Capacity

Share

Name VECTOR FINANCIAL SERVICES LIMITED
Address for Service 25 Imperial Street, Suite 500
Toronto, Ontario
M5P 1B9
(VFSL Loan No. 13-18)

Statements

The applicant applies for the entry of a notice of general assignment of rents.

This notice may be deleted by the Land Registrar when the registered instrument, YR2092552 registered on 2014/02/06 to which this notice relates is deleted

Schedule: See Schedules

Signed By

Alyssa Kinsley Tipple 600-390 Bay Street acting for Signed 2014 02 06
Toronto Applicant(s)
M5H 2Y2

Tel 416-868-1900
Fax 416-868-1708

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

Alyssa Kinsley Tipple 600-390 Bay Street acting for Party To Signed 2014 02 06
Toronto (s)
M5H 2Y2

Tel 416-868-1900
Fax 416-868-1708

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

Submitted By

ROSE, PERSIKO, RAKOWSKY, MELVIN LLP 600-390 Bay Street 2014 02 06
Toronto
M5H 2Y2

Tel 416-868-1900
Fax 416-868-1708

LRO # 65 Notice Of Assignment Of Rents-General
The applicant(s) hereby applies to the Land Registrar.

Registered as YR2092553 on 2014 02 06 at 12:18
yyyy mm dd Page 2 of 5

Fees/Taxes/Payment

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

File Number

Party To Client File Number : 20130354- VAUGHAN - GAR - FREEHOLD

GENERAL ASSIGNMENT OF RENTS
(Existing and Future Leases)

THIS ASSIGNMENT made this 9th day of January, 2014
~~December, 2013,~~

BETWEEN:

VAUGHAN CROSSINGS INC.,
hereinafter called the "Assignor",

- and -

VECTOR FINANCIAL SERVICES LIMITED,
hereinafter called the "Assignee";

FOR VALUE RECEIVED, the Assignor hereby assigns to the Assignee, all rights, privileges, advantages and benefits whatsoever, including all rental and other income, arising pursuant to all leases, subleases and/or agreements to lease or sublease and/or tenancies (collectively, the "Leases") now or hereafter affecting the lands and premises (the "Lands") more particularly described in the "Properties" section of the electronic document to which this Assignment is attached as a schedule.

This Assignment is given as additional security for the payment of the sum of THIRTY-TWO MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$32,500,000.00) and all other sums secured by a charge of the Lands (the "Charge") made by the Assignor, as chargor, in favour of the Assignee, as chargee, which Charge was registered against title to the Lands under the instrument/registration number set out in the "Statements" section of the electronic document to which this Assignment is attached as a schedule. The security of this Assignment is and shall be primary and on a parity with the real estate conveyed by the Charge and not secondary. All amounts collected hereunder, after deducting the expense of collection, shall be applied on account of the indebtedness secured by the Charge, or in such other manner as may be provided in the Charge. Nothing herein contained shall be construed as constituting the Assignee as trustee, mortgagee or chargee in possession.

The Assignor does hereby empower the Assignee, its agents or attorneys, to collect, sue for, settle, compromise and give releases for all of the rents that may become due under the Leases and avail itself of and pursue all remedies for the enforcement of the Leases and the Assignor's rights in and under the Leases as the Assignor might have pursued but for this Assignment.

The Assignor warrants that the Leases are in full force and effect, and that the copies thereof heretofore delivered to the Assignee are true and correct copies, that the Assignor has not heretofore assigned or pledged the same or any interest therein save and except as disclosed by registered title, and no default exists on the part of the lessees thereunder (herein called the "Lessees") or the Assignor, as lessor, in the performance on the part of either, of the terms, covenants, provisions or agreements in the Leases contained; that other than last month's rents no rent has been paid by any of the Lessees more than thirty (30) days in advance, and that the payment of none of the rents to accrue under the Leases has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by the Assignor directly or indirectly by assuming any Lessee's obligations with respect to other premises; that no security deposit has been made by the Lessees under any of the Leases. The Assignor waives any rights of set-off against the Lessees.

The Assignor covenants and agrees:

1. that the Leases shall remain in full force and effect irrespective of any merger of the interest of the Lessor and Lessee thereunder; and that it will not transfer or convey the fee title or leasehold interest to said premises, as the case may be, to any of the Lessees without requiring such Lessees, in writing, to assume and agree to pay the debt secured by the Charge in accordance with the terms covenants and conditions contained in the Charge;
2. that all offers to lease and Leases shall be bona fide and shall be at rental rates and terms consistent with comparable space in the vicinity of the Lands and prior to execution of the same the Assignor shall obtain written approval thereof by the Assignee;
3. except in the ordinary course of business and when not in default under the Charge, that the Assignor will not:
 - (a) terminate, modify or amend the Leases or any of the terms thereof, or grant any concessions in connection therewith, either orally or in writing, or to accept a surrender thereof, and that any attempt to do any of the foregoing contrary to the provisions hereof shall be null and void;
 - (b) alter, modify or change the terms of any guarantees of any of the Leases or cancel or terminate such guarantees; or
 - (c) consent to any assignment of the Leases, or any subletting thereunder, whether or not in accordance with their terms;
4. that the Assignor will not:
 - (a) collect any of the rent, income and profits arising or accruing under the Leases in advance of the time when the same become due under the terms thereof;

- (b) discount any future accruing rents;
 - (c) execute any other assignments of the Leases or any interest therein or any of the rents thereunder;
 - (d) request, consent to, agree to or accept a subordination of the Leases to any mortgage or other encumbrance now or hereafter affecting the Lands; or
 - (e) exercise any right of election, whether specifically set forth in any such Leases or otherwise which would in any way diminish the tenant's liability or have the effect of shortening the stated term of the Leases;
5. that if the Leases provided for the abatement of rent during the repair of the demised premises by reason of fire or other casualty, the Assignor shall furnish rental insurance to the Assignee, the policies to be in an amount and form and written by such insurance companies as shall be satisfactory to the Assignee;
 6. to perform all of the Assignor's covenants and agreements as lessor under the Leases and not to suffer or permit to occur any release of liability of the Lessees, or any rights to the Lessees to withhold payment of rent; and to give prompt notices to the Assignee of any notice of default on the part of the Assignor with respect to the Leases received from the Lessees, and to furnish the Assignee with complete copies of said notices;
 7. if so requested by the Assignee, to enforce the Leases and all remedies available to the Assignor against the Lessees, in case of default under the Leases by the Lessees;
 8. that the Assignor will provide to the Assignee leasing activity reports as requested by the Assignee (but not more frequently than quarter-yearly);
 9. that none of the rights or remedies of the Assignee under the Charge shall be delayed or in any way prejudiced by this Assignment;
 10. that notwithstanding any variation of the terms of the Charge or any extension of time for payment thereunder, the Leases and benefits hereby assigned shall continue as additional security in accordance with the terms hereof; and
 11. to pay the costs, charges and expenses of and incidental to the taking, preparation and filing of this Assignment or any notice hereof which may be required and of every renewal related thereto.

Upon any vesting of title to the Lands or the leasehold interest therein secured under the Charge in the Assignee or other party by court order, operation of law, or otherwise or upon delivery of a deed or deeds pursuant to the Assignee's exercise of remedies under the Charge, all right, title and interest of the Assignor in and to the Leases shall by virtue of this Assignment, thereupon vest in and become the absolute property of the party vested with such title or the grantee or grantees in such deed or deeds without any further act or assignment by the Assignor. The Assignor hereby irrevocably appoints Assignee and its successors and assigns, as its agent and attorney in fact, to execute all instruments of assignment or further assurances in favour of such party vested with title or the grantee or grantees.

In the exercise of the powers herein granted to the Assignee, no liability shall be asserted or enforced against the Assignee, all such liability being hereby expressly waived and released by the Assignor. The Assignee shall not be obligated to perform or discharge any obligation, duty or liability under the Leases, or under or by reason of this Assignment, and the Assignor shall and does hereby agree to indemnify the Assignee for, and to save and hold it harmless of and from, any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should the Assignee incur any such liability, loss or damage under the Leases or under or by reason of this Assignment, or in the defence of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees, shall be secured hereby, and the Assignor shall reimburse the Assignee therefore immediately upon demand.

Although it is the intention of the parties that this Assignment shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that the Assignee shall not exercise any of the rights or powers herein conferred upon it until a default shall occur under the terms and provisions of this Assignment or of the Charge and until such time the Assignor shall be entitled to enjoy all rights under and benefits under the Leases. Upon the occurrence of any such default, the Assignee shall be entitled, upon notice to the Lessees, to all rents and other amounts then due under the Leases and thereafter accruing, and this Assignment shall constitute a direction to and full authority to the Lessees to pay all such amounts to the Assignee without proof of the default relied upon. The Lessees are hereby irrevocably authorized to rely upon and comply with any notice or demand by the Assignee for the payment to the Assignee of any rental or other sums which may be or thereafter become due under the Leases regardless whether any default under the Charge has actually occurred or is then existing.

In the event that the Assignee collects any payments of rent due to the Assignors default, the Assignee shall be entitled to receive from such rent a management fee of 5.0% of the gross receipts from such rent, it being understood for greater certainty that the Assignor and the Assignee have agreed that such management fee is a just and equitable fee having regard to the circumstances.

This Assignment is intended to be additional to and not in substitution for or in derogation of any assignment of rents contained in the Charge or in any other document.

This Assignment shall include any extensions and renewals of the Leases and any reference herein to the Leases shall be construed as including any such extensions and renewals.

The Assignee is hereby irrevocably authorized and directed by the Assignor to complete and insert herein the registration particulars of the Charge, once registered.

It is acknowledged and agreed that, upon registration on title to the Lands of a complete discharge of the Charge, the Assignee shall be deemed to have re-assigned and released to the Assignor all of the Leases and all rents, rights and other benefits accruing thereunder, for the use and benefit of the Assignor absolutely; and such re-assignment and release shall be self-operative and the Assignee shall not be required to provide any further or other documents or assurances in such regard.

This Assignment shall be binding upon and enure to the benefit of the respective successors and assigns of the parties hereto. The words "Assignor", "Assignee" and "Lessees", wherever used herein, and designated as such and their respective heirs, administrators, successors and assigns, and all words and phrases shall be taken to include the singular or plural and masculine, feminine or neuter gender, as may fit the case.

IN WITNESS WHEREOF the Assignor has executed this General Assignment of Rents.

VAUGHAN CROSSINGS INC.

Per: 

Vincent Albert Guido, President

Per: 

Anthony DeCristofaro, Secretary

We have authority to bind the Corporation.

This is Exhibit "H" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

Properties

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0107 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0186 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1,65R8928; S/T VA84765 ASSIGNED BY R312155; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

Source Instruments

<i>Registration No.</i>	<i>Date</i>	<i>Type of Instrument</i>
YR1980699	2013 05 24	Notice Of Lease

Chargor(s)

Name VAUGHAN CROSSINGS INC.
Address for Service 7501 Keele St, Suite 401
 Vaughan, Ontario
 L4K 1Y2

I, VINCENT ALBERT GUIDO, President, and ANTHONY DECRISTOFARO, Secretary, have the authority to bind the corporation.

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

Chargee(s)*Capacity**Share*

Name VECTOR FINANCIAL SERVICES LIMITED
Address for Service 25 Imperial Street, Suite 500
 Toronto, Ontario
 M5P 1B9
 (VFSL Loan No. 13-18)

Statements

Schedule: See Schedules

LRO # 65 - Notice Of Charge Of Lease

Received as YR2092557 on 2014 02 06 at 12.24

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

yyyy mm dd Page 2 of 19

Provisions

<i>Principal</i>	\$ 32,500,000.00	<i>Currency</i>	CDN
<i>Calculation Period</i>	See Schedule		
<i>Balance Due Date</i>	2016/08/10		
<i>Interest Rate</i>	See Schedule		
<i>Payments</i>			
<i>Interest Adjustment Date</i>	2014 01 10		
<i>Payment Date</i>	10th day of each month		
<i>First Payment Date</i>	2014 02 10		
<i>Last Payment Date</i>	2016 08 10		
<i>Standard Charge Terms</i>	N/A		
<i>Insurance Amount</i>	full insurable value		
<i>Guarantor</i>			

Signed By

Alyssa Kinsley Tipple	600-390 Bay Street Toronto M5H 2Y2	acting for Chargor(s)	Signed	2014 02 06
Tel 416-868-1900				
Fax 416-868-1708				

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

Submitted By

ROSE, PERSIKO, RAKOWSKY, MELVIN LLP	600-390 Bay Street Toronto M5H 2Y2	2014 02 06
Tel 416-868-1900		
Fax 416-868-1708		

Fees/Taxes/Payment

<i>Statutory Registration Fee</i>	\$60.00
<i>Total Paid</i>	\$60.00

File Number

Chargor Client File Number : 20130354 - VAUGHAN - LEASEHOLD

**SCHEDULE - PAGE 1 OF 17
ADDITIONAL PROVISIONS**

1. **Defined Terms** - Unless otherwise expressly defined in this Charge, or unless otherwise required by the context, the following words and phrases shall have the following meanings when used in this Charge:
- (a) "Applicable Laws" means, in respect of any Person, property, transaction or event, all applicable statutes, laws, by-laws, regulations, rules, codes, policies and guidelines, orders, directives, permits, licences, authorizations, approvals and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction and all applicable common law or equitable principles in force and effect during the currency of this Charge;
 - (b) "Business Day" means any day of the week other than Saturday, Sunday or any other day which is a statutory or a municipal holiday in the municipality in which the Lands are situate;
 - (c) "Borrower Entity" means the Chargor, each Guarantor, each indemnitor of all or part of the Loan Indebtedness or in respect of or related to the Lands or any part thereof, and any Person having a beneficial ownership interest in all or any part of the Lands from time to time;
 - (d) "Charge" means, for the non-electronic paper based registration system, the Charge/Mortgage of Land (Form 2) to which this Schedule is attached, this Schedule and all other schedules thereto, or for the electronic registration system, the Charge/Mortgage prepared in the electronic format and registered electronically pursuant to Part III of the Land Registration Reform Act (Ontario) including this Schedule and all other schedules thereto;
 - (e) "Chargee" means, individually and collectively, each Person in whose favour this Charge is given and who is or are named in this Charge as chargee, and any other Person who acquires all or part of the rights, title and interest of the Chargee under the Loan Documents;
 - (f) "Chargor" means, individually and collectively, each Person named as chargor in this Charge and who has given and executed this Charge as chargor;
 - (g) "Commitment" means each and every loan proposal, letter of commitment, loan approval, term sheet or other similar agreement establishing or pertaining to the loan secured by this Charge or pursuant to which this Charge has been given including, without limitation, a Loan Proposal dated November 27, 2013 and a Commitment Letter dated December 6, 2013 both issued by the Chargee to or on behalf of the Chargor, as amended, and all amendments thereto and renewals or replacements thereof from time to time;
 - (h) "Costs" includes all costs and expenses of every nature and kind whatsoever incurred by the Chargee or paid by the Chargee to any other party in connection with the protection and preservation of the Lands or any other security held by the Chargee, or for the purpose of preserving and maintaining the enforceability and priority of this Charge and any such other security, or in connection with any and all demands and enforcement proceedings of every nature and kind made or carried out by or on behalf of the Chargee under or pursuant to this Charge, and includes, without limitation, legal costs incurred by the Chargee on a solicitor and client scale;
 - (i) "Event of Default" or "default" means any one or more of the following events or circumstances:
 - (i) failure by the Chargor or any Guarantor to pay any instalment of principal, interest and/or Realty Taxes under this Charge or under any charge or other encumbrance of the Lands, on the date upon which any of the payments for same become due;
 - (ii) failure by the Chargor or any Guarantor to strictly and fully observe or perform any condition, agreement, covenant or term set out in the application or Commitment for the Loan, the provisions of this Charge, or any other document giving contractual relationship as between them or any of them or if it is found at any time that any representation to the Chargee with respect to the Loan or in any way related thereto is incorrect or misleading;
 - (iii) default by the Chargor in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any charge or other encumbrance affecting the Lands, whether or not it has priority over this Charge;
 - (iv) the occurrence of any other event or circumstance which is expressly or impliedly defined or described as a default under this Charge or any other Loan Document;
 - (v) the registration of any construction lien against the Lands which is not discharged or vacated on or before the date which is the earlier of 21 days after the date of registration of such construction lien and the day immediately preceding the last date upon which a legal action can be commenced in respect of such construction lien;
 - (vi) if any Hazardous Substance is discovered in, on or under the Lands or any part thereof in contravention of Environmental Laws and the Chargee does not within seven (7) days after demand therefor by the Chargee immediately commence and thereafter diligently proceed to completely remove the same to the entire satisfaction of the Chargee;
 - (vii) if the Lands are abandoned or there is any cessation of the business activities or any material part thereof now being conducted upon the Lands by the Chargor or the beneficial owner of the Lands or any of their respective officers, agents, employees, tenants or invitees; and

**SCHEDULE - PAGE 2 OF 17
ADDITIONAL PROVISIONS**

- (viii) If the Chargor or any Guarantor commits an act of bankruptcy or becomes insolvent or has a receiver or receiver and manager appointed for it or over any of its assets or if any creditor takes possession of any of its assets or if any execution, distress or other like process is levied or enforced upon the Lands or any part thereof or if any compromise or arrangement with creditors is made by any of them;
- (j) "Environmental Laws" means any and all Applicable Laws in connection with or pertaining to any Hazardous Substance or to the protection of the natural environment or the health or welfare of any living thing;
- (k) "Guarantor" means, individually and collectively, each party to this Charge expressly defined as such and each Person who has directly, indirectly, as principal debtor or as surety covenanted to pay or guaranteed payment of the whole or any part of the Loan Indebtedness or who have covenanted to perform or guaranteed performance by the Chargor of its obligations under this Charge or any other Loan Document;
- (l) "Hazardous Substance" means any pollutant, contaminant, waste or other substance (i) the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled or regulated or licensed under any Environmental Law; or (ii) which in the Lender's opinion, acting reasonably, may, immediately or in the future, directly or indirectly, cause harm or degradation to the environment or to the health or welfare of any living thing;
- (m) "Lands" means all legal and beneficial right, title, estate and interest in and to the leasehold interest in the lands and premises described in this Charge, and all buildings, structures and improvements of every nature and kind now or hereafter situate or constructed thereon, and all easements, rights-of-way and other appurtenances thereto, and all machinery, equipment, appliances, furniture, furnishings, decorations and other fixtures of every nature and kind (whether or not affixed in law) attached thereto or placed, installed or erected thereon or used in connection therewith;
- (n) "Lender Entity" means each of the Chargee, its servicer, the lender named in the Commitment Letter, each Person having an ownership interest in the Loan from time to time, any receiver and their respective employees, officers and directors;
- (o) "Loan" means the loan in the principal amount as set out in this Charge (or the portion thereof advanced and outstanding at any time and from time to time) made by the Chargee to the Chargor pursuant to the Commitment and in accordance with and as evidenced by this Charge and the other Loan Documents;
- (p) "Loan Documents" means, collectively, all documents, instruments, agreements and opinions now or hereafter evidencing, securing, guaranteeing and/or relating to the Loan and the Loan Indebtedness or any part thereof, including the Commitment Letter and this Charge;
- (q) "Loan Indebtedness" means the aggregate of: (i) the outstanding principal balance secured by this Charge at any time and from time to time; (ii) all accrued and unpaid interest and compound interest payable under this Charge at any time and from time to time, whether or not then due, at the rate provided by this Charge; (iii) all Costs; (iv) if applicable, any yield maintenance charge and other amount or amounts payable under this Charge or pursuant to any other Loan Document in connection with any prepayment of any monies secured by this Charge; (v) any amount, cost, charge, expense or interest added to the Loan Indebtedness under the Loan Documents or Applicable Laws or which is otherwise due and payable thereunder or secured thereby from time to time; and (vi) the payment, performance, discharge and satisfaction of all other obligations of any Borrower Entity under or in respect of the Loan and Loan Documents;
- (r) "Person" means any individual, general or limited partnership, joint venture, sole proprietorship, corporation, unincorporated association or organization, trust, trustee, executor, administrator, legal representative or governmental authority;
- (s) "Prime Rate" means the prime rate of interest announced from time to time by Canadian Imperial Bank of Commerce at its head office in Toronto, Ontario as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada;
- (t) "Realty Taxes" means all taxes, duties, rates, imposts, levies, assessments and other similar charges, whether general or special, ordinary or extraordinary, or foreseen or unforeseen, including municipal taxes, school taxes and local improvement charges, and all related interest, penalties and fines which at any time may be levied, assessed, imposed or be a lien on the Lands or any part thereof; and
- (u) "Receiver" means any receiver, receiver and manager, receiver-manager or trustee of the Lands as may be appointed from time to time by the Chargee pursuant to the provisions of this Charge or by any court of competent jurisdiction.
2. **Interpretation** - In this Charge: (a) the word "including" shall mean "including, without limitation,"; (b) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced from time to time, and any successor statute thereto; (c) any reference to the Commitment, any Loan Document, any lease or other agreement or instrument shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto from time to time; (d) reference to any Lender Entity, Borrower Entity, beneficial owner of the Lands and/or any other Person shall include their respective heirs, executors, administrators, legal representatives, successors and assigns, and

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reference to "corporation" shall include a company or other form of body corporate; (e) all dollar amounts are expressed in Canadian dollars; (f) the Chargee's right to give or withhold any consent or approval, make any determination or exercise any discretion may be exercised by the Chargee in its sole discretion unless otherwise expressly provided, and the Chargee shall not be liable to the Chargor in damages or otherwise for its failure or refusal to give or withhold such consent or approval, and all costs of obtaining such consent or approval shall be for the account of the Chargor; (g) time shall be of the essence; (h) all obligations of the Chargor in this Charge will be deemed to be covenants by the Chargor in favour of the Chargee; and (i) where any Borrower Entity is comprised of more than one Person, the representations, warranties, covenants and agreements of such Persons shall be joint and several. This Charge shall be read and construed with all changes of gender and number of the party or parties referred to in each case as required by the context. The headings set forth in this Charge and the division of this Charge into sections and subsections are inserted for convenience and reference only and shall in no way define or limit the intent or interpretation of any of the provisions hereof. If any provision of this Charge shall be void for any reason, it shall be severed herefrom and all other provisions of this Charge shall remain in full force and effect notwithstanding such severance. Where any reference is made in this Charge to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the trust) by or with respect to, a trust, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the trust) by or with respect to, the trustee(s) of the trust. This Charge shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein without application of any principle of conflict of laws which may result in laws other than the laws in force in Ontario applying to this Charge; and the Chargor consents and attorns to the jurisdiction of the courts of the Province of Ontario.

3. **Proviso for Redemption and Defeasance** - Provided this Charge to be void upon payment of the principal sum hereby secured, in lawful money of Canada, with interest as herein provided and taxes and performance of statute labour and performance of all covenants and agreements contained in this Charge.

4. **Payment Provisions** -

(a) Provided this Charge to be void upon payment at the office of the Chargee at Toronto, Ontario of THIRTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$32,500,000.00) of lawful money of Canada with interest at the rate and calculated and payable monthly not in advance as herein set forth, both before and after maturity, default and judgment, as follows:

- (i) The outstanding balance of the said principal sum of \$32,500,000.00 shall become due and payable on August 10, 2016, together with interest thereon and other charges as herein set forth;
- (ii) The amount advanced from time to time shall bear interest, calculated and payable monthly not in advance, both before and after maturity, default and judgment, at the rate per annum which is:
 - (A) eight and one-half percent (8.5%) for the period from and including December 19, 2013 to and including June 9, 2015,
 - (B) for the period from and including June 10, 2015 to and including June 9, 2016, the greater of: (i) eight and one-half percent (8.5%), and (ii) the Prime Rate plus five and one-half percent (5.5%), which interest shall be adjusted daily as to fluctuations from time to time in the Prime Rate, and
 - (C) for any period from and after June 10, 2016, the greater of: (i) twelve percent (12.0%), and (ii) the Prime Rate plus nine percent (9.0%), which interest shall be adjusted daily as to fluctuations from time to time in the Prime Rate,

and which interest shall be calculated and payable not in advance on such portion of the principal as remains from time to time unpaid on January 10, 2014 (the "Interest Adjustment Date") and thereafter on the tenth (10th) day of each month in each year until the principal is fully paid; the first payment of interest to be computed from the date of the first advance of funds to become due and payable on the 10th day of the month immediately following the month in which the first advance takes place; and

- (iii) The Chargee shall be entitled to deduct from any advance hereunder (A) interest accrued and to accrue from the date of the first advance of funds to and including the day prior to the Interest Adjustment Date (notwithstanding anything contained herein to the contrary), and (B) any amount due and owing by the Chargor on account of interest and Costs secured hereby.
- (b) In case default shall be made in payment of any sum to become due for interest at any time appointed for payment thereof as aforesaid, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, shall bear interest at the rate aforesaid, and in case the interest and compound interest are not paid in one (1) month from the time of default a rest shall be made, and compound interest at the rate aforesaid shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the Lands.

5. **Exclusion of Statutory Covenants** - The implied covenants deemed to be included in a charge under sub-section 7(1) of the Land Registration Reform Act (Ontario) shall be and are hereby expressly excluded and replaced by the terms hereof which are covenants by the Chargor, for and on behalf of the Chargor, with the Chargee.

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6. Short Form of Mortgages Act - If any of the forms of words contained herein are substantially in the form of words contained in Column One of Schedule B of the Short Form of Mortgages Act, R.S.O. 1980, c. 474, 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 Two of Schedule B of the said Act distinguished by the same number, and this Charge shall be interpreted as if the said Act was still in full force and effect.

7. Release - The Chargor releases to the Chargee all its claims upon the Lands subject to the proviso for redemption herein.

8. Advance of Funds - The Chargor agrees that neither the preparation, execution nor registration of this Charge shall bind the Chargee to advance the monies hereby secured, nor shall the advance of a part of the principal sum herein bind the Chargee to advance any unadvanced portion thereof, but nevertheless the estate hereby charged shall take effect forthwith upon the execution of this Charge by the Chargor, and the expenses of the examination of the title and of this Charge and valuation are to be secured hereby in the event of the whole or any balance of the principal sum herein not being advanced, the same to be charged hereby upon the Lands, and shall be without demand thereof, payable forthwith with interest at the rate provided for in this Charge, and in default the remedies herein shall be exercisable.

9. Chargor's Covenants - The Chargor covenants with the Chargee as follows:

- (a) that the Chargor will pay the principal sum herein and interest and observe the proviso for redemption herein, and will pay as they fall due all Realty Taxes and when required by the Chargee, shall transmit the receipts thereof to the Chargee;
- (b) that the Chargor will pay all amounts which are payable hereunder or which are capable of being added to the principal sum herein pursuant to the provisions of this Charge including, without limiting the generality of the foregoing, all servicing or other fees, costs or charges provided for herein; all insurance premiums; the amount paid for the supply of any fuel or utilities to the Lands; all costs, commissions, fees and disbursements incurred by the Chargee in constructing, inspecting, appraising, selling, managing, repairing or maintaining the Lands; all costs incurred by the Chargee, including legal costs on a solicitor and his own client basis, with respect to the Charge or the enforcement thereof or incurred by the Chargee arising out of, or in any way related to this Charge; any amounts paid by the Chargee on account of any encumbrance, lien or charge against the Lands and any and all costs incurred by the Chargee arising out of, or in any way related to, the Chargee realizing on its security by sale or lease or otherwise;
- (c) that the Chargor has good title to the Lands and has good right, full power and lawful and absolute authority to charge the Lands and to give this Charge to the Chargee upon the covenants contained in this Charge;
- (d) that the Chargor has not done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the Lands, or any part or parcel thereof, is or shall or may be in any way impeached, charged, affected or encumbered in title, estate or otherwise, except as the records of the land registry office disclose; and free from all encumbrances except as may be permitted by the Chargee;
- (e) that the Chargor will execute such further assurances of the Lands as may be requisite; and
- (f) that the Chargor will produce the title deeds and allow copies to be made at the expense of the Chargor.

10. Compliance with Applicable Laws - The Chargor shall, in its ownership, operation and use of the Lands, promptly and at all times observe, perform, execute and comply with all Applicable Laws with respect to the same, and further agrees at its cost and expense to take any and all steps or make any improvements or alterations thereto, structural or otherwise, ordinary or extraordinary, which may be required at any time hereafter by any such present or future Applicable Laws.

11. Change of Use - Except for development of the Lands as contemplated by the Commitment, the Chargor will not change or permit to be changed the existing use or uses of the Lands without the prior written consent of the Chargee.

12. Alterations or Additions - Except for development of the Lands as contemplated by the Commitment, the Chargor will not make or permit to be made any alterations or additions to the Lands without the prior written consent of the Chargee, which consent may be withheld in the Chargee's sole discretion or may be given only subject to compliance with such terms and conditions at the cost of the Chargor as the Chargee may impose.

13. Lands Include All Additions - The Lands shall include all structures and installations brought or placed on the Lands for the particular use and enjoyment thereof or as an integral part of or especially adapted for the buildings thereon whether or not affixed in law to the Lands including, without limiting the generality of the foregoing, piping, plumbing, electrical equipment or systems, aerials, refrigerators, stoves, clothes washers and dryers, dishwashers, incinerators, radiators and covers, fixed mirrors, fitted blinds, window screens and screen doors, storm windows and storm doors, shutters and awnings, floor coverings, fences, air conditioning, ventilating, heating, lighting, and water heating equipment, cooking and refrigeration equipment and all component parts of any of the foregoing and that the same shall become fixtures and an accession to the freehold and a part of the realty

14. Repair - Except for development of the Lands as contemplated by the Commitment, the Chargor will keep the Lands including the buildings, erections and improvements thereon in good condition and repair according to the nature and description thereof, and the Chargee may, whenever it deems necessary, enter upon and inspect the Lands, and the cost of such inspection shall be added to the indebtedness secured hereunder, and if the Chargor neglects to keep the Lands in good

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condition and repair, or commits or permits any act of waste on the Lands (as to which the Chargee shall be sole judge) or makes default as to any of the covenants or provisos herein contained, the principal sum herein shall, at the option of the Chargee, forthwith become due and payable, and in default of payment thereof with interest as in the case of payment before maturity, the powers of entering upon and leasing or selling hereby given may be exercised forthwith and the Chargee may make such repairs as it deems necessary, and the cost thereof with interest at the rate aforesaid shall be added to the monies hereby secured and shall be payable forthwith and be a charge upon the Lands prior to all claims thereon subsequent to this Charge.

15. Hazardous Substances - The Chargor represents, warrants, covenants and agrees as follows:

- (a) except as disclosed in writing by the Chargor to the Chargee prior to the initial Loan advance, that the Chargor has not and, to the best of its knowledge, information and belief after making due inquiry, no other Person has caused or permitted any Hazardous Substance to be placed, stored, located or disposed of on, under or at the Lands;
- (b) except as disclosed in writing by the Chargor to the Chargee prior to the initial Loan advance, that the Chargor and its tenants, invitees and other occupiers of the Lands have and will at all times and, to the best of its knowledge, information and belief after making due inquiry, all prior owners and occupiers of the Lands have at all times carried out all business and other activities upon the Lands in compliance with all Environmental Laws; and without limiting the generality of the foregoing, (i) that the Lands have never been used as a land fill site or to store Hazardous Substances either above or below ground, in storage tanks or otherwise; (ii) that all Hazardous Substances used in connection with the business conducted at the Lands have at all times been received, handled, used, stored, treated, shipped and disposed of in strict compliance with all Environmental Laws; (iii) that no Hazardous Substances have been released into the environment or deposited, discharged, placed or disposed of at, on or near the Lands as a result of conduct of business on the Lands; and (iv) that no notices of any violation of any matters referred to above relating to the Lands or the use thereof have been received by the Chargor and there are no directions, writs, injunctions, orders or judgements outstanding, no law suits, claims, proceedings or investigations pending or threatened, relating to the ownership, use, maintenance or operation of the Lands nor is there any basis for such law suits, claims, proceedings or investigations being instituted or filed;
- (c) except as disclosed in writing by the Chargor to the Chargee prior to the initial Loan advance, no order, direction, enforcement action or other governmental or regulatory action or notice, nor any action, suit or proceeding relating to any Hazardous Substance, or to any Environmental Laws or any breach thereof, or to the environment generally has been issued or is otherwise threatened or pending with respect to the Lands;
- (d) each of the foregoing representations and warranties shall remain true and accurate in all respects up to and including the date of the first advance of funds hereunder and thereafter until all amounts secured by this Charge are paid in full; and the Chargee may delay or refuse to make any advance to the Chargor if the Chargee believes that any of the foregoing representations and warranties were not true and accurate when made or at any time thereafter;
- (e) that the Chargor will not bring onto, use, release or store any Hazardous Substance, or permit any Hazardous Substance to be brought onto, used, released or stored in, on or under the Lands, save and except in accordance with Environmental Laws;
- (f) that the Chargor will comply with, and will promptly remedy the breach of, all Environmental Laws and all orders, decrees or judgments of governmental authorities or courts having jurisdiction relating to the use, collection, storage, treatment, control, removal or cleanup of Hazardous Substances in, on, or under the Lands;
- (g) that the Chargor will forthwith notify the Chargee if (i) any Hazardous Substance is brought onto, used, released or stored in, on or under the Lands in breach of Environmental Laws; (ii) the Chargor breaches any Environmental Law; (iii) the Chargor receives any order, direction, enforcement action or other governmental or regulatory action or notice, or notice of any action, suit or proceeding, whether issued or threatened, relating to any Hazardous Substance, or to any Environmental Law or any breach thereof, or to the environment generally; or (iv) the Chargor receives any notice, demand or other communication respecting any permit that may be required by the Chargor pursuant to any Environmental Law; and that the Chargor will provide to the Chargee copies of all relevant documentation in connection any and all of the foregoing;
- (h) that the Chargor will promptly cause to be conducted, at its own expense, such investigations, searches, tests, drilling and sampling of the Lands as are required from time to time by the Chargee, acting reasonably, and will promptly forward the results of such investigations, searches, tests, drilling and sampling to the Chargee upon receipt;
- (i) that if, now or hereafter, there is any Hazardous Substance in, on or under the Lands, or incorporated in any improvements thereon, the Chargor shall promptly and diligently take such actions and incur such costs and expenses as are necessary to remove such Hazardous Substance from the Lands and improvements and shall promptly thereafter repair any damage to the Lands and improvements caused by such removal;
- (j) the Chargee may, but shall not be obliged to, enter upon the Lands and conduct, acting reasonably and at the Chargor's expense, any and all tests, inspections, appraisals and environmental audits of the Lands so as to determine and ensure and take such actions and incur such costs and expenses so as to effect such compliance as it deems advisable with the representations, warranties, covenants and agreements set forth in this Section; and without limiting the foregoing, the Chargee may, acting reasonably, conduct soil tests and review and copy any records relating to the Lands or the businesses and other activities conducted thereon at any time and from time to

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time; and the Chargor shall reimburse the Chargee on demand for the full amount of all reasonable costs and expenses incurred by the Chargee in connection with such compliance activities; and

- (k) the Chargor agrees to indemnify and save harmless the Chargee and its officers, directors, employees, agents and shareholders from and against any and all losses, damages, costs and expenses of any and every nature and kind whatsoever which at any time or from time to time may be paid or incurred by or asserted against any of them as a direct or indirect result of a breach of any of the representations, warranties, covenants and agreements of the Chargor as set forth in this Charge, and the provisions of all representations, warranties, covenants, agreements and indemnifications set out in this Section shall survive the repayment and satisfaction of the indebtedness secured by this Charge and any release or discharge of or enforcement or realization pursuant to this Charge or any other security held by the Chargee.
16. **Inspection** - The Chargee shall have access to and the right to inspect the Lands at all reasonable times.
17. **Realty Taxes** -
- (a) The Chargor shall transmit to the Chargee all assessment notices, tax bills and other notices pertaining to the imposition of Realty Taxes forthwith after requested by the Chargee.
- (b) The Chargee may deduct from any advance of the monies secured by this Charge an amount sufficient to pay all Realty Taxes which have become due and payable during any calendar year.
- (c) The Chargee may at its sole option estimate the amount of the Realty Taxes payable in each year and the Chargor shall forthwith upon demand of the Chargee pay to the Chargee one-twelfth (1/12) of the estimated annual amount of such Realty Taxes on the 1st day of each and every month during the term of this Charge commencing with the 1st day of the first full month of the term of this Charge. The Chargee may at its option apply such payments to the Realty Taxes so long as the Chargor is not in default under any covenant or agreement contained in this Charge, but nothing herein contained shall obligate the Chargee to apply such payments on account of Realty Taxes more often than yearly. Provided however, that if the Chargor shall pay any sum or sums to the Chargee to apply on account of Realty Taxes, and if before such payments have been so applied by the Chargee, there shall be default by the Chargor in respect of any payment of principal or interest as herein provided, the Chargee may at its option apply such sum or sums in or towards payment of the principal and interest in default. If the Chargor desires to take advantage of any discounts or avoid any penalties in connection with the payment of Realty Taxes, the Chargor may pay to the Chargee such additional amounts as are required for that purpose.
- (d) In the event that the Realty Taxes actually charged in a calendar year, together with any interest and penalties thereon, exceed the amount estimated by the Chargee as aforesaid, the Chargor shall pay to the Chargee, on demand, the amount required to make up the deficiency. The Chargee may at its option, pay any of the Realty Taxes when payable, either before or after they are due, without notice, or may make advances therefor in excess of the then amount of credit held by the Chargee for Realty Taxes. Any excess amount advanced by the Chargee shall be secured as an additional principal sum under this Charge and shall bear interest at the rate as provided for in this Charge until repaid by the Chargor.
- (e) The Chargor shall pay to the Chargee, in addition to any other amounts required to be paid hereunder, the amount required by the Chargee in its sole discretion for a reserve on account of future liability for Realty Taxes.
- (f) In no event shall the Chargee be liable for any interest on any amount paid to it on account of Realty Taxes and the monies so received may be held with its own funds pending payment or application thereof as herein provided; provided that in the event that the Chargee does not utilize the funds received on account of Realty Taxes in any calendar year, such amount or amounts may be held by the Chargee on account of any pre-estimate of Realty Taxes required for the next succeeding calendar year, or at the Chargee's option the Chargee may repay such amount to the Chargor without any interest.
- (g) The Chargor shall in all instances be responsible for the payment of any and all penalties resulting from any arrears of Realty Taxes or any late payment of current instalments thereof, and at no time shall such penalties be the responsibility of the Chargee.
- (h) In the event the Chargee does not collect payments on account of Realty Taxes as aforesaid, the Chargor shall deliver to the Chargee on or before December 31st in each calendar year, written evidence from all taxing authorities having jurisdiction to the effect that all Realty Taxes for the then current calendar year and any preceding calendar years have been paid in full, failing which, the Chargee shall be entitled to charge a servicing fee for each written inquiry directed to such taxing authorities or the Chargor for the purpose of ascertaining the status of the Realty Taxes together with any costs payable to such taxing authorities for such information.
18. **Utilities** - The Chargor covenants that it will pay all utility and fuel charges related to the Lands as and when they are due and, except as may be necessary during the course of any development of or construction upon the Lands as contemplated by the Commitment, that the Chargor will not allow or cause the supply of utilities or fuel to the Lands to be interrupted or discontinued and that, if the supply of fuel oil or utilities is interrupted or discontinued, the Chargor will take all steps that are necessary to ensure that the supply of utilities or fuel is restored forthwith.
19. **Insurance** -
- (a) The Chargor will insure and keep insured during the term of this Charge the buildings and other improvements on

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the Lands (now or hereafter erected) on an all-risks basis in an amount of not less than the greater of the full replacement value of the buildings located thereon from time to time, or the principal money herein, with no co-insurance provisions and with the Chargee's standard mortgage clause forming part of such insurance policy. The Chargor shall carry such liability, rental, boiler, plate glass and other insurance coverage as is required by the Chargee to be placed with such insurance companies and in such amounts and in such form as may be acceptable to the Chargee. All such policies shall provide for loss payable to the Chargee and contain such additional clauses and provisions as the Chargee may require. An original of all insurance policies and endorsements from the insurer to the effect that coverage has been bound and/or extended for a minimum period of at least one year and that all premiums with respect to such term of such coverage have been paid for in full, shall be produced to the Chargee prior to any advance and at least thirty (30) days before expiration of any term of any such respective policy, failing which the Chargee may provide therefor and charge the premium paid therefor and interest thereon at the aforesaid rate to the Chargor and any amounts so paid by the Chargee shall be payable forthwith to the Chargee and shall also be a charge upon the Lands and secured by this Charge. It is further agreed that the Chargee may at any time require any insurance on the said buildings to be cancelled and new insurance effected with a company to be named by it, and also may, of its own accord, effect or maintain any insurance herein provided for, and any amount paid by the Chargee therefor shall be forthwith payable to it, together with interest at the rate aforesaid by the Chargor (together with any costs of the Chargee as herein set out), and shall be a charge upon the Lands and secured by this Charge.

- (b) In the event that the evidence of continuation of such insurance as herein required has not been delivered to the Chargee within the required time, the Chargee shall be entitled to a servicing fee for each written inquiry which the Chargee shall make to the insurer or the Chargor pertaining to such renewal (or resulting from the Chargor's non-performance of the within covenant). In the event that the Chargee pursuant to the within provision arranges insurance coverage with respect to the Lands, the Chargee, in addition to the aforementioned servicing fee, shall be entitled to a further servicing fee for arranging the necessary insurance coverage.
- (c) In the event of any loss or damage, the Chargor shall forthwith notify the Chargee in writing and notwithstanding any other provision to the contrary, statutory or otherwise, in the event of any monies becoming payable pursuant to any insurance policy herein required, the Chargee may, at its option, require the said monies to be applied by the Chargor in making good the loss or damage in respect of which the money is received, or in the alternative, may require that any or all of the monies so received be applied in or towards satisfaction of any or all of the indebtedness hereby secured whether or not such indebtedness has become due. No damage may be repaired nor any reconstruction effected without the approval in writing of the Chargee in any event.
- (d) The Chargor, upon demand, will transfer all policies of insurance provided for herein and the indemnity which may become due therefrom to the Chargee. The Chargee shall have a lien for the indebtedness hereby secured on all the said insurance proceeds and policies, and may elect to have these insurance monies applied as it may deem appropriate, including payment of monies secured hereby, whether due or not, but the Chargee shall not be bound to accept the said monies in payment of any principal not yet due.

20. **Remittance and Application of Payments** - All payments of principal, interest and other monies payable hereunder to the Chargee shall be payable at par in lawful money of Canada at the Chargee's address for service as set out in this Charge or at such other place as the Chargee shall designate in writing from time to time. In the event that any of the monies secured by this Charge are forwarded to the Chargee by mail, payment will not be deemed to have been made until the Chargee has actually received such monies and the Chargor shall assume and be responsible for all risk of loss or delay. Notwithstanding anything herein to the contrary, in the event of any default under this Charge, the Chargee may apply any payments received in whatever order the Chargee may elect as between principal, interest, Realty Taxes, insurance premiums, repairs, costs and any other advances or payments made by the Chargee hereunder.

21. **Receipt of Payment** - Any payment received after 3:00 p.m. on any date shall be deemed, for the purpose of calculation of interest to have been made and received on the next bank Business Day and the Chargee shall be entitled to interest on the amount due it, to and including the date on which the payment is deemed by this provision to have been received.

22. **No Deemed Re-investment** - Except in the case where this Charge provides for blended payments of principal and interest whether paid monthly or otherwise, the parties hereto agree that the Chargee shall not be deemed to reinvest any monthly or other payments received by it hereunder.

23. **Pre-authorized Chequing Plan** - If and when required by the Chargee, all payments made under this Charge by the Chargor, his heirs, executors, administrators, successors and assigns shall be made by a pre-authorized cheque payment plan as approved by the Chargee. The Chargee shall not be obligated to accept any payment other than payment made by pre-authorized cheque. Failure to make all payments by pre-authorized cheque shall be an act of default within the meaning of this Charge and the Chargee shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option.

24. **Postdated Cheques** - The Chargor shall, if and when required by the Chargee, deliver to the Chargee upon the first advance of moneys hereunder or upon request and thereafter on each anniversary date thereof in each year for the duration of the term of this Charge, postdated cheques for the payments of principal, interest and estimated Realty Taxes required to be made herein during the twelve month period commencing on each such anniversary date. In the event of default by the Chargor in delivery to the Chargee of the postdated cheques as herein provided, this Charge shall be deemed in default and the Chargee shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option. In addition, the Chargee upon the Chargor's failure to deliver such postdated cheques as required hereunder shall be entitled to a servicing fee for each written request that it makes to the Chargor for the purpose of

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obtaining such postdated cheques. Any step taken by the Chargee hereunder by way of a request for further postdated cheques shall be without prejudice to the Chargee's rights hereunder to declare the Charge to be in default in the event that such postdated cheques are not delivered within the required time.

25. **Dishonoured Cheques** - In the event that any of the Chargor's cheques are not honoured when presented for payment to the drawee, the Chargor shall pay to the Chargee for each such returned cheque a servicing fee to cover the Chargee's administration costs with respect to same. In the event that the said cheque which has not been honoured by the drawee is not forthwith replaced by the Chargor, the Chargee shall be entitled to a further servicing fee for each written request therefor which may be necessitated by the Chargor not forthwith replacing such dishonoured cheque.

26. **Financial and Operating Statements** - The Chargor covenants that, within the periods of time hereinafter specified, or within such other period(s) of time as may be specified by the Commitment, the Chargor shall deliver or cause to be delivered to the Chargee the following:

- (a) within 90 days after the end of each fiscal year of operation of the Lands, an annual operating statement in respect of the Lands for the immediately preceding fiscal year setting forth the gross rents and other income derived from the Lands, the cost and expenses of operation and maintenance of the Lands and such other information and explanations in respect of the same as may be required by the Chargee;
- (b) within 90 days after the end of each fiscal year of each Chargor and Guarantor which is a corporation, the annual financial statements of each such corporation for its immediately preceding fiscal year including, without limitation, the balance sheet of the corporation as at its fiscal year end with comparative figures for prior years, statements of earnings, retained earnings and changes in financial position as at the fiscal year end with comparative figures for prior fiscal years, any supporting schedules and notes thereto and such other information and explanations as may be required by the Chargee; and
- (c) with respect to each Chargor and Guarantor who is an individual and within 30 days after each anniversary of the date of the Commitment, an annual updated net worth statement of each such individual in such form and including such content and other information and explanations as may be required by the Chargee.

All such operating and financial statements shall be prepared at the expense of the Chargor and in accordance with generally accepted accounting principles applied on a consistent basis and by a duly qualified chartered accountant or certified public accountant which is acceptable to the Chargee, and may be submitted in unaudited form, and the completeness and correctness of such statements shall be supported by an affidavit of an authorized officer of the Chargor or Guarantor, as the case may be.

27. **Estoppe! Acknowledgements** - If and whenever the Chargee requests an acknowledgement from the Chargor as to the statement of account with respect to this Charge or the status of the terms and conditions of this Charge, the Chargor shall execute such an acknowledgement in such form as may be required by the Chargee provided that the contents of such form are correct, and the Chargor shall do so forthwith upon request and without cost to the Chargee and shall return such acknowledgement duly executed within forty-eight (48) hours of such request.

28. **Statements of Account** - The Chargor shall be entitled to receive upon written request, a statement of account with respect to this Charge as of any payment date under this Charge and the Chargee shall be entitled to a servicing fee for each such statement.

29. **Renewal or Extension of Time - Attention Subsequent Interests** - No renewal or extension of the term of this Charge given by the Chargee to the Chargor, or anyone claiming under him, or any other dealing by the Chargee with the owner of the equity of redemption of the Lands, shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other Person liable for the payment of the monies hereby secured, and this Charge may be renewed by an agreement in writing at maturity for any term with or without an increased rate of interest, or amended from time to time as to any of its terms, including, without limitation, an increase of interest rate or principal amount notwithstanding that there may be subsequent encumbrancers; and it shall not be necessary to register any such agreement in order to retain priority for this Charge so altered over any instrument registered subsequent to this Charge; provided that nothing contained in this Section shall confer any right of renewal upon the Chargor.

Provided further that the terms of this Charge may be amended or extended from time to time by mutual agreement between the Chargor and the Chargee and the Chargor hereby further covenants and agrees that, notwithstanding that the Chargor may have disposed of his interest in the Lands hereby secured, the Chargor will remain liable as a principal debtor and not as a surety for the observance of all of the terms and provisions herein and will in all matters pertaining to this Charge well and truly do, observe, fulfill and keep all and singular the covenants, provisos, conditions, agreements and stipulations in this Charge or any amendment or extension thereof notwithstanding the giving of time for the payment of the Charge or the varying of the terms of the payment thereof or the rate of interest thereon or any other indulgence by the Chargee to the Chargor.

The Chargor covenants and agrees with the Chargee that no agreement for renewal hereof or for extension of the time for payment of any monies payable hereunder shall result from, or be implied from, any payment or payments of any kind whatsoever made by the Chargor to the Chargee after the expiration of the original term of this Charge or of any subsequent term agreed to in writing between the Chargor and the Chargee, and that no renewal hereof or extension of the time for payment of any monies hereunder shall result from, or be implied from, any other act, matter or thing, save only express agreement in writing between the Chargor and the Chargee.

30. **Construction Liens** - The Chargee may, at its option, withhold from any advances for which the Chargor may

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have qualified such amounts as the Chargee, in its sole discretion, considers advisable so as to ensure the priority of all advances over all liens arising under any construction lien legislation until such time as the Chargee is fully satisfied that all lien periods have expired and that there are no preserved or perfected liens outstanding. Nothing in this Charge shall be construed to make the Chargee an "owner" or "payer" as defined under any construction lien legislation, nor shall there be or be deemed to be any obligation by the Chargee to retain any holdback which may be required by the said legislation. Any holdback which may be required to be retained by the "owner" or "payer" pursuant to any construction lien legislation shall remain solely the Chargor's obligation. The Chargor hereby covenants and agrees to comply in all respects with the provisions of all construction lien legislation.

31. **Expropriation** - If the Lands or any material part thereof shall be expropriated by any government, authority, body or corporation clothed with the powers of expropriation, at the option of and upon demand therefore by the Chargee, the outstanding principal sum hereof shall forthwith become due and payable together with interest thereon at the rate provided for herein to the date of payment and together with a bonus equal to the aggregate of (a) one month's interest at the rate provided for herein calculated on the said outstanding principal sum, plus (b) one month's interest at the rate provided for herein calculated on the said outstanding principal sum for each month or part thereof that remains between the date of such demand and the date of expiry of the first four (4) months following the Interest Adjustment Date; and in any event all the proceeds of any expropriation shall be paid to the Chargee at its option in priority to the claims of any other party.

32. **Letters of Credit** - The parties to this Charge hereby acknowledge and agree that, in addition to all other amounts advanced and/or secured hereby, this Charge shall stand as good and valid security with respect to any and all letters of credit, letters of guarantee or similar instruments (collectively the "Letters of Credit") issued by or on behalf of the Chargee in favour of the Chargor or any other party as may be requested or directed by the Chargor from time to time, and that the total amount of the financial obligations under each Letter of Credit shall be deemed to have been advanced and fully secured under this Charge as of and from the date of issuance of each such Letter of Credit regardless of when the same may be called upon by the holder thereof. In the event that at any time the Chargee is of the opinion, in its sole and unfettered discretion, that the Lands or such part(s) thereof as remain undischarged are insufficient to secure the aggregate amount of all of the Chargee's outstanding obligations under, pursuant to or in connection with such Letters of Credit from time to time outstanding, the Chargee shall be entitled to retain out of any payment received under this Charge or out of the proceeds of any sale or revenue received in respect of the Lands or any part(s) thereof or out of the proceeds of any amounts received by the Chargee upon the enforcement of this Charge, an amount equal to the aggregate amount of all of the Chargee's outstanding obligations under, pursuant to or in connection with Letters of Credit as remain from time to time outstanding without being obliged to apply any portion of such amount on account of any principal, interest or other monies otherwise outstanding and secured by this Charge; and the Chargee shall be entitled to retain such amount for such period of time as any of the Letters of Credit remain outstanding and the Chargee is hereby irrevocably authorized and directed to utilize the same in order to satisfy payment of any amounts called upon for payment pursuant to the Letters of Credit.

33. **Sale or Change of Control** - In the event of a further encumbrance or a sale, conveyance or transfer of the Lands or any portion thereof, or a change in control of the Chargor or a change in the beneficial ownership of the Lands or any portion thereof or a lease of the whole of the Lands, all sums secured hereunder shall, at the Chargee's option, become due and payable forthwith unless the written consent of the Chargee has been first obtained. The rights of the Chargee pursuant to this provision shall not be affected or limited in any way by the acceptance of payments due under this Charge from the Chargor or any Person claiming through or under him and the rights of the Chargee hereunder shall continue without diminution for any reason whatsoever until such time as the Chargee has consented in writing as required by this provision. No permitted sale or other dealing by the Chargor with the Lands or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other Person liable for payment of the monies hereby secured.

34. **Acceleration** - Without limiting any of the provisions of this Charge, upon the occurrence of any Event of Default and at the option of the Chargee exercised by demand upon and notice in writing to the Chargor, the whole of the Loan Indebtedness shall become immediately due and payable.

35. **Default** - The Chargee may, on default of payment or in the performance of any covenant in this Charge contained or implied by law or statute, enter on and lease the Lands or in default of payment or in default in performance of any covenant in this Charge contained or implied by law or statute for at least fifteen (15) days may, on at least thirty-five (35) days' notice sell the Lands. Such notice shall be given to such Persons and in such manner and form and within such time as provided under the Mortgages Act, as amended from time to time. In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable it is agreed that notice may be effectually given by leaving it with a grown-up Person on the Lands, if occupied, or by placing it on the Lands if unoccupied, or at the option of the Chargee, by mailing it in a registered letter addressed to the Chargor at his last known address, or by publishing it once in a newspaper published in the county or district in which the Lands are situate; and such notice shall be sufficient although not addressed to any Person or Persons by name or designation; and notwithstanding that any Person to be affected thereby may be unknown, unascertained, or under disability. If there be legal personal representatives of the Chargor on the death of the Chargor, such notice may, at the option of the Chargee, be given in any of the above modes or by personal service upon such representatives.

Provided further, without prejudice to the statutory powers of the Chargee under the preceding proviso, that in case default be made in the payment of the said principal or interest or any part thereof and such default continues for two months after any payment of either principal or interest falls due, the Chargee may exercise the powers given under the preceding proviso with or without entry on the Lands without any notice, it being understood and agreed, however, that if the giving of notice by the Chargee shall be required by law then notice shall be given to such Persons and in such manner and form and within such time as so required by law. And that the Chargee may sell the whole or any part or parts of the Lands by public auction or private contract, or partly one or partly the other; and that the proceeds of any sale hereunder may be

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applied in payment of any costs, charges and expenses incurred in taking, recovering or keeping possession of the Lands or by reason of non-payment or procuring payments of monies secured hereby or otherwise; and that the Chargee may sell any of the Lands on such terms as to credit and otherwise as shall appear to him most advantageous and for such prices as can reasonably be obtained therefor and may make any stipulations as to title or evidence or commencement of title or otherwise which it shall deem proper; and may buy in or rescind or vary any contract for the sale of the whole or any part of the Lands and resell without being answerable for loss occasioned thereby, and in the case of a sale on credit the Chargee shall be bound to pay the Chargor only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder and the title of a purchaser or lessee upon a sale or lease made in professed exercise of the above power shall not be liable to be impeached on the ground that no cause had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given, but any Person damaged by an unauthorized, improper or irregular exercise of the power shall have his remedy against the Person exercising the power in damages only.

And it is hereby agreed between the parties hereto that the Chargee may pay all premiums of insurance and all Realty Taxes which shall from time to time fall due and be unpaid in respect of the Lands, and that such payments together with all costs, charges and legal fees (between a solicitor and his own client), and expenses which may be incurred in taking, recovering and keeping possession of the Lands, and of negotiating the Loan, investigating title, and registering this Charge and other necessary deeds, and generally in any other proceedings taken in connection with or to realize this security, (including legal fees, real estate commissions, appraisal costs and other costs incurred in leasing or selling the Lands or in exercising the power of entering, leasing and selling herein contained) shall be with interest at the rate aforesaid and shall be a charge upon the Lands in favour of the Chargee and that the Chargee may pay or satisfy any lien, charge or encumbrance now existing or hereafter created or claimed upon the Lands, and that any amount paid by the Chargee shall be added to the monies hereby secured and shall be payable forthwith with interest at the rate herein, and in default this Charge shall immediately become due and payable at the option of the Chargee, and all powers in this Charge conferred shall become exercisable. In the event of the Chargee paying the amount of any such encumbrance, lien or charge, taxes or rates, either out of the money advanced on the security of this Charge or otherwise, the Chargee shall be entitled to all the rights, equities and securities of the Person so paid and is hereby authorized to obtain an assignment or discharge thereof, and to retain same, for whatever period the Chargee shall deem it proper to do so.

Provided that wherever a power of sale is hereby conferred upon the Chargee, all provisions hereof relating to exercising such power, including, without in any way limiting the generality of the foregoing, the Persons to whom notice of exercising such power shall be given and the manner of giving such notice, shall be deemed to have been amended so as to comply with the requirements of Applicable Laws from time to time in force with respect to exercising such power of sale, and wherever there shall be a conflict between the provisions of this Charge relating to exercising such power of sale and the requirements of such Applicable Laws, the provisions of such Applicable Laws shall govern. Insofar as there is no such conflict, the provisions of this Charge shall remain unchanged.

Provided that the Chargee may lease or sell as aforesaid without entering into possession of the Lands.

Provided that the Chargee may distrain for arrears of interest and that the Chargee may distrain for arrears of principal and arrears of Realty Taxes in the same manner as if the same were arrears of interest.

Provided that in default of the payment of the interest hereby secured the principal hereby secured shall become payable at the option of the Chargee, together with interest thereon.

Provided that upon default of payment of instalments of principal promptly as the same become due, the balance of the principal and interest shall immediately become due and payable at the option of the Chargee.

Provided that, upon default under this Charge, the Chargee shall be entitled and shall have full power to assume control of, manage, operate and carry on the business of the Chargor being conducted at or upon the Lands on the date of this Charge or at any time thereafter.

Provided that until default hereunder the Chargor shall have quiet possession of the Lands.

And that on default the Chargee shall have quiet possession of the Lands.

Provided that the Chargee may in writing at any time or times after default waive such default and upon such waiver the time or times for payment of the principal secured herein shall be as set out in the proviso for redemption herein. Any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default. No waiver shall be effective or binding on the Chargee unless made in writing.

And it is further agreed by and between the parties that the Chargee may at its discretion at any time, release any part or parts of the Lands or any other security or any surety for the money hereby secured either with or without any sufficient consideration therefor, without responsibility therefor, and without thereby releasing any other part of the Lands or any Person from this Charge or from any of the covenants herein contained, it being especially agreed that every part or lot into which the Lands are or may hereafter be divided does and shall stand charged with all of the monies hereby secured and no Person shall have the right to require the principal secured hereunder to be apportioned; further the Chargee shall not be accountable to the Chargor for the value thereof, or for any monies except those actually received by the Chargee. No sale or other dealing by the Chargor with the equity of redemption in the Lands or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other Person liable for

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payment of the monies hereby secured.

It is further agreed that the Chargee may exercise all remedies provided for in this Charge concurrently or in such order and at such times as it may see fit and shall not be obligated to exhaust any remedy or remedies before exercising its rights under any other provisions contained in this Charge.

And without limiting any other provision of this Charge, the Chargor acknowledges and agrees that, upon the occurrence of any default under this Charge and whether or not the monies hereby secured have been fully advanced, the Chargee may, at any time and from time to time as the Chargee shall determine at its sole option and discretion, advance such further sums under this Charge as are necessary to pay any arrears of Realty Taxes, utilities or other charges capable of constituting a lien upon the Lands *pari passu* with or in priority to this Charge, to pay all amounts due under any encumbrance having priority over this Charge, to pay all amounts required to discharge or vacate any construction lien registered against the Lands whether or not priority is claimed over this Charge, to maintain in good standing any policies of insurance in respect of the Lands, to maintain, repair, operate and/or manage the Lands and any or all improvements thereon, to complete construction or renovation of any improvements on the Lands, to realize upon any security held by the Chargee for the Loan and generally to enforce all of the Chargee's rights, title and interest hereunder and to protect the Lands and to preserve the enforceability and priority of this Charge, and to pay any and all Costs; and all amounts advanced by the Chargee for any of the purposes as aforesaid shall bear interest at the rate applicable under this Charge from the date so advanced until repaid in full and shall be secured by this Charge in the same priority as the principal amount hereof.

36. **Right of Chargee to Repair** - The Chargor covenants and agrees with the Chargee that in the event of default in the payment of any instalment or other monies payable hereunder by the Chargor or on breach of any covenant, proviso or agreement herein contained, after all or any of the monies hereby secured have been advanced, the Chargee may, at such time or times as the Chargee may deem necessary and without the concurrence of any Person, enter upon the Lands and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the Lands or for inspecting, taking care of, leasing, collecting the rents of and generally managing the Lands, as the Chargee may deem expedient; and all reasonable costs, charges and expenses including, but not limited to, allowances for the time and services of any employee of the Chargee or other Person appointed for the above purposes, and a servicing fee shall be forthwith payable to the Chargee by the Chargor and shall be a charge upon the Lands and shall bear interest at the aforesaid rate until paid.

37. **Appointment of a Receiver** - It is declared and agreed that at any time and from time to time when there shall be default under the provisions of this Charge, the Chargee may at such time and from time to time and with or without entering into possession of the Lands appoint in writing a Receiver of the Lands, or any part thereof, and of the rents and profits thereof and with or without security and may from time to time by similar writing remove any such Receiver and appoint another in its place and stead, and in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor. The Chargor hereby irrevocably agrees and consents to the appointment of such Receiver of the Chargee's choice and without limitation whether pursuant to this Charge, the Mortgages Act (Ontario), the Construction Lien Act (Ontario), or the Trustee Act (Ontario) as the Chargee may at its sole option require. Without limitation, the purpose of such appointment shall be the orderly management, administration and/or sale of the Lands or any part thereof and the Chargor hereby consents to a Court Order for the appointment of such Receiver, if the Chargee in its discretion chooses to obtain such order, and on such terms and for such purposes as the Chargee at its sole discretion may require, including, without limitation, the power to manage, charge, pledge, lease and/or sell the Lands and/or to complete or partially complete any construction thereon and to receive advances of monies pursuant to any charges, pledges and/or loans entered into by the Receiver or the Chargor, and if required by the Chargee, in priority to any existing encumbrances affecting the Lands, including without limitation, charges and construction lien claims. Upon the appointment of any such Receiver from time to time the following provisions shall apply:

- (a) A Statutory Declaration made by the Chargee or by any authorized representative of the Chargee as to default under the provisions of this Charge shall be conclusive evidence thereof;
- (b) Every such Receiver shall be the irrevocable agent or attorney of the Chargor for the collection of all rents falling due in respect to the Lands, or any part thereof, whether in respect of any tenancies created in priority to this Charge or subsequent thereto and with respect to all responsibility and liability for its acts and omissions;
- (c) The Chargee may from time to time fix the remuneration of every such Receiver which shall be a charge on the Lands, and may be paid out of the income therefrom or the proceeds of sale thereof;
- (d) The appointment of every such Receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the Receiver in any respect and such appointment or anything which may be done by any such Receiver or the removal of any such Receiver or the termination of any such receivership shall not have the effect of constituting the Chargee a chargee in possession in respect of the Lands or any part thereof;
- (e) The Receiver shall have the power to rent any portion of the Lands for such term and subject to such provisions as it may deem advisable or expedient and shall have the authority to execute any lease of the Lands or any part thereof in the name and on behalf of the Chargor and the Chargor undertakes to ratify and confirm, and hereby ratifies and confirms whatever acts such Receiver may do on the Lands;
- (f) In all instances, the Receiver shall be acting as the attorney or agent of the Chargor;
- (g) Every such Receiver shall have full power to complete any unfinished construction upon the Lands;
- (h) Such Receiver shall have full power to manage, operate, amend, repair, alter or extend the Lands or any part

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thereof in the name of the Chargor for the purposes of securing the payment of rental from the Lands or any part thereof;

- (i) The Receiver shall have full power to assume control of, manage, operate and carry on the business of the Chargor being conducted at or upon the Lands on the date of this Charge or at any time thereafter;
- (j) The Receiver shall have full power to do all acts and execute all documents which may be considered necessary or advisable in order to protect the Chargee's interest in the Lands including, without limiting the generality of the foregoing, increasing, extending, renewing or amending all charges, mortgages and other encumbrances which may be registered against the Lands from time to time, whether or not any of the same are prior to the interest of the Chargee in the Lands; sale of the Lands; borrowing money on the security of the Lands; applying for and executing all documents in any way related to any re-zoning applications, severance of lands pursuant to the provisions of the Planning Act, as amended, subdivision agreements and development agreements and agreements for the supply or maintenance of utilities or services to the Lands, including grants of lands or easements or rights of way necessary or incidental to any such agreements; executing all grants, documents, instruments and agreements related to compliance with the requirements of any competent governmental authority, whether pursuant to a written agreement or otherwise and applying for and executing all documents in any way related to registration of the Lands as a condominium; completing any application for first registration pursuant to the provisions of the Land Titles Act (Ontario) or pursuant to the Certification of Titles Act (Ontario); and for all and every of the purposes aforesaid it does hereby give and grant unto the Receiver full and absolute power and authority to do and execute all acts, deeds, matters and things necessary to be done as aforesaid in and about the Lands, and to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in and about the Lands, as fully and effectually to all intents and purposes as it itself could do if personally present and acting therein; and
- (k) Such Receiver shall not be liable to the Chargor to account for monies or damages other than cash received by it in respect of the Lands or any part thereof and out of such cash so received every such Receiver shall pay in the following order: (i) its remuneration; (ii) all payments made or incurred by it in the exercise of its powers hereunder; and (iii) any payment of interest, principal and other money which may from time to time be or become charged upon the Lands in priority to the monies owing hereunder and all taxes, insurance premiums and every other proper expenditure made or incurred by it in respect of the Lands or any part thereof.

The Chargor hereby irrevocably appoints the Chargee as his attorney to execute such consent or consents and all such documents as may be required in the sole discretion of the Chargee and/or its solicitors so as to give effect to the foregoing provisions and the signature of such attorney shall be valid and binding on the Chargor and all parties dealing with the Chargor, the Chargee and/or the Receiver and/or with respect to the Lands in the same manner as if such documentation was duly executed by the Chargor himself.

38. **Chargee Not to Be Deemed Chargee in Possession** - The Chargor acknowledges and agrees that, in exercising any of the rights given to the Chargee under this Charge, the Chargee shall be deemed not to be a chargee or mortgagee in possession.

39. **Enforcement of Additional Security** - In the event that, in addition to the Lands charged hereby, the Chargee holds further security on account of the monies secured hereby, it is agreed that no single or partial exercise of any of the Chargee's powers hereunder or under any of such security, shall preclude other and further exercise of any other right, power or remedy pursuant to any of such security. The Chargee shall at all times have the right to proceed against all, any, or any portion of such security in such order and in such manner as it shall in its sole discretion deem fit, without waiving any rights which the Chargee may have with respect to any and all of such security, and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Chargor under the remaining security, provided however, that upon payment of the full indebtedness secured hereunder the rights of the Chargee with respect to any and all such security shall be at an end.

40. **Taking of Judgement Not a Merger** - The taking of a judgement or judgements on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Chargee's right to interest at the rate and times herein provided; and further that the said judgement shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until the said judgement shall have been fully paid and satisfied.

41. **Bankruptcy and Insolvency Act** - The Chargor hereby acknowledges and agrees that:

- (a) the security held by the Chargee is not all or substantially all of the inventory, accounts receivable or other property of the Chargor acquired for or used in relation to any business carried on by the Chargor;
- (b) notwithstanding any act of the Chargee by way of appointment of any Person for the purposes of taking possession of the Lands as agent on behalf of the Chargor or otherwise or by taking possession of the Lands itself pursuant to any rights that the Chargee may have with respect thereto shall not constitute the Chargee or any such Person, a receiver within the meaning of subsection 243(2) of the Bankruptcy and Insolvency Act (Canada), and that any and all requirements of Part XI of the said Act as it may pertain to obligations of receivers shall not be applicable to the Chargee with respect to the transaction pursuant to which this Charge has been given or with respect to enforcement of this Charge or any other security held by the Chargee;
- (c) no action shall lie against the Chargee as a receiver and manager or otherwise for any loss or damage arising from non-compliance with any obligations of a receiver pursuant to the provisions of the Bankruptcy and Insolvency Act (Canada) whether or not the Chargee had reasonable grounds to believe that the Chargor was not insolvent;

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and

- (d) any and all Costs as may be incurred from time to time by the Chargee in order to effect compliance or avoid any adverse ramifications of the Bankruptcy and Insolvency Act (Canada) shall be entirely for the account of the Chargor; and the Chargee shall be entitled to incur any such Costs, including any costs of its personnel in administering any requirements of the said Act and to add the same to the indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Chargee for the indebtedness owing to the Chargee in the same manner and in the same priority as the principal secured hereunder.

42. **Permissible Interest Rate** - It is not the intention of this Charge to violate any provisions of the Interest Act (Canada), the Criminal Code (Canada) or any other statute dealing with permitted rates of interest in the Province of Ontario or in Canada. Notwithstanding any provisions set out herein, in no event shall the "interest" (as that term is defined in the Criminal Code) exceed the "criminal rate" (as defined therein) of interest on the "credit advanced" (as defined therein) lawfully permitted under the said legislation. In the event that it is determined at any time that, by virtue of any Loan Document, the payments of interest required to be made by the Chargor exceed the "criminal rate", then the Chargor shall only be required to pay interest at the highest rate permitted by law. Nothing herein shall invalidate any requirements for payment pursuant to the Commitment, this Charge or such other security documents, and any excess interest paid to the Chargee shall be refunded to the Chargor and the provisions of this Charge shall in all respects be deemed to be amended accordingly.

43. **Non-merger** - Notwithstanding the registration of this Charge and the advance of funds pursuant hereto, the terms and conditions of the Commitment shall remain binding and effective on the parties hereto, and shall not merge in this Charge or in any other Loan Document, and the terms of the Commitment are incorporated herein by reference. In the event of any inconsistency between the terms of the Commitment and any of the Loan Documents, or any inconsistency as between any of the Loan Documents, unless otherwise provided by any other Loan Document, the Lender shall decide in its sole discretion the provisions of which document shall prevail. Any default under this Charge shall constitute concurrent default under all other Loan Documents and any default under any other Loan Document shall constitute concurrent default under this Charge. No single or partial exercise by the Chargee of any right, power or remedy under any Loan Document shall preclude other and further exercise of any other right, power or remedy under such Loan Document or any other Loan Document, and the Chargee shall at all times have the right to proceed under any or all of the Loan Documents and in respect of any or all assets secured thereby in such order and in such manner as it shall in its sole discretion deem fit.

44. **Notices** - All notices or other communications to be given pursuant to or in connection with this Charge shall be in writing, signed by the party giving such notice or by its solicitors, and shall be personally delivered or sent by registered mail or facsimile transmission to the party or parties intended at its or their respective addresses for service as set out in this Charge. Any party may from time to time by notice given as provided herein change its address for the purpose of this provision.

45. **Priority over Vendor's Lien** - The Chargor hereby acknowledges that this Charge is intended to be prior to any vendor's lien, whether in favour of the Chargor or otherwise, and the Chargor covenants that he has done no act to give priority over this Charge to any vendor's lien, nor is he aware of any circumstances that could create a vendor's lien. Further, the Chargor covenants to do all acts and execute or cause to be executed all documents required to give this Charge priority over any vendor's lien and to give effect to the intent of this clause.

46. **Family Law Act (Ontario)** - The Chargor shall forthwith after any change or happening affecting any of the following, namely, (a) the spousal status of the Chargor, (b) the qualification of the Lands or any part thereof as a matrimonial home within the meaning of Part II of the Family Law Act (Ontario), (c) the ownership of the equity of redemption in the Lands or any part thereof, and (d) a shareholder of the Chargor obtaining rights to occupy the Lands or any part thereof by virtue of shareholding within the meaning of Section 18(2) of the Family Law Act (Ontario), or any successor provision thereof, as the case may be, the Chargor will advise the Chargee accordingly and furnish the Chargee with full particulars thereof, the intention being that the Chargee shall be kept fully informed of the names and addresses of the owner or owners for the time being of the said equity of redemption and of any spouse who is not an owner but who has a right of possession in the Lands by virtue of Section 19 of the Family Law Act (Ontario) or any successor provision thereof. In furtherance of such intention, the Chargor covenants and agrees to furnish the Chargee with such evidence in connection with any of (a), (b) (c), and (d) above as the Chargee may from time to time request.

47. **Independent Legal Advice** - The Chargor and Guarantor(s) acknowledge that they have full knowledge of the purpose and essence of this transaction, and that they have been appropriately and independently legally advised in that regard or have been advised of their right to independent legal advice and have declined same. Such parties agree to provide to the Chargee a Certificate of Independent Legal Advice as and when same may be required, regarding their knowledge and understanding of this transaction.

48. **Discharge** - The Chargee shall have a reasonable period of time after payment in full of the monies hereby secured within which to prepare and execute a discharge of this Charge; and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Chargee; and all legal and other expenses for the preparation and execution of such discharge shall, together with the Chargee's fee for providing same, be borne by the Chargor. The discharge shall be prepared and executed by such Persons as are specifically authorized by the Chargee and the Chargee shall not be obligated to execute any discharge other than a discharge which has been so authorized. If this Charge, the Commitment or any other document provides for the giving of partial discharges of this Charge, it is agreed that, notwithstanding any other provision to the contrary, the Chargor shall not be entitled to request or receive any such partial discharge if and for so long as the Chargor is in default under this Charge, the Commitment or such other document.

49. **Execution In Counterparts** - This Charge may be executed and/or registered in counterparts, each of which when

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so executed and/or registered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, and shall be deemed to be dated as of the date of execution of the last counterpart to be executed.

50. **Servicing Fees** - All servicing and administration fees as herein provided are intended to and shall be in an amount sufficient in the sole opinion of the Chargee to compensate the Chargee for its administrative costs and shall not be deemed a penalty. The amount of such servicing and administration fees if not paid shall be added to the principal amount secured hereunder, and shall bear interest at the rate aforesaid and the Chargee shall have the same rights with respect to collection of same as it does with respect to collection of principal and interest hereunder or at law. Such servicing and administration fees shall include, but shall not be limited to, the following:

- (a) the Chargee's then current fee (currently \$350.00) for each mortgage statement provided by the Chargee at the request of the Chargor;
- (b) the Chargee's then current fee (currently \$450.00) for amending the Chargee's records in connection with any permitted assumption of this Charge by any purchaser of the Lands or any interest therein (plus all reasonable financial review, appraisal, legal and other professional or consultant's costs incurred in connection therewith);
- (c) the Chargee's then current fee (currently \$300.00) for each payment hereunder made by the Chargor which is not honored by its bank (in addition to all bank charges incurred in connection with the same);
- (d) the Chargee's then current fee (currently \$300.00) for each placement or renewal of any insurance on or in respect of the Lands which is arranged by the Chargee in consequence of default by the Chargor in such regard (in addition to all insurance premiums and other costs of such insurance); and
- (e) the Chargee's then current fee (currently \$450.00) for each demand letter or other communication sent by the Chargee to the Chargor in consequence of any default by the Chargor hereunder (in addition to all legal and other professional costs incurred in connection therewith).

51. **No Agency** - The Chargor acknowledges that (i) the Chargee is not acting as the Chargor's agent or otherwise in any fiduciary capacity in relation to the Chargor in connection with the Loan, and (ii) the Chargee or any other Lender Entity may receive a fee in connection with the servicing of the Loan.

52. **Loan Syndication** - The Chargor acknowledges that the Chargee may be administering the Loan and holding one or more interests therein as manager and/or trustee on behalf of certain investors, participants, co-lenders or other persons (including, without limitation, any mortgage broker, agent or other party who or which may have assisted in arranging the loan) whose interest may or may not be shown on the Loan Documents.

53. **Sale or Securitization of Loan** - The Chargee or any other Lender Entity may at any time and from time to time sell (including any sale or securitization into secondary markets), transfer or assign the Loan (or securities or certificates backed by or representing any interest in the Loan or a pool of loans which includes the Loan), the Loan Indebtedness and the Loan Documents, or any interest therein, without notice to or the consent of the Chargor or any other Borrower Entity; and thereafter the Lender shall have no further obligations under or in respect of the Loan or the Loan documents; and for such purposes, each Borrower Entity consents to the disclosure to all interested parties (including by way of offering memorandum, prospectus or other disclosure document regardless of the format or scope of distribution) and to all governmental authorities of any and all information relating to the Loan, the Lands and each Borrower Entity, without restriction and without notice to or the consent of the Chargor or any other Borrower Entity. The Chargor acknowledges that the Chargee or any other Lender Entity may receive a fee or commission in connection with any transaction as described in this Section.

54. **Restriction on Further Financing** - The Chargor agrees not to enter into any further financing of the Lands and not to further encumber same in any manner without the prior written approval of the Chargee.

55. **Prepayment Privilege** -

- (a) The loan secured by this Charge is closed and not open for prepayment in whole or in part during the first eighteen (18) months following the Interest Adjustment Date, except as provided in Sub-section 55(b) hereof.
- (b) If, within thirty (30) days after the Chargor has satisfied the pre-leasing and capital injection requirements set out in Section 10 at the top of page 4 of the Loan Proposal dated November 27, 2013 forming part of the Commitment, the Chargee does not confirm to the Chargor in writing that the Chargee will proceed with the Construction Segment (as defined in the said Loan Proposal), when not in default under this Charge and on any monthly interest payment date which is after the expiry of six (6) months following the Interest Adjustment Date, the Chargor may, with or without prior notice to the Chargee, prepay the whole (but not part) of the outstanding principal sum secured hereby together with all accrued and unpaid interest thereon plus one (1) month's interest as an additional bonus.
- (c) When not in default under this Charge and on any monthly interest payment date which is after the expiry of eighteen (18) months following the Interest Adjustment Date, the Chargor may, with or without prior notice to the Chargee, prepay the whole (but not part) of the outstanding principal sum secured hereby together with all accrued and unpaid interest thereon plus (i) one (1) month's interest as an additional bonus, and (ii) interest on any amount(s) advanced within four (4) months of the date of prepayment to the extent that such amount(s) have not yet accrued at least four (4) months' interest.

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ADDITIONAL PROVISIONS

56. Leasehold Charge and Covenants -

- (a) As security for the payment and performance to the Chargee of the Loan Indebtedness (and in addition to and not in substitution for the mortgage, charge, assignment and security interest granted by this Charge) and the observance and performance by the Chargor of all of its other covenants and obligations hereunder and under the other Loan Documents, the Chargor hereby mortgages, charges and subleases to and in favour of the Chargee all of its leasehold interest in the Lands for and during the unexpired residue of the term of the lease and all amendments thereof under which such leasehold interest is created (collectively, the "Ground Lease"), except the last day thereof, and all other right, title, interest, or estate, term, right of renewal and other interest of the Chargor in the Ground Lease and any renewal or replacement thereof;
- (b) The Chargor will stand possessed of the reversion thereby remaining in the Ground Lease upon a trust for the Chargee or for the nominee of the Chargee for the purpose of this Charge and will assign and dispose thereof as the Chargee or its nominee shall direct upon any sale or sales of the Chargor's interest in the Ground Lease for any part thereof whether pursuant to any statutory power or power of sale contained in this Charge or otherwise;
- (c) Upon an Event of Default and upon the Chargee giving any notice required by this Charge, the Chargee, for and on behalf of the Chargor, may assign the Ground Lease and all right, title, interest or estate, term, right of renewal and other interest of the Chargor in the Ground Lease (and any renewal or replacement thereof) and convey the Chargor's leasehold interest and the last day of the term granted by the Ground Lease as the Chargee shall at any time direct. On any sale made by the Chargee under any statutory power or power of sale contained in this Charge or otherwise, the Chargee may assign the Ground Lease, the Chargor's leasehold interest and the reversion to the purchaser. The Chargee, for the purpose of vesting the residue of such term in any purchaser or purchasers, is entitled by transfer or agreement to nominate such purchaser or purchasers or any other Person or Persons as a new trustee or trustees of such residue of the term, any renewal or substituted term of the Ground Lease in place of the Chargor, and upon such nomination, the same will vest forthwith in the new trustee or trustees and the Chargor irrevocably authorizes, empowers and appoints the Chargee and its officers to act as its attorney, coupled with an interest, and with full power of substitution, for all or any of the said purposes;
- (d) The Chargee will have the right to exercise any right or option to renew or extend the term of the Ground Lease and each such renewal and extension of the Ground Lease will be subject to this Charge;
- (e) The Chargor represents, warrants and covenants with and to the Chargee that: (a) the Chargor has good and marketable leasehold title to the lands subject to the Ground Lease free and clear of all mortgages, charges, pledges, assignments, liens or other encumbrances thereof or security interests therein except as disclosed by registered title or the Personal Property Security Registration System or except as permitted by the Charge prior to the initial advance under this Charge; (b) the Chargor has the right to mortgage, charge and sublet the leasehold title to such lands in the manner provided in the Loan Documents and, if required by the Ground Lease, the Chargor has obtained all necessary consents and approvals from the lessor and any other Person(s) required for the granting of such security to the Chargee and the exercise of any rights and remedies of the Chargee under the Loan Documents and Applicable Laws, including the transfer or assignment of the Ground Lease and leasehold interest to any purchaser following an Event of Default; (c) the Chargor has delivered to the Chargee a full and complete copy of the Ground Lease and there are no agreements, oral or written, between the parties to the Ground Lease concerning the same, the Chargor's leasehold interest or the improvements thereon except as set out in the Ground Lease; (d) the Ground Lease is a good, valid and subsisting lease and has not been surrendered, forfeited, amended or become void or voidable and the rents and covenants thereby reserved have been duly paid, performed and complied with by the Chargor up to the date of this Charge; (e) the Ground Lease (or notice thereof) has been duly registered against title to the lands subject to the Ground Lease and no consent or approval of any governmental authority or other Person is required to create a good, valid and subsisting leasehold interest in such lands in favour of the Chargor for the full term of the Ground Lease (including any renewals or extensions thereof, if exercised); (f) the Chargor has taken full possession of the leased premises and there is no default by any party to the Ground Lease; (g) the Chargor has done and will do no act to encumber the Ground Lease or its leasehold interest in the lands except in favour of the Chargee as security for the Loan Indebtedness; (h) during the term of the Ground Lease and any extension or renewal thereof, the Chargor will not amend, terminate, surrender or modify the Ground Lease or otherwise postpone or subordinate the Ground Lease or its leasehold interest in the lands in favour of any other Person, mortgage, charge, pledge, assignment, lien, other encumbrance or security interest, in each case without the written consent of the Chargee, which may be given or withheld in its sole discretion, and will pay the rent reserved by the Ground Lease and perform and observe the covenants, provisos and conditions contained in the Ground Lease, will preserve its leasehold title thereunder and will indemnify the Chargee against all actions, claims and demands whatsoever in respect of the said rent and covenants or anything relating thereto; (i) the Chargor will give prompt written notice to the Chargee of any notices, demands, claims or other communications or proceedings under or relating to the Ground Lease given to or received by the Chargor with respect to any default or event of default under or a breach or other contravention of or non-compliance with the Ground Lease or which, with the passage of time or the giving of notice or both, would constitute the same; (j) the Chargee will have the right to cure any default under the Ground Lease and to effect any renewal of the Ground Lease in the name of the Chargor and the Chargor hereby irrevocably appoints the Chargee as its attorney, coupled with an interest and with full power of substitution, to do all acts and things as the Chargee considers necessary or desirable for such purposes; and (k) all right, title and interest of the Chargor under the Ground Lease to any insurance, expropriation and condemnation proceeds and the application thereof are hereby assigned to the Chargee as a first priority pledge and assignment thereof and lien or security interest therein;
- (f) Any default by the Chargor under the Ground Lease will be an immediate Event of Default under this Charge; and

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ADDITIONAL PROVISIONS**

- (g) If the Chargor or any unregistered or beneficial owner of the leasehold interest in any part of the lands acquires the freehold estate in such lands, it is the intention of the parties hereto that such freehold estate shall not merge with the Chargor's leasehold title, but shall always remain separate and distinct unless the Chargee otherwise consents in writing, and the Loan Documents shall constitute, automatically and immediately without execution or registration of further documentation, a first mortgage and charge of the freehold estate of the lands so acquired, in addition to a first priority mortgage and charge of the leasehold interest, and neither the Loan Documents nor the security created thereby shall be deemed or held to have been terminated or otherwise released.
- (h) Notwithstanding anything to the contrary contained herein, the Chargor shall be entitled to enjoy the benefits of and rights under the Ground Lease for so long as no Event of Default exists under this Charge or any other Loan Document.
57. **Related Charge.** This Charge is given to secure the same indebtedness secured by a certain Charge/Mortgage (the "Related Charge") made by the Chargor in favour of the Chargee and registered or to be registered against title to the lands and premises comprising: (i) Part Lot 24, RCP 10309, being Parts 10 & 11 on Plan 64R-7307 exc Part 1 on Expr Plan R650078, PIN 03274-0103 LT, 0 Dufferin Street, Vaughan, Ontario; and (ii) Part Lot 25, RCP 10309, being Part 1 on Plan 65R-14039, PIN 03274-0104 LT, 7850 Dufferin Street, Vaughan, Ontario. The Chargor covenants and agrees that any and all payment or default under this Charge shall constitute concurrent payment or default under the Related Charge, and likewise, any and all payment or default under the Related Charge shall constitute concurrent payment or default under this Charge. The said indebtedness shall at all times and from time to time be fully secured by this Charge, the Related Charge and all other Loan Documents. In the event of default under this Charge, the Related Charge or any other Loan Document, the Chargee shall be entitled to exercise any and all remedies available to it pursuant to any and all Loan Documents and with respect to any or all of the Property defined and described by this Charge and the Related Charge. Notwithstanding anything to the contrary set out in any Loan Document other than this Charge and the Related Charge, all references to the Property in any such Loan Documents mean all of the Property defined and described by this Charge and the Related Charge.
58. **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 Lands, the parties hereto covenant and agree that the following conditions shall apply:
- (a) All construction on the Lands shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed.
- (b) The renovations to the building and structures located on the Lands having been commenced shall be continued in a good and workmanlike manner, with all due diligence and substantially in accordance with the plans and specifications delivered to the Chargee, without any subsequent material changes except as approved by the Chargee acting reasonably, and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
- (c) Provided that should construction on the project on the Lands cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Chargor excepted), for a period of thirty (30) consecutive days (Saturdays, Sundays and Statutory holidays excepted), then, at the option of the Chargee, this Charge shall immediately become due and payable. In the event that construction does cease, then the Chargee 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 Chargee 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 Chargee. 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 Chargee shall have the same rights and remedies with respect to collection of same as it would have with respect to collection of principal and interest hereunder or at law.
- (d) At all times there shall be sufficient funds unadvanced under this Charge and retained by the Chargee to complete the construction and/or renovation of the project on the Lands and as may be necessary to retain the Chargee's priority with respect to any deficiency in the holdbacks required to be retained by the Chargor under the Construction Lien Act (Ontario).
- (e) This Charge will be advanced in stages as construction upon the Lands proceeds or as the conditions as enumerated by the Commitment are complied with.
- (f) 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 Chargee with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Chargor 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 Lands. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building

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- (g) The Chargor shall pay to the Chargee on each occasion when an inspection of the Lands is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Chargee may charge from time to time for each such inspection and the Chargee's solicitors shall be paid their reasonable fees and disbursements for each subsearch and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Chargee 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.
- (h) The Chargor covenants and agrees upon completion of the project to be erected on the Lands to deliver as further security for the loan herein secured, a Chattel Mortgage or Security Agreement covering the goods, equipment and chattels to be installed in the said building, said Chattel Mortgage or Security Agreement to be in a form approved by the solicitor for the Chargee.

59. **Deemed Advances** - It is acknowledged and agreed that all principal amounts and other monies on account of the Loan which are, in accordance with Commitment, advanced and paid by the Chargee to and deposited in trust with the Chargee's solicitors shall be deemed to have been advanced to the Chargor on and as of each date of doing so from time to time, and shall bear interest as herein provided from and after the such date notwithstanding that all or part of any such amounts may be thereafter held in trust by the Chargee's solicitors until subsequently released to the Chargor in accordance with the terms and conditions of the Commitment and all other Loan Documents.

Properties

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0107 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0186 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1,65R8928; S/T VAB4765 ASSIGNED BY R312155; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

Applicant(s)

The assignor(s) hereby assigns their interest in the rents of the above described land. The notice is based on or affects a valid and existing estate, right, interest or equity in land.

Name VAUGHAN CROSSINGS INC.
Address for Service 7501 Keele St, Suite 401
 Vaughan, ON,
 L4K 1Y2

I, VINCENT ALBERT GUIDO, President, and ANTHONY DECRISTOFARO, Secretary, have the authority to bind the corporation.
 This document is not authorized under Power of Attorney by this party.

Party To(s)**Capacity****Share**

Name VECTOR FINANCIAL SERVICES LIMITED
Address for Service 25 Imperial Street, Suite 500
 Toronto, Ontario, M5P 1B9
 (VFSL Loan No. 13-18)

Statements

The applicant applies for the entry of a notice of general assignment of rents.

This notice may be deleted by the Land Registrar when the registered instrument, YR2092557 registered on 2014/02/06 to which this notice relates is deleted

Schedule: See Schedules

Signed By

Alyssa Kinsley Tipple 600-390 Bay Street acting for Signed 2014 02 06
 Toronto Applicant(s)
 M5H 2Y2

Tel 416-868-1900
 Fax 416-868-1708

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

Alyssa Kinsley Tipple 600-390 Bay Street acting for Party To Signed 2014 02 06
 Toronto (s)
 M5H 2Y2

Tel 416-868-1900
 Fax 416-868-1708

LRO # 65 Notice Of Assignment Of Rents-General

Registered as YR2092558 on 2014 02 06 at 12:24

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

yyyy mm dd Page 2 of 5

Signed By

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

Submitted By

ROSE, PERSIKO, RAKOWSKY, MELVIN LLP

600-390 Bay Street
Toronto
M5H 2Y2

2014 02 06

Tel 416-868-1900

Fax 416-868-1708

Fees/Taxes/Payment

Statutory Registration Fee \$60.00

Total Paid \$60.00

File Number

Party To Client File Number : 20130354 - VAUGHAN - LEASEHOLD - GAR

GENERAL ASSIGNMENT OF RENTS
(Existing and Future Leases)

THIS ASSIGNMENT made this 9th day of January, 2014, ~~December, 2013,~~

BETWEEN:

VAUGHAN CROSSINGS INC.,
hereinafter called the "Assignor",

- and -

VECTOR FINANCIAL SERVICES LIMITED,
hereinafter called the "Assignee",

FOR VALUE RECEIVED, the Assignor hereby assigns to the Assignee, all rights, privileges, advantages and benefits whatsoever, including all rental and other income, arising pursuant to all leases, subleases and/or agreements to lease or sublease and/or tenancies (collectively, the "Leases") now or hereafter affecting the lands and premises (the "Lands") more particularly described in the "Properties" section of the electronic document to which this Assignment is attached as a schedule.

This Assignment is given as additional security for the payment of the sum of THIRTY-TWO MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$32,500,000.00) and all other sums secured by a charge of the Lands (the "Charge") made by the Assignor, as chargor, in favour of the Assignee, as chargee, which Charge was registered against title to the Lands under the instrument/registration number set out in the "Statements" section of the electronic document to which this Assignment is attached as a schedule. The security of this Assignment is and shall be primary and on a parity with the real estate conveyed by the Charge and not secondary. All amounts collected hereunder, after deducting the expense of collection, shall be applied on account of the indebtedness secured by the Charge, or in such other manner as may be provided in the Charge. Nothing herein contained shall be construed as constituting the Assignee as trustee, mortgagee or chargee in possession.

The Assignor does hereby empower the Assignee, its agents or attorneys, to collect, sue for, settle, compromise and give releases for all of the rents that may become due under the Leases and avail itself of and pursue all remedies for the enforcement of the Leases and the Assignor's rights in and under the Leases as the Assignor might have pursued but for this Assignment.

The Assignor warrants that the Leases are in full force and effect, and that the copies thereof heretofore delivered to the Assignee are true and correct copies, that the Assignor has not heretofore assigned or pledged the same or any interest therein save and except as disclosed by registered title, and no default exists on the part of the lessees thereunder (herein called the "Lessees") or the Assignor, as lessor, in the performance on the part of either, of the terms, covenants, provisions or agreements in the Leases contained; that other than last month's rents no rent has been paid by any of the Lessees more than thirty (30) days in advance, and that the payment of none of the rents to accrue under the Leases has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by the Assignor directly or indirectly by assuming any Lessee's obligations with respect to other premises; that no security deposit has been made by the Lessees under any of the Leases. The Assignor waives any rights of set-off against the Lessees.

The Assignor covenants and agrees:

1. that the Leases shall remain in full force and effect irrespective of any merger of the interest of the Lessor and Lessee thereunder; and that it will not transfer or convey the fee title or leasehold interest to said premises, as the case may be, to any of the Lessees without requiring such Lessees, in writing, to assume and agree to pay the debt secured by the Charge in accordance with the terms covenants and conditions contained in the Charge;
2. that all offers to lease and Leases shall be bona fide and shall be at rental rates and terms consistent with comparable space in the vicinity of the Lands and prior to execution of the same the Assignor shall obtain written approval thereof by the Assignee;
3. except in the ordinary course of business and when not in default under the Charge, that the Assignor will not:
 - (a) terminate, modify or amend the Leases or any of the terms thereof, or grant any concessions in connection therewith, either orally or in writing, or to accept a surrender thereof, and that any attempt to do any of the foregoing contrary to the provisions hereof shall be null and void;
 - (b) alter, modify or change the terms of any guarantees of any of the Leases or cancel or terminate such guarantees; or
 - (c) consent to any assignment of the Leases, or any subletting thereunder, whether or not in accordance with their terms;
4. that the Assignor will not:
 - (a) collect any of the rent, income and profits arising or accruing under the Leases in advance of the time when the same become due under the terms thereof;

- (b) discount any future accruing rents;
 - (c) execute any other assignments of the Leases or any interest therein or any of the rents thereunder;
 - (d) request, consent to, agree to or accept a subordination of the Leases to any mortgage or other encumbrance now or hereafter affecting the Lands; or
 - (e) exercise any right of election, whether specifically set forth in any such Leases or otherwise which would in any way diminish the tenant's liability or have the effect of shortening the stated term of the Leases;
5. that if the Leases provided for the abatement of rent during the repair of the demised premises by reason of fire or other casualty, the Assignor shall furnish rental insurance to the Assignee, the policies to be in an amount and form and written by such insurance companies as shall be satisfactory to the Assignee;
 6. to perform all of the Assignor's covenants and agreements as lessor under the Leases and not to suffer or permit to occur any release of liability of the Lessees, or any rights to the Lessees to withhold payment of rent; and to give prompt notices to the Assignee of any notice of default on the part of the Assignor with respect to the Leases received from the Lessees, and to furnish the Assignee with complete copies of said notices;
 7. if so requested by the Assignee, to enforce the Leases and all remedies available to the Assignor against the Lessees, in case of default under the Leases by the Lessees;
 8. that the Assignor will provide to the Assignee leasing activity reports as requested by the Assignee (but not more frequently than quarter-yearly);
 9. that none of the rights or remedies of the Assignee under the Charge shall be delayed or in any way prejudiced by this Assignment;
 10. that notwithstanding any variation of the terms of the Charge or any extension of time for payment thereunder, the Leases and benefits hereby assigned shall continue as additional security in accordance with the terms hereof; and
 11. to pay the costs, charges and expenses of and incidental to the taking, preparation and filing of this Assignment or any notice hereof which may be required and of every renewal related thereto.

Upon any vesting of title to the Lands or the leasehold interest therein secured under the Charge in the Assignee or other party by court order, operation of law, or otherwise or upon delivery of a deed or deeds pursuant to the Assignee's exercise of remedies under the Charge, all right, title and interest of the Assignor in and to the Leases shall by virtue of this Assignment, thereupon vest in and become the absolute property of the party vested with such title or the grantee or grantees in such deed or deeds without any further act or assignment by the Assignor. The Assignor hereby irrevocably appoints Assignee and its successors and assigns, as its agent and attorney in fact, to execute all instruments of assignment or further assurances in favour of such party vested with title or the grantee or grantees.

In the exercise of the powers herein granted to the Assignee, no liability shall be asserted or enforced against the Assignee, all such liability being hereby expressly waived and released by the Assignor. The Assignee shall not be obligated to perform or discharge any obligation, duty or liability under the Leases, or under or by reason of this Assignment, and the Assignor shall and does hereby agree to indemnify the Assignee for, and to save and hold it harmless of and from, any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should the Assignee incur any such liability, loss or damage under the Leases or under or by reason of this Assignment, or in the defence of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees, shall be secured hereby, and the Assignor shall reimburse the Assignee therefore immediately upon demand.

Although it is the intention of the parties that this Assignment shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that the Assignee shall not exercise any of the rights or powers herein conferred upon it until a default shall occur under the terms and provisions of this Assignment or of the Charge and until such time the Assignor shall be entitled to enjoy all rights under and benefits under the Leases. Upon the occurrence of any such default, the Assignee shall be entitled, upon notice to the Lessees, to all rents and other amounts then due under the Leases and thereafter accruing, and this Assignment shall constitute a direction to and full authority to the Lessees to pay all such amounts to the Assignee without proof of the default relied upon. The Lessees are hereby irrevocably authorized to rely upon and comply with any notice or demand by the Assignee for the payment to the Assignee of any rental or other sums which may be or thereafter become due under the Leases regardless whether any default under the Charge has actually occurred or is then existing.

In the event that the Assignee collects any payments of rent due to the Assignors default, the Assignee shall be entitled to receive from such rent a management fee of 5.0% of the gross receipts from such rent, it being understood for greater certainty that the Assignor and the Assignee have agreed that such management fee is a just and equitable fee having regard to the circumstances.

This Assignment is intended to be additional to and not in substitution for or in derogation of any assignment of rents contained in the Charge or in any other document.

This Assignment shall include any extensions and renewals of the Leases and any reference herein to the Leases shall be construed as including any such extensions and renewals.

The Assignee is hereby irrevocably authorized and directed by the Assignor to complete and insert herein the registration particulars of the Charge, once registered.

It is acknowledged and agreed that, upon registration on title to the Lands of a complete discharge of the Charge, the Assignee shall be deemed to have re-assigned and released to the Assignor all of the Leases and all rents, rights and other benefits accruing thereunder, for the use and benefit of the Assignor absolutely; and such re-assignment and release shall be self-operative and the Assignee shall not be required to provide any further or other documents or assurances in such regard.

This Assignment shall be binding upon and enure to the benefit of the respective successors and assigns of the parties hereto. The words "Assignor", "Assignee" and "Lessees", wherever used herein, and designated as such and their respective heirs, administrators, successors and assigns, and all words and phrases shall be taken to include the singular or plural and masculine, feminine or neuter gender, as may fit the case.

IN WITNESS WHEREOF the Assignor has executed this General Assignment of Rents.

VAUGHAN CROSSINGS INC.

Per: 

Vincent A. Gutano, President

Per: 

Anthony DeCristofaro, Secretary

We have authority to bind the Corporation.

This is Exhibit "I" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

LRO # 65 Charge/Mortgage

Registered as YR2048941 on 2013 10 18 at 14:30

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

yyyy mm dd Page 1 of 21-

Properties

PIN	03274 - 0103 LT	<i>Interest/Estate</i>	Fee Simple
Description	PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VAB4768 ASSIGNED BY R312155 ; VAUGHAN		
Address	7850 DUFFERIN STREET VAUGHAN		
PIN	03274 - 0104 LT	<i>Interest/Estate</i>	Fee Simple
Description	PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN		
Address	7850 DUFFERIN STREET VAUGHAN		

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	VAUGHAN CROSSINGS INC.
Address for Service	7501 Keele Street, Suite 401 Vaughan, Ontario L4K 1Y2

I, ALBERT VINCENT GUIDO, President, and ANTHONY DECRISTOFARO, Secretary, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Chargee(s)*Capacity**Share*

Name	SCOLLARD TRUSTEE CORPORATION
Address for Service	3655 Kingston Road Scarborough, Ontario M1M 1S2

Statements

Schedule: See Schedules

Provisions

Principal	\$14,800,000.00	Currency	CON
Calculation Period	See Schedule		
Balance Due Date	2015/10/01		
Interest Rate	See Schedule		
Payments			
Interest Adjustment Date	2013 10 17		
Payment Date	1st day each quarterly period: January 1, April 1, July 1, October 1		
First Payment Date	2014 01 01		
Last Payment Date	2015 10 01		
Standard Charge Terms	N/A		
Insurance Amount	full insurable value		
Guarantor			

Additional Provisions

Payments: See Schedule

Signed By

Maria Da Silva	2355 Skymark Ave, Ste 300 Mississauga L4W 4Y6	acting for Chargor	Signed	2013 10 18
Tel 905-629-7800		(s)		

LRO # 85 ChargeMortgage

Registered as YR2048941 on 2013 10 18 at 14:30

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

yyyy mm dd Page 2 of 21

Signed By

Fax 905-629-4350

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

Submitted By

HARRIS + HARRIS LLP

2355 Skymark Ave. Ste 300
Mississauga
L4W 4Y8

2013 10 18

Tel 905-629-7800

Fax 905-629-4350

Fees/Taxes/Payment

Statutory Registration Fee \$60.00

Total Paid \$60.00

File Number

Charge Client File Number : 12743

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1. **Defined Terms** - Unless otherwise expressly defined in this Charge, or unless otherwise required by the context, the following words and phrases shall have the following meanings when used in this Charge:
- (a) "Applicable Laws" means, in respect of any Person, property, transaction or event, all applicable statutes, laws, by-laws, regulations, rules, codes, policies and guidelines, orders, directives, permits, licences, authorizations, approvals and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction and all applicable common law or equitable principles in force and effect during the currency of this Charge;
 - (b) "Business Day" means any day of the week other than Saturday, Sunday or any other day which is a statutory or a municipal holiday in the municipality in which the Lands are situate;
 - (c) "Borrower Entity" means the Chargor;
 - (d) "Charge" means, for the non-electronic paper based registration system, the Charge/Mortgage of Land (Form 2) to which this Schedule is attached, this Schedule and all other schedules thereto, or for the electronic registration system, the Charge/Mortgage prepared in the electronic format and registered electronically pursuant to Part III of the Land Registration Reform Act (Ontario) including this Schedule and all other schedules thereto;
 - (e) "Chargee" means, individually and collectively, each Person in whose favour this Charge is given and who is or are named in this Charge as chargee, and any other Person who acquires all or part of the rights, title and interest of the Chargee under the Loan Documents;
 - (f) "Chargor" means, individually and collectively, each Person named as chargor in this Charge and who has given and executed this Charge as chargor;
 - (g) "Commitment" means each and every loan proposal, letter of commitment, loan approval, term sheet or other similar agreement establishing or pertaining to the loan secured by this Charge or pursuant to which this Charge has been given including, without limitation, a Loan Agreement dated August 8, 2013 issued by the Chargee to or on behalf of the Chargor, as amended, and all amendments thereto and renewals or replacements thereof from time to time (the "Loan Agreement");
 - (h) "Costs" includes all reasonable costs and expenses of every nature and kind whatsoever incurred by the Chargee or paid by the Chargee to any other party in connection with the protection and preservation of the Lands or any other security held by the Chargee, or for the purpose of preserving and maintaining the enforceability and priority of this Charge and any such other security, or in connection with any and all demands and enforcement proceedings of every nature and kind made or carried out by or on behalf of the Chargee under or pursuant to this Charge, and includes, without limitation, reasonable legal costs incurred by the Chargee on a solicitor and client scale;
 - (i) "Event of Default" or "default" means any one or more of the following events or circumstances:
 - (i) failure by the Chargor to pay any instalment of principal, interest and/or Realty Taxes under this Charge or under any charge or other encumbrance of the Lands, on the date upon which any of the payments for same become due;
 - (ii) failure by the Chargor to strictly and fully observe or perform any condition, agreement, covenant or term set out in the application or Commitment for the Loan, the provisions of this Charge, or any other document giving contractual relationship as between them or any of them or if it is found at any time that any representation to the Chargee with respect to the Loan or in any way related thereto is incorrect or misleading;
 - (iii) default by the Chargor in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any charge or other encumbrance affecting the Lands, whether or not it has priority over this Charge;
 - (iv) the occurrence of any other event or circumstance which is expressly or impliedly defined or described as a default under this Charge or any other Loan Document;

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 ADDITIONAL PROVISIONS

HH: October 17, 2013

- (v) the registration of any construction lien against the Lands which is not discharged or vacated on or before the date which is the earlier of 21 days after the date of registration of such construction lien and the day immediately preceding the last date upon which a legal action can be commenced in respect of such construction lien;
 - (vi) if any Hazardous Substance is discovered in, on or under the Lands or any part thereof in contravention of Environmental Laws and the Chargee does not within thirty (30) days after demand therefor by the Chargee immediately commence and thereafter diligently proceed to completely remove the same to the entire satisfaction of the Chargee;
 - (vii) if the Lands are abandoned or there is any cessation of the business activities or any material part thereof now being conducted upon the Lands by the Chargor or the beneficial owner of the Lands or any of their respective officers, agents, employees, tenants or invitees; and
 - (viii) if the Chargor commits an act of bankruptcy or becomes insolvent or has a receiver or receiver and manager appointed for it or over any of its assets or if any creditor takes possession of any of its assets or if any execution, distress or other like process is levied or enforced upon the Lands or any part thereof or if any compromise or arrangement with creditors is made by any of them;
- (j) "Environmental Laws" means any and all Applicable Laws in connection with or pertaining to any Hazardous Substance or to the protection of the natural environment or the health or welfare of any living thing;
 - (k) "Hazardous Substance" means any pollutant, contaminant, waste or other substance (i) the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled or regulated or licensed under any Environmental Law; or (ii) which in the Lender's opinion, acting reasonably, may, immediately or in the future, directly or indirectly, cause harm or degradation to the environment or to the health or welfare of any living thing;
 - (l) "Lands" means all legal and beneficial right, title, estate and interest in and to the lands, tenements, hereditaments and appurtenances and any interest or estate described in this Charge, and all buildings, structures and improvements of every nature and kind now or hereafter situate or constructed thereon, and all easements, rights-of-way and other appurtenances thereto, and all machinery, equipment, appliances, furniture, furnishings, decorations and other fixtures of every nature and kind (whether or not affixed in law) attached thereto or placed, installed or erected thereon or used in connection therewith;
 - (m) "Lender Entity" means each of the Chargee, its servicer, the lender named in the Loan Agreement, each Person having an ownership interest in the Loan from time to time, any receiver and their respective employees, officers and directors;
 - (n) "Loan" means the loan in the principal amount as set out in this Charge (or the portion thereof advanced and outstanding at any time and from time to time) made by the Chargee to the Chargor pursuant to the Commitment and in accordance with and as evidenced by this Charge and the other Loan Documents;
 - (o) "Loan Documents" means, collectively, all documents, instruments, agreements and opinions now or hereafter evidencing, securing, guaranteeing and/or relating to the Loan and the Loan Indebtedness or any part thereof, including the Commitment Letter and this Charge;
 - (p) "Loan Indebtedness" means the aggregate of: (i) the outstanding principal balance secured by this Charge at any time and from time to time; (ii) all accrued and unpaid interest and compound interest payable under this Charge at any time and from time to time, whether or not then due, at the rate provided by this Charge; (iii) all Costs; (iv) any amount, cost, charge, expense or interest added to the Loan Indebtedness under the Loan Documents or Applicable Laws or which is otherwise due and payable thereunder or secured thereby from time to time; and (v) the payment, performance, discharge and satisfaction of all other obligations of any Borrower Entity under or in respect of the Loan and Loan Documents;
 - (q) "Person" means any individual, general or limited partnership, joint venture, sole proprietorship, corporation, unincorporated association or organization, trust, trustee, executor, administrator, legal representative or governmental authority;

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- (r) "Prime Rate" means the prime rate of interest announced from time to time by Canadian Imperial Bank of Commerce at its head office in Toronto, Ontario as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada;
- (s) "Realty Taxes" means all taxes, duties, rates, imposts, levies, assessments and other similar charges, whether general or special, ordinary or extraordinary, or foreseen or unforeseen, including municipal taxes, school taxes and local improvement charges, and all related interest, penalties and fines which at any time may be levied, assessed, imposed or be a lien on the Lands or any part thereof; and
- (t) "Receiver" means any receiver, receiver and manager, receiver-manager or trustee of the Lands as may be appointed from time to time by the Chargee pursuant to the provisions of this Charge or by any court of competent jurisdiction.

2. **Interpretation** - In this Charge: (a) the word "including" shall mean "including, without limitation,"; (b) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced from time to time, and any successor statute thereto; (c) any reference to the Commitment, any Loan Document, any lease or other agreement or instrument shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto from time to time; (d) reference to any Lender Entity, Borrower Entity, beneficial owner of the Lands and/or any other Person shall include their respective heirs, executors, administrators, legal representatives, successors and assigns, and reference to "corporation" shall include a company or other form of body corporate; (e) all dollar amounts are expressed in Canadian dollars; (f) the Chargee's right to give or withhold any consent or approval, make any determination or exercise any discretion may be exercised by the Chargee in its sole discretion unless otherwise expressly provided, and the Chargee shall not be liable to the Chargor in damages or otherwise for its failure or refusal to give or withhold such consent or approval, and all costs of obtaining such consent or approval shall be for the account of the Chargor; (g) time shall be of the essence; (h) all obligations of the Chargor in this Charge will be deemed to be covenants by the Chargor in favour of the Chargee; and (i) where any Borrower Entity is comprised of more than one Person, the representations, warranties, covenants and agreements of such Persons shall be joint and several. This Charge shall be read and construed with all changes of gender and number of the party or parties referred to in each case as required by the context. The headings set forth in this Charge and the division of this Charge into sections and subsections are inserted for convenience and reference only and shall in no way define or limit the intent or interpretation of any of the provisions hereof. If any provision of this Charge shall be void for any reason, it shall be severed herefrom and all other provisions of this Charge shall remain in full force and effect notwithstanding such severance. Where any reference is made in this Charge to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the trust) by or with respect to, a trust, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the trust) by or with respect to, the trustee(s) of the trust. This Charge shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein without application of any principle of conflict of laws which may result in laws other than the laws in force in Ontario applying to this Charge; and the Chargor consents and attorns to the jurisdiction of the courts of the Province of Ontario.

3. **Proviso for Redemption and Defeasance** - Provided this Charge to be void upon payment of the principal sum hereby secured, in lawful money of Canada, with interest as herein provided and taxes and performance of statute labour and performance of all covenants and agreements contained in this Charge.

4. **Payment Provisions** -

- (a) Provided this Charge to be void upon payment at the office of the Chargee at Toronto, Ontario of FOURTEEN MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$14,800,000.00) of lawful money of Canada with interest at the rate and calculated and payable monthly not in advance as herein set forth, both before and after maturity, default and judgment, as follows:
 - (i) The outstanding balance of the said principal sum of FOURTEEN MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$14,800,000.00) shall become due and payable on the second anniversary of the date of the first advance pursuant to the Loan Agreement (as may be extended pursuant to the Loan Agreement), together with interest thereon and other charges as herein set forth;

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- (ii) The amount advanced from time to time shall bear interest, calculated monthly not in advance, and payable quarterly both before and after maturity, default and judgment, at the rate of eight percent (8%) per annum; and
- and which interest shall be calculated and payable not in advance on such portion of the principal as remains from time to time unpaid from the date of each advance (the "Interest Adjustment Date") and thereafter on the 1st day of the first month in each calendar quarter (January 1, April 1, July 1, October 1) – or such other three-month period as determined by the Chargee, acting reasonably, until the principal is fully paid; the first payment of interest to be computed from the date of the first advance of funds to become due and payable on the first day of the next calendar quarter (or three month period, as determined by the Chargee acting reasonably) immediately following the month in which the first advance takes place and for any part of a quarterly period, the interest payment shall be pro-rated accordingly; and
- (iii) In addition, the Additional Loan Payment (as defined and payable in accordance with the Loan Agreement) shall be payable as set out therein.
- (iv) The Chargee shall be entitled to deduct from any advance hereunder (A) interest accrued and to accrue from the date of the first advance of funds to and including the day prior to the Interest Adjustment Date (notwithstanding anything contained herein to the contrary), and (B) any amount due and owing by the Chargor on account of interest and Costs secured hereby.
- (b) In case default shall be made in payment of any sum to become due for interest at any time appointed for payment thereof as aforesaid, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, shall bear interest at the rate aforesaid, and in case the interest and compound interest are not paid in one (1) month from the time of default a rest shall be made, and compound interest at the rate aforesaid shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the Lands.
5. Exclusion of Statutory Covenants - The implied covenants deemed to be included in a charge under sub-section 7(1) of the Land Registration Reform Act (Ontario) shall be and are hereby expressly excluded and replaced by the terms hereof which are covenants by the Chargor, for and on behalf of the Chargor, with the Chargee.
6. Short Form of Mortgages Act - If any of the forms of words contained herein are substantially in the form of words contained in Column One of Schedule B of the Short Form of Mortgages Act, R.S.O. 1980, c. 474, 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 Two of Schedule B of the said Act distinguished by the same number, and this Charge shall be interpreted as if the said Act was still in full force and effect.
7. Release - The Chargor releases to the Chargee all its claims upon the Lands subject to the proviso for redemption herein.
8. Advance of Funds - The Chargor agrees that neither the preparation, execution nor registration of this Charge shall bind the Chargee to advance the monies hereby secured, nor shall the advance of a part of the principal sum herein bind the Chargee to advance any unadvanced portion thereof, but nevertheless the estate hereby charged shall take effect forthwith upon the execution of this Charge by the Chargor, and the expenses of the examination of the title and of this Charge and valuation are to be secured hereby in the event of the whole or any balance of the principal sum herein not being advanced, the same to be charged hereby upon the Lands, and shall be without demand thereof, payable forthwith with interest at the rate provided for in this Charge, and in default the remedies herein shall be exercisable.
9. Chargor's Covenants - The Chargor covenants with the Chargee as follows:
- (a) that the Chargor will pay the principal sum herein and interest and observe the proviso for redemption herein, and will pay as they fall due all Realty Taxes and when required by the Chargee, shall transmit the receipts therefor to the Chargee;
- (b) that the Chargor will pay all amounts which are payable hereunder or which are capable of being added to the principal sum herein pursuant to the provisions of this Charge including, without limiting the generality of the foregoing, all servicing or other fees, costs or charges provided for herein; all insurance premiums; the amount paid for the supply of any fuel or utilities to the Lands; all costs, commissions, fees and disbursements incurred by the Chargee in constructing, inspecting, appraising, selling, managing, repairing or maintaining the Lands; all costs

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incurred by the Chargee, including legal costs on a solicitor and his own client basis, with respect to the Charge or the enforcement thereof or incurred by the Chargee arising out of, or in any way related to this Charge; any amounts paid by the Chargee on account of any encumbrance, lien or charge against the Lands and any and all costs incurred by the Chargee arising out of, or in any way related to, the Chargee realizing on its security by sale or lease or otherwise;

- (c) that the Chargor has good title in fee simple to the Lands and has good right, full power and lawful and absolute authority to charge the Lands and to give this Charge to the Chargee upon the covenants contained in this Charge;
 - (d) that the Chargor has not done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the Lands, or any part or parcel thereof, is or shall or may be in any way impeached, charged, affected or encumbered in title, estate or otherwise, except as the records of the land registry office disclose; and free from all encumbrances except as may be permitted by the Chargee;
 - (e) that the Chargor will execute such further assurances of the Lands as may be requisite; and
 - (f) that the Chargor will produce the title deeds and allow copies to be made at the expense of the Chargor.
10. **Compliance with Applicable Laws** - The Chargor shall, in its ownership, operation and use of the Lands, promptly and at all times observe, perform, execute and comply with all Applicable Laws with respect to the same, and further agrees at its cost and expense to take any and all steps or make any improvements or alterations thereto, structural or otherwise, ordinary or extraordinary, which may be required at any time hereafter by any such present or future Applicable Laws.
11. **Change of Use** - The Chargor will not change or permit to be changed the existing or proposed use or uses of the Lands without the prior written consent of the Chargee.
12. **Alterations or Additions** - Except for development of the Lands as contemplated by the Commitment, the Chargor will not make or permit to be made any alterations or additions to the Lands without the prior written consent of the Chargee, which consent may be withheld in the Chargee's sole discretion or may be given only subject to compliance with such terms and conditions at the cost of the Chargor as the Chargee may impose.
13. **Lands Include All Additions** - The Lands shall include all structures and installations brought or placed on the Lands for the particular use and enjoyment thereof or as an integral part of or especially adapted for the buildings thereon whether or not affixed in law to the Lands including, without limiting the generality of the foregoing, piping, plumbing, electrical equipment or systems, aerials, refrigerators, stoves, clothes washers and dryers, dishwashers, incinerators, radiators and covers, fixed mirrors, fitted blinds, window screens and screen doors, storm windows and storm doors, shutters and awnings, floor coverings, fences, air conditioning, ventilating, heating, lighting, and water heating equipment, cooking and refrigeration equipment and all component parts of any of the foregoing and that the same shall become fixtures and an accession to the freehold and a part of the realty
14. **Repair** - The Chargor will keep the Lands including the buildings, erections and improvements thereon in good condition and repair according to the nature and description thereof, and the Chargee may, whenever it deems necessary, enter upon and inspect the Lands, and the cost of such inspection shall be added to the indebtedness secured hereunder, and if the Chargor neglects to keep the Lands in good condition and repair, or commits or permits any act of waste on the Lands (as to which the Chargee shall be sole judge) or makes default as to any of the covenants or provisos herein contained, the principal sum herein shall, at the option of the Chargee, forthwith become due and payable, and in default of payment thereof with interest as in the case of payment before maturity, the powers of entering upon and leasing or selling hereby given may be exercised forthwith and the Chargee may make such repairs as it deems necessary, and the cost thereof with interest at the rate aforesaid shall be added to the monies hereby secured and shall be payable forthwith and be a charge upon the Lands prior to all claims thereon subsequent to this Charge.
15. **Hazardous Substances** - The Chargor represents, warrants, covenants and agrees as follows:
- (a) except as disclosed in writing by the Chargor to the Chargee prior to the initial Loan advance, that the Chargor has not and, to the best of its knowledge, information and belief after making due inquiry, no other Person has caused or

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permitted any Hazardous Substance to be placed, stored, located or disposed of on, under or at the Lands;

- (b) except as disclosed in writing by the Chargor to the Chargee prior to the initial Loan advance, that the Chargor and its tenants, invitees and other occupiers of the Lands have and will at all times carried out all business and other activities upon the Lands in compliance with all Environmental Laws; and without limiting the generality of the foregoing, (i) that the Lands have never been used as a land fill site or to store Hazardous Substances either above or below ground, in storage tanks or otherwise; (ii) that all Hazardous Substances used in connection with the business conducted at the Lands have at all times been received, handled, used, stored, treated, shipped and disposed of in strict compliance with all Environmental Laws; (iii) that no Hazardous Substances have been released into the environment or deposited, discharged, placed or disposed of at, on or near the Lands as a result of conduct of business on the Lands; and (iv) that no notices of any violation of any matters referred to above relating to the Lands or the use thereof have been received by the Chargor and there are no directions, writs, injunctions, orders or judgements outstanding, no law suits, claims, proceedings or investigations pending or threatened, relating to the ownership, use, maintenance or operation of the Lands nor is there any basis for such law suits, claims, proceedings or investigations being instituted or filed;
- (c) except as disclosed in writing by the Chargor to the Chargee prior to the initial Loan advance, no order, direction, enforcement action or other governmental or regulatory action or notice, nor any action, suit or proceeding relating to any Hazardous Substance, or to any Environmental Laws or any breach thereof, or to the environment generally has been issued or is otherwise threatened or pending with respect to the Lands;
- (d) each of the foregoing representations and warranties shall remain true and accurate in all respects up to and including the date of the first advance of funds hereunder and thereafter until all amounts secured by this Charge are paid in full; and the Chargee may delay or refuse to make any advance to the Chargor if the Chargee believes that any of the foregoing representations and warranties were not true and accurate when made or at any time thereafter;
- (e) that the Chargor will not bring onto, use, release or store any Hazardous Substance, or permit any Hazardous Substance to be brought onto, used, released or stored in, on or under the Lands, save and except in accordance with Environmental Laws;
- (f) that the Chargor will comply with, and will promptly remedy the breach of, all Environmental Laws and all orders, decrees or judgments of governmental authorities or courts having jurisdiction relating to the use, collection, storage, treatment, control, removal or cleanup of Hazardous Substances in, on, or under the Lands;
- (g) that the Chargor will forthwith notify the Chargee if (i) any Hazardous Substance is brought onto, used, released or stored in, on or under the Lands in breach of Environmental Laws; (ii) the Chargor breaches any Environmental Law; (iii) the Chargor receives any order, direction, enforcement action or other governmental or regulatory action or notice, or notice of any action, suit or proceeding, whether issued or threatened, relating to any Hazardous Substance, or to any Environmental Law or any breach thereof, or to the environment generally; or (iv) the Chargor receives any notice, demand or other communication respecting any permit that may be required by the Chargor pursuant to any Environmental Law; and that the Chargor will provide to the Chargee copies of all relevant documentation in connection any and all of the foregoing;
- (h) that the Chargor will promptly cause to be conducted, at its own expense, such investigations, searches, tests, drilling and sampling of the Lands as are required from time to time by the Chargee, acting reasonably, and will promptly forward the results of such investigations, searches, tests, drilling and sampling to the Chargee upon receipt;
- (i) that if, now or hereafter, there is any Hazardous Substance in, on or under the Lands, or incorporated in any improvements thereon, the Chargor shall promptly and diligently take such actions and incur such costs and expenses as are necessary to remove such Hazardous Substance from the Lands and improvements and shall promptly thereafter repair any damage to the Lands and improvements caused by such removal;
- (j) the Chargee may, but shall not be obliged to, enter upon the Lands and conduct, acting reasonably and at the Chargor's expense, any and all tests, inspections, appraisals and environmental audits of the Lands so as to determine and ensure and take such actions and incur such costs and expenses so as to effect such compliance as it deems advisable with the representations, warranties, covenants and agreements set forth in this Section; and without limiting the foregoing, the Chargee may, acting reasonably, conduct soil tests and review and copy any records relating to the Lands or the businesses and other activities conducted thereon at any time and from time to

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time; and the Chargor shall reimburse the Chargee on demand for the full amount of all reasonable costs and expenses incurred by the Chargee in connection with such compliance activities; and

- (k) the Chargor agrees to indemnify and save harmless the Chargee and its officers, directors, employees, agents and shareholders from and against any and all losses, damages, costs and expenses of any and every nature and kind whatsoever which at any time or from time to time may be paid or incurred by or asserted against any of them as a direct or indirect result of a breach of any of the representations, warranties, covenants and agreements of the Chargor as set forth in this Charge, and the provisions of all representations, warranties, covenants, agreements and indemnifications set out in this Section shall survive the repayment and satisfaction of the indebtedness secured by this Charge and any release or discharge of or enforcement or realization pursuant to this Charge or any other security held by the Chargee.
16. **Inspection** - The Chargee shall have access to and the right to inspect the Lands at all reasonable times.
17. **Realty Taxes** -
- (a) The Chargor shall transmit to the Chargee all assessment notices, tax bills and other notices pertaining to the imposition of Realty Taxes forthwith after requested by the Chargee.
- (b) The Chargee may deduct from any advance of the monies secured by this Charge an amount sufficient to pay all Realty Taxes which have become due and payable during any calendar year.
- (c) The Chargee may at its sole option estimate the amount of the Realty Taxes payable in each year and the Chargor shall forthwith upon demand of the Chargee pay to the Chargee one-twelfth (1/12) of the estimated annual amount of such Realty Taxes on the 1st day of each and every month during the term of this Charge commencing with the 1st day of the first full month of the term of this Charge. The Chargee may at its option apply such payments to the Realty Taxes so long as the Chargor is not in default under any covenant or agreement contained in this Charge, but nothing herein contained shall obligate the Chargee to apply such payments on account of Realty Taxes more often than yearly. Provided however, that if the Chargor shall pay any sum or sums to the Chargee to apply on account of Realty Taxes, and if before such payments have been so applied by the Chargee, there shall be default by the Chargor in respect of any payment of principal or interest as herein provided, the Chargee may at its option apply such sum or sums in or towards payment of the principal and interest in default. If the Chargor desires to take advantage of any discounts or avoid any penalties in connection with the payment of Realty Taxes, the Chargor may pay to the Chargee such additional amounts as are required for that purpose.
- (d) In the event that the Realty Taxes actually charged in a calendar year, together with any interest and penalties thereon, exceed the amount estimated by the Chargee as aforesaid, the Chargor shall pay to the Chargee, on demand, the amount required to make up the deficiency. The Chargee may at its option, pay any of the Realty Taxes when payable, either before or after they are due, without notice, or may make advances therefor in excess of the then amount of credit held by the Chargee for Realty Taxes. Any excess amount advanced by the Chargee shall be secured as an additional principal sum under this Charge and shall bear interest at the rate as provided for in this Charge until repaid by the Chargor.
- (e) The Chargor shall pay to the Chargee, in addition to any other amounts required to be paid hereunder, the amount required by the Chargee in its sole discretion for a reserve on account of future liability for Realty Taxes.
- (f) In no event shall the Chargee be liable for any interest on any amount paid to it on account of Realty Taxes and the monies so received may be held with its own funds pending payment or application thereof as herein provided; provided that in the event that the Chargee does not utilize the funds received on account of Realty Taxes in any calendar year, such amount or amounts may be held by the Chargee on account of any pre-estimate of Realty Taxes required for the next succeeding calendar year, or at the Chargee's option the Chargee may repay such amount to the Chargor without any interest.
- (g) The Chargor shall in all instances be responsible for the payment of any and all penalties resulting from any arrears of Realty Taxes or any late payment of current instalments thereof, and at no time shall such penalties be the responsibility of the Chargee.
- (h) In the event the Chargee does not collect payments on account of Realty Taxes as aforesaid, the Chargor shall deliver to the Chargee on or before December 31st in each calendar year, written evidence from all taxing authorities having jurisdiction to the effect that all Realty Taxes for the then current calendar year and any

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preceding calendar years have been paid in full, failing which, the Chargee shall be entitled to charge a servicing fee for each written inquiry directed to such taxing authorities or the Chargor for the purpose of ascertaining the status of the Realty Taxes together with any costs payable to such taxing authorities for such information.

18. Utilities - The Chargor covenants that it will pay all utility and fuel charges related to the Lands as and when they are due and, except as may be necessary during the course of any development of or construction upon the Lands as contemplated by the Commitment, that the Chargor will not allow or cause the supply of utilities or fuel to the Lands to be interrupted or discontinued and that, if the supply of fuel oil or utilities is interrupted or discontinued, the Chargor will take all steps that are necessary to ensure that the supply of utilities or fuel is restored forthwith.
19. Insurance -
- (a) The Chargor will insure and keep insured during the term of this Charge the buildings and other improvements on the Lands (now or hereafter erected) on an all-risks basis in an amount of not less than the greater of the full replacement value of the buildings located thereon from time to time, or the principal money herein, with no co-insurance provisions and with the Chargee's standard mortgage clause forming part of such insurance policy. The Chargor shall carry such liability, rental, boiler, plate glass and other insurance coverage as is required by the Chargee to be placed with such insurance companies and in such amounts and in such form as may be acceptable to the Chargee. All such policies shall provide for loss payable to the Chargee and contain such additional clauses and provisions as the Chargee may require. An original of all insurance policies and endorsements from the insurer to the effect that coverage has been bound and/or extended for a minimum period of at least one year and that all premiums with respect to such term of such coverage have been paid for in full, shall be produced to the Chargee prior to any advance and at least thirty (30) days before expiration of any term of any such respective policy, failing which the Chargee may provide therefor and charge the premium paid therefor and interest thereon at the aforesaid rate to the Chargor and any amounts so paid by the Chargee shall be payable forthwith to the Chargee and shall also be a charge upon the Lands and secured by this Charge. It is further agreed that the Chargee may at any time require any insurance on the said buildings to be cancelled and new insurance effected with a company to be named by it, and also may, of its own accord, effect or maintain any insurance herein provided for, and any amount paid by the Chargee therefor shall be forthwith payable to it, together with interest at the rate aforesaid by the Chargor (together with any costs of the Chargee as herein set out), and shall be a charge upon the Lands and secured by this Charge.
- (b) In the event that the evidence of continuation of such insurance as herein required has not been delivered to the Chargee within the required time, the Chargee shall be entitled to a servicing fee for each written inquiry which the Chargee shall make to the insurer or the Chargor pertaining to such renewal (or resulting from the Chargor's non-performance of the within covenant). In the event that the Chargee pursuant to the within provision arranges insurance coverage with respect to the Lands, the Chargee, in addition to the aforesaid servicing fee, shall be entitled to a further servicing fee for arranging the necessary insurance coverage.
- (c) In the event of any loss or damage, the Chargor shall forthwith notify the Chargee in writing and notwithstanding any other provision to the contrary, statutory or otherwise, in the event of any monies becoming payable pursuant to any insurance policy herein required, the Chargee may, at its option, require the said monies to be applied by the Chargor in making good the loss or damage in respect of which the money is received, or in the alternative, may require that any or all of the monies so received be applied in or towards satisfaction of any or all of the indebtedness hereby secured whether or not such indebtedness has become due. No damage may be repaired nor any reconstruction effected without the approval in writing of the Chargee in any event.
- (d) The Chargor, upon demand, will transfer all policies of insurance provided for herein and the indemnity which may become due therefrom to the Chargee. The Chargee shall have a lien for the indebtedness hereby secured on all the said insurance proceeds and policies, and may elect to have these insurance monies applied as it may deem appropriate, including payment of monies secured hereby, whether due or not, but the Chargee shall not be bound to accept the said monies in payment of any principal not yet due.
20. Remittance and Application of Payments - All payments of principal, interest and other monies payable hereunder to the Chargee shall be payable at par in lawful money of Canada at the Chargee's address for service as set out in this Charge or at such other place as the Chargee shall designate in writing from time to time. In the event that any of the monies secured by this Charge are forwarded to the Chargee by mail, payment will not be deemed to have been made until the Chargee has actually received such monies and the Chargor shall assume and be responsible for all risk of loss or delay. Notwithstanding anything herein to the contrary, in the event of any default under this Charge, the Chargee may apply any payments received in whatever order the Chargee may elect as between principal, interest, Realty Taxes, insurance premiums, repairs,

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costs and any other advances or payments made by the Chargee hereunder.

21. **Receipt of Payment** - Any payment received after 3:00 p.m. on any date shall be deemed, for the purpose of calculation of interest to have been made and received on the next bank Business Day and the Chargee shall be entitled to interest on the amount due it, to and including the date on which the payment is deemed by this provision to have been received.
22. **No Deemed Re-investment** - Except in the case where this Charge provides for blended payments of principal and interest whether paid monthly or otherwise, the parties hereto agree that the Chargee shall not be deemed to reinvest any monthly or other payments received by it hereunder.
23. **Pre-authorized Chequing Plan** - If and when required by the Chargee, all payments made under this Charge by the Chargor, his heirs, executors, administrators, successors and assigns shall be made by a pre-authorized cheque payment plan as approved by the Chargee. The Chargee shall not be obligated to accept any payment other than payment made by pre-authorized cheque. Failure to make all payments by pre-authorized cheque shall be an act of default within the meaning of this Charge and the Chargee shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option.
24. **Postdated Cheques** - The Chargor shall, if and when required by the Chargee, deliver to the Chargee upon the first advance of moneys hereunder or upon request and thereafter on each anniversary date thereof in each year for the duration of the term of this Charge, postdated cheques for the payments of principal, interest and estimated Realty Taxes required to be made herein during the twelve month period commencing on each such anniversary date. In the event of default by the Chargor in delivery to the Chargee of the postdated cheques as herein provided, this Charge shall be deemed in default and the Chargee shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option. In addition, the Chargee upon the Chargor's failure to deliver such postdated cheques as required hereunder shall be entitled to a servicing fee for each written request that it makes to the Chargor for the purpose of obtaining such postdated cheques. Any step taken by the Chargee hereunder by way of a request for further postdated cheques shall be without prejudice to the Chargee's rights hereunder to declare the Charge to be in default in the event that such postdated cheques are not delivered within the required time.
25. **Dishonoured Cheques** - In the event that any of the Chargor's cheques are not honoured when presented for payment to the drawee, the Chargor shall pay to the Chargee for each such returned cheque a servicing fee to cover the Chargee's administration costs with respect to same. In the event that the said cheque which has not been honoured by the drawee is not forthwith replaced by the Chargor, the Chargee shall be entitled to a further servicing fee for each written request therefor which may be necessitated by the Chargor not forthwith replacing such dishonoured cheque.
26. **Financial and Operating Statements** - The Chargor covenants that, within the periods of time hereinafter specified, or within such other period(s) of time as may be specified by the Commitment, the Chargor shall deliver or cause to be delivered to the Chargee the following:
- (a) within 120 days after the end of each fiscal year of operation of the Lands, an annual operating statement in respect of the Lands for the immediately preceding fiscal year setting forth the gross rents and other income derived from the Lands, the cost and expenses of operation and maintenance of the Lands and such other information and explanations in respect of the same as may be required by the Chargee;
 - (b) within 120 days after the end of each fiscal year of each Chargor which is a corporation, the annual financial statements of each such corporation for its immediately preceding fiscal year including, without limitation, the balance sheet of the corporation as at its fiscal year end with comparative figures for prior years, statements of earnings, retained earnings and changes in financial position as at the fiscal year end with comparative figures for prior fiscal years, any supporting schedules and notes thereto and such other information and explanations as may be required by the Chargee.
- All such operating and financial statements shall be prepared at the expense of the Chargor and in accordance with generally accepted accounting principles applied on a consistent basis and by a duly qualified chartered accountant or certified public accountant which is acceptable to the Chargee, and shall be submitted in audited form if so required by the Chargee at its option, and the completeness and correctness of such statements shall be supported by an affidavit of an authorized officer of the Chargor.
27. **Estoppel Acknowledgements** - If and whenever the Chargee requests an acknowledgement from the Chargor as to the statement of account with respect to this Charge or the status of the terms and conditions of this Charge, the Chargor

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shall execute such an acknowledgement in such form as may be required by the Chargee provided that the contents of such form are correct, and the Chargor shall do so forthwith upon request and without cost to the Chargee and shall return such acknowledgement duly executed within forty-eight (48) hours of such request.

28. Statements of Account - The Chargor shall be entitled to receive upon written request, a statement of account with respect to this Charge as of any payment date under this Charge and the Chargee shall be entitled to a servicing fee for each such statement.

29. Renewal or Extension of Time - Attention Subsequent Interests - No renewal or extension of the term of this Charge given by the Chargee to the Chargor, or anyone claiming under him, or any other dealing by the Chargee with the owner of the equity of redemption of the Lands, shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other Person liable for the payment of the monies hereby secured, and this Charge may be renewed by an agreement in writing at maturity for any term with or without an increased rate of interest, or amended from time to time as to any of its terms, including, without limitation, an increase of interest rate or principal amount notwithstanding that there may be subsequent encumbrancers; and it shall not be necessary to register any such agreement in order to retain priority for this Charge so altered over any instrument registered subsequent to this Charge; provided that nothing contained in this Section shall confer any right of renewal upon the Chargor.

Provided further that the terms of this Charge may be amended or extended from time to time by mutual agreement between the Chargor and the Chargee and the Chargor hereby further covenants and agrees that, notwithstanding that the Chargor may have disposed of his interest in the Lands hereby secured, the Chargor will remain liable as a principal debtor and not as a surety for the observance of all of the terms and provisions herein and will in all matters pertaining to this Charge well and truly do, observe, fulfill and keep all and singular the covenants, provisos, conditions, agreements and stipulations in this Charge or any amendment or extension thereof notwithstanding the giving of time for the payment of the Charge or the varying of the terms of the payment thereof or the rate of interest thereon or any other indulgence by the Chargee to the Chargor.

The Chargor covenants and agrees with the Chargee that no agreement for renewal hereof or for extension of the time for payment of any monies payable hereunder shall result from, or be implied from, any payment or payments of any kind whatsoever made by the Chargor to the Chargee after the expiration of the original term of this Charge or of any subsequent term agreed to in writing between the Chargor and the Chargee, and that no renewal hereof or extension of the time for payment of any monies hereunder shall result from, or be implied from, any other act, matter or thing, save only express agreement in writing between the Chargor and the Chargee.

30. Construction Liens - The Chargee may, at its option, withhold from any advances for which the Chargor may have qualified such amounts as the Chargee, in its sole discretion, considers advisable so as to ensure the priority of all advances over all liens arising under any construction lien legislation until such time as the Chargee is fully satisfied that all lien periods have expired and that there are no preserved or perfected liens outstanding. Nothing in this Charge shall be construed to make the Chargee an "owner" or "payer" as defined under any construction lien legislation, nor shall there be or be deemed to be any obligation by the Chargee to retain any holdback which may be required by the said legislation. Any holdback which may be required to be retained by the "owner" or "payer" pursuant to any construction lien legislation shall remain solely the Chargor's obligation. The Chargor hereby covenants and agrees to comply in all respects with the provisions of all construction lien legislation.

31. Expropriation - If the Lands or any material part thereof shall be expropriated by any government, authority, body or corporation clothed with the powers of expropriation, at the option of and upon demand therefore by the Chargee, the outstanding principal sum hereof shall forthwith become due and payable together with interest thereon at the rate provided for herein to the date of payment; and in any event all the proceeds of any expropriation shall be paid to the Chargee at its option in priority to the claims of any other party.

32. 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 Lands, the parties hereto covenant and agree that the following conditions shall apply:

- (a) All construction on the Lands shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed.

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- (b) The renovations to the building and structures located on the Lands having been commenced shall be continued in a good and workmanlike manner, with all due diligence and in accordance with the plans and specifications delivered to the Chargee and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
- (c) Provided that should construction on the project on the Lands cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Chargor excepted), for a period of ten (10) consecutive days (Saturdays, Sundays and Statutory holidays excepted), but subject to force majeure and delay beyond the control of the Chargor then, at the option of the Chargee, this Charge shall immediately become due and payable. In the event that construction does cease, then the Chargee 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 Chargee 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 Chargee. 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 Chargee shall have the same rights and remedies with respect to collection of same as it would have with respect to collection of principal and interest hereunder or at law.
- (d) At all times there shall be sufficient funds unadvanced under this Charge and retained by the Chargee as may be necessary to retain the Chargee's priority with respect to any deficiency in the holdbacks required by the Chargor under the Construction Lien Act (Ontario).
- (e) This Charge will be advanced in stages as construction upon the Lands proceeds or as the conditions as enumerated by the Loan Agreement are complied with.
- (f) All advances which are made from time to time hereunder related to construction on the Lands 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 Chargee with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Chargor 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 Lands. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building.
- (g) The Chargor shall pay to the Chargee on each occasion when an inspection of the Lands is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Chargee may charge from time to time for each such inspection and the Chargee's solicitors shall be paid their reasonable fees and disbursements for each subsearch and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Chargee 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.
- (h) The Chargor covenants and agrees upon completion of the project to be erected on the Lands to deliver as further security for the loan herein secured and where requested by the Chargee, a General Security Agreement covering the goods, equipment and chattels to be installed in the same building, said General Security Agreement to be in a form approved by the solicitor for the Chargee.
33. **Sale or Change of Control** - In the event of a further encumbrance or a sale, conveyance or transfer of the Lands or any portion thereof, or a change in control of the Chargor or a change in the beneficial ownership of the Lands or any portion thereof or a lease of the whole of the Lands, all sums secured hereunder shall, at the Chargee's option, become due

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and payable forthwith unless the written consent of the Chargee has been first obtained. The rights of the Chargee pursuant to this provision shall not be affected or limited in any way by the acceptance of payments due under this Charge from the Chargor or any Person claiming through or under him and the rights of the Chargee hereunder shall continue without diminution for any reason whatsoever until such time as the Chargee has consented in writing as required by this provision. No permitted sale or other dealing by the Chargor with the Lands or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other Person liable for payment of the monies hereby secured.

34. **Acceleration** - Without limiting any of the provisions of this Charge, upon the occurrence of any Event of Default and at the option of the Chargee exercised by demand upon and notice in writing to the Chargor, the whole of the Loan Indebtedness shall become immediately due and payable.

35. **Default** - The Chargee may, on default of payment or in the performance of any covenant in this Charge contained or implied by law or statute, enter on and lease the Lands or in default of payment or in default in performance of any covenant in this Charge contained or implied by law or statute for at least fifteen (15) days may, on at least thirty-five (35) days' notice sell the Lands. Such notice shall be given to such Persons and in such manner and form and within such time as provided under the Mortgages Act, as amended from time to time. In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable it is agreed that notice may be effectually given by leaving it with a grown-up Person on the Lands, if occupied, or by placing it on the Lands if unoccupied, or at the option of the Chargee, by mailing it in a registered letter addressed to the Chargor at his last known address, or by publishing it once in a newspaper published in the county or district in which the Lands are situate; and such notice shall be sufficient although not addressed to any Person or Persons by name or designation; and notwithstanding that any Person to be affected thereby may be unknown, unascertained, or under disability. If there be legal personal representatives of the Chargor on the death of the Chargor, such notice may, at the option of the Chargee, be given in any of the above modes or by personal service upon such representatives.

Provided further, without prejudice to the statutory powers of the Chargee under the preceding proviso, that in case default be made in the payment of the said principal or interest or any part thereof and such default continues for two months after any payment of either principal or interest falls due, the Chargee may exercise the powers given under the preceding proviso with or without entry on the Lands without any notice, it being understood and agreed, however, that if the giving of notice by the Chargee shall be required by law then notice shall be given to such Persons and in such manner and form and within such time as so required by law. And that the Chargee may sell the whole or any part or parts of the Lands by public auction or private contract, or partly one or partly the other; and that the proceeds of any sale hereunder may be applied in payment of any costs, charges and expenses incurred in taking, recovering or keeping possession of the Lands or by reason of non-payment or procuring payments of monies secured hereby or otherwise; and that the Chargee may sell any of the Lands on such terms as to credit and otherwise as shall appear to him most advantageous and for such prices as can reasonably be obtained therefor and may make any stipulations as to title or evidence or commencement of title or otherwise which it shall deem proper; and may buy in or rescind or vary any contract for the sale of the whole or any part of the Lands and resell without being answerable for loss occasioned thereby, and in the case of a sale on credit the Chargee shall be bound to pay the Chargor only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder and the title of a purchaser or lessee upon a sale or lease made in professed exercise of the above power shall not be liable to be impeached on the ground that no cause had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given, but any Person damnified by an unauthorized, improper or irregular exercise of the power shall have his remedy against the Person exercising the power in damages only.

And it is hereby agreed between the parties hereto that the Chargee may pay all premiums of insurance and all Realty Taxes which shall from time to time fall due and be unpaid in respect of the Lands, and that such payments together with all costs, charges and legal fees (between a solicitor and his own client), and expenses which may be incurred in taking, recovering and keeping possession of the Lands, and of negotiating the Loan, investigating title, and registering this Charge and other necessary deeds, and generally in any other proceedings taken in connection with or to realize this security, (including legal fees, real estate commissions, appraisal costs and other costs incurred in leasing or selling the Lands or in exercising the power of entering, leasing and selling herein contained) shall be with interest at the rate aforesaid and shall be a charge upon the Lands in favour of the Chargee and that the Chargee may pay or satisfy any lien, charge or encumbrance now existing or hereafter created or claimed upon the Lands, and that any amount paid by the Chargee shall be added to the monies hereby secured and shall be payable forthwith with interest at the rate herein, and in default this Charge shall immediately become due and payable at the option of the Chargee, and all powers in this Charge conferred shall become

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exercisable. In the event of the Chargee paying the amount of any such encumbrance, lien or charge, taxes or rates, either out of the money advanced on the security of this Charge or otherwise, the Chargee shall be entitled to all the rights, equities and securities of the Person so paid and is hereby authorized to obtain an assignment or discharge thereof, and to retain same, for whatever period the Chargee shall deem it proper to do so.

Provided that wherever a power of sale is hereby conferred upon the Chargee, all provisions hereof relating to exercising such power, including, without in any way limiting the generality of the foregoing, the Persons to whom notice of exercising such power shall be given and the manner of giving such notice, shall be deemed to have been amended so as to comply with the requirements of Applicable Laws from time to time in force with respect to exercising such power of sale, and wherever there shall be a conflict between the provisions of this Charge relating to exercising such power of sale and the requirements of such Applicable Laws, the provisions of such Applicable Laws shall govern. Insofar as there is no such conflict, the provisions of this Charge shall remain unchanged.

Provided that the Chargee may lease or sell as aforesaid without entering into possession of the Lands.

Provided that the Chargee may distrain for arrears of interest and that the Chargee may distrain for arrears of principal and arrears of Realty Taxes in the same manner as if the same were arrears of interest.

Provided that in default of the payment of the interest hereby secured the principal hereby secured shall become payable at the option of the Chargee, together with interest thereon.

Provided that upon default of payment of instalments of principal promptly as the same become due, the balance of the principal and interest shall immediately become due and payable at the option of the Chargee.

Provided that, upon default under this Charge, the Chargee shall be entitled and shall have full power to assume control of, manage, operate and carry on the business of the Chargor being conducted at or upon the Lands on the date of this Charge or at any time thereafter.

Provided that until default hereunder the Chargor shall have quiet possession of the Lands.

And that on default the Chargee shall have quiet possession of the Lands.

Provided that the Chargee may in writing at any time or times after default waive such default and upon such waiver the time or times for payment of the principal secured herein shall be as set out in the proviso for redemption herein. Any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default. No waiver shall be effective or binding on the Chargee unless made in writing.

And it is further agreed by and between the parties that the Chargee may at its discretion at any time, release any part or parts of the Lands or any other security or any surety for the money hereby secured either with or without any sufficient consideration therefor, without responsibility therefor, and without thereby releasing any other part of the Lands or any Person from this Charge or from any of the covenants herein contained, it being especially agreed that every part or lot into which the Lands are or may hereafter be divided does and shall stand charged with all of the monies hereby secured and no Person shall have the right to require the principal secured hereunder to be apportioned; further the Chargee shall not be accountable to the Chargor for the value thereof, or for any monies except those actually received by the Chargee. No sale or other dealing by the Chargor with the equity of redemption in the Lands or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other Person liable for payment of the monies hereby secured.

It is further agreed that the Chargee may exercise all remedies provided for in this Charge concurrently or in such order and at such times as it may see fit and shall not be obligated to exhaust any remedy or remedies before exercising its rights under any other provisions contained in this Charge.

And without limiting any other provision of this Charge, the Chargor acknowledges and agrees that, upon the occurrence of any default under this Charge and whether or not the monies hereby secured have been fully advanced, the Chargee may, at any time and from time to time as the Chargee shall determine at its sole option and discretion, advance such further sums under this Charge as are necessary to pay any arrears of Realty Taxes, utilities or other charges capable of constituting a lien upon the Lands *pari passu* with or in priority to this Charge, to pay all amounts due under any encumbrance having priority over this Charge, to pay all amounts required to discharge or vacate any construction lien registered against the Lands whether or not priority is claimed over this Charge, to maintain in good standing any policies of insurance in respect of the Lands, to

SCHEDULE - PAGE 14 OF 19
 ADDITIONAL PROVISIONS

HH: October 17, 2013

maintain, repair, operate and/or manage the Lands and any or all improvements thereon, to complete construction or renovation of any improvements on the Lands, to realize upon any security held by the Chargee for the Loan and generally to enforce all of the Chargee's rights, title and interest hereunder and to protect the Lands and to preserve the enforceability and priority of this Charge, and to pay any and all Costs; and all amounts advanced by the Chargee for any of the purposes as aforesaid shall bear interest at the rate applicable under this Charge from the date so advanced until repaid in full and shall be secured by this Charge in the same priority as the principal amount hereof.

36. Right of Chargee to Repair - The Chargor covenants and agrees with the Chargee that in the event of default in the payment of any instalment or other monies payable hereunder by the Chargor or on breach of any covenant, proviso or agreement herein contained, after all or any of the monies hereby secured have been advanced, the Chargee may, at such time or times as the Chargee may deem necessary and without the concurrence of any Person, enter upon the Lands and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the Lands or for inspecting, taking care of, leasing, collecting the rents of and generally managing the Lands, as the Chargee may deem expedient; and all reasonable costs, charges and expenses including, but not limited to, allowances for the time and services of any employee of the Chargee or other Person appointed for the above purposes, and a servicing fee shall be forthwith payable to the Chargee by the Chargor and shall be a charge upon the Lands and shall bear interest at the aforesaid rate until paid.
37. Appointment of a Receiver - It is declared and agreed that at any time and from time to time when there shall be default under the provisions of this Charge, the Chargee may at such time and from time to time and with or without entering into possession of the Lands appoint in writing a Receiver of the Lands, or any part thereof, and of the rents and profits thereof and with or without security and may from time to time by similar writing remove any such Receiver and appoint another in its place and stead, and in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor. The Chargor hereby irrevocably agrees and consents to the appointment of such Receiver of the Chargee's choice and without limitation whether pursuant to this Charge, the Mortgages Act (Ontario), the Construction Lien Act (Ontario), or the Trustee Act (Ontario) as the Chargee may at its sole option require. Without limitation, the purpose of such appointment shall be the orderly management, administration and/or sale of the Lands or any part thereof and the Chargor hereby consents to a Court Order for the appointment of such Receiver, if the Chargee in its discretion chooses to obtain such order, and on such terms and for such purposes as the Chargee at its sole discretion may require, including, without limitation, the power to manage, charge, pledge, lease and/or sell the Lands and/or to complete or partially complete any construction thereon and to receive advances of monies pursuant to any charges, pledges and/or loans entered into by the Receiver or the Chargor, and if required by the Chargee, in priority to any existing encumbrances affecting the Lands, including without limitation, charges and construction lien claims. Upon the appointment of any such Receiver from time to time the following provisions shall apply:
- (a) A Statutory Declaration made by the Chargee or by any authorized representative of the Chargee as to default under the provisions of this Charge shall be conclusive evidence thereof;
 - (b) Every such Receiver shall be the irrevocable agent or attorney of the Chargor for the collection of all rents falling due in respect to the Lands, or any part thereof, whether in respect of any tenancies created in priority to this Charge or subsequent thereto and with respect to all responsibility and liability for its acts and omissions;
 - (c) The Chargee may from time to time fix the remuneration of every such Receiver which shall be a charge on the Lands, and may be paid out of the income therefrom or the proceeds of sale thereof;
 - (d) The appointment of every such Receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the Receiver in any respect and such appointment or anything which may be done by any such Receiver or the removal of any such Receiver or the termination of any such receivership shall not have the effect of constituting the Chargee a chargee in possession in respect of the Lands or any part thereof;
 - (e) The Receiver shall have the power to rent any portion of the Lands for such term and subject to such provisions as it may deem advisable or expedient and shall have the authority to execute any lease of the Lands or any part thereof in the name and on behalf of the Chargor and the Chargor undertakes to ratify and confirm, and hereby ratifies and confirms whatever acts such Receiver may do on the Lands;
 - (f) In all instances, the Receiver shall be acting as the attorney or agent of the Chargor;
 - (g) Every such Receiver shall have full power to complete any unfinished construction upon the Lands;

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 ADDITIONAL PROVISIONS

HH: October 17, 2013

- (h) Such Receiver shall have full power to manage, operate, amend, repair, alter or extend the Lands or any part thereof in the name of the Chargor for the purposes of securing the payment of rental from the Lands or any part thereof;
- (i) The Receiver shall have full power to assume control of, manage, operate and carry on the business of the Chargor being conducted at or upon the Lands on the date of this Charge or at any time thereafter;
- (j) The Receiver shall have full power to do all acts and execute all documents which may be considered necessary or advisable in order to protect the Chargee's interest in the Lands including, without limiting the generality of the foregoing, increasing, extending, renewing or amending all charges, mortgages and other encumbrances which may be registered against the Lands from time to time, whether or not any of the same are prior to the interest of the Chargee in the Lands; sale of the Lands; borrowing money on the security of the Lands; applying for and executing all documents in any way related to any re-zoning applications, severance of lands pursuant to the provisions of the Planning Act, as amended, subdivision agreements and development agreements and agreements for the supply or maintenance of utilities or services to the Lands, including grants of lands or easements or rights of way necessary or incidental to any such agreements; executing all grants, documents, instruments and agreements related to compliance with the requirements of any competent governmental authority, whether pursuant to a written agreement or otherwise and applying for and executing all documents in any way related to registration of the Lands as a condominium; completing any application for first registration pursuant to the provisions of the Land Titles Act (Ontario) or pursuant to the Certification of Titles Act (Ontario); and for all and every of the purposes aforesaid it does hereby give and grant unto the Receiver full and absolute power and authority to do and execute all acts, deeds, matters and things necessary to be done as aforesaid in and about the Lands, and to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in and about the Lands, as fully and effectually to all intents and purposes as it itself could do if personally present and acting therein; and
- (k) Such Receiver shall not be liable to the Chargor to account for monies or damages other than cash received by it in respect of the Lands or any part thereof and out of such cash so received every such Receiver shall pay in the following order: (i) its remuneration; (ii) all payments made or incurred by it in the exercise of its powers hereunder; and (iii) any payment of interest, principal and other money which may from time to time be or become charged upon the Lands in priority to the monies owing hereunder and all taxes, insurance premiums and every other proper expenditure made or incurred by it in respect of the Lands or any part thereof.

The Chargor hereby irrevocably appoints the Chargee as his attorney to execute such consent or consents and all such documents as may be required in the sole discretion of the Chargee and/or its solicitors so as to give effect to the foregoing provisions and the signature of such attorney shall be valid and binding on the Chargor and all parties dealing with the Chargor, the Chargee and/or the Receiver and/or with respect to the Lands in the same manner as if such documentation was duly executed by the Chargor himself.

38. Chargee Not to Be Deemed Chargee in Possession - The Chargor acknowledges and agrees that, in exercising any of the rights given to the Chargee under this Charge, the Chargee shall be deemed not to be a chargee or mortgagee in possession.

39. Enforcement of Additional Security - In the event that, in addition to the Lands charged hereby, the Chargee holds further security on account of the monies secured hereby, it is agreed that no single or partial exercise of any of the Chargee's powers hereunder or under any of such security, shall preclude other and further exercise of any other right, power or remedy pursuant to any of such security. The Chargee shall at all times have the right to proceed against all, any, or any portion of such security in such order and in such manner as it shall in its sole discretion deem fit, without waiving any rights which the Chargee may have with respect to any and all of such security, and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Chargor under the remaining security, provided however, that upon payment of the full indebtedness secured hereunder the rights of the Chargee with respect to any and all such security shall be at an end.

40. Taking of Judgement Not a Merger - The taking of a judgement or judgements on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Chargee's right to interest at the rate and times herein provided; and further that the said judgement shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until the said judgement shall have been fully paid and satisfied.

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HH: October 17, 2013

41. Bankruptcy and Insolvency Act - The Chargor hereby acknowledges and agrees that:
- (a) the security held by the Chargee is not all or substantially all of the inventory, accounts receivable or other property of the Chargor acquired for or used in relation to any business carried on by the Chargor;
 - (b) notwithstanding any act of the Chargee by way of appointment of any Person for the purposes of taking possession of the Lands as agent on behalf of the Chargor or otherwise or by taking possession of the Lands itself pursuant to any rights that the Chargee may have with respect thereto shall not constitute the Chargee or any such Person, a receiver within the meaning of subsection 243(2) of the Bankruptcy and Insolvency Act (Canada), and that any and all requirements of Part XI of the said Act as it may pertain to obligations of receivers shall not be applicable to the Chargee with respect to the transaction pursuant to which this Charge has been given or with respect to enforcement of this Charge or any other security held by the Chargee;
 - (c) no action shall lie against the Chargee as a receiver and manager or otherwise for any loss or damage arising from non-compliance with any obligations of a receiver pursuant to the provisions of the Bankruptcy and Insolvency Act (Canada) whether or not the Chargee had reasonable grounds to believe that the Chargor was not insolvent; and
 - (d) any and all Costs as may be incurred from time to time by the Chargee in order to effect compliance or avoid any adverse ramifications of the Bankruptcy and Insolvency Act (Canada) shall be entirely for the account of the Chargor; and the Chargee shall be entitled to incur any such Costs, including any costs of its personnel in administering any requirements of the said Act and to add the same to the indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Chargee for the indebtedness owing to the Chargee in the same manner and in the same priority as the principal secured hereunder.
42. Permissible Interest Rate - It is not the intention of this Charge to violate any provisions of the Interest Act (Canada), the Criminal Code (Canada) or any other statute dealing with permitted rates of interest in the Province of Ontario or in Canada. Notwithstanding any provisions set out herein, in no event shall the "interest" (as that term is defined in the Criminal Code) exceed the "criminal rate" (as defined therein) of interest on the "credit advanced" (as defined therein) lawfully permitted under the said legislation. In the event that it is determined at any time that, by virtue of any Loan Document, the payments of interest required to be made by the Chargor exceed the "criminal rate", then the Chargor shall only be required to pay interest at the highest rate permitted by law. Nothing herein shall invalidate any requirements for payment pursuant to the Commitment, this Charge or such other security documents, and any excess interest paid to the Chargee shall be refunded to the Chargor and the provisions of this Charge shall in all respects be deemed to be amended accordingly.
43. Non-merger - Notwithstanding the registration of this Charge and the advance of funds pursuant hereto, the terms and conditions of the Commitment shall remain binding and effective on the parties hereto, and shall not merge in this Charge or in any other Loan Document, and the terms of the Commitment are incorporated herein by reference. In the event of any inconsistency between the terms of the Commitment and any of the Loan Documents, or any inconsistency as between any of the Loan Documents, unless otherwise provided by any other Loan Document, the Lender shall decide in its sole discretion the provisions of which document shall prevail. Any default under this Charge shall constitute concurrent default under all other Loan Documents and any default under any other Loan Document shall constitute concurrent default under this Charge. No single or partial exercise by the Chargee of any right, power or remedy under any Loan Document shall preclude other and further exercise of any other right, power or remedy under such Loan Document or any other Loan Document, and the Chargee shall at all times have the right to proceed under any or all of the Loan Documents and in respect of any or all assets secured thereby in such order and in such manner as it shall in its sole discretion deem fit.
44. Notices - All notices or other communications to be given pursuant to or in connection with this Charge shall be in writing, signed by the party giving such notice or by its solicitors, and shall be personally delivered or sent by registered mail or facsimile transmission to the party or parties intended at its or their respective addresses for service as set out in this Charge. Any party may from time to time by notice given as provided herein change its address for the purpose of this provision.
45. Priority over Vendor's Lien - The Chargor hereby acknowledges that this Charge is intended to be prior to any vendor's lien, whether in favour of the Chargor or otherwise, and the Chargor covenants that he has done no act to give priority over this Charge to any vendor's lien, nor is he aware of any circumstances that could create a vendor's lien. Further, the Chargor covenants

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 ADDITIONAL PROVISIONS

HH: October 17, 2013

to do all acts and execute or cause to be executed all documents required to give this Charge priority over any vendor's lien and to give effect to the intent of this clause.

46. Family Law Act (Ontario) - The Chargor shall forthwith after any change or happening affecting any of the following, namely, (a) the spousal status of the Chargor, (b) the qualification of the Lands or any part thereof as a matrimonial home within the meaning of Part II of the Family Law Act (Ontario), (c) the ownership of the equity of redemption in the Lands or any part thereof, and (d) a shareholder of the Chargor obtaining rights to occupy the Lands or any part thereof by virtue of shareholding within the meaning of Section 18(2) of the Family Law Act (Ontario), or any successor provision thereof, as the case may be, the Chargor will advise the Chargee accordingly and furnish the Chargee with full particulars thereof, the intention being that the Chargee shall be kept fully informed of the names and addresses of the owner or owners for the time being of the said equity of redemption and of any spouse who is not an owner but who has a right of possession in the Lands by virtue of Section 19 of the Family Law Act (Ontario) or any successor provision thereof. In furtherance of such intention, the Chargor covenants and agrees to furnish the Chargee with such evidence in connection with any of (a), (b) (c), and (d) above as the Chargee may from time to time request.

47. Independent Legal Advice - The Chargor acknowledges that they have full knowledge of the purpose and essence of this transaction, and that they have been appropriately and independently legally advised in that regard or have been advised of their right to independent legal advice and have declined same. Such parties agree to provide to the Chargee a Certificate of Independent Legal Advice as and when same may be required, regarding their knowledge and understanding of this transaction.

48. Discharge - The Chargee shall have a reasonable period of time after payment in full of the monies hereby secured within which to prepare and execute a discharge of this Charge; and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Chargee; and all legal and other expenses for the preparation and execution of such discharge shall, together with the Chargee's fee for providing same, be borne by the Chargor. The discharge shall be prepared and executed by such Persons as are specifically authorized by the Chargee and the Chargee shall not be obligated to execute any discharge other than a discharge which has been so authorized. If this Charge, the Commitment or any other document provides for the giving of partial discharges of this Charge, it is agreed that, notwithstanding any other provision to the contrary, the Chargor shall not be entitled to request or receive any such partial discharge if and for so long as the Chargor is in default under this Charge, the Commitment or such other document.

49. Execution In Counterparts - This Charge may be executed and/or registered in counterparts, each of which when so executed and/or registered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, and shall be deemed to be dated as of the date of execution of the last counterpart to be executed.

50. Servicing Fees - All servicing and administration fees as herein provided are intended to and shall be in an amount sufficient in the sole opinion of the Chargee to compensate the Chargee for its administrative costs and shall not be deemed a penalty. The amount of such servicing and administration fees if not paid shall be added to the principal amount secured hereunder, and shall bear interest at the rate aforesaid and the Chargee shall have the same rights with respect to collection of same as it does with respect to collection of principal and interest hereunder or at law. Such servicing and administration fees shall include, but shall not be limited to, the following:

- (a) the Chargee's then current fee (currently \$350.00) for each mortgage statement provided by the Chargee at the request of the Chargor;
- (b) the Chargee's then current fee (currently \$450.00) for amending the Chargee's records in connection with any permitted assumption of this Charge by any purchaser of the Lands or any interest therein (plus all reasonable financial review, appraisal, legal and other professional or consultant's costs incurred in connection therewith);
- (c) the Chargee's then current fee (currently \$300.00) for each payment hereunder made by the Chargor which is not honoured by its bank (in addition to all bank charges incurred in connection with the same);
- (d) the Chargee's then current fee (currently \$300.00) for each placement or renewal of any insurance on or in respect of the Lands which is arranged by the Chargee in consequence of default by the Chargor in such regard (in addition to all insurance premiums and other costs of such insurance); and
- (e) the Chargee's then current fee (currently \$450.00) for each demand letter or other communication sent by the Chargee to the Chargor in consequence of any default by the Chargor hereunder (in addition to all legal and other professional costs incurred in connection therewith).

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ADDITIONAL PROVISIONS

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51. **No Agency** - The Chargor acknowledges that (i) the Chargee is not acting as the Chargor's agent or otherwise in any fiduciary capacity in relation to the Chargor in connection with the Loan, and (ii) the Chargee or any other Lender Entity may receive a fee in connection with the servicing of the Loan.
52. **Loan Syndication** - The Chargor acknowledges that the Chargee may be administering the Loan and holding one or more interests therein as manager and/or trustee on behalf of certain investors, participants, co-lenders or other persons (including, without limitation, any mortgage broker, agent or other party who or which may have assisted in arranging the loan) whose interest may or may not be shown on the Loan Documents.
53. **Sale or Securitization of Loan** - The Chargee or any other Lender Entity may at any time and from time to time sell (including any sale or securitization into secondary markets), transfer or assign the Loan (or securities or certificates backed by or representing any interest in the Loan or a pool of loans which includes the Loan), the Loan Indebtedness and the Loan Documents, or any interest therein, without notice to or the consent of the Chargor or any other Borrower Entity; and thereafter the Lender shall have no further obligations under or in respect of the Loan or the Loan documents; and for such purposes, each Borrower Entity consents to the disclosure to all interested parties (including by way of offering memorandum, prospectus or other disclosure document regardless of the format or scope of distribution) and to all governmental authorities of any and all information relating to the Loan, the Lands and each Borrower Entity, without restriction and without notice to or the consent of the Chargor or any other Borrower Entity. The Chargor acknowledges that the Chargee or any other Lender Entity may receive a fee or commission in connection with any transaction as described in this Section.
54. **Restriction on Further Financing** - Chargor agrees not to enter into any further financing of the Lands and not to further encumber same in any manner without the prior written approval of the Chargee; provided that in accordance with the terms set out in the Loan Agreement and a Lender Acknowledgement and Consent Agreement between the Chargor and Chargee, the Chargor may obtain construction financing secured by a charge(s) on the Lands in an amount of up to \$36,000,000; and the Chargee agrees to execute all documents necessary to subordinate the Chargee's Charge on the Lands to any charge(s) of such construction financier(s).
55. **Prepayment Privilege** - The loan secured by this Charge is closed and not open for prepayment in whole or in part.
56. **Loan Secured Notwithstanding Date of Registration** - It is acknowledged and agreed that, notwithstanding the date of registration of this Charge, the full principal amount of this Charge advanced by the Chargee to the Chargor is been secured by this Charge as at date(s) of such advance(s), with interest as herein provided calculated from and after the date(s) of such advance(s). The Charge secures all Loan Indebtedness as and when incurred notwithstanding the date of registration of this Charge.
57. **Additional Provisions**
- (a) Notwithstanding anything to the contrary contained in this Charge, any amount advanced under this Charge made by the Chargee shall be at the Chargee's sole and absolute discretion and the Chargee shall not be obligated at any time or times to make any advance under this Charge to the Chargor.
- (b) In addition to the payment by the Chargor of the principal amount owing from time to time under this Charge plus interest as set forth herein, the Chargor shall also pay to the Chargee, in certified funds or Bank Draft, forthwith on Maturity, the amount of the Additional Loan Payment calculated as set forth in Schedule "D" of the Loan Agreement in the same manner as contemplated in Section 4.05 of the Loan Agreement.
- (c) The Chargor acknowledges, confirms, covenants and agrees that the Chargee shall be deducting from the first advance under this Charge and any additional advance an amount equal to the projected interest at the interest rate contemplated herein, at the time of such advance(s) which shall be a contribution of the Chargor to the Interest Reserve (as the term is defined in the Loan Agreement). The Chargor further acknowledges, confirms, covenants and agrees that the Chargee may from time to time and at any time, acting reasonably, deduct from the funds held in trust by the Chargee's Solicitors (as the term is defined in the Loan Agreement) or received from the Chargor, whether from the Distributable Cash Proceeds or otherwise, such amounts that in its opinion is necessary or appropriate to replenish the Interest Reserve. The Chargor covenants and agrees that the amount in the Interest Reserve shall be applied by the Chargee against the obligations of the Chargor to pay interest hereunder, pursuant to the Loan Agreement or on the Loan Installments (as the term is defined in the Loan Agreement) and that once

SCHEDULE - PAGE 19 OF 19
ADDITIONAL PROVISIONS

HH: October 17, 2013

applied or deducted by the Chargee from the Loan Installments, the Distributable Cash Proceeds or otherwise, the Chargor shall have no claim against the funds in the Interest Reserve.

- (d) The Chargee shall execute and deliver, at the Chargor's expense, without delay and without payment on account of principal and/or interest, such partial discharge or discharges or other assurances as may be required by the Chargor to convey to any governmental or municipal authority or agency any lands required for municipal or governmental or public purposes in order to register the plan or plans of subdivision, re-zone the lands or obtain approval for the development or re-development of the lands and, without limiting the generality of the foregoing, such public purposes as roads, road widenings, walkways, one-foot reserves, open spaces and lands to any conservation authority.
- (e) The Chargor, its successors and assigns, when not in default hereunder, shall have the privilege of installing roads, water mains, sewers and other utilities and services in connection with the development of the lands and such acts shall not be deemed to be acts of waste hereunder.
- (f) The Chargor, its successor and assigns, when not in default hereunder, shall have the privilege of demolishing any building or buildings upon the lands and of grading the lands in order to proceed with the servicing and development of the lands and such demolition, grading, servicing and development shall not constitute an act of waste hereunder.
- (g) The Chargee shall execute and deliver, at the Chargor's reasonable expense, without delay and without payment on account of principal and/or interest, any and all plans and documents required to facilitate the registration of a plan or plans of subdivision of the lands and/or to re-zone the lands and/or to obtain approval for the development or re-development of the lands and to do everything to facilitate same, including without limiting the generality of the foregoing, the execution of agreements with the municipality or any other governmental or municipal authority or agency or utility or private or public service supplier which may be required for such registration, re-zoning, development or re-development.
- (h) The Chargee shall execute and deliver, at the Chargor's expense, without delay and without payment on account of principal and/or interest, any consent or postponement required for the granting of any easements for utilities or municipal purposes.

LRO # 05 Notice Of Assignment Of Rents-General

Received as YR2048949 on 2013 10 18 at 14:32 ~

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

yyyy mm dd Page 1 of 10

Properties

PIN 03274 - 0104 LT

Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 05R14039 ;
VAUGHANAddress 7850 DUFFERIN STREET
VAUGHAN

PIN 03274 - 0103 LT

Description PT LT 24 REGISTRAR'S COMPILED PLAN 10308 VAUGHAN PTF 10 & 11 64R7307
EXCEPT PT 1 EXPROP PL R650078; S/T VA84788 ASSIGNED BY R312155 ;
VAUGHANAddress 7850 DUFFERIN STREET
VAUGHAN**Applicant(s)**

The assignor(s) hereby assigns their interest in the rents of the above described land. The notice is based on or affects a valid and existing estate, right, interest or equity in land.

Name VAUGHAN CROSSINGS INC.

Address for Service 7501 Keele Street, Suite 401
Vaughan, Ontario
L4K 1Y2

I, ALBERT VINCENT GUIDO, President, and I, ANTHONY DECRISTOFARO, Secretary, have the authority to bind the corporation.

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

Party To(s)

Capacity

Share

Name SCOLLARD TRUSTEE CORPORATION

Address for Service 3055 Kingston Road
Scarborough, Ontario
M1M 1S2**Statements**

The applicant applies for the entry of a notice of general assignment of rents.

This notice may be deleted by the Land Registrar when the registered instrument, YR2048941 registered on 2013/10/18 to which this notice relates is deleted

Schedule: See Schedules

This document relates to registration no.(s)YR2048941

Signed By

Maria Da Silva

2355 Skymark Ave, Ste 300
Mississauga
L4W 4Y8acting for
Applicant(s)

Signed

2013 10 18

Tel 905-829-7800

Fax 905-829-4350

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

Maria Da Silva

2355 Skymark Ave, Ste 300
Mississauga
L4W 4Y8acting for
Party To(s)

Signed

2013 10 18

Tel 905-829-7800

Fax 905-829-4350

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

LRO # 65 Notice Of Assignment Of Rents-General

Received as YR2048949 on 2013 10 18 at 14:32

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

Page 2 of 10
yyyy mm dd

Submitted By

HARRIS + HARRIS LLP

2355 Skymark Ave, Ste 300
Mississauga
L4W 4Y6

2013 10 18

Tel 905-629-7800

Fax 905-629-4350

Fees/Taxes/Payment

Statutory Registration Fee \$60.00

Total Paid \$60.00

File Number

Applicant Client File Number : 12743

[commercial]

GENERAL ASSIGNMENT OF RENTS AND LEASES

BETWEEN:

VAUGHAN CROSSINGS INC.,
(hereinafter called the "Assignor")

OF THE FIRST PART

AND:

SCOLLARD TRUSTEE CORPORATION,
(hereinafter called the "Assignee")

OF THE SECOND PART

WHEREAS the Assignor is the owner of the Property, subject to the Charge, and has agreed to enter into this Agreement with the Assignee as collateral security for the due payment of the Charge.

NOW THEREFORE it is hereby covenanted, agreed and declared by the Assignor as follows:

1. In this Agreement, unless there is something in the subject matter or context inconsistent therewith:
 - (a) "Agreement" shall mean this agreement.
 - (b) "Property" shall mean the lands and premises municipally known as 7850 Dufferin Street, Vaughan, Ontario, and legally described as:

Firstly: Part Lot 24, RCP 10309, Vaughan, Parts 10 and 11, Plan 64R7307,
Except Part 1 Expropriated Plan R650078
Pin No. 03274-0103

Secondly: Part Lot 25, RCP 10309, Vaughan Part 1, Plan 65R14039
Pin No. 03274-0104
 - (c) "Charge" shall mean the Charge/Mortgage of Land given by the Chargor to the Chargee affecting the Chargor's interest in the Charged Premises securing the principal sum of \$14,800,000, which charge was registered in the Registry Office of York Region Registry Office (No. 65) as the instrument Number set out in

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statements on the Notice of Assignment of Rents-General, to which this Agreement is attached and any renewals, extensions or amendments thereof;

2. "Leases" shall mean:
 - (a) each and every existing and future lease of and agreement to lease of the whole or any portion of the Property;
 - (b) each and every existing and future tenancy agreement as to use or occupation and licence in respect of the whole or any portion of the Property, whether or not pursuant to any written lease, agreement or licence, and including any such lease, agreement or licence granting or permitting occupancy to any of the members of the Assignor;
 - (c) each and every existing and future guarantee of all or any of the obligations of any existing or future tenant, user, occupier or licensee of the whole or any portion of the Property; and
 - (d) each and every existing and future assignment and agreement to assume the obligations of tenants of the whole or any portion of the Property.
3. "Rents" shall mean all rents, charges and other moneys (including, without limitation, any subsidies payable by any governmental bodies or agencies) now due and payable or hereafter to become due and payable and the benefit of all covenants of tenants, users, occupiers, licensees and guarantors under or in respect of the Leases.
4. (a) The Assignor hereby assigns, transfers and sets over unto the Assignee, its successors and assigns (as security for payment of the principal, interest and other moneys secured by the Charge and for performance of the obligations of the Assignor thereunder and until the moneys due under and by virtue of the Charge have been fully paid and satisfied) the Rents, with full power and authority to demand, collect, sue for, recover, receive and give receipts for the Rents and to enforce payment thereof in the name of the Assignor or the owner from time to time of the Property, and their respective heirs, executors, administrators, successors or assigns.
- (b) Subject to Section 6 hereof, the Assignor does hereby assign, transfer and set over unto the Assignee, its successors and assigns as and by way of a first, fixed and specific assignment, all of the Assignor's right, title and interest in and to the Leases and the full benefit and advantage thereof and of all covenants and agreements contained in the Leases on the part of the lessees therein or any guarantor or indemnitor thereof to be observed, performed or kept and all rents and monies thereby reserved or payable thereunder and thereafter to become due, payable or owing.

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5. The Assignor hereby represents, warrants, covenants and agrees that:
- (a) except in accordance with good management practice, the Assignor has not and will not do or omit to do any act having the effect of terminating, cancelling or accepting surrender of any of the Leases or of waiving, releasing, reducing or abating any rights or remedies of the Assignor or obligations of any other party thereunder or in connection therewith;
 - (b) except in accordance with good management practice, none of the Leases or the Assignor's rights thereunder, including the right to receive the Rents, have been nor, without the prior written consent of the Assignee, will be altered, varied, amended, assigned, encumbered, discounted, or anticipated in priority to this assignment;
 - (c) except in accordance with good management practice, the Assignor has not and will not consent to any assignments of the lessees' interests in the Leases which will in any way relieve or reduce the liability of the lessees in connection therewith;
 - (d) none of the Rents under any of the Leases has been nor will be paid prior to the due date for payment thereof, except rent for the ensuing month and except rent for the last month of the term of any Lease;
 - (e) the Assignor will from time to time and at all times hereafter observe, perform and keep all of its obligations, covenants and agreements under each of the Leases;
 - (f) there has been no default of a material nature which has not been remedied under any of the existing Leases by any of the parties thereto;
 - (g) the Assignor will not do any act which would destroy or impair the benefits to the Assignee of this Agreement;
 - (h) the Leases have not been amended in any way, either orally or in writing, since the time of their execution, the Leases are good, valid and subsisting leases and the Assignor now has in its good and rightful power absolute authority to assign the Leases according to the true intent and meaning of this Agreement.
6. The Assignor shall be permitted to collect and receive the Rents as and when they shall become due and payable according to the terms of each of the Leases, unless and until the Assignor is in default under any of the provisions of the Charge. Thereafter, if the Assignee gives notice to the tenant, user, occupier, licensee or guarantor thereunder requiring the same to pay the Rents to the Assignee, such notice shall be binding upon the Assignor and may not be contested by it. It is further agreed that a statement of default purporting to be made by or on behalf of the Assignee shall be deemed to be, for all purposes, sufficient evidence of default having been made in the payment of principal moneys and interest or some part thereof secured by the Charge or in the observance, performance or keeping of any of the terms, covenants or agreements therein contained

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on the part of the Assignor to be observed, performed or kept and the continuance of such default, and notice of such default shall be deemed to be well and sufficiently given to the lessees named in the Leases if such notice is sent by mail addressed to the lessees.

7. Provided further and it is hereby expressly agreed that nothing herein contained shall have the effect of making the Assignee, its successors or assigns, responsible for the collection of Rents or any of them or for the performance of any of the covenants, obligations, provisions or conditions under or in respect of the Leases or any of them to be observed or performed by the Assignor, and the Assignee shall not, by virtue of this Agreement, its receipt of the Rents or the taking of possession of the Property become or be deemed a chargee in possession of the Property and the Assignee shall not be under any obligation to take any action or exercise any remedy in the collection or recovery of the Rents or any of them or to see to or enforce the performance of the obligations and liabilities of any person under or in respect of the Leases or any of them, and the Assignee shall be liable to account only for such moneys as shall actually come into its hands, less all costs and expenses, collection charges and other proper deductions and that such moneys may be applied on account of any indebtedness of the Assignor to the Assignee. The Assignee shall have the right to make the assignment of the Assignor's rights under Section 2(b) absolute and binding upon the Assignee in respect of any or all of the Leases, upon delivery to the applicable tenant of its undertaking to be fully responsible for the obligations of the Assignor under such Leases (the "Obligations") until the Property is conveyed to a third party purchaser who agrees to assume the Obligations.
8. In the event, however, that the Assignor shall reinstate the Charge completely in good standing, having complied with all the terms, covenants and conditions of the Charge, then the Assignee shall within 1 month after demand re-deliver possession of the Property to the Assignor and the Assignor shall remain in possession unless and until another default occurs, at which time the Assignee may, at the Assignee's sole option, again take possession of the Property under authority of this Agreement.
9. If the Assignee shall have exercised its rights under Section 4 and shall have received any of the Rents and if the Assignor shall cure the default under the Charge which gave rise to such exercise and shall have resumed collection of the Rents, the Assignee will provide the Assignor with details of all Rents received by it prior to such resumption.
10. The Assignee shall not be responsible or accountable for any failure to collect, realize, sell or obtain payment of the Rents or any part thereof and shall not be bound to institute proceedings for the purpose of collecting, realizing or obtaining payment of same or for the purpose of preserving any rights of the Assignee, the Assignor or any other person, firm or corporation in respect of the Rents or any part thereof.
11. The Assignee may grant extensions, take and give up securities, accept compositions, grant releases and discharges and, generally, deal with the Rents in its absolute discretion without the consent of or notice to the Assignor, but otherwise in accordance with the provisions hereof.

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12. In furtherance of the foregoing assignment, the Assignor hereby authorizes the Assignee, by its employees or agents, at its option, after the occurrence of a default hereunder or under the Charge, to enter upon the Property and to collect in the name of the Assignor as its agent or in its own name as Assignee the Rents accrued but unpaid and in arrears at the date of such default, as well as the Rents thereafter accruing and becoming payable during the period of the continuance of the said default or any other default and, to this end, the Assignor further agrees that it will facilitate in all reasonable ways the Assignee's collection of said Rents and will, upon request by the Assignee, execute a written notice to each tenant under any of the Leases directing the tenant to pay rent to the said Assignee.
13.
 - (a) The Assignor also hereby authorizes the Assignee upon such entry, at its option, to take over and assume the management, operation and maintenance of the Property and, for such purpose, to retain such agents or employees as it may deem advisable and to perform all acts necessary and proper and to expend such sums out of the income of the Property, the Leases and the Rents as may be needful in connection therewith in the same manner and to the same extent as the Assignor theretofore might do, including the right to effect new Leases, to cancel or surrender existing Leases, to alter or amend the terms of existing Leases, to renew existing Leases or to make concessions to tenants. The Assignor hereby releases all claims against the Assignee arising out of such management, operation and maintenance.
 - (b) The Assignee acknowledges and agrees that no such entry herein or pursuant to its rights under the Charge by the Assignee, shall be deemed to be an exercise by the Assignee of any priority over any of the Leases under the Charge or this General Assignment of Rents and Leases, unless the Assignee specifically advises by delivery of written notice (the "Notice") to the applicable tenant under its lease, that the Assignee is exercising its rights to seek priority of its Charge over such lease.
 - (c) Upon possession of the Property being taken by the Assignee pursuant to its rights herein or under the Charge, the Assignee shall be deemed to have agreed to honour the terms of the Leases and the Assignor's obligations therein during the term of such possession unless and until the Notice is given under Section 13(b).
14. The Assignee shall, after payment of all proper charges and expenses, including reasonable compensation to any agent or employee as it shall select and employ and after the accumulation of a reserve, to meet taxes, assessments, water rates and other public utility charges and fire and liability insurance in the requisite amounts, credit the net amount of income received by it from the Property by virtue of this Agreement and to any amounts due and owing to it by the Assignor under the terms of the Charge, but the manner of the application of such net income and what items shall be credited shall be determined in the sole discretion of the Assignee.
15. The Assignor shall from time to time forthwith upon request furnish to the Assignee in writing all information requested relating to the Rents and the Leases and the Assignee

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shall be entitled from time to time to inspect such documentation and records, including all securities, bills, notes, books, papers, files, correspondence and other documents constituting or connected with the Rents and the Leases or take temporary custody thereof and, for such purposes, the Assignee shall have access to all premises occupied by the Assignor.

16. The Assignor shall from time to time forthwith upon the request of the Assignee do, make and execute all such financing statements, further assignments, documents, acts, matters and things as may be required by the Assignee of or with respect to the Rents and the Leases or any part thereof or as may be required to give effect or further effect hereto, and the Assignor hereby constitutes and appoints the Assignee the true and lawful attorney of the Assignor irrevocably, with full power of substitution to do, make and execute all such assignments, documents, acts, matters or things, with the right to use the name of the Assignor as required and, without limitation, for the purpose of demanding, suing for, collecting, comprising, compounding and giving releases for any and all sums owing or which now or hereinafter may become due upon the Rents and the Leases, provided that the Assignee shall be under no obligation or duty to exercise such powers or authority or to collect or realize upon the Rents.
17. The Assignor covenants and agrees that whenever in the future any material Lease with respect to the Property is made, the Assignor will forthwith advise the Assignee of the terms thereof and the Assignor further covenants and agrees that upon the request of the Assignee made at any time, the Assignor will assign, transfer and set over unto the Assignee the Leases or such of them so requested by a valid first assignment thereof, and the Assignor hereby irrevocably appoints the Assignee its attorney to effect and execute such assignment.
18. The Assignor further agrees that the Assignor will not lease or agree to lease any part of the Property, except in accordance with good management practice.
19. The Assignor hereby covenants and warrants to the Assignee that neither the Assignor nor any previous owner of the Property has executed any prior assignment or pledge of the Rents of the Property nor any prior assignment or pledge of the Assignor's interest as landlord in the Leases which to this date have not been executed, satisfied and released, and that the Assignor has provided to the Assignee full written details of all prepayments on account of the Rents received by the Assignor in respect of the Leases.
20. It is understood and agreed that this Agreement is being taken as collateral security for the due payment of any sum due under the Charge and that none of the rights or remedies of the Assignee under the Charge shall be delayed or in any way prejudiced by these presents and that following registration of a discharge of the whole of the Charge, this Agreement shall be of no further force or effect and, if requested by the Assignor, the Assignee will execute and deliver a separate reconveyance of this Agreement and the Land Registrar is hereby authorized to delete reference to this Agreement from the title to the Property. Following registration of a discharge of the Charge, this Agreement shall be of no further force or effect only in respect of that part or parts of the Property in respect of which the Charge has been discharged.

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21. Any notice or communication to be given hereunder shall be validly given if sent by personal delivery, mail or facsimile transmission addressed:

(a) in case of the Assignor, to it at:

7501 Keele Street, Suite 401
Vaughan, ON L4K 1Y2

Attention: Albert Guido

(b) in case of the Assignee, to it at:

Scollard Trustee Corporation
c/o Tier 1 Transaction Advisory Services Inc.
3655 Kingston Road
Toronto, ON M1M 1S2

Attention: Raj Singh
Fax Number: 416-218-0236

All such notices and communications sent by mail as aforesaid shall be deemed to have been given and received on the third business day following the date of mailing, and if delivered or faxed, on the date of receipt if such date is a business day; or if not, on the next business day. Either party hereto may, by notice given as aforesaid to the other party, change the address to which future notices are to be sent to it.

22. The provisions of this Agreement shall be construed according to the laws of the Province of Ontario.
23. This Agreement and everything herein contained shall extend to, bind and enure to the benefit of the successors and assigns of each of the parties hereto.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE TO FOLLOW]

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IN WITNESS WHEREOF the Assignor has executed this Agreement as of the 17th day of October, 2013.

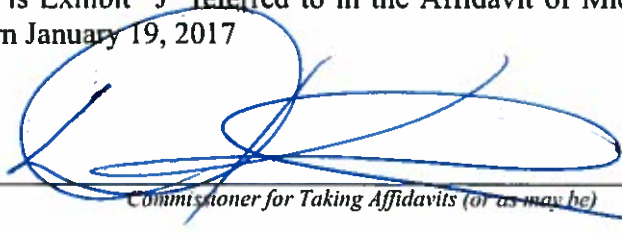
VAUGHEAN CROSSINGS INC.

Per: _____
Steven Grubbs
Title: President

I have authority to bind the corporation.

21872148 1280-1123842779 Commerce/Contract Assignment of Shares and Loans/Contract Assignment of Loans and Loans/LOI/Executed Copy.txt

This is Exhibit "J" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

LRO # 65 Postponement Of Interest
The applicant(s) hereby applies to the Land Registrar.

Registered as YR2092569 on 2014 02 06 at 12:40
yyyy mm dd Page 1 of 2

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078, S/T VA84788 ASSIGNED BY R312165 ; VAUGHAN
Address DUFFERIN STREET
VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ;
VAUGHAN
Address 7850 DUFFERIN STREET
VAUGHAN

Source Instruments

Registration No.	Date	Type of Instrument
YR2048641	2013 10 18	Charge/Mortgage

Party From(s)

Name SCOLLARD TRUSTEE CORPORATION
Address for Service 3655 Kingston Road
Scarborough, Ontario
M1M 1S2

I, Raj Singh, President, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Party To(s)

Capacity

Share

Name VECTOR FINANCIAL SERVICES LIMITED
Address for Service 25 Imperial Street, Suite 500
Toronto, Ontario
M5P 1B9

Statements

The applicant postpones the rights under the selected instrument to the rights under an instrument registered as number YR2092552 registered on 2014/02/06

Schedule: The Applicant also postpones the rights under the selected instrument to the rights under Instrument No. YR2092553.

The Applicant also postpones the rights under Instrument No. YR2048948 to the rights under Instrument Nos. YR2092552 and YR2092553.

The rights postponed hereby include postponement to all future advances under Instrument No. YR2092552.

Signed By

Alyssa Kinsley Tipple 600-390 Bay Street acting for Party Signed 2014 02 06
Toronto From(s)
M5H 2Y2

Tel 416-868-1900

Fax 416-868-1708

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

Alyssa Kinsley Tipple 600-390 Bay Street acting for Party To Signed 2014 02 06
Toronto (s)
M5H 2Y2

Tel 416-868-1900

Fax 416-868-1708

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

LRO # 85 Postponement Of Interest

Registered as VR2092569 on 2014 02 06 at 12:40

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

yyyy mm dd Page 2 of 2

Submitted By

ROSE, PERSIKO, RAKOWSKY, MELVIN LLP

800-390 Bay Street
Toronto
M5H 2Y2

2014 02 06

Tel 416-868-1800

Fax 416-868-1708

Fees/Taxes/Payment

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

File Number

Party To Client File Number : 20130354 - VAUGHAN - POSTPONEMENT

ACKNOWLEDGEMENT OF PRIORITY AND STANDSTILL UNDERTAKING

TO: VECTOR FINANCIAL SERVICES LIMITED

RE: VECTOR FINANCIAL SERVICES LIMITED loan to VAUGHAN CROSSINGS INC. upon the security of all property and assets (collectively, the "Property") comprising:

- (i) Part Lot 24, RCP 10309, being Parts 10 & 11 on Plan 64R-7307 exc Part 1 on Expr Plan R650078, PIN 03274-0103 LT, 0 Dufferin Street, Vaughan, Ontario, and Part Lot 25, RCP 10309, being Part 1 on Plan 65R-14039, PIN 03274-0104 LT, 7850 Dufferin Street, Vaughan, Ontario (collectively, the "Freehold Lands"); and
 - (ii) Leasehold interest in Part Lot 22, 25, 26, 27 & 28, RCP 10309, PINs 03274-0106 LT, 03274-0107 LT, 03274-0185 LT & 03274-0186 LT, 7818 Dufferin Street, Vaughan (the "Leasehold Lands")
- (VFSL Loan No. 13-18)

WHEREAS Vector Financial Services Limited (the "Senior Lender") has extended a loan and certain credit facilities (collectively, the "Senior Loan") to Vaughan Crossings Inc. (the "Borrower") which is secured by, inter alia, the following (collectively, the "Senior Security"):

- (a) Charge/Mortgage made by the Borrower in favour of the Senior Lender securing the principal sum of \$32,500,000.00 together with interest thereon and other charges and upon terms and conditions as stipulated therein, and registered on title to the Freehold Lands as Instrument No. YR2092552;
- (b) General Assignment of Rents made by the Borrower in favour of the Senior Lender and registered on title to the Freehold Lands as Instrument No. YR2092553;
- (c) Charge of Lease made by the Borrower in favour of the Senior Lender securing the principal sum of \$32,500,000.00 together with interest thereon and other charges and upon terms and conditions as stipulated therein, and registered on title to the Leasehold Lands as Instrument No. YR2092557;
- (d) General Assignment of Rents made by the Borrower in favour of the Senior Lender and registered on title to the Leasehold Lands as Instrument No. YR2092558;
- (e) Ground Lease Acknowledgement Agreement dated January 9, 2014 made between the owners of the Leasehold Lands, the Borrower and the Lender;
- (f) General Security Agreement dated January 9, 2014 made by the Borrower in favour of the Senior Lender;
- (g) Assignment of Material Documents dated January 9, 2014 made by the Borrower in favour of the Senior Lender;
- (h) Assignment of Sale Agreements dated January 9, 2014 made by the Borrower in favour of the Senior Lender;
- (i) Assignment of Insurance Proceeds dated January 9, 2014 made by the Borrower in favour of the Senior Lender;
- (j) Assignment and Agreement re Contingency Reserve dated January 9, 2014 made between the Borrower and the Senior Lender;
- (k) Guarantee dated January 9, 2014 made by Anthony DeCristofaro and Vincent Albert Guido in favour of the Senior Lender;
- (l) Postponement of Shareholder Rights dated January 9, 2014 made by principals of the Borrower in favour of the Senior Lender and acknowledged by the Borrower;
- (m) Undertaking to Complete dated January 9, 2014 made by the Borrower in favour of the Senior Lender; and
- (n) Financing Statements (and Financing Change Statements, if any) registered pursuant to the Personal Property Security Act (Ontario) under Reference File Nos. 692457021, 692457039 and 692457048;

AND WHEREAS Scollard Trustee Corporation and Olympia Trust Company (individually and collectively, the "Subordinate Lender") extended a loan and certain credit facilities (collectively, the "Subordinate Loan") to the Borrower which is secured by the following (collectively, the "Subordinate Security"):

- (a) Charge/Mortgage made by the Borrower in favour of the Subordinate Lender securing the principal sum of \$14,800,000.00 together with interest thereon and other charges and upon terms and conditions as stipulated therein, and registered on title to the Freehold Lands as Instrument No. YR2048941, as transferred by Transfer of Charge Nos. YR2049132, YR2060284 and YR2078550; and
- (b) General Assignment of Rents made by the Borrower in favour of the Subordinate Lender and registered on title to the Freehold Lands as Instrument No. YR2048949;

NOW THEREFORE, in consideration of the sum of TWO DOLLARS (\$2.00) and other good and valuable consideration now paid or given by the Senior Lender to the Subordinate Lender (the receipt and sufficiency of which are hereby acknowledged by the Subordinate Lender), the Subordinate Lender hereby acknowledges, covenants and agrees as follows:

1. **Definitions** - In addition to capitalized words and phrases elsewhere defined herein, in this Agreement the following capitalized words and phrases shall have the following meanings ascribed thereto:
 - (a) "this Agreement" means this Acknowledgement of Priority and Standstill Undertaking;
 - (b) "Borrower Entity" means: (i) the Borrower; (ii) each person having a beneficial ownership interest in all or any part of the Property from time to time; (iii) each person who or which is obligated to guarantee of all or part of the Senior Loan or the Subordinate Loan, as the case may be; and (iv) each person who or which is obligated to provide indemnity with respect to any matter relating to the Property or the Senior Loan or the Subordinate Loan, as the case may be;
 - (c) "Enforcement Action" means the commencement of power of sale, foreclosure or other judicial or private sale proceedings, appointing or obtaining the appointment of a receiver, a manager or a receiver and manager or other person having similar powers in respect of any person or property, attornment of rents, taking possession or control of any property or undertaking, commencing, giving or making any demand for payment, any notice of intention to enforce security or any action or proceeding seeking payment or recovery of all or any part of any indebtedness or damages in lieu thereof, or accepting a transfer of any property in lieu of foreclosure, or the exercise of any other rights or remedies available to a creditor under its security or otherwise at law or in equity, including without limitation, any bankruptcy proceedings; and
 - (d) "Rents" means all revenues, receipts, income, credits, deposits, profits, royalties, rents, additional rents, recoveries, accounts receivable and other receivables of any kind and nature whatsoever arising from or relating to the Property.
2. **Status of Subordinate Security** - The Subordinate Lender consents to the Senior Indebtedness and the Senior Security and represents and warrants to the Senior Lender that:
 - (a) the Subordinate Security is the only security held by the Subordinate Lender encumbering, relating to or in respect of the Property;
 - (b) the provisions of the Subordinate Security have not been amended in any way whatsoever (except as disclosed by registered title to the Freehold Lands);
 - (c) as at the date hereof,
 - (i) the principal balance outstanding under the Subordinate Loan is \$14,798,411.11;
 - (ii) the Borrower has paid to the Subordinate Lender (or such other party as the Subordinate Lender may have directed) all monies, if any, due and owing under the Subordinate Loan up to and including the date hereof; and

- (iii) the Borrower is in good standing in all respects under the terms and conditions of the Subordinate Loan and the Subordinate Security.

3. **Acknowledgement of Priority** - The Senior Loan and the Senior Security and all monies advanced or to be advanced thereunder and secured thereby shall have undisputed priority in all respects over all rights, title and interest which the Subordinate Lender may have in and to the Property under or pursuant to the Subordinate Loan and the Subordinate Security including, without limitation, the Rents; and for greater clarity and without limiting the generality of the foregoing, the Subordinate Lender acknowledges and agrees that such priority of the Senior Loan and the Senior Security shall include and extend to all accrued and unpaid interest, all costs and expenses of every nature and kind whatsoever, all monies paid or advanced by the Senior Lender pursuant to or in connection with any default or enforcement proceedings taken under any of the Senior Security in order to protect the Senior Lender's interest in the Property and full recovery of the Senior Loan.
4. **Rents and Other Proceeds** - The Subordinate Lender agrees that:
- (a) after receiving notice of a default under the Senior Loan, (i) the Rents shall not be applied to any payment on account of the Subordinate Loan until the Senior Loan is paid in full, and (ii) the Subordinate Lender shall not accept any payment on account of the Subordinate Loan which the Subordinate Lender knows or reasonably ought to know are payments made from the Rents, and if any such payments are received, the Subordinate Lender shall immediately pay such amount(s) to the Senior Lender without deduction;
 - (b) all insurance, expropriation and condemnation proceeds relating to the Property shall be dealt with and applied, whether before or after any default under or in respect of the Senior Loan or the Subordinate Loan, in accordance with the provisions of the Senior Security notwithstanding any provision to the contrary in the Subordinate Security; and
 - (c) the Subordinate Lender shall provide reasonable cooperation to the Senior Lender following the giving of such notice of default to ensure the provisions of this paragraph are complied with.
5. **Standstill** - Notwithstanding any default by any Borrower Entity under the Subordinate Loan or the Subordinate Security or in respect of the any other loans or indebtedness secured by the Subordinate Security or in respect of any other security held by the Subordinate Lender in connection with such loans or indebtedness, until such time as all amounts owed to the Senior Lender in connection with the Senior Loan have been repaid in full, the Subordinate Lender will not:
- (a) prior to receiving notice of a default under the Senior Loan, accept or require to be made any payments under the Subordinate Loan or the Subordinate Security other than regular monthly interest payments thereunder provided that the Senior Loan is not the source of funds therefor;
 - (b) after receiving notice of a default under the Senior Loan and for so long as any such default continues, accept or require to be made any payments under any of the Subordinate Loan or the Subordinate Security;
 - (c) take any Enforcement Action under or in respect of the Subordinate Security or the Subordinate Loan with respect to all or any part of the Property or against any Borrower Entity without reasonable prior notice to and the written consent of the Senior Lender, which consent may be given or withheld by the Senior Lender in its sole discretion; or
 - (d) challenge, contest or bring into question the validity, priority or perfection of the Senior Security or any Enforcement Action taken by the Senior Lender under or in respect of the Senior Loan or the Senior Security against the any Borrower Entity or against all or any part of the Property.
6. **Development Consents, Partial Discharges, Etc.** - Notwithstanding any default by any Borrower Entity under the Subordinate Loan or the Subordinate Security or in respect of the any other loans or indebtedness secured by the Subordinate Security or in respect of any other security held by the Subordinate Lender in connection with such loans or indebtedness,

- (a) the Subordinate Lender will execute and deliver upon the written request of any Borrower Entity or the Senior Lender, without requiring payment of any kind other than the reasonable legal costs of the Subordinate Lender's solicitors, all agreements and/or consents thereto, easements and/or consents thereto, other consents every nature and kind, postponements, partial discharges and other usual documentation required in connection with development of the Property as a commercial shopping centre, including, without limitation, all such documentation as contemplated by and/or provided for in the Senior Security; and
- (b) the Subordinate Lender will execute and deliver upon the written request of any Borrower Entity or the Senior Lender, without requiring payment of any kind other than the reasonable partial discharge fee of the Subordinate Lender's solicitors, one or more partial discharges of the Subordinate Security from all or any portion or portions of the Property in respect of which there shall be simultaneously provided and registered a partial discharge of the Senior Security.
7. **Renewals & Amendments of Senior Loan** - Upon each request from time to time by the Senior Lender or its solicitors, the Subordinate Lender will execute and deliver to the Senior Lender any consent, acknowledgement, subordination, postponement or other agreement in respect of the Subordinate Security so as to permit any and all renewals, extensions, amendments or other variation of the Senior Loan, the Senior Security and/or any other security held by the Senior Lender in connection with the Senior Loan, provided that the principal amount secured by the Senior Security is not increased above the amount referred to herein and that any such amendments, extensions or other variations provide for interest and are upon such other terms and conditions as are commercially reasonable and consistent with mortgage lending practices generally applied to properties comparable to the Property.
8. **Assignments** - The Senior Lender may transfer or assign its interest in the Senior Loan and this Agreement without restriction and without prior notice to or the consent of the Subordinate Lender. The Subordinate Lender may transfer or assign its interest in the Subordinate Loan and the Subordinate Security to any other party without restriction or the consent of the Senior Lender provided that: (i) the Subordinate Lender gives not less than seven (7) days prior written notice to the Senior Lender before doing so; and (ii) such transferee or assignee executes the same form of this Agreement in favour of the Senior Lender.
9. **Registration Particulars** - The Senior Lender and/or its solicitors are hereby authorized to complete herein particulars of registration of the Senior Security once registered.
10. **Successors, Assigns & Governing Law** - This Agreement shall (i) extend to, be binding upon and enure to the benefit of the parties hereto or referred to herein and their respective heirs, legal personal representatives, successors and assigns; and (ii) shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties hereto attorn to the jurisdiction of the Province of Ontario.

DATED this 6th day of February, 2014.

SCOLLARD TRUSTEE CORPORATION

Per: _____
 Name: _____
 Title: _____
 Per: _____
 Name: RAJ SINGH
 Title: President

I/We have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: _____
 Name: _____
 Title: _____
 Per: _____
 Name: _____
 Title: _____

I/We have authority to bind the Corporation.

- (a) the Subordinate Lender will execute and deliver upon the written request of any Borrower Entity or the Senior Lender, without requiring payment of any kind other than the reasonable legal costs of the Subordinate Lender's solicitors, all agreements and/or consents thereto, easements and/or consents thereto, other consents every nature and kind, postponements, partial discharges and other usual documentation required in connection with development of the Property as a commercial shopping centre, including, without limitation, all such documentation as contemplated by and/or provided for in the Senior Security; and
- (b) the Subordinate Lender will execute and deliver upon the written request of any Borrower Entity or the Senior Lender, without requiring payment of any kind other than the reasonable partial discharge fee of the Subordinate Lender's solicitors, one or more partial discharges of the Subordinate Security from all or any portion or portions of the Property in respect of which there shall be simultaneously provided and registered a partial discharge of the Senior Security.
7. **Renewals & Amendments of Senior Loan** - Upon each request from time to time by the Senior Lender or its solicitors, the Subordinate Lender will execute and deliver to the Senior Lender any consent, acknowledgement, subordination, postponement or other agreement in respect of the Subordinate Security so as to permit any and all renewals, extensions, amendments or other variation of the Senior Loan, the Senior Security and/or any other security held by the Senior Lender in connection with the Senior Loan, provided that the principal amount secured by the Senior Security is not increased above the amount referred to herein and that any such amendments, extensions or other variations provide for interest and are upon such other terms and conditions as are commercially reasonable and consistent with mortgage lending practices generally applied to properties comparable to the Property.
8. **Assignments** - The Senior Lender may transfer or assign its interest in the Senior Loan and this Agreement without restriction and without prior notice to or the consent of the Subordinate Lender. The Subordinate Lender may transfer or assign its interest in the Subordinate Loan and the Subordinate Security to any other party without restriction or the consent of the Senior Lender provided that: (i) the Subordinate Lender gives not less than seven (7) days prior written notice to the Senior Lender before doing so; and (ii) such transferee or assignee executes the same form of this Agreement in favour of the Senior Lender.
9. **Registration Particulars** - The Senior Lender and/or its solicitors are hereby authorized to complete herein particulars of registration of the Senior Security once registered.
10. **Successors, Assigns & Governing Law** - This Agreement shall (i) extend to, be binding upon and enure to the benefit of the parties hereto or referred to herein and their respective heirs, legal personal representatives, successors and assigns; and (ii) shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties hereto attorn to the jurisdiction of the Province of Ontario.

DATED this 6th day of February, 2014.

SCOLLARD TRUSTEE CORPORATION

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: [Signature]
Name:
Title: Anna Le, Supervisor

Per: [Signature]
Name:
Title: Kelly Revol
Manager

I/We have authority to bind the Corporation.

This is Exhibit "K" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

LRO # 85 Construction Lien

Received as YR2416393 on 2016 01 13 at 12:37

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

yyyy mm dd Page 1 of 3

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY R312155; VAUGHAN
Address 7850 DUFFERIN STREET VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039; VAUGHAN
Address 7850 DUFFERIN STREET VAUGHAN

PIN 03274 - 0108 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; EXCEPT PT 1, YR2275120; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; EXCEPT PT 3, YR2275120; S/T VA84766 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

Consideration

Consideration \$ 1,898,263.75

Claimant(s)

Name SORA CONSTRUCTION LTD.
Address for Service c/o Capo Sgro LLP
7050 Weston Road, Suite 400
Woodbridge, Ontario L4L 8G7

I, Bill Wong, have the authority to bind the corporation.

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

Statements

Name and Address of Owner See Schedule Name and address of person to whom lien claimant supplied services or materials
Vaughan Crossing Inc. - 7501 Keele Street, Suite 306, Vaughan, Ontario L4K 1V2 Time within which services or materials were supplied
from 2015/07/24 to 2015/12/04 Short description of services or materials that have been supplied Earthworks and Site Services
Contract price or subcontract price 3,898,862.90 Amount claimed as owing in respect of services or materials that have been supplied
1,898,263.75

List of Owners

1. **Vaughan Crossing Inc.**
7501 Keele Street, Suite 306
Vaughan, Ontario L4K 1Y2

PINS: 03274-0103 & 03274-0104

2. **Ruth Goodman**
160 Rimmington Drive
Thornhill, Ontario L4J 6K1
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Barbara Schwartzberg
134 Thornway Crescent
Thornhill, Ontario L4J 7Z3
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Sharon Katz
182 Choquette
Dollard-Des-Ormeaux
Quebec H9A 3H1
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Sarah Kranc
1131 Steeles Avenue West, PH 105
Toronto, Ontario M2R 3W8
In her Capacity as Estate Trustee for the Estate of Harry Kranc

PINS: 03274-0106, 03274-0185, 03274-0273 & 03274-0275

LRO # 65 Certificate

Registered as YR2436540 on 2016 02 29 at 10:08

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

yyyy mm dd Page 1 of 5

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VAB4766 ASSIGNED BY R312155 ; VAUGHAN
Address 7850 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN
Address 7850 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; EXCEPT PT 1, YR2275120; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1,65R8928, EXCEPT PT 3, YR2275120; S/T VAB4765 ASSIGNED BY R312155; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

Party From(s)

Name SORA CONSTRUCTION LTD.
Address for Service C/O CAPO SGRO LLP
 7050 WESTON ROAD, SUITE 400
 WOODBRIDGE, ONTARIO
 L4L 8G7

I, BILL WONG, have the authority to bind the corporation.

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

Statements

This document relates to registration no.(s)YR2415393

Schedule: See Schedules

Signed By

Alistair Thomas Maurits Riswick 7050 Weston Road, Suite 400 acting for Party Signed 2016 02 29
 Woodbridge From(s)
 L4L 8G7

Tel 9058507000

Fax 9058507050

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

LRO # 65 Certificate

Registered as YR2436540 on 2016 02 29 at 10:08

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

yyyy mm dd Page 2 of 5

Submitted By

CAPO SGRO LLP

7050 Weston Road, Suite 400
Woodbridge
L4L 8G7

2016 02 29

Tel 9058507000

Fax 9058507050

Fees/Taxes/Payment

Statutory Registration Fee \$62.85

Total Paid \$62.85

Form 14A

Court File Number

CV16-125767-00

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE CONSTRUCTION LIEN ACT,
 R.S.O. 1990, CHAPTER C.30

BETWEEN:

SORA CONSTRUCTION LTD.

Plaintiff

and

VAUGHAN CROSSINGS INC., OLYMPIA TRUST COMPANY,
 SCOLLARD TRUSTEE CORPORATION
 and VECTOR FINANCIAL SERVICES LIMITED

Defendants

CERTIFICATE OF ACTION

I CERTIFY that an action has been commenced in the Ontario Superior Court of Justice under the Construction Lien Act, R.S.O. 1990, between the above parties with respect to the premises described in Schedule "A" to this certificate, and relating to the claim for lien being the following registration number: YR2415393.

FEB 29 2016
 Date: February, 2016

Signed by [Signature]
 Local Registrar

Address of court office 50 Eagle St.W.
 Newmarket, Ontario
 L3Y 6B1

Construction Lien Act, R.S.O. 1990

SCHEDULE A

(The description of the premises must be the same as in the statement of claim, and must be sufficient for registration under the Land Titles Act or Registry Act, as the case may be).

<i>PIN</i>	03274 - 0103 LT
<i>Description</i>	PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078, S/T VA84766 ASSIGNED BY R312155 ; VAUGHAN
<i>Address</i>	7850 DUFFERIN STREET VAUGHAN
<i>PIN</i>	03274 - 0104 LT
<i>Description</i>	PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN
<i>Address</i>	7850 DUFFERIN STREET VAUGHAN
<i>PIN</i>	03274 - 0106 LT
<i>Description</i>	PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
<i>Address</i>	VAUGHAN
<i>PIN</i>	03274 - 0185 LT
<i>Description</i>	PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120.; CITY OF VAUGHAN
<i>Address</i>	7818 DUFFERIN STREET VAUGHAN
<i>PIN</i>	03274 - 0273 LT
<i>Description</i>	LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN, EXCEPT PT 1, YR2275120; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120.; CITY OF VAUGHAN
<i>Address</i>	7818 DUFFERIN STREET VAUGHAN
<i>PIN</i>	03274 - 0275 LT
<i>Description</i>	PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; EXCEPT PT 3, YR2275120, S/T VA84765 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120., CITY OF VAUGHAN
<i>Address</i>	7818 DUFFERIN STREET VAUGHAN

SORA CONSTRUCTION LTD. V. VAUGHAN CROSSINGS INC., ET AL

Court File Number:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT
NEWMARKET**

CERTIFICATE OF ACTION

**CAPO SGRO LLP
Barristers & Solicitors
7050 Weston Road, Suite 400
Woodbridge, Ontario L4L 8G7**

**Alistair Riswick (017575S)
Tel: 905-850-7000
Fax: 905-850-7050**

Lawyers for the Plaintiff

RECEIVED MAR - 1 2015

Form 14A

Court File Number

Cvlb-128767-00

ONTARIO

SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c.C.30

BETWEEN:

SORA CONSTRUCTION LTD.

Plaintiff

and

VAUGHAN CROSSINGS INC., OLYMPIA TRUST COMPANY,
SCOLLARD TRUSTEE CORPORATION
and VECTOR FINANCIAL SERVICES LIMITED

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

~~If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.~~

~~Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.~~

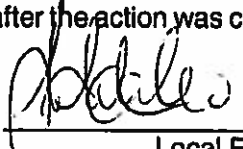
IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date:

MAR 29 2016

Signed by



Local Registrar

Address of
court office50 Eagle St.W.
Newmarket, Ontario
L3Y 6B1

MAR 29 2016

TO: VAUGHAN CROSSINGS INC.
7501 KEELE STREET, SUITE 401
VAUGHAN, ONTARIO
L4K 1Y2

OLYMPIA TRUST COMPANY
2200, 125 9TH AVENUE S.E.
CALGARY, ALBERTA
T2G 0P6

SCOLLARD TRUSTEE CORPORATION
3655 KINGSTON ROAD
SCARBOROUGH, ONTARIO
M1M 1S2

VECTOR FINANCIAL SERVICES LIMITED
25 IMPERIAL STREET
SUITE 500
TORONTO, ONTARIO
M5P 1B9
(VSFL LOAN NO. 13-18)

CLAIM

1. The Plaintiff claims:
 - (a) payment in the amount of \$1,898,263.75;
 - (b) prejudgment and post-judgment interest as prescribed in the contract made between the parties being 4.70% from December 15, 2015 – February 13, 2016 and 6.70% thereafter.
 - (c) costs of this action on a full indemnity basis;
 - (d) a declaration that in default of payment of the sum of \$1,898,263.75 and interest and costs, that all of the estate and interest of the Defendants in the lands and premises hereinafter set forth may be sold and the proceeds applied in and towards the payment of the Plaintiff's claim for a construction lien in the amount of \$1,898,263.75 and interest and costs, pursuant to the provisions of the Construction Lien Act, R.S.O. 1990, Chapter C.30 (the "Act");
 - (e) a charge against the holdbacks required to be maintained under the Act and any additional amount owed by the Defendants or any payer to the Plaintiff;
 - (f) full priority over the mortgages of the Defendants Olympia Trust Company, Scollard Trustee Corporation and Vector Financial Services Limited or, alternatively, priority over the said mortgages to the extent that any portion of the mortgages advanced exceeded the value of the premises at the time the lien first arose or, in the further alternative, priority over the said mortgages to the extent of any unadvanced portions thereof;
 - (g) for the purposes aforesaid and for all purposes, that all proper directions be given, inquiries made, and accounts taken;
 - (h) such further and other relief as this Honourable Court may deem just.

2. The Plaintiff is a duly constituted corporation which carries on the business of excavation, earthworks and site servicing.

3. The Defendant Vaughan Crossings Inc. ("VCI") is a duly constituted corporation which at all material times was the owner of the property known municipally as 7850 Dufferin Street, Vaughan. VCI is also the tenant of the property known municipally as 7818 Dufferin Street, Vaughan.
4. The Defendant Scollard Trustee Corporation ("Scollard") is a mortgagee pursuant to a mortgage/charge of land given by the VCI and registered against the title to the subject properties as Instrument No. YR2048941 on October 18, 2013. By transfers of charge subsequently registered, Scollard transferred an interest in the said mortgage to the Defendant Olympia Trust Company ("Olympia").
5. The Defendant Vector Financial Services Limited ("Vector") is a mortgagee pursuant to a mortgage/charge of land given by VCI and registered against the title to the subject properties as Instrument No. YR2092552 on February 6, 2014.
6. The Plaintiff states that on or about July 10, 2015, it entered into an agreement with VCI to perform site clearing and grading, excavation and backfill, site servicing and related work including installation of curbs and sidewalks and asphalt paving, for the agreed price of \$3,698,862.90. Pursuant to the agreement interest was payable on overdue accounts at the rate of 4.70% for the first 60 days and at the rate of 6.70% thereafter.
7. Pursuant to the agreement, the Plaintiff supplied materials and performed the work required by the contract at the subject properties as and when required, completing the work on or about December 4, 2015. Its final invoice was rendered on December 15, 2015.
8. The Plaintiff states that the material supplied and the work done by the Plaintiff at the subject properties was for or on behalf of and for the direct benefit of VCI.

9. The Plaintiff pleads and relies upon the provisions of the Act and states that VCI is an owner pursuant to the provisions of the Act.
10. The Plaintiff states that there was no agreement between the Plaintiff and VCI that the Plaintiff would not be entitled to a construction lien upon the lands and premises described in the claim for lien hereinafter set forth for the materials supplied, work done and services rendered by the Plaintiff.
11. The Plaintiff states that by reason of supplying the materials and rendering the services aforesaid, the Plaintiff became, and is entitled to, a construction lien upon the estate and the interest of the Defendants in the amount of \$1,898,263.75 together with interest and costs pursuant to the provisions of the Act.
12. On January 13, 2016, the Plaintiff registered a claim for a construction lien as Instrument No. YR2415393, a true copy of which is annexed hereto as Schedule "A". The subject lands described in the claim for lien annexed hereto as Schedule "A" are the lands for which the Plaintiff provided the services and materials aforesaid and are the lands occupied by VCI. The lands described in PIN Nos. 03274-0103 LT and 03274-0104 LT are the lands owned by VCI on which Scollard, Olympia and Vector are mortgagees. The lands described in PIN Nos. 03274-0106 LT, 03274-0185 LT, 03274-0273 LT and 03274-0275 LT are lands in respect of which VCI has a leasehold interest as a tenant.
13. The Plaintiff states that all monies received by VCI and used in the financing of the improvement constitute a trust fund for the benefit of the Plaintiff. The Plaintiff states that it is entitled to an accounting of monies received by VCI in respect of the mortgages referred to herein.
14. The Plaintiff claims to be entitled to rights under the claim for lien set out above pursuant to the provisions of the Act.

15. The Plaintiff's claim is with respect to a contract made in Ontario for the improvement of property located in Ontario. The Defendants other than Olympia are resident or carry on business in Ontario. The Plaintiff relies on Rule 17.02(a), (f), (n), (p).

Date: February , 2016

CAPO SGRO LLP
Barristers & Solicitors
7050 Weston Road, Suite 400
Woodbridge, Ontario L4L 8G7

Alistair Riswick (017575S)
Tel: 905-850-7000
Fax: 905-850-7050

Lawyers for the Plaintiff

SCHEDULE A

LRO # 65 Construction Lien

Received as YR2415393 on 2016 01 13 at 12:37

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

yyyy mm dd Page 1 of 3

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650076; S/T VAB4766 ASSIGNED BY R312155; VAUGHAN
Address 7850 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 66R14039; VAUGHAN
Address 7850 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0108 LT
Description PT LT 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928; S/T TEMP EASE FOR A TERM OF 6 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7816 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; EXCEPT PT 1, YR2275120; S/T TEMP EASE FOR A TERM OF 6 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7816 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 66R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; EXCEPT PT 3, YR2275120; S/T VAB4766 ASSIGNED BY R312155; S/T TEMP EASE FOR A TERM OF 6 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

Consideration

Consideration \$ 1,898,283.75

Claimant(s)

Name SORA CONSTRUCTION LTD.
Address for Service c/o Capo Sgro LLP
 7050 Weston Road, Suite 400
 Woodbridge, Ontario L4L 8G7

I, Bill Wong, have the authority to bind the corporation.

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

Statements

Name and Address of Owner See Schedule Name and address of person to whom lien claimant supplied services or materials
 Vaughan Crossing Inc. - 7501 Keele Street, Suite 306, Vaughan, Ontario L4K 1V2 Time within which services or materials were supplied
 from 2015/07/24 to 2015/12/04 Short description of services or materials that have been supplied Earthworks and Site Services
 Contract price or subcontract price 3,698,662.90 Amount claimed as owing in respect of services or materials that have been supplied
 1,898,283.75

LRO # 85 Construction Lien

Received as YR2415393 on 2016 01 13 at 12:37

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

yyyy mm dd Page 2 of 3

Statements

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

Schedule: See Schedules

Signed By

Domenico Mario Jannetta

7050 Weston Road, Suite 400
Woodbridge
L4L 8G7acting for
Applicant(s)

Signed

2016 01 13

Tel 905-850-7000

Fax 905-850-7050

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

Submitted By

DOMENIC M. JANNETTA

7050 Weston Road, Suite 400
Woodbridge
L4L 8G7

2016 01 13

Tel 905-850-7000

Fax 905-850-7050

Fees/Taxes/Payment

Statutory Registration Fee \$62.85

Total Paid \$62.85

List of Owners

1. **Vaughan Crossing Inc.**
7501 Keele Street, Suite 306
Vaughan, Ontario L4K 1Y2

PINS: 03274-0103 & 03274-0104

2. **Ruth Goodman**
160 Rimmington Drive
Thornhill, Ontario L4J 6K1
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Barbara Schwartzberg
134 Thornway Crescent
Thornhill, Ontario L4J 7Z3
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Sharon Katz
182 Choquette
Dollard-Des-Ormeaux
Quebec H9A 3H1
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Sarah Kranc
1131 Steeles Avenue West, PH 105
Toronto, Ontario M2R 3W8
In her Capacity as Estate Trustee for the Estate of Harry Kranc

PINS: 03274-0106, 03274-0185, 03274-0273 & 03274-0275

SORA CONSTRUCTION LTD. V. VAUGHAN CROSSINGS INC., ET AL

Culb-125767-00

Court File Number:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT
NEWMARKET**

STATEMENT OF CLAIM

**CAPO SGRO LLP
Barristers & Solicitors
7050 Weston Road, Suite 400
Woodbridge, Ontario L4L 8G7**

**Allstair Riswick (017575S)
Tel: 905-850-7000
Fax: 905-850-7050**

Lawyers for the Plaintiff

This is Exhibit "L" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

LrO # 65 Construction Lien

Received as YR2423085 on 2016 01 28 at 16 16

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

yyyy mm dd Page 1 of 4

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84768 ASSIGNED BY R312155 ; VAUGHAN
Address VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN
Address VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; EXCEPT PT 1, YR2275120; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; EXCEPT PT 3, YR2275120; S/T VA84768 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address VAUGHAN

Consideration

Consideration \$ 198,798.97

Claimant(s)

Name KOHN PARTNERSHIP ARCHITECTS INC.
Address for Service 116 Spadina Avenue
Suite 501
Toronto, ON M5V 2K6

I, Sean Lawrence, Partner, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Sean Lawrence, Partner, have the authority to bind the corporation.

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

Statements

Name and Address of Owner See Schedule attached Name and address of person to whom lien claimant supplied services or materials See Schedule attached Time within which services or materials were supplied from 2013/08/29 to 2016/01/08 Short description of services or materials that have been supplied Architectural Services Contract price or subcontract price \$225,000.00 (plus HST) Amount claimed as owing in respect of services or materials that have been supplied \$1978,798.97 (inclusive of HST)

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

LRO # 65 Construction Lien

Received as YR2423085 on 2016 01 28 at 16:16

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

yyyy mm dd Page 2 of 4

Statements

Schedule: See Schedules

Signed By

Kenneth Wolfgang Movat	77 King Street West Suite 3000 PO Box 95 TD Centre Toronto M5K 1G8	acting for Applicant(s)	Signed	2016 01 28
Tel 416-864-9700				
Fax 416-941-8852				

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

Submitted By

FOGLER, RUBINOFF LLP	77 King Street West Suite 3000 PO Box 95 TD Centre Toronto M5K 1G8	2016 01 28
Tel 416-864-9700		
Fax 416-941-8852		

Fees/Taxes/Payment

Statutory Registration Fee	\$62.85
Total Paid	\$62.85

File Number

Claimant Client File Number : 03/2747 (JMJ)

SCHEDULE A

TO THE CLAIM FOR LIEN OF KOHN PARTNERSHIP ARCHITECTS INCORPORATED

DESCRIPTION OF PREMISES:

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPLETED PLAN 10200 VAUGHAN PT 3 (S & T) 047207 EXCEPT PT 1 EXCEPT PL. 1480076, PT WAS THEN ASSIGNED BY REGISTRATION VAUGHAN
Address 1130 DUFFERIN STREET VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPLETED PLAN 10200 VAUGHAN PT 1, 03R14000 VAUGHAN
Address 1130 DUFFERIN STREET VAUGHAN

PIN 03274 - 0102 LT
Description PT LT 23 REGISTRAR'S COMPLETED PLAN 10200 VAUGHAN PT 2 03R11533, CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0108 LT
Description PT LT 22 REGISTRAR'S COMPLETED PLAN 10200 VAUGHAN PT 1 (S&T) 03R11531, BUT TEMP. CASE FOR A TERM OF 3 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 2, YR2278120 AS IN YR2278120, CITY OF VAUGHAN
Address 1018 DUFFERIN STREET VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPLETED PLAN 10200 VAUGHAN EXCEPT PT 1, YR2278120; BUT TEMP. CASE FOR A TERM OF 3 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2278120 AS IN YR2278120, CITY OF VAUGHAN
Address 1018 DUFFERIN STREET VAUGHAN

PIN 03274 - 0273 LT
Description PT LT 25 REGISTRAR'S COMPLETED PLAN 10200 VAUGHAN PT 2 03R14000; PT LT 26 24 REGISTRAR'S COMPLETED PLAN 10200 VAUGHAN PT 3 03R14000 EXCEPT PT 1 03R14000 EXCEPT PT 2, YR2278120; BUT WAS THEN ASSIGNED BY REGISTRATION; BUT TEMP. CASE FOR A TERM OF 3 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2278120 AS IN YR2278120, CITY OF VAUGHAN
Address 1110 DUFFERIN STREET VAUGHAN

1. Vaughan Crossing Inc.
 7501 Erie Street, Suite 305
 Vaughan, Ontario L4K 1Y2
 PINS: 03274-0103 & 03274-0104

2. Ruth Quodman
 160 Blenheim Drive
 Thornhill, Ontario L4J 6K1
 In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejo Schwartzberg

Barbara Schwartzberg
 134 Thornway Crescent
 Thornhill, Ontario L4J 7Z3
 In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejo Schwartzberg

Sharon Katz
 187 Chiquette
 Dorval-Dor-Cormier
 Quebec H5A 3H3
 In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejo Schwartzberg

Sarah Kratz
 1231 Bayview Avenue West, PH 305
 Toronto, Ontario M2H 1W9
 In her Capacity as Estate Trustee for the Estate of Harry Kratz

PINS: 03274-0105, 03274-0105, 03274-0273 & 03274-0273

- 2 -

Name of person to whom lien claimant supplied services or materials: Vaughan Crossings Inc.

Address: 7501 Keele Street
Suite 306
Concord, ON L4K 1Y2

Name of person to whom lien claimant supplied services or materials: 1889993 Ontario Ltd.

Address: Albert Guido
7501 Keele Street
Suite 306
Concord, ON L4K 1Y2

Name of person to whom lien claimant supplied services or materials: The Fiducia Group Inc.

Address: The Fiducia Group Inc.
4 Magic Avenue
Markham, ON L6C 0A5

ADDITIONAL PERSONS IDENTIFIED AS LISTED ABOVE

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY R312155; VAUGHAN
Address VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN
Address VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; EXCEPT PT 1, YR2275120; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; EXCEPT PT 3, YR2275120; S/T VA84765 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address VAUGHAN

Party From(s)

Name KOHN PARTNERSHIP ARCHITECTS INC.
Address for Service 116 Spadina Avenue
Suite 501
Toronto, Ontario
M5V 2K6

I, Sean Lawrence, Partner, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Statements

This document relates to registration no.(s)YR2423085
Schedule: See Schedules

Signed By

Kenneth Wolfgang Movat 77 King Street West Suite 3000 PO acting for Party Signed 2016 04 01
Box 95 TD Centre From(s)
Toronto
M5K 1G8

Tel 416-864-9700
Fax 416-941-8852

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

LRO # 65 Certificate

Registered as YR2452308 on 2016 04 01 at 15:13

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

yyyy mm dd Page 2 of 5

Submitted By

FOGLER, RUBINOFF LLP

77 King Street West Suite 3000 PO
Box 95 TD Centre
Toronto
M5K 1G8

2016 04 01

Tel 416-864-9700

Fax 416-941-8852

Fees/Taxes/Payment

Statutory Registration Fee	\$62.85
Total Paid	\$62.85

File Number

Party From Client File Number :

KOHN PARTNERSHIP (16/1517 KWM)

CV16-126181-00

Construction Lien Act, R.S.O. 1990, Chap. C-30, as amended

CERTIFICATE OF ACTION
Under Section 36 of the Act

Court File No. _____

ONTARIO
SUPERIOR COURT OF JUSTICE



BETWEEN:

KOHN PARTNERSHIP ARCHITECTS INC.

Plaintiff

and

**VAUGHAN CROSSINGS INC., 1889993 ONTARIO LTD.,
THE FIDUCIA GROUP INC., RUTH GOODMAN, In Her Capacity as Estate
Trustee of the Estates of Leib Schwartzberg and Lejb Schwartzberg, BARBARA
SCHWARTZBERG, In Her Capacity as Estate Trustee of the Estates of Leib
Schwartzberg and Lejb Schwartzberg, SHARON KATZ, In Her Capacity as
Estate Trustee of the Estates of Leib Schwartzberg and Lejb Schwartzberg,
SARAH KRANC, In Her Capacity as Estate Trustee of the Estate of Harry Kranc,
OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION,
VECTOR FINANCIAL SERVICES LIMITED**


Defendants

CERTIFICATE OF ACTION

I certify that an action has been commenced in the Ontario Superior Court of Justice under the *Construction Lien Act*, R.S.O. 1990, Chap. C-30, as amended, between the above parties in respect of the premises described in Schedule "A" to this certificate, and relating to the claim(s) for lien bearing the following registration number: YR2423085.

DATE: _____

MAR 30 2016



(Registrar or Local Registrar)
50 Eagle Street West
Newmarket ON L3Y 6B1

SCHEDULE "A"

PIN: 03274 - 0103 LT
 Description: PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY R312155 ; VAUGHAN
 Address: VAUGHAN

PIN: 03274 - 0104 LT
 Description: PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN
 Address: VAUGHAN

PIN: 03274 - 0106 LT
 Description: PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
 Address: VAUGHAN

PIN: 03274 - 0185 LT
 Description: PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
 Address: 7818 DUFFERIN STREET VAUGHAN

PIN: 03274 - 0273 LT
 Description: LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; EXCEPT PT 1, YR2275120; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
 Address: VAUGHAN

PIN: 03274 - 0275 LT
 Description: PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1,65R8928; EXCEPT PT 3, YR2275120; S/T VA84765 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
 Address: VAUGHAN

KOHN PARTNERSHIP ARCHITECTS INC.

and

VAUGHAN CROSSINGS INC. et al

Plaintiff

Defendants

Court File No: C V 16 - 126181-00

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE Construction Lien
Act, S.O. 1990, c. C.30 as amended

Proceedings commenced in Newmarket

CERTIFICATE OF ACTION

FOGLER, RUBINOFF LLP

Lawyers

77 King Street West

Suite 3000, P.O. Box 95

TD Centre North Tower

Toronto, ON M5K 1G8

Kenneth W. Movat (LSUC# 27031A)

Tel: 416.365.3720

Fax: 416.941.8852

Lawyers for the Plaintiff

CV16-126181-00
 Court File No. _____

**ONTARIO
 SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF the Construction Lien Act, R.S.O. 1990, c. C.30

BETWEEN:

(Court Seal)

KOHN PARTNERSHIP ARCHITECTS INC.

Plaintiff

and

**VAUGHAN CROSSINGS INC., 1889993 ONTARIO LTD.,
 THE FIDUCIA GROUP INC., RUTH GOODMAN, In Her Capacity as Estate
 Trustee of the Estates of Leib Schwartzberg and Lejb Schwartzberg, BARBARA
 SCHWARTZBERG, In Her Capacity as Estate Trustee of the Estates of Leib
 Schwartzberg and Lejb Schwartzberg, SHARON KATZ, In Her Capacity as Estate
 Trustee of the Estates of Leib Schwartzberg and Lejb Schwartzberg, SARAH
 KRANC, In Her Capacity as Estate Trustee of the Estate of Harry Kranc,
 OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION,
 VECTOR FINANCIAL SERVICES LIMITED**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
 The Claim made against you is set out in the following pages.**

**IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for
 you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure,
 serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the
 Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this
 Statement of Claim is served on you, if you are served in Ontario.**

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN
 AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF
 YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,**

LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date _____ Issued by  _____
Local Registrar

MAR 30 2016

Address of court office: 50 Eagle Street West
Newmarket ON L3Y 6B1

- TO: Vaughan Crossings Inc.
7501 Keele Street, Suite 306
Vaughan ON L4K 1Y2
- AND TO: 1889993 Ontario Ltd.
7501 Keele Street, Suite 305
Vaughan ON L4K 1Y2
- AND TO: The Fiducia Group Inc.
4 Magic Avenue
Markham ON L6C 0A5
- AND TO: Ruth Goodman, In Her Capacity as Estate Trustee
of the Estates of Leib Schwartzberg and Lejb Schwartzberg
160 Rimmington Drive
Thornhill ON L4K 1Y2
- AND TO: Barbara Schwartzberg, In Her Capacity as Estate Trustee
of the Estates of Leib Schwartzberg and Lejb Schwartzberg
134 Thornway Crescent
Thornhill ON L4J 7Z3
- AND TO: Sharon Katz, In Her Capacity as Estate Trustee
of the Estates of Leib Schwartzberg and Lejb Schwartzberg
182 Choquette
Dollaard-Des-Ormeaux
Quebec H9A 3H1
- AND TO: Sarah Kranc, In Her Capacity as Estate Trustee
of the Estate of Harry Kranc
1131 Steeles Avenue West, PH105
Toronto ON M2R 3W8

AND TO: Olympia Trust Company
2200, 125 9th Avenue S.E.
Calgary AB T2G 0P6

AND TO: Scollard Trustee Corporation
3655 Kingston Road
Scarborough ON M1M 1S2

AND TO: Vector Financial Services Limited
25 Imperial Street, Suite 500
Toronto ON M5P 1B9

CLAIM

1. The Plaintiff claims:

- (a) a declaration that the Plaintiff is entitled to a lien in the amount of \$196,798.97 against all of the estate, title and interest of the lands and premises described in the Construction Lien hereinafter attached as Schedule A";
- (b) a declaration that the Plaintiff's lien has priority over any and all registered or unregistered leases, easements, rights of way, debentures and other registered or unregistered interests whatsoever as of the dates of registration of the Plaintiff's Construction Lien;
- (c) payment of the amount of \$202,806.35, being the balance due and owing under its contract;
- (d) in the alternative to subparagraph (c), payment of the amount of \$202,806.35, being the reasonable value of the work, services and materials supplied by the Plaintiff at the request, and for the use and benefit of, the Defendants, to the detriment of the Plaintiff, and for which the Plaintiff remains unpaid, all on the basis of quantum meruit;
- (e) any Harmonized Sales Tax which may be payable on any of the amounts claimed herein pursuant to the *Excise Tax Act*;
- (f) a declaration as to the amount of any and all holdbacks retained or required to be retained by the Defendants hereto with respect to the project described herein and

- an accounting by the Defendants to the Plaintiff for the receipt and disbursement of all funds advanced with respect to this improvement and any profits made thereon;
- (g) full priority over the Mortgages or, alternatively, priority over the Mortgages to the extent of any deficiency in the holdbacks required to be retained and, in addition or in the alternative, to the extent that the Mortgages may be prior mortgages under the *Construction Lien Act*, priority over such Mortgages to the extent that any portion advanced exceeded the actual value of the lands and premises hereinafter described at the time when the first lien arose, and/or in the further alternative, priority over such Mortgages to the extent of any unadvanced portions thereof, and/or in addition, or in the further alternative, priority to the extent of any advance made at a time when there was a preserved or perfected lien against the lands and premises hereinafter described, or after receipt of a written notice of lien;
- (h) to the extent that the Mortgages may be subsequent mortgages under the *Construction Lien Act*, full priority over the said Mortgages or, in the alternative, priority over such Mortgages to the extent of any deficiency in the holdbacks required to be retained and in addition, or in the alternative, priority over such Mortgages to the extent of any unadvanced portions thereof and/or to the extent of any advance made at a time when there was a preserved or perfected lien against the lands and premises hereinafter described, or after receipt of a written notice of lien;
- (i) that, in default of payment of the said sum of \$196,798.97 plus interest and costs, all the estate and interest of the Defendants, in the lands and premises be sold and the proceeds applied towards payment of the Plaintiff's claim pursuant to the

provisions of the *Construction Lien Act*, R.S.O. 1990, Chap. C-30, as amended, or, in the alternative, payment of the Plaintiff's claim from the proceeds of any security posted to vacate same;

- (j) an accounting from the Defendants of the funds advanced by them for the purpose of financing the improvement;
- (k) for the purposes aforesaid, all proper directions to be given and accounts taken;
- (l) prejudgment interest and postjudgment interest pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, Chap. C-43, as amended;
- (m) its costs of this action on a substantial indemnity basis;
- (n) such further and other relief as to this Honourable Court may seem just.

2. The Plaintiff, Kohn Partnership Architects Inc. ("Kohn") is a corporation duly incorporated under the laws of the Province of Ontario and carries on the business of providing architectural services.

3. The Defendant 1889993 Ontario Ltd. ("1889993") is a corporation duly incorporated under the laws of the Province of Ontario. 1889993 entered into a contract with Kohn to provide architectural services on the Project as more particularly described below.

4. The Defendant The Fiducia Group Inc. ("Fiducia") is a corporation duly incorporated under the laws of the Province of Ontario. Fiducia entered into a contract with Kohn to provide architectural services on the Project as more particularly described below.

5. The Defendant Vaughan Crossings Inc. ("Vaughan Crossings") is the registered owner of certain of the lands and premises described in Kohn's Construction Lien and is an "Owner" of those certain lands and premises as defined by section 1(1) of the *Construction Lien Act*. In addition to being an "Owner", Vaughan Crossings entered into a contract with Kohn to provide architectural services on the Project as more particularly described below.

6. The Defendant Ruth Goodman ("Goodman"), in her capacity as Estate Trustee of the Estates of Leib Schwarzberg and Lejb Schwartzberg, is the registered owner of certain of the lands and premises described in the Kohn's Construction Lien and is an "Owner" of those certain lands and premises as defined by section 1(1) of the *Construction Lien Act*.

7. The Defendant Barbara Schwartzberg ("Schwartzberg"), in her capacity as Estate Trustee of the Estates of Leib Schwartzberg and Lejb Schwartzberg, is the registered owner of certain of the lands and premises described in Kohn's Construction Lien and is an "Owner" of those certain lands and premises as defined by section 1(1) of the *Construction Lien Act*.

8. The Defendant Sharon Katz ("Katz"), in her capacity as Estate Trustee of the Estates of Leib Schwartzberg and Lejb Schwartzberg, is the registered owner of certain of the lands and premises described in Kohn's Construction Lien and is an "Owner" of those certain lands and premises as defined by section 1(1) of the *Construction Lien Act*.

9. The Defendant Sarah Kranc ("Kranc"), in her capacity as Estate Trustee of the Estate of Harry Kranc, is the registered owner of certain of the lands and premises described in Kohn's Construction Lien and is an "Owner" of those certain lands and premises as defined by section 1(1) of the *Construction Lien Act*.

10. The Defendant Olympia Trust Company ("Olympia Trust") is a corporation subject to the provisions of the *Loan and Trust Corporations Act* of the Province of Ontario, with its registered office in the City of Calgary, where it specializes in financial services. Olympia Trust, by way of Transfer of Charge, has a registered Charge, being Instrument number YR2048941, registered against certain lands and premises.

11. The Defendant Scollard Trustee Corporation ("Scollard") is a corporation with its registered office in the City of Toronto. Scollard, by way of Transfer of Charge, has a registered Charge, being Instrument number YR2048941, registered against certain lands and premises.

12. The Defendant Vector Financial Services Limited ("Vector") is a corporation incorporated under the laws of the Province of Ontario, with its registered offices in the City of Toronto, where it specializes in financial services. Vector has a Charge, being Instrument No. YR2092552 registered against certain lands and premises.

13. On or about July 26, 2013, Kohn entered into a contract with Vaughan Crossings, 1889993 and Fiducia to prepare conceptual designs and architectural drawings (the "Work") for several commercial buildings being constructed at the northwest corner of Dufferin and Centre Street, in the City of Vaughan ("the Project").

14. Kohn commenced the Work on the Project in August, 2013 and continued with the Work through to and including January 8, 2016.

15. At all material times, Kohn acted reasonably and properly and in accordance with the provisions of its contract with Vaughan Crossings, 1889993 and Fiducia. Kohn had fully performed its obligations under the contract. Each of Vaughan Crossings, 1889993 and Fiducia

have breached the terms of their contract with Kohn by, *inter alia*, failing to pay the amount due despite Kohn's demands for payment.

16. By reason of performing its work on the lands and premises, Kohn is entitled to a lien in the amount of \$196,798.97 upon the interest in the said lands and premises pursuant to the provisions of the *Construction Lien Act*, R.S.O. 1990, Chap. C-30, as amended, together with its costs of this action.

17. On January 28, 2016, Kohn caused to be registered the Construction Lien attached as Schedule "A" hereto, as Instrument No. YR2423085, against the title to the lands and premises in Land Registry Office #65.

18. The lands and premises described in Schedule "A" were at all material times owned and occupied by either, Vaughan Crossings, Goodman, Schwartzberg, Katz or Kranc and are the lands and premises for which Kohn performed the Work at the request, with the consent, and for the direct benefit, of each of Vaughan Crossings, Goodman, Schwartzberg, Katz or Kranc, who were at all material times the owners of the lands and premises within the meaning of that term as it appears in the *Construction Lien Act*, R.S.O. 1990, Chap. C-30, as amended.

19. Subsequent to the registration of Kohn's Construction Lien, Kohn discovered an additional unpaid invoice relating to this Project in the amount of \$6,007.38.

20. Therefore, Kohn's total claim is in the amount of \$202,806.35 which consists of the Construction Lien amount of \$196,798.97 and the additional unpaid invoice in the amount of \$6,007.38.

21. In the alternative, Kohn says that it performed the Work at the request of each of Vaughan Crossings, Goodman, Schwartzberg, Katz or Kranc, thus enhancing the value of the lands and premises and advancing the progress of the improvement. Kohn accordingly says that each of Vaughan Crossings, Goodman, Schwartzberg, Katz or Kranc have received the benefit of the Work, and have been unjustly enriched in the amount of \$202,806.35 at the expense of and to the detriment of Kohn. Kohn pleads and relies on the doctrine of *quantum meruit*.

22. Kohn pleads that Olympia Trust, Scollard and Vector are the mortgagees of certain of the lands and premises. Kohn has no knowledge of what advances have been made pursuant to the said mortgages, but claims priority to the extent that any advances have exceeded the actual value of the said lands and premises at the time the first lien arose or to the extent that there is any deficiency in the holdbacks required to be retained pursuant to the provisions of the *Construction Lien Act* or to the extent that any advances were made at the time when there was a preserved or perfected lien against the lands and premises.

23. Kohn further states that in the event that the above-referenced Construction Lien is vacated from title to the project by the posting of security with the Accountant of the Ontario Superior Court of Justice, its claim is entitled to be paid from the proceeds of said security, should it be found that the posting of security resulted in Kohn's Construction Lien ceasing to attach to and/or bind the lands and premises comprising the project.

24. With respect to service upon the Defendants outside Ontario without leave, Kohn relies upon rules 17.02(a) and (f) of the *Rules of Civil Procedure* as the contract and the lands and premises are in Ontario.

25. Kohn requests that this action be tried in the City of Newmarket.

MAR 30 2016

Date of Issue: _____

FOGLER, RUBINOFF LLP

Lawyers

77 King Street West

Suite 3000, P.O. Box 95

TD Centre North Tower

Toronto, ON M5K 1G8

Kenneth W. Movat (LSUC# 27031A)

Tel: 416.365.3720

Fax: 416.941.8852

Lawyers for the Plaintiff

SCHEDULE "A"

LRO # 65 Construction Lien

Received as YR2423085 on 2016 01 28 at 16:16

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

yyyy mm dd Page 1 of 4

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078, S/T VA84768 ASSIGNED BY R312155 ; VAUGHAN
Address VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN
Address VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525, CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; EXCEPT PT 1, YR2275120; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1,65R8928; EXCEPT PT 3, YR2275120; S/T VA84765 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address VAUGHAN

Consideration

Consideration \$ 196,798.97

Claimant(s)

Name KOHN PARTNERSHIP ARCHITECTS INC.
Address for Service 116 Spadina Avenue
 Suite 501
 Toronto, ON M5V 2K6

I, Sean Lawrence, Partner, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Sean Lawrence, Partner, have the authority to bind the corporation.

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

Statements

Name and Address of Owner See Schedule attached Name and address of person to whom lien claimant supplied services or materials See Schedule attached Time within which services or materials were supplied from 2013/08/29 to 2016/01/08 Short description of services or materials that have been supplied Architectural Services Contract price or subcontract price \$225,000.00 (plus HST) Amount claimed as owing in respect of services or materials that have been supplied \$1976,798.97 (inclusive of HST)

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

LRO # 65 Construction Lien

Received as YR2423085 on 2016 01 28 at 16:10

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

yyyy mm dd Page 2 of 4

Statements

Schedule See Schedules

Signed By

Kenneth Wolfgang Moval	77 King Street West Suite 3000 PO Box 95 TD Centre Toronto M5K 1G8	acting for Applicant(s)	Signed	2016 01 28
------------------------	---	----------------------------	--------	------------

Tel 416-864-9700

Fax 416-941-8852

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

Submitted By

FOGLER, RUBINOFF LLP	77 King Street West Suite 3000 PO Box 95 TD Centre Toronto M5K 1G8	2016 01 28
----------------------	---	------------

Tel 416-864-9700

Fax 416-941-8852

Fees/Taxes/Payment

Statutory Registration Fee \$62.85

Total Paid \$62.85

File Number

Claimant Client File Number : 03/2747 (JM)

SCHEDULE A

TO THE CLAIM FOR LIEN OF KOHN PARTNERSHIP ARCHITECTS INCORPORATED
 DESCRIPTION OF PREMISES:

PN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10308 VAUGHAN PT 8 & 11 BARTZOT
 EXCEPT PT 1 EXCEPT PL R#50076; S/T V#82768 ASSIGNED BY R#12165;
 VAUGHAN
Address 7850 DUFFERIN STREET
 VAUGHAN

PN 03274 - 0104 LT
Description PT LT 23 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 03R14039;
 VAUGHAN
Address 7850 DUFFERIN STREET
 VAUGHAN

PN 03274 - 0106 LT
Description PT LT 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 02R11525; CITY OF
 VAUGHAN
Address VAUGHAN

PN 03274 - 0186 LT
Description PT LT 23 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 03R0828; S/T
 TEMP. CASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE
 PLAN OVER PT 6, YR2278120 AS BY YR2278120; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10308 VAUGHAN; EXCEPT PT 1, YR2275120;
 S/T TEMP. CASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE
 PLAN OVER PT 3, YR2278120 AS BY YR2278120; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PN 03274 - 0273 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 03R14039; PT L#5
 23 & 26 REGISTRAR'S COMPILED PLAN 10308 VAUGHAN PT 3 03R14038 EXCEPT
 PT 1 03R0828; EXCEPT PT 3, YR2278120; S/T V#82768 ASSIGNED BY R#12165; S/T
 TEMP. CASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE
 PLAN OVER PT 4, YR2278120 AS BY YR2278120; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

1. Vaughan Crossing Inc.
 7501 Keele Street, Suite 205
 Vaughan, Ontario L4K 1Y2

PHS: 03274-0103 & 03274-0104

2. Ruth Goodman
 160 Kensington Drive
 Thornhill, Ontario L4J 6K1
 In her Capacity as Estate Trustee for the Estates of Leob Schwartzberg & Lejb Schwartzberg

Barbara Schwartzberg
 134 Thornway Crescent
 Thornhill, Ontario L4J 7Z3
 In her Capacity as Estate Trustee for the Estates of Leob Schwartzberg & Lejb Schwartzberg

Sharon Katz
 182 Chiquette
 Dollard-Des-Ormeaux
 Quebec H3A 5H1
 In her Capacity as Estate Trustee for the Estates of Leob Schwartzberg & Lejb Schwartzberg

Sarah Kranc
 1321 Steeles Avenue West, P#1105
 Toronto, Ontario M2R 3W8
 In her Capacity as Estate Trustee for the Estate of Harry Kranc

PHS: 03274-0106, 03274-0186, 03274-0273 & 03274-0275

Name of person to whom lien claimant supplied services or materials: Vaughan Crossings Inc.

Address: 7501 Keele Street
Suite 306
Concord, ON L4K 1Y2

Name of person to whom lien claimant supplied services or materials: 1889993 Ontario Ltd.

Address: Albert Guido
7501 Keele Street
Suite 306
Concord, ON L4K 1Y2

Name of person to whom lien claimant supplied services or materials: The Fiducia Group Inc.

Address: The Fiducia Group Inc.
4 Magic Avenue
Markham, ON L6C 0A5

ADDITIONAL PERSONS IDENTIFIED AS LISTED ABOVE

Cv16-126181-00

KOHN PARTNERSHIP ARCHITECTS INC.

and

VAUGHAN CROSSINGS INC. et al

Plaintiff

Defendants

Court File No:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE Construction Lien
Act, S.O. 1990, c. C.30 as amended**

Proceedings commenced in Newmarket

STATEMENT OF CLAIM

FOGLER, RUBINOFF LLP

Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8

Kenneth W. Movat (LSUC# 27031A)
Tel: 416.365.3720
Fax: 416.941.8852

Lawyers for the Plaintiff

Court File No. CV16-126181-00

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF the *Construction Lien Act*, R.S.O. 1990, c. C.30

BETWEEN:

KOHN PARTNERSHIP ARCHITECTS INC.

Plaintiff

and

**VAUGHAN CROSSINGS INC., 1889993 ONTARIO LTD., THE FIDUCIA
GROUP INC., RUTH GOODMAN, In Her Capacity as Estate Trustee of the
Estates of Leib Schwartzberg and Lejb Schwartzberg, BARBARA
SCHWARTZBERG, In Her Capacity as Estate Trustee of the Estates of Leib
Schwartzberg and Lejb Schwartzberg, SHARON KATZ, In Her Capacity as
Estate Trustee of the Estates of Leib Schwartzberg and Lejb Schwartzberg,
SARAH KRANC, In Her Capacity as Estate Trustee of the Estate of Harry
Kranc, OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE
CORPORATION, VECTOR FINANCIAL SERVICES LIMITED**

Defendants

**STATEMENT OF DEFENCE AND CROSSCLAIM OF THE DEFENDANT
VECTOR FINANCIAL SERVICES LIMITED**

1. The Defendant Vector Financial Services Limited (“Vector Financial”) admit the allegations as contained in the following paragraphs of the Statement of Claim:

- (a) 5, only as to Vaughan Crossings Inc. being the registered owner of certain of the lands and premises, but not as to it being an “Owner” as defined under the *Construction Lien Act* nor with respect to it entering into a contract with the plaintiff;

-2-

- (b) 6 to 9 inclusive, but only with respect to the defendants named therein as being registered owners of certain of the lands and premises, but not them each being an “Owner” of them as defined by section 1(1) of the *Construction Lien Act*;
- (c) 10 and 11, but only with respect to the defendants named therein as having registered charges as against certain of the lands and premises;
- (d) 17, but not as to the validity of the said construction lien;
- (e) 18, but only with respect to the ownership or occupation of the lands and premises described therein and;
- (f) 24 and 25.

2. Vector Financial has no knowledge of the allegations as pled in paragraphs 2, 3, 4 and 13 of the Statement of Claim. Further, Vector Financial has no knowledge as to the existence of a contract between the plaintiff and Vaughan Crossings Inc. as plead in paragraph 5, whether the defendants as listed in paragraphs 6 to 9 inclusive are each an “Owner” as defined by section (1) of *Construction Lien Act*, nor the corporate status of the co-defendants Olympia Trust and Scollard as set out in paragraphs 10 and 11 of the Statement of Claim.

3. Vector Financial denies each and every other allegation as contained in the Statement of Claim unless specifically excepted herein.

4. Pursuant to a loan proposal dated November 27, 2013 Vector Financial agreed to loan the defendant Vaughan Crossings Inc. (“Vaughan Crossings”) the amount of \$32,500,000.00 to be

secured by way of a first mortgage upon Vaughan Crossings' interest in the lands and premises described in Schedule A of the Statement of Claim.

5. Pursuant to the terms of the said agreement Vaughan Crossings granted Vector Financial a mortgage in its fee simple interest in part of the lands and premises and specifically being those parts as represented by PINS 03274-0103LT and 03274-0104LT and a Charge bearing instrument number YR2092552. Further, pursuant to the terms of the said agreement, Vaughan Crossings granted Vector Financial a charge of its leasehold interest in part of the lands and premises being PINS 03274-0106LT, 03274-0107LT, 03274-0185LT and 03274-0186LT secured by way of a Notice of Charge of Lease over Vaughan Crossings' leasehold interest in the said properties bearing instrument number YR2092557. Hereinafter, the said Charge/Mortgage and Notice of Charge of Lease shall be jointly referenced as the "Mortgage".

6. The total sum of \$32,500,000.00 is secured by the Mortgage. The advances there under were to be as follows:

- (a) \$5,200,000.00 for financing of the land purchase;
- (b) \$3,600,000.00 for financing of site servicing;
- (c) \$1,000,000.00 for financing of any letters of credit that may be required;
- (d) \$22,200,000.00 for financing of construction costs; and
- (e) \$500,000.00 for financing of construction float.

7. Pursuant to the terms of the Mortgage Vector Financial advanced directly to Vaughan Crossings or on its behalf the amount of \$8,800,000.00; of this sum, the amount of \$5,000,000.00 was advanced to Vaughan Crossings in order to refinance existing debt that it had which had previously been secured by the lands and premises as hereinbefore described.

8. Of the remaining amount of the advance, the amount of \$2,502,983.00 was advanced directly to Vaughan Crossings. The remainder of the funds advanced was used for other expenses related to the property including property tax arrears, payment of Vector Financial's legal and other expenses, payment of rent to the landlord of Vaughan Crossings' leasehold interest and other similar payments in kind.

9. Vector Financial denies that it is a "payer" as defined under s.1 of the *Construction Lien Act*, R.S.O. 1990, c.C.30 (the "Act") and puts the plaintiff to strict proof thereof. Accordingly, Vector Financial denies that it had any obligation to maintain a holdback for any payments that were made directly to Vaughan Crossings or on its behalf under the Mortgage or otherwise.

10. Vector Financial states that all advances made under the Mortgage were made prior to any preservation or perfection of liens on the lands and premises.

11. Vector Financial denies that the plaintiff herein has any right to priority over its interest in the lands and premises whether under the provisions of the Act or otherwise at law.

12. Vector Financial denies that the plaintiff is owed any amounts pursuant to any alleged services provided to the land and premises and puts it to the strict proof thereof.

13. In the alternative, should any amounts be owing to the plaintiff hereunder whether by way of unjust enrichment, contract or otherwise, Vector Financial states that any and all such amounts are owed to it by its co-defendants herein and specifically Vaughan Crossings, 1889993 Ontario Ltd. and/or The Fiducia Group Inc., and it denies all liability whatsoever to the plaintiff.

14. Further, in the further alternative, the plaintiff has failed to preserve and/or perfect its claim for lien within the time constraints as set out under the Act and as such the claim for lien as set out in the Statement of Claim should be struck from title to the lands and premises (without admitting that any amounts are owing to the plaintiff).

15. Further, the plaintiff has exaggerated or otherwise overstated the amount of its claim for lien.

16. Vector Financial asks that this action be dismissed as against it with costs on a substantial indemnity scale plus all applicable taxes.

CROSSCLAIM

17. The Defendant Vector Financial Services Limited (“Vector Financial”) crossclaims as against its co-defendant Vaughan Crossings Ltd. as follows:

- (a) full contribution and indemnity for any amounts for which it may be found to be liable to the plaintiff in the main action;
- (b) full indemnity of any costs that it may have incurred in the main action;
- (c) the costs of the within Crossclaim on a substantial indemnity scale;
- (d) pre- and postjudgment interest on all amounts awarded pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended; and
- (e) such further and other relief as this Honourable Court may deem just.

18. Vector Financial repeats and relies upon the allegations as set out in its Statement of Defence herein.

19. Vector Financial states that under the terms of the Mortgage Vaughan Crossings is liable to it for any costs incurred in defending any claim for lien or other action pursuant to the said terms and seeks amounts as set out in the within Crossclaim.

20. Further, in the alternative, Vaughan Crossings is in breach of the terms of the Mortgage and in default there under in not making full payment to the plaintiff and allowing it to register a claim for lien on the lands and premises. Accordingly, in accordance with the terms of the Mortgage, Vaughan Crossings is liable in full for any and all amounts which may be owing to the plaintiff.

21. Vector Financial states that the trial of the Crossclaim be held concurrent with or immediately after the trial of the main action herein.

May 30, 2016

STEINBERG TITLE HOPE & ISRAEL LLP
Barristers & Solicitors
5255 Yonge Street, Suite 1100
Toronto, Ontario
M2N 6P4

David A. Brooker (35787W)
Tel: 416-225-2777
Fax: 416-225-7112

Lawyers for the Defendant,
Vector Financial Services Limited

-7-

TO: FOGLER, RUBINOFF LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, Ontario
M5K 1G8

Kenneth W. Movat (27031A)
Tel: 416-365-3720
Fax: 416-941-8852

Lawyers for the Plaintiff

AND VAUGHAN CROSSINGS INC.
TO: 7501 Keele Street
Suite 401
Vaughan, ON L4K 1Y2

Defendant

AND 1889993 Ontario Ltd.
TO: 7501 Keele Street, Suite 305
Vaughan ON L4K 1Y2

Defendant

AND The Fiducia Group Inc.
TO: 4 Magic Avenue
Markham ON L6C OAS

Defendant

AND Ruth Goodman, In Her Capacity as Estate Trustee
TO: of the Estates of Leib Schwartzberg and Lejb Schwartzberg
160 Rimmington Drive
Thornhill ON L4K 1Y2

Defendant

AND Barbara Schwartzberg, In Her Capacity as Estate Trustee
TO: of the Estates of Leib Schwartzberg and Lejb Schwartzberg
134 Thornway Crescent
Thornhill ON L4J 7Z3

Defendant

AND Sharon Katz, In Her Capacity as Estate Trustee
TO: of the Estates of Leib Schwartzberg and Lejb Schwartzberg
182 Choquette
Dollaard-Des-Ormeaux
Quebec H9A 3H1

Defendant

AND Sarah Kranc, In Her Capacity as Estate Trustee
TO: of the Estate of Harry Kranc
1131 Steeles Avenue West, PH105
Toronto ON M2R 3W8

Defendant

AND **OLYMPIA TRUST COMPANY**
TO: 2200, 125 9th Avenue S.E.
Calgary, AB T2G 0P6

Defendant

AND **SCOLLARD TRUSTEE CORPORATION**
TO: 3655 Kingston Road
Scarborough, ON M1M 1S2

Defendant

RCP-E 18A (July 1, 2007)

KOHN PARTNERSHIP ARCHITECTS INC.
Plaintiff

-and-

VAUGHAN CROSSINGS INC. et al.
Defendants

Court File No. CV16-126181-00

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF the Construction Lien Act, R.S.O. 1990, c.
C.30

PROCEEDING COMMENCED AT
NEWMARKET

**STATEMENT OF DEFENCE AND CROSSCLAIM
OF THE DEFENDANT
VECTOR FINANCIAL SERVICES LIMITED**

STEINBERG TITLE HOPE & ISRAEL LLP
Barristers & Solicitors
5255 Yonge Street, Suite 1100
Toronto, Ontario
M2N 6P4

David A. Brooker (35787W)
Tel: 416-225-2777
Fax: 416-225-7112

Lawyers for the Defendant,
Vector Financial Services Limited

RCP-E 4C (July 1, 2007)

This is Exhibit "M" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

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

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY R312155; VAUGHAN
Address 7850 DUFFERIN STREET
VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039; VAUGHAN
Address 7850 DUFFERIN STREET
VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; EXCEPT PT 1, YR2275120; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; EXCEPT PT 3, YR2275120; S/T VA84765 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
VAUGHAN

Consideration

Consideration \$210,567.48

Claimant(s)

Name TRIAXIS CONSTRUCTION LIMITED
Address for Service 3415 American Drive, Suite 200
Mississauga, Ontario
L4V 1T4

I, Alessandro Palazzo, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Alessandro Palazzo, have the authority to bind the corporation.

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

Statements

Name and Address of Owner See Schedule Name and address of person to whom lien claimant supplied services or materials See Schedule Time within which services or materials were supplied from 2015/07/20 to 2015/12/18 Short description of services or materials that have been supplied construction management services for construction of commercial buildings Contract price or subcontract price \$746,752.48 (including HST) Amount claimed as owing in respect of services or materials that have been supplied \$210,567.48 (including HST)

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 Schedule: See Schedules

LRO # 65 Construction Lien

Received as YR2422509 on 2016 01 28 at 11:26

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

yyyy mm dd Page 2 of 3

Signed By

Flavio Battiston	202-1013 Wilson Avenue North York M3K 1G1	acting for Applicant(s)	Signed 2016 01 28
------------------	---	----------------------------	-------------------

Tel 416-630-7151

Fax 4166307472

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

Submitted By

BATTISTON AND ASSOCIATES	202-1013 Wilson Avenue North York M3K 1G1	2016 01 28
--------------------------	---	------------

Tel 416-630-7151

Fax 4166307472

Fees/Taxes/Payment

Statutory Registration Fee	\$62.85
Total Paid	\$62.85

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY R312155; VAUGHAN
Address VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039; VAUGHAN
Address VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN; EXCEPT PT 1, YR2275120; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; EXCEPT PT 3 YR2275120; S/T VA84765 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address VAUGHAN

Party From(s)

Name TRIAXIS CONSTRUCTION LIMITED
Address for Service 3415 American Drive, Suite 200
Mississauga, Ontario
L4V 1T4

I, Alessandro Palazzo, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Party To(s)**Capacity****Share**

Name VAUGHAN CROSSINGS INC.
Address for Service 7501 Keele Street, Suite 306
Vaughan, Ontario L4K 1Y2

Name GOODMAN, RUTH
Address for Service 160 Rimmington Drive
Thornhill, Ontario L4J 6K1

Name SCHWARTZBERG, BARBARA
Address for Service 134 Thornway Crescent
Thornhill, Ontario L4J 7Z3

Name KATZ, SHARON
Address for Service 182 Choquette
Dollard-Des-Ormeaux
Quebec H9A 3H1

Name KRANC, SARAH

LRO # 65 Certificate

Registered as YR2439974 on 2016 03 07 at 09:14

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

yyyy mm dd Page 2 of 5

Party To(s)	Capacity	Share
<i>Address for Service</i>	1131 Steeles Avenue West, PH 105 Toronto, Ontario M2R 3W8	
<i>Name</i>	VESTOR FINANCIAL SERVICES LIMITED	
<i>Address for Service</i>	25 Imperial Street, Suite 500 Toronto, Ontario M5P 1B9	
<i>Name</i>	OLYMPIA TRUST COMPANY	
<i>Address for Service</i>	120 Adelaide Street West, Suite 920 Toronto, Ontario M5H 1T9 2200 125 9th Avenue S.E. Calgary, Alberta T2G 0P6	
<i>Name</i>	SCOLLARD TRUST COMPANY	
<i>Address for Service</i>	3655 Kingston Road Scarborough, Ontario M1M 1S5	

Statements

This document relates to registration no.(s)YR2422509

Schedule: See Schedules

Signed By

Flavio Battiston	202-1013 Wilson Avenue North York M3K 1G1	acting for Party From(s)	Signed	2016 03 07
------------------	---	-----------------------------	--------	------------

Tel 416-630-7151

Fax 4166307472

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

Submitted By

BATTISTON AND ASSOCIATES	202-1013 Wilson Avenue North York M3K 1G1	2016 03 07
--------------------------	---	------------

Tel 416-630-7151

Fax 4166307472

Fees/Taxes/Payment

<i>Statutory Registration Fee</i>	\$62.85
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<i>Total Paid</i>	\$62.85
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Court File No. CV-16-125848-00

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER of the *Construction Lien Act*,
R.S.O. 1990, c. C.30, as amended**

BETWEEN:

TRIAxis CONSTRUCTION LIMITED

Plaintiff

- and -

**VAUGHAN CROSSINGS INC.
RUSSELL GOODMAN, BARBARA SCHWARTZBERG, SHARON KATZ,
SARAH KRANZ, VECTOR FINANCIAL SERVICES LIMITED, OLYMPIA TRUST
COMPANY and SCOLLARD TRUST COMPANY**

Defendants



CERTIFICATE OF ACTION

I certify that an action has been commenced in the Superior Court of Justice under the *Construction Lien Act* between the above parties in respect of the premises described in Schedule "A" and Schedule "B" to this certificate, and relating to the claim(s) for lien bearing the following registration number: YR2422509

DATE: **MAR 04 2016**

SCHEDULE "A"

Description of Owned Property:

Part of Lot 24, Registrar's Compiled Plan 10309, Vaughan
Parts 10 & 11, Plan 64R7307, Except Pt 1 Exprop Plan R650078, Vaughan
PIN No. 03274-0103 (LT)

Part of Lot 25, Registrar's Compiled Plan 10309 Vaughan
Part 1, Plan 65R14039, Vaughan
PIN No. 03274-0104 (LT)

SCHEDULE "B"

Description of Leased Property:

Part of Lot 28, Registrar's Compiled Plan 10309 Vaughan
Part 2, Plan 65R11525, Vaughan
PIN No. 03274-0106 (LT)

Part of Lot 22, Registrar's Compiled Plan 10309, Vaughan
Part 1, Plan 65R8928, Vaughan
PIN No. 03274-0185 (LT)

Lot 27, Registrar's Compiled Plan 10309 Vaughan
Except Part 1, YR2275120. Vaughan
PIN No. 03274-0273 (LT)

Part of Lot 25, Registrar's Compiled Plan 10309, Vaughan
Part 2, Plan 65R14039; Part of Lots 25 & 26 Registrar's Compiled Plan 10309 Vaughan
Part 3, Plan 65R14039 Except Pt 1, Plan 65R8928, Except Part 3, YR2275120. Vaughan
PIN No. 03274-0275 (LT)

TRIAXIS CONSTRUCTION LIMITED

- and -

VAUGHAN CROSSINGS INC. et al

Court File No: CV-16-125848-00

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Newmarket

CERTIFICATE OF ACTION

Battiston & Associates
Barrister & Solicitor
1013 Wilson Avenue
Suite 202
Toronto, Ontario
M3K 1G1

Flavin J. Battiston
LSUC No. 22965F
Tel: 416-630-7151
Fax: 416-630-7472
Solicitors for the Plaintiff

Court File No. CV-16 - 125848 - 00

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER of the *Construction Lien Act*,
R.S.O. 1990, c. C.30, as amended



TRIAXIS CONSTRUCTION LIMITED

Plaintiff

- and -

**VAUGHAN CROSSINGS INC.
RUTH GOODMAN, BARBARA SCHWARTZBERG, SHARON KATZ,
SARAH KRANC, VECTOR FINANCIAL SERVICES LIMITED, OLYMPIA TRUST
COMPANY and SCOLLARD TRUST COMPANY**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

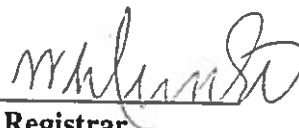
If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside of Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date MAR 07 2018

Issued by 
Local Registrar
50 Eagle Street West,
Newmarket, Ontario

TO:

Vaughan Crossings Inc.
7501 Keele Street, Suite 306
Vaughan, Ontario L4K 1Y2

Ruth Goodman
160 Rimmington Drive
Thornhill, Ont. L4J 6K1

Barbara Schwartzberg
134 Thornway Crescent
Thornhill, Ontario L4J 7Z3

Sharon Katz
182 Choquette
Dollard-Des-Ormeaux
Quebec H9A 3H1

Sarah Kranc
1131 Steeles Avenue West, PH 105
Toronto, Ontario M2R 3W8

Vector Financial Services Limited
25 Imperial Street, Suite 500
Toronto, Ont. M5P 1B9

Olympia Trust Company
120 Adelaide Street West, Suite 920
Toronto, Ont. M5H 1T9

2200 125 9th Avenue S.E.
Calgary, Alberta T2G 0P6

Scollard Trust Company
3655 Kingston Road,
Scarborough, Ontario M1M 1S5

CLAIM

1. The Plaintiff claims:

- (a) Payment of the sum of \$212,434.11 by the Defendant Vaughan Crossings Inc.;
- (b) in the alternative, payment of the sum of \$212,434.11 by any of the Defendants on a joint and several basis for unjust enrichment and *quantum meruit*;
- (c) A declaration that the Plaintiff is entitled to a lien in the amount of \$212,434.11 upon all of the estate, title and interest of any one or more or all of the Defendants in the lands and premises described in the Plaintiff's claim for lien which are the lands and premises described in Schedule "A" and Schedule "B";
- (d) That in default of payment of the said sum of \$212,434.11 plus interest and costs, all the estate and interest of the Defendant Vaughan Crossings Inc. in the properties described in Schedule "A" and Schedule "B" be sold and the proceeds applied toward payment of the Plaintiff's claim as aforesaid, pursuant to the provisions of the Construction Lien Act;
- (e) That in default of payment of the said sum of \$212,434.11 plus interest and costs, all the estate and interest of the Defendants Ruth Goodman, Barbara Schwartzberg, Sharon Katz and Sarah Kranc in the property described in Schedule "B" be sold and the proceeds applied toward payment of the Plaintiff's claim as aforesaid, pursuant to the provisions of the Construction Lien Act;
- (f) A declaration that the Plaintiff shall have a charge on any statutory holdbacks retained by any of the Defendants pursuant to the provisions of the *Construction Lien Act* to the extent of the unpaid value of labour and materials supplied to the properties described in Schedule "A" and in Schedule "B";
- (g) full priority over the charges registered in favour of the Defendants Vector Financial Services Limited, Olympia Trust Company and Scollard Trust Company, or alternatively, priority over the said charges to the extent that any portion of any advances relating to any of the said charges exceeds the actual value of the lands and premises at the time the first construction lien arose, or, in the alternative, priority over the said charges to the extent of any unadvanced portions;

- (h) Interest on the sum of \$212,434.11 in accordance with the contract between the Plaintiff and the Defendant Vaughan Crossings Inc. or alternatively, in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (i) Damages for wrongful termination of the contract;
 - (j) For the purposes aforesaid, all proper directions to be given and accounts taken;
 - (k) Costs of this action on a substantial indemnity basis; and,
 - (l) Such further and other relief as this Honourable Court may deem just.
2. The Plaintiff, Triaxis Construction Limited, (hereinafter referred to as “Triaxis”), is a corporation duly incorporated pursuant to the laws of the Province of Ontario, carrying on the business of construction management in the City of Mississauga, in the Province of Ontario.
3. The Defendant, Vaughan Crossings Inc., (hereinafter referred to as “Vaughan Crossings”), is a corporation duly incorporated pursuant to the laws of the province of Ontario carrying on business in the City of Vaughan, Ontario. At all material times Vaughan Crossings was:
- (a) the owner of the property described in Schedule “A” attached hereto (herein referred to as the “Owned Property”); and,
 - (b) the lessee of the property described in Schedule “B” attached hereto (herein described as the “Leased Property”).
4. At all material times the Defendants Ruth Goodman, Barabara Schwartzberg, Sharon Katz and Sarah Kranc (herein described as the “Landlords”) were the owners of the property more particularly described in Schedule “B” attached hereto (hereinafter referred to as the “Leased Property”).

The Project:

5. Triaxis entered into a contract with the Defendant Vaughan Crossings dated April 23, 2015 (herein referred to as the “Contract”) which included the following terms and conditions:

- (a) Triaxis agreed to provide complete and comprehensive construction management services for the construction of an office building and retail plaza on the Owned Property and on the Leased Property (herein referred to as the "Project");
 - (b) Triaxis was entitled to compensation for its construction management services in accordance with the Contract;
 - (c) Triaxis was entitled to payment for Reimbursible Expenses as defined in the Contract;
 - (d) Interest accrues on late payments at the rate of 2.0% above Royal Bank Prime Rate.
6. Triaxis complied with its contractual obligations. Vaughan Crossings breached its contractual obligations by failing to pay the Plaintiff in a timely manner as required by the Contract.
7. Work on the Project has been suspended for a period exceeding 60 days. Consequently Triaxis states that it is entitled to payment of \$25,000.00 in accordance with Paragraph 7.1 of GC 7 of the Contract.
8. Triaxis states and the fact is that Vaughan Crossings is therefore indebted to it in the amount of \$212,434.11 inclusive of HST as follows:
- (a) Construction Management fees: \$ 60,500.00 plus HST;
 - (b) Reimbursible Expenses: \$ 102,494.79 plus HST;
 - (c) Suspension Fee: \$ 25,000.00 plus HST.
9. Vaughan Crossings has refused to pay the Plaintiff the amount outstanding of \$212,434.11, plus interest thereon, despite repeated requests for payment.

Claim for Lien:

10. Triaxis registered a Claim for Lien against the title to the Owned Property and the Leased Property on January 29, 2016 under the Construction Lien Act, pursuant to Instrument No. YR2422509, which is attached hereto as Schedule "C".

Claims against the Owned Property:

11. Triaxis states that it supplied services and materials to the Owned Property at the request of the Defendant Vaughan Crossings. Triaxis has increased the value of the Owned Property and the said Defendant has received the benefit from the services at the expense and to the detriment of Triaxis.
12. By reason of supplying the services aforesaid, Triaxis is entitled to a lien on the Owned Property for the sum of \$212,434.11, together with interest and costs of this action, pursuant to the provisions of the *Construction Lien Act*, R.S.O. 1990, c. C.30., as amended.

Claims against the Leased Property:

13. Triaxis states that it also supplied services and materials to the Leased Property. Triaxis has increased the value of the Leased Property and the Defendants have received the benefit at the expense and to the detriment of Triaxis.
14. By reason of supplying the services aforesaid to the Leased Property, Triaxis is entitled to a lien on the interest of the Defendant Vaughan Crossings in the Leased Property for the sum of \$212,434.11, together with interest and costs of this action, pursuant to the provisions of the *Construction Lien Act*, R.S.O. 1990, c. C.30., as amended.
15. Triaxis states that it also supplied services and materials to the Leased Property at the request, upon the credit, upon whose behalf, or with whose privity and consent, and for the direct benefit of the Landlords and accordingly the Landlords were at all material times, statutory owners within the meaning of the *Construction Lien Act*.
16. By reason of supplying the services and materials aforesaid to the Leased Property, Triaxis is entitled to a lien on the interest of the Landlords in the Leased Property for the sum of \$212,434.11, together with interest and costs of this action, pursuant to the provisions of the *Construction Lien Act*, R.S.O. 1990, c. C.30., as amended.

Charge on Holdbacks:

17. By reason of supplying labour and materials as aforesaid, Triaxis is entitled to a charge upon the holdbacks required to be retained under Part IV of the *Act*, and any additional amount owed in relation to the Project.

Quantum Meruit Claims:

18. In the alternative, Triaxis states that it supplied services and materials thereby improving the value of the Owned Property at the request of and for the benefit of the Defendant Vaughan Crossings and the said Defendant has been unjustly enriched thereby in the amount of \$212,434.11 inclusive of HST by reason of the supply of services by the Plaintiff. The Plaintiff therefore claims from the said Defendant the sum of \$212,434.11 inclusive of HST on a *quantum meruit* basis for the reasonable value and the reasonable benefit to the said Defendant of the supply of services and materials by Triaxis.
19. Further, Triaxis states that it supplied services and materials thereby improving the value of the Leased Property at the request of and for the benefit of the Landlords and the said Defendants have been unjustly enriched thereby in the amount of \$212,434.11 inclusive of HST by reason of the supply of services by the Plaintiff. The Plaintiff therefore claims from the said Defendants the sum of \$212,434.11. inclusive of HST on a *quantum meruit* basis for the reasonable value and the reasonable benefit to the said Defendants of the supply of services and materials by Triaxis.

Priority Claims against Mortgagees:

20. By Charge registered as Instrument No. YR2048941 on October 18, 2013, Vaughan Crossings charged the Owned Property in favour of the Defendant Scollard Trustee Corporation (herein called the "Scollard Charge"). By Instruments YR2049132, YR2060284, YR2078550 and YR2092552 an interest in the Scollard Charge was assigned in favour of the Defendant Olympia Trust Company. The Plaintiff alleges that the Scollard Charge was taken by the Landlords with the intention to secure the financing of the improvements on the Owned Property and/or the Leased Property and the Plaintiff therefore claims that its lien has full priority over the said Scollard Charge to the extent of any deficiency in the holdback required to be retained by the said Defendants. In the

alternative, the Plaintiff claims that its lien has priority over the Scollard Charge to the extent that any advances exceeded the actual value of the Owned Property at the time when the Plaintiff's lien arose. In the further alternative, the Plaintiff claims that its lien has priority over the Scollard Charge to the extent of any unadvanced portion thereof.

21. By Charge registered as Instrument No. YR2092552 on February 6, 2014, Vaughan Crossings charged the Owned Property was charged in favour of the Defendant Vector Financial Services Limited (herein called the "Vector Charge"). The Plaintiff alleges that the Vector Charge was taken by Vaughan Crossings with the intention to secure the financing of the improvements on the Owned Property and/or the Leased Property and the Plaintiff therefore claims that its lien has full priority over the said Vector Charge to the extent of any deficiency in the holdback required to be retained by the said Defendant. In the alternative, the Plaintiff claims that its lien has priority over the Vector Charge to the extent that any advances exceeded the actual value of the Owned Property at the time when the Plaintiff's lien arose. In the further alternative, the Plaintiff claims that its lien has priority over the Vector Charge to the extent of any unadvanced portion thereof.

22. By Notice of Charge registered as Instrument No. YR2092557 on February 6, 2014, Vaughan Crossings charged its interest in the lease relating to the Leased Property in favour of the Defendant Vector Financial Services Limited (herein called the "Vector Charge of Lease"). The Plaintiff alleges that the Vector Charge of Lease was taken by Vaughan Crossings with the intention to secure the financing of the improvements on the Owned Property and/or the Leased Property and the Plaintiff therefore claims that its lien has full priority over the said Vector Charge of Lease to the extent of any deficiency in the holdback required to be retained by the said Defendant. In the alternative, the Plaintiff claims that its lien has priority over the Vector Charge of Lease to the extent that any advances exceeded the actual value of the Leased Property at the time when the Plaintiff's lien arose. In the further alternative, the Plaintiff claims that its lien has priority over the Vector Charge of Lease to the extent of any unadvanced portion thereof.

23. The Plaintiff proposes that this action be tried at Newmarket.

Date of issue:

MAR 3 4 2016

BATTISTON & ASSOCIATES

Barristers and Solicitors

1013 Wilson Avenue, Suite 202

Toronto, Ontario M3K 1G1

Flavio Battiston LSUC 22965F

Tel. (416) 630-7151

Fax. (416) 630-7472

Lawyers for the Plaintiff

SCHEDULE "A"

Description of Owned Property:

Part of Lot 24, Registrar's Compiled Plan 10309, Vaughan
Parts 10 & 11, Plan 64R7307, Except Pt 1 Exprop Plan R650078, Vaughan
PIN No. 03274-0103 (LT)

Part of Lot 25, Registrar's Compiled Plan 10309 Vaughan
Part 1, Plan 65R14039, Vaughan
PIN No. 03274-0104 (LT)

SCHEDULE "B"

Description of Leased Property:

Part of Lot 28, Registrar's Compiled Plan 10309 Vaughan
Part 2, Plan 65R11525, Vaughan
PIN No. 03274-0106 (LT)

Part of Lot 22, Registrar's Compiled Plan 10309, Vaughan
Part 1, Plan 65R8928, Vaughan
PIN No. 03274-0185 (LT)

Lot 27, Registrar's Compiled Plan 10309 Vaughan
Except Part 1, YR2275120, Vaughan
PIN No. 03274-0273 (LT)

Part of Lot 25, Registrar's Compiled Plan 10309, Vaughan
Part 2, Plan 65R14039; Part of Lots 25 & 26 Registrar's Compiled Plan 10309 Vaughan
Part 3, Plan 65R14039 Except Pt 1, Plan 65R8928, Except Part 3, YR2275120, Vaughan
PIN No. 03274-0275 (LT)

SCHEDULE "C"

LRO # 65 Construction Lien

Received as YR2422509 on 2016 01 28 at 11 28

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

yyyy mm dd Page 1 of 2

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078, S/T VA84766 ASSIGNED BY R312155, VAUGHAN
Address 7850 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039, VAUGHAN
Address 7850 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0273 LT
Description LT 27 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN, EXCEPT PT 1, YR2275120; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THE PLAN OVER PT 2, YR2275120 AS IN YR2275120; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1 65R8928 EXCEPT PT 3, YR2275120; S/T VA84765 ASSIGNED BY R312155; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

Consideration

Consideration \$ 210,567.48

Claimant(s)

Name TRIAXIS CONSTRUCTION LIMITED
Address for Service 3415 American Drive, Suite 200
 Mississauga, Ontario
 L4V 1T4

I, Alessandro Palazzo, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Alessandro Palazzo, have the authority to bind the corporation.

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

LRO # 65 Construction Lien

Received as YR2422509 on 2016 01 28 at 11 26

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

yyyy mm dd Page 2 of 2

Statements

Name and Address of Owner See Schedule Name and address of person to whom lien claimant supplied services or materials See Schedule Time within which services or materials were supplied from 2015/07/20 to 2015/12/18 Short description of services or materials that have been supplied construction management services for construction of commercial buildings Contract price or subcontract price \$746,752.48 (including HST) Amount claimed as owing in respect of services or materials that have been supplied \$210,567.48 (including HST)

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

Schedule: See Schedules

Signed By

Flavio Battiston

202-1013 Wilson Avenue
North York
M3K 1G1acting for
Applicant(s)

Signed

2016 01 28

Tel 416-630-7151

Fax 4166307472

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

Submitted By

BATTISTON AND ASSOCIATES

202-1013 Wilson Avenue
North York
M3K 1G1

2016 01 28

Tel 416-630-7151

Fax 4166307472

Fees/Taxes/Payment

Statutory Registration Fee	\$62.85
----------------------------	---------

Total Paid	\$62.85
------------	---------

LIST OF OWNERS

1. Vaughan Crossing Inc.
7501 Keele Street, Suite 306
Vaughan, Ontario L4K 1Y2

PINS 03274-0103 & 03274-0104
2. Ruth Goodman
160 Rimmington Drive
Thornhill, Ontario L4J 6K1
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Barbara Schwartzberg
134 Thornway Crescent
Thornhill, Ontario L4J 7Z3
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Sharon Katz
182 Choquette
Dollard-Des-Ormeaux
Quebec H9A 3H1
In her Capacity as Estate Trustee for the Estate of Leib Schwartzberg & Lejb Schwartzberg

Sarah Kranc
1131 Steeles Avenue West, PH 105
Toronto, Ontario M2R 3W8
In her Capacity as Estate Trustee for the Estate of Harry Kranc

PINS: 03274-0106, 03274-0185, 03274-0273 & 03274-0275

LIST OF PERSONS TO WHOM LIEN CLAIMANT SUPPLIED SERVICES AND MATERIALS

1. Vaughan Crossing Inc.
7501 Keele Street, Suite 306
Vaughan, Ontario L4K 1Y2
PINS: 03274-0103 & 03274-0104
2. Ruth Goodman
160 Rimmington Drive
Thornhill, Ontario L4J 6K1
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Barbara Schwartzberg
134 Thornway Crescent
Thornhill, Ontario L4J 7Z3
In her Capacity as Estate Trustee for the Estates of Leib Schwartzberg & Lejb Schwartzberg

Sharon Katz
182 Choquette
Dollard-Des-Ormeaux
Quebec H9A 3H1
In her Capacity as Estate Trustee for the Estate of Leib Schwartzberg & Lejb Schwartzberg

Sarah Kranc
1131 Steeles Avenue West, PH 105
Toronto, Ontario M2R 3W8
In her Capacity as Estate Trustee for the Estate of Harry Kranc

PINS: 03274-0106, 03274-0185, 03274-0273 & 03274-0275

TRIXIS CONSTRUCTION LIMITED

- and -

VAUGHAN CROSSINGS INC. et al

Court File No: CV-16-125848.00

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Newmarket

STATEMENT OF CLAIM

Battiston & Associates
Barrister & Solicitor
1013 Wilson Avenue
Suite 202
Toronto, Ontario
M3K 1G1

Flavio J. Battiston
LSUC No. 22965F
Tel: 416-630-7151
Fax: 416-630-7472
Solicitors for the Plaintiff

This is Exhibit "N" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY R312155 ; VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525, CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1,65R8928; EXCEPT PT 3, YR2275120; S/T VA84765 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
 VAUGHAN

Consideration

Consideration \$121,835.69

Claimant(s)

Name 2388208 ONTARIO INCORPORATED
Address for Service 1110 Finch Avenue West
 Suite 1276
 Toronto Ontario
 M3J 3M2

I, Alvin M. Meisels, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Alvin M. Meisels, have the authority to bind the corporation.

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

Statements

Name and Address of Owner Vaughan Crossings Inc., 7501 Keele Street, Suite 401, Vaughan, Ontario L4K 1Y2 Name and address of person to whom lien claimant supplied services or materials See Schedule Time within which services or materials were supplied from 2013/10/15 to 2016/02/05 Short description of services or materials that have been supplied See Schedule Contract price or subcontract price \$200,000.00 plus H.S.T. Amount claimed as owing in respect of services or materials that have been supplied \$121,835.69

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 Schedule: See Schedules

SCHEDULE

The Lien Claimant, 2388208 Ontario Incorporated operating as Ronen Management Services.

Name of person to whom lien claimant applied services or materials:

The Fiducia Group Inc.

4 Magic Avenue

Markham, Ontario L6C 0A5

Vaughan Crossings Inc.

7501 Keele Street

Suite 306

Concord, Ontario L4K 1Y2

1889993 Ontario Ltd. (Attention: Albert Guido)

7501 Keele Street

Suite 306

Concord, Ontario L4K 1Y2

Short description of services or materials that have been supplied: Construction management, including: budgeting and cost to complete project, assist with coordination of tenders, coordinate bidding and issuance of contracts, site preparation, coordinate and oversee site improvements and servicing costs, liaise with consultants and project manager, coordinate site meetings and communication with service and material suppliers, organize and develop consultant team, assist with design of working drawings, construction design timelines, assist with site plan revisions, obtain municipal approvals, applications and issuance of permits, contract administration, monitoring construction, providing reporting and budgeting updates to the management team, monitoring construction schedule and timeline, liaise with costs consultant.

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY R312155 ; VAUGHAN
Address VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN
Address VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 65R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET
VAUGHAN

PIN 03274 - 0275 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; EXCEPT PT 3, YR2275120; S/T VA84766 ASSIGNED BY R312155; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address VAUGHAN

Party From(s)

Name 2388208 ONTARIO INCORPORATED
Address for Service 1110 Finch Avenue West
Sulte 1276
Toronto Ontario
M3J 3M2

I, Alvin M. Meisels, have the authority to bind the corporation.

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

Statements

This document relates to registration no. (s) YR2427861

Schedule: See Schedules

Signed By

Roy Wise 5289 Highway #7, Unit #7 P.O. Box acting for Party Signed 2016 03 18
56558 From(s)
Woodbridge
L4L 8P7

Tel 416-209-8966

Fax 905-850-2423

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

Submitted By

PREMIER TITLE SERVICES INC.

5289 Highway #7, Unit #7 P.O. Box
56558
Woodbridge
L4L 8P7

2016 03 18

Tel 416-209-8966

LRO # 65 Certificate

Registered as YR2445729 on 2016 03 18 at 14:16

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

yyyy mm dd Page 2 of 5

Submitted By

Fax 905-850-2423

Fees/Taxes/Payment

Statutory Registration Fee	\$62.85
Total Paid	\$62.85

File Number

Party From Client File Number : 2388208 ONTARIO INC PR20836 WISE

Court File No. *cl-16-126023-00*

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE CONSTRUCTION LIEN ACT,
R.S.O. 1990, c. C.30, as amended**

BETWEEN:

**2388208 ONTARIO INCORPORATED
operating as RONEN MANAGEMENT SERVICES**

Plaintiff

-and-



**THE FIDUCIA GROUP INC., 1889993 ONTARIO LTD.,
MILAN CROSSINGS INC., VECTOR FINANCIAL SERVICES LIMITED,
OLYMPIA TRUST COMPANY and SCOLLARD TRUSTEE CORPORATION**

Defendants

CERTIFICATE OF ACTION

I CERTIFY that an action has been commenced in the Ontario Superior Court of Justice under the *Construction Lien Act* between the above parties in respect of the premises described in Schedule A to this certificate, and relating to the claim for lien bearing the following registration number: YR2427861

Date: March *18*, 2016.


(Registrar or local registrar)

SCHEDULE "A"

Description of Premises:

<i>PIN</i>	03274 - 0103 LT
<i>Description</i>	PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84788 ASSIGNED BY R312155; VAUGHAN
<i>Address</i>	7818 DUFFERIN STREET VAUGHAN
<i>PIN</i>	03274 - 0104 LT
<i>Description</i>	PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 66R14039; VAUGHAN
<i>Address</i>	7818 DUFFERIN STREET VAUGHAN
<i>PIN</i>	03274 - 0108 LT
<i>Description</i>	PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
<i>Address</i>	7818 DUFFERIN STREET VAUGHAN
<i>PIN</i>	03274 - 0185 LT
<i>Description</i>	PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 66R8828; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 5, YR2275120 AS IN YR2275120; CITY OF VAUGHAN
<i>Address</i>	7818 DUFFERIN STREET VAUGHAN
<i>PIN</i>	03274 - 0275 LT
<i>Description</i>	PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 66R8828; EXCEPT PT 3, YR2275120; S/T VA84788 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 6 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120; CITY OF VAUGHAN
<i>Address</i>	7818 DUFFERIN STREET VAUGHAN

2388208 ONTARIO INCORPORATED
operating as RONEN MANAGEMENT SERVICES

- and -

THE FIDUCIA GROUP INC., et al.

Plaintiff

Court File No. *CV-16-126023-00* Defendants

ONTARIO

SUPERIOR COURT OF JUSTICE

IN THE MATTER OF *THE*
CONSTRUCTION LIEN ACT,
R.S.O. 1990, c. C.30, as amended

Proceedings commenced at Newmarket

CERTIFICATE OF ACTION

WISE & ASSOCIATES, P.C.
Barristers
80 Bloor Street West, Suite 602
Toronto, Ontario, M5S 2V1

Alvin M. Meisels, LSUC #25915 W
Tel: (416) 866-4144 (Ext. 240)
Fax: (647) 258-1634

Lawyers for the Plaintiff

CV-16-126023-00
Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE CONSTRUCTION LIEN ACT,
R.S.O. 1990, c. C.30, as amended**

BETWEEN:

**2388208 ONTARIO INCORPORATED
operating as RONEN MANAGEMENT SERVICES**

Plaintiff

-and-

**THE FIDUCIA GROUP INC., 1889993 ONTARIO LTD.,
VAUGHAN CROSSINGS INC., VECTOR FINANCIAL SERVICES LIMITED,
OLYMPIA TRUST COMPANY and SCOLLARD TRUSTEE CORPORATION**

Defendants



STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office. WITHIN TWENTY DAYS after this statement is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

(Where the claim made is for money only, include the following:)

IF YOU PAY THE PLAINTIFFS CLAIM, and \$1,500.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date:

MAR 18 2016

Issued by



Local registrar

Address of
court office:

50 Eagle Street West
Newmarket, Ontario
L3Y 6B1

TO:

THE FIDUCIA GROUP INC.

7501 Keele Street
Suite 401
Vaughan, Ontario
L4K 1Y2

1889993 ONTARIO LTD.

7501 Keele Street
Suite 306
Vaughan, Ontario, L4K 1Y2

VAUGHAN CROSSINGS INC.

7501 Keele Street
Vaughan, Ontario
L4K 1Y2

VECTOR FINANCIAL SERVICES LIMITED

25 Imperial Street
Suite 500
Toronto, Ontario
M5P 1B9

OLYMPIA TRUST COMPANY

3655 Kingston Road
Scarborough, Ontario
M1M 1S2

SCOLLARD TRUSTEE CORPORATION

3655 Kingston Road
Scarborough, Ontario
M1M 1S2

CLAIM

1. The plaintiff claims:
 - a. A declaration that the plaintiff is entitled to a lien upon all of the estate, title and interest of the defendants in the lands and premises described in the plaintiff's Claim for Lien and Construction Lien registered as Instrument No. YR2427861, a copy of which is attached hereto as Schedule "A", in the amount of \$121,835.69;
 - b. Payment of the sum of \$121,835.69, inclusive of H.S.T.;
 - c. That in default of payment of the sum of \$121,835.69 plus interest and costs, all of the estate, title and interest of the defendants' lands and premises described in the plaintiff's Claim for Lien registered as Instrument No. YR2427861 be sold and the proceeds be applied toward payment of the plaintiff's claim together with interest and costs pursuant to the *Construction Lien Act*, R.S.O. 1990, c. C.42, as amended;
 - d. Costs of this action including H.S.T., as applicable; and,
 - e. Such further and other relief as to this Honourable Court may seem just.
2. The plaintiff is an Ontario corporation that provides construction management services and carries on business under the name or style of Ronen Management Services.
3. The defendant, Fiducia Group Inc. (**Fiducia**), is an Ontario corporation with its head office in the Town of Markham, Ontario, which carries on the business of real estate investment and development.
4. The defendant, 1889993 Ontario Ltd. ("1889993"), is an Ontario corporation with its head office in City of Vaughan, Ontario, which at all material times was engaged in partnership or association with the Fiducia Group Inc. in the developing the lands and premises described in the plaintiff's Claim for Lien.

5. The defendant, Vaughan Crossings Inc. (the “Owner”) is an Ontario corporation with its head office in the City of Vaughan, and is the registered owner of the lands and premises described in the plaintiff’s Claim for Lien.
6. The defendant, Vector Financial Services Limited (“Vector”), is an Ontario corporation which has a registered charge or mortgage against title to the subject lands and premises as hereinafter set out.
7. The defendants, Scollard Trustee Corporation (“Scollard”) and Olympia Trust Company (“Olympia”) are Ontario Corporations which have a registered charge or mortgage against title to the subject lands and premises as hereinafter set out.
8. In or about October of 2013, the plaintiff entered into a contract in writing with the defendants Fiducia and 1889993 for provision of construction management services, including, *inter alia*:
 - budgeting and costing for completion of the project;
 - coordination of tenders bidding and issuance of contracts;
 - site preparation;
 - coordinating and overseeing site improvements and servicing costs;
 - liaising with consultants and the project manager;
 - coordinating site meetings and communicating with service and material suppliers;
 - organizing and developing a consultant team;
 - assisting with design of working drawings;
 - managing construction design timelines;
 - site plan revisions;

- obtaining municipal approvals, applications and issuance of permits;
- contract administration;
- monitoring construction and providing reporting and budgeting updates to the management team; and,
- monitoring construction schedules and timelines.

9. The price or sum agreed-upon in the said contract for providing the said services was \$18,333.67 per month, including H.S.T.
10. The plaintiff performed and delivered its services from October 15, 2013 to February 5, 2016, being the last date that services were provided in respect of the subject lands and premises. Invoices were rendered to Fiducia and 1889993 for the services provided under the contract. There is presently due and owing to the plaintiff by the said defendants the sum of \$121,835.69.
11. The plaintiff states that there was no agreement between it and any of the defendants that the plaintiff would not be entitled to a lien upon the lands and premises described in the Claim for Lien hereinafter set forth for the work done and services provided.
12. By reason of performing the said work and providing the said services as hereinbefore described, the plaintiff became and is entitled to a lien upon the estate or interest of the defendants, the Owner, Vector, Olympia and Scollard, in the lands and premises more particularly described in the Claim for Lien in the sum of \$121,835.69 with interest on the said sum and costs of this action pursuant to the provisions of the *Construction Lien Act*.
13. On February 8, 2016, the plaintiff, pursuant to the provisions of the *Construction Lien Act*, caused to be registered in the Registry Office for the Land Titles Division for York

Region (Land Registry Office #65) a Claim for Lien registered as Instrument No. YR2427861 (the "Claim for Lien"). The Claim for Lien was verified by Alvin M. Meisels, agent of the plaintiff.

14. The plaintiff states that by reason of supplying the aforementioned services to the lands and premises, it is entitled to a charge against the holdbacks required to be maintained under the *Construction Lien Act* and any additional amount owed in relation to the improvements to the lands and premises by the defendants, Fiducia and 1889993, or any other payer to the plaintiff.
15. The lands and premises were at all material times occupied by the Owner, and are lands for which the plaintiff has supplied services at the request of, on behalf of, and with the consent and for the direct benefit of the Owner, which was at all material times was an "owner" within the meaning of Section 1(1) of the *Construction Lien Act*.
16. The plaintiff pleads and relies upon the terms of its agreement with the defendants Fiducia and 1889993, pursuant to which it has received payments from time-to-time.
17. The plaintiff pleads and relies upon the provisions of the *Construction Lien Act*, as amended.
18. The defendant, Vector, became the mortgagee of the subject lands and premises by virtue of a certain charge/mortgage registered the February 6, 2014 in the Registry Office for the Land Titles Division (#65) for York Region as Instrument No. YR2092557 securing the original principal amount of \$32,500,000. The said mortgage was not fully advanced at the date upon which the first lien arose in relation to the lands and premises and is in excess of the actual value of the said lands and premises.

19. The defendants, Scollard and Olympia, became the mortgagee of the subject lands and premises by virtue of a certain charge/mortgage in favour of Scollard registered on October 18, 2013 in the Registry Office for the Land Titles Division (#65) for York Region as Instrument No. YR2048941 securing the original principal amount of \$14,800,000.00. The said charge/mortgage was transferred to Olympia and Scollard by Transfer of Charge registered on October 18, 2013 as Instrument No. YR2049132, Transfer of Charge registered on November 14, 2013 as Instrument No. YR2060284 and Transfer of Charge registered on December 24, 2013 as Instrument No. YR2078550. The said mortgage was not fully advanced at the date upon which the first lien arose in relation to the lands and premises and is in excess of the actual value of the said lands and premises.
20. In the alternative, the plaintiff states that it has supplied its services as herein before set out, thereby improving the value of the lands and premises, all at the request of and benefit of Fiducia, 1889993 and the Owner. The said defendants have therefore been unjustly enriched in the amount of \$121,835.69, inclusive of H.S.T. Therefore, the plaintiff claims from the said defendants the sum of \$121,835.69 together with interest and costs on a *quantum meruit* basis.
21. The plaintiff pleads and relies upon the doctrine of unjust enrichment.
22. The plaintiff proposes that the trial of this action take place Newmarket, Ontario

Dated: March 18, 2016

WISE & ASSOCIATES, P.C., Barristers
80 Bloor Street West, Suite 602
Toronto, Ontario, M5S 2V1

Alvin M. Meisels, LSUC # 25915W
Tel: (416) 866-4144 (Ext. 240)
Fax: (647) 258-1634

Lawyers for the Plaintiff

SCHEDULE "A"

LRO # 65 Construction Lien

Received as YR2427861 on 2016 02 08 at 14:53

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

yyyy mm dd Page 1 of 2

Properties

PIN 03274 - 0103 LT
Description PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11 64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY R312155 ; VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

PIN 03274 - 0104 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1, 65R14039 ; VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

PIN 03274 - 0106 LT
Description PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R11525; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

PIN 03274 - 0185 LT
Description PT LT 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1 66R8928 ; S/T TEMP EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 6, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

PIN 03274 - 0276 LT
Description PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2 65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; EXCEPT PT 3, YR2275120; S/T VA84766 ASSIGNED BY R312155; S/T TEMP. EASE FOR A TERM OF 5 YRS COMMENCING ON REGISTRATION OF THIS PLAN OVER PT 4, YR2275120 AS IN YR2275120;; CITY OF VAUGHAN
Address 7818 DUFFERIN STREET VAUGHAN

Consideration

Consideration \$ 121,835.69

Claimant(s)

Name 2388208 ONTARIO INCORPORATED
Address for Service 1110 Finch Avenue West
 Suite 1276
 Toronto Ontario
 M3J 3M2

I, Alvin M. Meisels, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Alvin M. Meisels, have the authority to bind the corporation.

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

Statements

Name and Address of Owner Vaughan Crossings Inc., 7501 Keele Street, Suite 401, Vaughan, Ontario L4K 1Y2 Name and address of person to whom lien claimant supplied services or materials See Schedule Time within which services or materials were supplied from 2013/10/15 to 2016/02/05 Short description of services or materials that have been supplied See Schedule Contract price or subcontract price \$200,000.00 plus H.S.T. Amount claimed as owing in respect of services or materials that have been supplied \$121,835.69

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

Schedule: See Schedules

LRO # 65 Construction Lien

Received as YR2427861 on 2016 02 08 at 14:53

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

yyyy mm dd Page 2 of 2

Signed By

Roy Wise 5289 Highway #7, Unit #7 P.O. Box acting for Signed 2016 02 08
56558 Applicant(s)
Woodbridge
L4L 8P7

Tel 416-209-8966

Fax 905-850-2423

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

Submitted By

PREMIER TITLE SERVICES INC. 5289 Highway #7, Unit #7 P.O. Box 2016 02 08
56558
Woodbridge
L4L 8P7

Tel 416-209-8966

Fax 905-850-2423

Fees/Taxes/Payment

Statutory Registration Fee \$62.65

Total Paid \$62.65

File Number

Claimant Client File Number : 2388208 ONT PR20872 WISE

SCHEDULE

The Lien Claimant, 2388208 Ontario Incorporated operating as Ronen Management Services.

Name of person to whom lien claimant applied services or materials:

The Fiducia Group Inc.

4 Magic Avenue

Markham, Ontario L6C 0A5

Vaughan Crossings Inc.

7501 Keele Street

Suite 306

Concord, Ontario L4K 1Y2

1889993 Ontario Ltd. (Attention: Albert Guido)

7501 Keele Street

Suite 306

Concord, Ontario L4K 1Y2

Short description of services or materials that have been supplied: Construction management, including: budgeting and cost to complete project, assist with coordination of tenders, coordinate bidding and issuance of contracts, site preparation, coordinate and oversee site improvements and servicing costs, liase with consultants and project manager, coordinate site meetings and communication with service and material suppliers, organize and develop consultant team, assist with design of working drawings, construction design timelines, assist with site plan revisions, obtain municipal approvals, applications and issuance of permits, contract administration, monitoring construction, providing reporting and budgeting updates to the management team, monitoring construction schedule and timeline, liase with costs consultant.

2388208 ONTARIO INCORPORATED
operating as **RONEN MANAGEMENT**
SERVICES

- and -

THE FIDUCIA GROUP INC., et al

Plaintiff

Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE
IN THE MATTER OF THE CONSTRUCTION
LIEN ACT,
R.S.O. 1990, c. C.30, as amended

Proceedings commenced at Newmarket

STATEMENT OF CLAIM

WISE & ASSOCIATES, P.C.
Barristers
80 Bloor Street West, Suite 602
Toronto, Ontario, M5S 2V1

Alvin M. Meisels, LSUC #25915 W
Tel: (416) 866-4144 (Ext. 240)
Fax: (647) 258-1634

Lawyers for the Plaintiff

This is Exhibit "O" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

Torkin Manes LLP
Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto, Ontario M5C 2W7

Tel: 416-863-1188
Fax: 416-863-0305
www.torkinmanes.com

Stephanie B. Elley
Direct Tel: 416-777-5439
Direct Fax: 1-888-732-6509
seiley@torkinmanes.com

Our File No: 17627/04

Associated worldwide with



Torkin | Manes
Barristers & Solicitors

June 15, 2016

Sent via registered mail and by email

Vaughan Crossings Inc.
7501 Keele Street, Suite 401
Vaughan, Ontario L4K 1Y2

Attention: Albert Guido

Dear Sirs/Mesdames:

Re: NOTICE OF DEFAULT
Lease dated April 11th, 2007, as may be amended (the "Lease") made between Ruth Goodman, Barbara Schwartzberg and Sharon Katz, all as estate trustees, and Sarah Kranc (collectively the "Landlord") and Vaughan Crossings Inc. (the "Tenant") at 7818 Dufferin Street, Vaughan, ON (the "Property")
Construction liens registered on title to the Property, default of payment of Rent

COPY

As you are aware, there are numerous construction liens registered on title to the Property, notices of which have been delivered to you.

In accordance with Section 7.7 of the Lease, you may not permit any lien under the *Construction Lien Act* (Ontario) or any similar statute to be filed or registered against the Property or any part of it. The Landlord hereby gives you notice that you are presently in default of the Lease.

We require that you take immediate action to discharge or otherwise cause the liens to be removed from title to the Property. The Landlord will continue to hold you responsible for all costs, expenses and damages suffered and incurred as a result of the liens and the statements of claim.

In addition, you are in default of payment of Rent (as that terms is defined in the Lease) for non-payment of realty taxes in the amount of \$30,371.32 as at June 30th, 2016. We remind you that the next realty tax instalments will be due in August, September and October of 2016.

You are currently in default in the amount of \$57,690.57, broken down as follows:

1. \$30,371.32 on account of outstanding realty taxes; and
2. \$27,319.25 on account of outstanding legal fees and costs relating to the Landlord's enforcement of the terms of the Lease up to April 30, 2016.

If the default for Rent (as that term is defined in the Lease) is not paid within 5 days from the date of this notice, and the construction lien defaults are not cured within 30 days from the date of this notice, the Landlord shall be entitled to exercise its rights under the Lease and at law without further notice to you, including but not limited to, the right to take whatever steps are necessary to remove the said liens from title and the right to terminate the Lease. We remind you that you are responsible for all of the Landlord's legal fees in attending to these matters with interest thereon at the Stipulated Rate from the date the amounts are incurred by the Landlord.

In addition to the foregoing, we have been advised by the Regional Municipality of York (the "Region") that as part of the site plan application process, the Tenant agreed to convey to the Region certain lands for road widening purposes, for no consideration. The Region has since expropriated these lands without any compensation therefor to the Landlord on the basis that the Tenant agreed to convey these lands in conjunction with its site plan approval process. In accordance with the Lease, the Tenant is required to obtain the Landlord's prior approval, prior to the execution of a site plan agreement. The Landlord had never been requested to provide its consent to such conveyance and certainly not for no consideration. As the Tenant is well aware, it is not at liberty to convey, or agree to convey, the Landlord's fee simple interest in its lands, without the Landlord's consent. This is another default under the Lease. We are currently engaged in discussions with the Region regarding this expropriation and lack of compensation. Please note that the Landlord would not have otherwise had to deal with the Region, if not for the Tenant's "agreement" with the Region to convey the Landlord's fee simple interest for \$0. As such, you are responsible for all of the Landlord's legal fees in attending to these matters with interest thereon at the Stipulated Rate from the date the amounts are incurred by the Landlord.

COPY

The Landlord hereby reserves its rights to all rights and remedies available to it at equity and at law.

A copy of this letter/notice is being provided simultaneously to your lender, Vector Financial Services Limited, and the lien claimants.

Page 3

Torkin|Manes
Barristers & Solicitors

Yours truly,

Torkin Manes LLP

Per:

Stephanie B. Eiley

SBE/

cc. Landlord (via email)
Shael Beckenstein (via email)
Vector Financial Services Limited (Mickey Baratz via email mickey@vectormanagement.com)
Ronald B. Melvin, solicitor for Vector (via email rbmelvin@rplaw.com)
Triaxis (via registered mail) and its solicitors (Battiston & Associates, via email)
Sora Construction (via registered mail) and its solicitors (Capo Sgro LLP, via email)
Kohn Partnership Architects (via registered mail) and its solicitors (Fogler Rubinoff LLP, via email)
2388208 Ontario Limited (via registered mail) and its solicitors (Wise & Associates Professional Corporation, via email)

17627.0004/8708135_2

COPY

This is Exhibit "P" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK



MARCIANO BECKENSTEIN LLP
BARRISTERS & SOLICITORS

7625 Keele Street
Concord, Ontario L4K 1Y4
www.MBLAW.ca

Shael E. Beckenstein*
Tel. No. (905) 760-8773 Ext. 223
Fax No. (905) 669-7416
E-Mail: sbeckenstein@mblaw.ca
*Practising as a Professional Corporation

Delivered Personally and Via E-mail

January 16th, 2017

Vaughan Crossings Inc.
7501 Keele Street, Suite 401
Vaughan, Ontario L4K 1Y2

Attention: Albert Guido

and

Vaughan Crossings Inc.
c/o Fiducia Group
7501 Keele Street, Suite 306
Vaughan, Ontario L4K 1Y2
Attention: Albert Guido

Dear Sirs/Mesdames:

RE: NOTICE OF DEFAULT

Lease dated April 11th, 2007, as may be amended (the "Lease") made between Ruth Goodman, Barbara Schwartzberg and Sharon Katz, all as estate trustees, and Sarah Kranc (collectively the "Landlord") and Vaughan Crossings Inc. (the "Tenant") at 7818 Dufferin Street, Vaughan, ON (the "Property")
Default of payment of Rent

Please be advised that you remain in default under the lease for the registration of construction liens.

In addition, you are currently in default under the lease for the payment of Rent (as that term is defined in the Lease), including Ground Rent and outstanding legal fees.

Please be advised that you presently owe:

1. \$37,666.66 in unpaid Ground Rent due December 14th, 2016;
2. \$37,666.66 in unpaid Ground Rent due January 14th, 2017; and
3. \$1,014.12 for legal fees incurred by the Landlord relating to the continued enforcement of the Tenant's obligations under the Lease (copy of invoice enclosed).

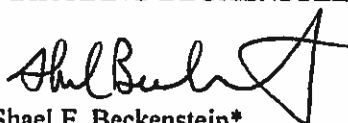
If the outstanding amounts set out herein are not paid within five (5) days from the date of this notice, the Landlord shall be entitled to exercise its rights under the Lease and at law without further notice to you. We continue to remind you that you shall continue to be responsible for the payment of realty taxes and all payments for Rent in accordance with the Lease, as they come due on an ongoing basis.

The Landlord hereby reserves its rights to all rights and remedies available to it at equity and at law.

A copy of this letter/notice is being provided simultaneously to your lender, Vector Financial Services Limited.

Yours very truly,

MARCIANO BECKENSTEIN LLP



Shael E. Beckenstein*

cc: Landlord (via email only)
cc: Stephanie Eiley (via e-mail only)
cc: Vector Financial Services Limited (Mickey Baratz via email mickey@vectormanagement.com)
cc: Ronald B. Melvin, solicitor for Vector (via email rbmelvin@rprlaw.com)

Marciano Beckenstein LLP7625 Keele Street
Concord, ON L4K 1Y4

Ph:(905) 760-8773

Fax:(905) 669-7416

Sarah Kranc, Estate of Harry Kranc, and
Estate of Lejb Schwartzberg
c/o Sarah Kranc
1131 Steeles Avenue West, PH 105
Toronto, ON M2R 3W8

January 16, 2017

File #: 16-8152

Inv #: 10541

Attention:

RE: 7818 Dufferin Street - Vaughan Crossings Inc. Lease - Defaults (2016
Forward)**LEGAL FEES:**

DATE	DESCRIPTION	AMOUNT
Jan-16-17	For services rendered in connection with this matter from November 16/16 to date.	850.00
	Totals	<hr/> \$850.00
	HST on Fees	\$110.50

DISBURSEMENTS:**Disbursements**

Courier Charges	47.45
Total Disbursements	<hr/> \$47.45
HST on Disbursements	\$6.17

TOTALS:

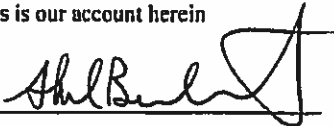
Total Fees, Disbursements & HST		<u>\$1,014.12</u>
<u>Less Receipts from Trust</u>	-	<u>\$0.00</u>
Invoice Balance Due Upon Receipt		\$1,014.12

Total Tax: \$116.67

HST #: 86578 1694 RT-0001

* tax-exempt

This is our account herein



MARCIANO BECKENSTEIN LLP

Per: Shael E. Beckenstein
(Practising as a Professional Corporation)

PLEASE MAKE PAYMENT PAYABLE TO "MARCIANO BECKENSTEIN LLP". In accordance with s.33 of the Solicitor's Act (Ontario), interest will be charged at the rate of 3.8 per cent per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered. PLEASE NOTE: Should the amount payable pursuant to this invoice not be paid, when due, Marciano Beckenstein LLP reserves the right to reverse all or part of the discount/reduction contemplated in this invoice and pursue payment of the FULL amount docketed to this matter (without regard to such discount/reduction).

This is Exhibit "Q" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK



February 10, 2016

VECTOR FINANCIAL SERVICES LIMITED

- and -

TIER 1 TRANSACTION ADVISORY SERVICES INC.

**MORTGAGE PARTICIPATION AND SERVICING
AGREEMENT WITH A PRIORITY INTEREST**

Re:

7818 Dufferin Street, Vaughan, Ontario



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**MORTGAGE PARTICIPATION AND SERVICING
AGREEMENT WITH A PRIORITY INTEREST**

THIS AGREEMENT made the 10th day of February, 2016

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED and
(hereinafter called the "Investor")

OF THE FIRST PART

- and -

TIER 1 TRANSACTION ADVISORY SERVICES INC.
(hereinafter called the "Subordinate Investor")

OF THE SECOND PART

- and -

VECTOR FINANCIAL SERVICES LIMITED
(hereinafter called the "Administrator")

OF THE THIRD PART

WHEREAS, pursuant to the Commitment, the Administrator agreed to arrange financing for the Mortgagor in the sum of \$32,500,000 to be secured, inter alia, by a first fixed and specific mortgage and charge on the Mortgaged Property on the terms and conditions set out therein;

AND WHEREAS the Participants have agreed to participate in making the Loan to the Mortgagor, to have the Administrator hold registered title to the Loan and to engage the Administrator to service the Loan;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of Two Dollars (\$2.00), the premises herein contained, and other good and valuable consideration (the receipt and sufficiency of which is hereby by both parties acknowledged), the parties hereto covenant and agree as follows:

- 1 -

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Agreement unless the context otherwise requires:

- (a) "Agreement" means the agreement as same may be amended from time to time;
- (b) "Business Day" means any day of the week except a Saturday, Sunday or a statutory holiday in the Province of Ontario;
- (c) "Commitment" means the agreement in letter form, dated December 6, 2013, made between the Administrator and the Mortgagor and any other amendment thereof, which Commitment has been assigned to the Investor hereunder;
- (d) "Mortgage" means the Mortgage of the Mortgaged Property granted by the Mortgagor to the Investor (as trustee for the Participants) as security for the Loan;
- (e) "Mortgage Documents" means the Mortgage, all charges, security agreements, assignments, guarantees, instruments and documents delivered by the Mortgagor and any covenantor as security for the Loan, and includes, without limitation, any and all fire insurance policies, title insurance policies, solicitors' opinion letters, and the Commitment;
- (f) "Mortgage Investment" means the Loan and all principal, interest (including interest on interest), charges and other monies from time to time owing there under, and the Mortgage Documents;
- (g) "Loan" means the loan to be made to the Mortgagor on the security of the Mortgaged Properties as contemplated by the Commitment;
- (h) "Mortgaged Property" means 7818 Dufferin Street, Vaughan, Ontario, land and buildings, which are more particularly described in the Mortgage Documents, including all improvements thereon and appurtenances thereto;
- (i) "Mortgagor" means Vaughan Crossing Inc., and their respective successors and assigns;
- (j) "Participants" means the Investor and the Subordinate Investor;
- (k) "Prime Rate" means the interest rate charged by the Canadian Imperial Bank of Commerce to its best customers (if applicable); and
- (l) "Proportionate Share" or "Proportionate Interests" means the proportionate shares of interests of the Investor and the Subordinate Investor in the Loan as set forth in Section 2.3 and the share of one of those parties shall be referred to as a "Proportionate Share" or as a "Proportionate Interest").

1.2 Gender and Number

In this agreement words denoting the singular include the plural and words denoting any gender including masculine, feminine and neuter as appropriate.

1.3 Headings, etc.

The division of the Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect construction or interpretation hereof.

ARTICLE 2 LOAN ACQUISITION AND PARTICIPATION

2.1 Acquisition of Loan

The Administrator shall be responsible for the acquisition and processing of the Loan in accordance with the terms hereof and in connection therewith, shall, without charge to the Investor, perform and attend to all matters and things necessary to administer and service the Loan including, without limitation, the following:

- (a) arrange with solicitors to undertake any and all steps necessary to complete the Loan, including, without limitation, all requisite title searches, the preparation, execution and delivery of all Mortgage Documents contemplated by the Commitment and to make such registrations and filings as may be necessary to ensure the priority of the Mortgage on the security of the Mortgaged Property, as stipulated in the Commitment;
- (b) ensure that all risk free and extended coverage insurance for the full replacement value of the building erected on the Mortgaged Property, boiler insurance, loss of income insurance and such other insurance as is required by the Commitment is in force as of the date of funding the Loan; and
- (c) generally attend to the performance of such other things in connection with the closing and funding of the Loan as the Administrator would normally perform if the Loan were for its own account.

2.2 Endorsement of Mortgage Documents

All Mortgage Documents shall be taken, held and registered, where applicable, only in the name of the Administrator who shall hold the same at all times as bare trustee and nominee for the Participants, in accordance with *Section 2.4* hereof, in their respective Proportionate Shares. The Administrator hereby assigns the benefit of all of its right, title, and interest, in the Mortgage Commitment to the Participants. The Administrator shall have no right to call for the transfer of title to a Mortgaged Property or to register this Agreement or notice of this Agreement on title to the Mortgaged Property. The Administrator covenants and agrees not to register Notices of this instrument or reference to this Agreement and/or its Mortgage Investment in respect of the Mortgaged Property. If any such registration occurs, the Administrator agrees to forthwith make application to have same deleted from the title. The Administrator further hereby irrevocably consents to a court order deleting any such registrations from the title and agrees to bear all costs incurred by the Participants in obtaining such order(s). The Administrator agrees to forthwith pay such costs on demand from the Participants.

2.3 Participants' Proportionate Shares

- (a) The Proportionate Interest of each of the Participants in the Mortgage Investment from time to time shall be equal to the proportion that its investment is to the aggregate total investment at such time (for example, if at a certain time \$2,000,000.00 has been invested in the aggregate by the Participants and advanced to the Mortgage, \$1,500,000.00 of which has been invested by the Subordinate Investor and \$500,000.00 has been invested by the Investor, then the Proportionate Interest of the Subordinate Investor and the Investor at such time are 75% and 25% respectively). The maximum principal amount of the investment of each, and the Proportionate Interest of each in the Mortgage Loan when fully funded to the Mortgage, shall be as follows:

	<u>Investor</u>	<u>Subordinate Investor</u>
	\$31,500,000	\$1,000,000
Proportionate Share	96.9%	3.1%

The foregoing Proportionate Shares are, however, subject to *Section 4.1* with respect to interest entitlement, and principal repayment under *Section 4.3*.

- (b) Subject to *Article 4* hereof, the Proportionate Interest of each Participant shall include a Proportionate Interest in all security for the Mortgage Investment, the Mortgage Documents, all monies from time to time owing to the Participants there under on account of principal, interest, or otherwise, and all rights and powers of the Mortgagee there under.
- (c) Notwithstanding the foregoing, and subject only to *Subsection 2.3(c)* hereof, the Subordinate Investor acknowledges that it shall have no entitlement at any times to any fees charged to the Borrower on account of draws, discharges, partial discharges, extensions, renewals, amendments, servicing or otherwise.

2.4 Declaration of Trust

- (a) The Administrator hereby declares that it holds the Mortgage Investment on behalf of, and in trust for, the Investor as to an undivided 96.9% interest, and the Subordinate Investor as to an undivided 3.1% interest, subject to principal repayments under *Section 4.3* hereof.
- (b) The Administrator further acknowledges and declares that the whole consideration paid for the Mortgage Investment was the monies of the Participants and that it acquired the Mortgage Investment for, on behalf of, and for the benefit of, the Participants in their respective Proportionate Shares, and that the Subordinate Investor holds its interest on behalf of its Investors.
- (c) The Administrator further acknowledges and declares that the Participants own all right, title, and interest in the Mortgage Investment in their Proportionate Share.
- (d) The Administrator acknowledges and agrees that it will deal with the Mortgage Investment only as may be authorized by the Participants or by this Agreement.

- (e) The Participants shall indemnify and save the Administrator harmless pro rata in their Proportionate Share from and against all claims, liabilities, damages, costs, expenses, charges, encumbrances, obligations, acts or omissions of every nature and kind arising from or related to the Mortgage Investment, pursuant to the Investor acting in its capacity as trustee save and except to the extent that same are caused by breach of any term of this Agreement by the Investor.

2.5 Sale of Participant's Interest

The Subordinate Investor shall not sell, transfer, assign or in any way dispose of or encumber to any third party (collectively the "Assignee"), directly or indirectly, its undivided Proportionate Interest or its rights, title, benefits and interest in the Loan and/or the Mortgage Documents provided as security therefore, without the prior written consent of the Administrator, which consent may not be unreasonably be withheld. The Administrator in its consideration to grant its consent shall be entitled to request the consent of the proposed Assignee to conduct credit checks as well as release of information from any governmental authority and other body or organization of which Assignee may be a member. The Administrator shall be entitled to take into account the results of such investigations in determining whether to provide its consent.

2.6 Subordinate Investor's Right to Purchase

The Subordinate Investor, in its capacity as a Participant, shall have the right, exercisable at any time upon two (2) Business Day's notice to the Investor, to purchase the Investor's Proportionate Share of the Mortgage Investment at a purchase price equal to the then outstanding principal amount of the Investor's Proportionate Share, together with all interest (in accordance with *Section 4.1* hereof) and other amounts owed to the Investor on account of its Proportionate Share up to the date of purchase. For further clarity, the Investor shall not charge any interest bonus or penalties except those stipulated in the Loan Proposal dated January 20, 2014 as accepted February 6, 2014. Upon receipt of such notice, the Investor shall deliver to the Subordinate Investor its mortgage statement confirming the amounts of principal and interest outstanding as of the date the transfer is to take place. On the date of purchase, the Investor shall deliver a transfer of registered title to the Mortgage Documents (including the Investor's beneficial interest therein) to the Subordinate Investor or as it may direct, in form and content satisfactory to the Subordinate Investor, and the Subordinate Investor shall pay the purchase price to the Investor. All of the Investor's costs in connection with such transfer of the Mortgage Investment shall be paid for by the Subordinate Investor.

ARTICLE 3

SERVICING ARRANGEMENTS

3.1 Appointment of the Administrator

The Participants hereby appoint the Administrator to administer and service the Mortgage Investment upon and subject to the terms and provisions of this agreement. The Participants agree to provide the Mortgagor with any necessary direction to give full force and effect to this Agreement.

3.2 Servicing Duties

The Administrator shall administer and service the Mortgage Investment in accordance with prudent mortgage practice of institutional administrators and the terms of this Agreement at a fee

documents and provide, at no cost to the Participants, such copies thereof as the Participants, or either of them, may reasonably require from time to time;

- (i) Give the Participants an annual statement in respect of the Mortgage Investment showing all receipts and disbursements and furnish the Participants with such additional statements and reports as may reasonably be requested from time to time by them or either of them;
- (j) Periodically satisfy itself, in accordance with normal industry practice, that insurance premiums, and realty taxes, are paid, or are being paid, as they fall due;

3.3 Experts

In administering the Mortgage Investment, the Administrator may retain, at the expense of the Participants, such solicitors, counsel, auditors, appraisers, engineers, and other experts (collectively the "Professionals") as the Administrator may, in its discretion, select; provided that, if any such expense is not stipulated to be recoverable from the Mortgagor under the Mortgage Documents, the Administrator will not proceed without the written consent of the Participants.

3.4 Information Furnished to the Administrator

In the exercise of its rights, duties and obligations hereunder, the Administrator may, provided it is acting in good faith, rely on the truth of the statements and the accuracy of the information and/or options contained in any certificates, reports, or opinions furnished to it by the Mortgagor or by the Professionals whom the Administrator may retain pursuant to the provisions hereof.

3.5 Indemnity

The Participants hereby agree to indemnify and save harmless the Administrator, pro rata in accordance with their respective Proportionate Shares, from any and all claims, demands, taxes, charges, costs, expenses, and damages of every nature and kind with respect to the administration and servicing of the Mortgage Investment pursuant to this Agreement, and from any losses, costs, expenses or damages incurred as a result of any loss or deficiency in excess of the monies obtained upon realization of the Mortgage Investment and any security with respect thereto, save and except where any such claim, demand, cost, tax, charge, expense, loss, damage or deficiency results from the negligence or wilful misconduct of the Administrator or its agents or employees. The obligation of the Participants to so indemnify and save harmless the Administrator shall survive the termination of the appointment of the Administrator as servicer of the Mortgage Investment.

ARTICLE 4 PRIORITY AND INTEREST ENTITLEMENT OF INVESTOR

4.1 Apportionment of Interest

The interest to be paid to the Investor and the Subordinated Investor in respect of the Mortgage Loan shall be eight and one half percent (8.50%) per annum, calculated and payable monthly and subject to a five percent (5%) administration fee charged by the Administrator.

It is understood that the Interest is to be paid to the Investor in priority to the Subordinate Investor.

4.2 Priority

The Investor's Proportionate Share of the Mortgage Investment shall have first priority over the Proportionate Share of the Subordinate Investor. The Investor's Proportionate Share shall be deemed to be a first charge and the Subordinate Investor's Proportionate Share shall be deemed to be a second charge, as if there had been two mortgages registered on title to the Mortgaged Property. The Subordinate Investor hereby postpones and subordinates its interest in the Mortgage Investment to the interest of the Investor in the Mortgage Investment. For greater certainty, any proceeds received from a sale of the Mortgaged Property, pursuant to a power of sale, or judicial sale, shall be paid first to the Investor to the extent of the amount owed to it pursuant to the Loan for principal, interest and any other charges and the balance, if any, of such proceeds shall be paid to the Subordinate Investor to the extent of the amount owed to it pursuant to the Loan for principal, interest and any other charges.

4.3 Distribution of Payments

All payments received under the Mortgage Documents shall be distributed as follows:

- (a) first, to the Investor, an amount sufficient to pay all the Investor's interest and principal, and any other charges due to it at the date of payment, subject always to *Section 4.1* hereof;
- (b) second, to the Subordinate Investor, an amount sufficient to pay all the Subordinate Investor's interest and principal and any other charges due to it at the date of payment, subject always to *Section 4.1* hereof;
- (c) third, to the Participants, pro rata based on the original Proportionate Share, as outlined in *Section 2.3 (a)* hereof, to be applied in reduction of the principal amount outstanding to each of the Investor and the Subordinate Investor; and
- (d) Subject to the terms of *subparagraph 3.7 (a)* hereof, notwithstanding the provisions of *subparagraph 4.3 (c)* hereof, all payments of interest and principal received on account of a Mortgage Loan, at a time when such Mortgage Loan is in default, or a payment is overdue, shall be paid to the Investor only, to the extent of the amount owed to it pursuant to such Mortgage Loan for interest and any other charges or costs incurred, (as set out in a mortgage statement by the Investor addressed to the Administrator, and/or the Subordinate Investor, or the solicitor requesting same), and the balance, if any, shall be paid to the Subordinate Investor on account of interest and costs.

ARTICLE 5

GENERAL

5.1 Notices

All notices, consents, approvals and other communications ("Notices") required or permitted to be given hereunder, shall be in writing and shall be delivered by personal delivery or sent by prepaid registered mail, or by facsimile transmission, if intended for the Subordinate Investor as follows:

Vector Financial Services Limited
25 Imperial Street, Suite 500, Toronto, Ontario, M5P 1B9
Attention: Mickey Baratz

and if intended for the Investor, addressed as follows:

Raj Singh and Dinesh Achria
Tier 1 Advisory
3100 Steeles Avenue East, Suite 902
Markham, Ontario

Any Notice sent by personal delivery shall be considered delivered upon delivery. Any such Notice sent by prepaid, registered mail shall be deemed to have been given to the party to whom it is addressed on the fourth Business Day following the date of mailing. In the event of an interruption in the postal service, any such Notice shall be personally delivered. Any Notice sent by facsimile transmission before 4:00 p.m. on a Business Day shall be deemed to have been received on the next Business Day. Either party may change the address of its office for notice by giving the other party notice of such change of address as aforesaid.

5.2 Termination

This Agreement shall remain in force until the earlier of the date when (i) the Mortgage Investment shall have been paid in full and discharged or the security therefore shall have been realized and the proceeds of realization shall have been distributed between the Participants and (ii) the Subordinate Investor shall have purchased the Proportionate Share of the Investor in accordance with *Section 2.6* hereof.

5.4 Contingency Planning

The Administrator shall put in place, and maintain, a contingency plan for the services provided hereunder to be exercised in the event of unpredictable problems affecting the Administrator's operation, including systems breakdown and natural disaster, and shall provide details thereof to the Participation.

5.6 Identification of Assets

The Administrator shall ensure that, at all times, it is able to identify the Mortgage being serviced hereunder on behalf of the Participants and to isolate its processing from assets of other third parties and of the Administrator.

5.7 Confidentiality and Security

The Administrator agrees that it will meet all applicable statutory and regulatory requirements concerning privacy in the administration of the Mortgage hereunder. In addition, it will have in place, at all times, reasonable security measures for the safeguarding of information with respect to the Mortgage Investment.

5.8 Investor Access

The Investor, or its duly authorized representatives or agents, shall have the right to inspect, from time to time, during normal business hours, the books and records of the Administrator, relating to the Mortgage, to satisfy itself that the provisions of this Agreement have been complied with, provided that reasonable notice of such inspection is provided to the Administrator in advance. In addition, the Administrator covenants and agrees to provide copies of all material documentation, relating to this Agreement, and its ongoing performance to the Investor on a monthly basis or on such other basis as is acceptable to the Investor, acting reasonably.

5.9 Effective Date of this Agreement

This Agreement shall not be effective until the date on which it is executed by the Investor and by the Administrator.

5.10 Further Assurances

The parties hereto agree to execute and deliver such further and other documentation as may be reasonably requested to give effect to the full intent and meaning of this agreement.

5.11 Entire Agreement

This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and may not be amended except by written agreement of the parties. There are no representations, warranties, covenants, or agreements between the parties except as they are expressly set out herein. This Agreement may be executed in counterparts.

5.12 Governing Law

This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

5.13 Enurement

This agreement shall be binding upon, and enure to the benefit of, the parties hereto and their respective permitted successors and assigns.

5.14 Counterparts

This agreement may be executed in any number of counterparts and each counterpart shall, for all purposes, constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories in the same counterpart, provided that each party has signed at least one counterpart.

N WITNESS WHEREOF the parties hereto have executed this Agreement and affixed their corporate seals on this 10th day of February, 2016.

VECTOR FINANCIAL SERVICES LIMITED

Per: _____

Name:

Title:

**TIER 1 TRANSACTION ADVISORY SERVICES
INC.**

Per: _____

Name: RAJ SINGHTitle: President

5.9 Effective Date of this Agreement

This Agreement shall not be effective until the date on which it is executed by the Investor and by the Administrator.

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This agreement may be executed in any number of counterparts and each counterpart shall, for all purposes, constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories in the same counterpart, provided that each party has signed at least one counterpart.

N WITNESS WHEREOF the parties hereto have executed this Agreement and affixed their corporate seals on this 10th day of February, 2016.

VECTOR FINANCIAL SERVICES LIMITEDPer: 

Name:

MICKEY BARATZ

Title:

DIRECTOR OF FINANCE

**TIER 1 TRANSACTION ADVISORY SERVICES
INC.**

Per: _____

Name:

Title:

This is Exhibit "R" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

SALE AND ASSIGNMENT OF MORTGAGE INTEREST RECEIVABLES

THIS AGREEMENT (this "Agreement") is made as of the _____ day of February, 2016,

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED,
hereinafter called the "Lender",

- and -

TIER 1 TRANSACTION ADVISORY SERVICES INC.,
hereinafter called the "Assignee";

WHEREAS Vaughan Crossings Inc. (the "Borrower") is indebted to the Lender for a loan (the "Loan") in the original principal amount of \$32,500,000.00 made pursuant to a Loan Proposal dated November 27, 2013 and a Commitment Letter dated December 6, 2013, each as amended or further amended from time to time (collectively, the "Commitment") issued by the Lender to the Borrower and secured, in part, by a Charge/Mortgage and a Charge of Lease (individually and collectively, the "First Mortgage") of all property and assets (collectively, the "Property") comprising: (i) Part Lot 24, RCP 10309, being Parts 10 & 11 on Plan 64R-7307 exc Part 1 on Expr Plan R650078, PIN 03274-0103 LT, 0 Dufferin Street, Vaughan, Ontario; (ii) Part Lot 25, RCP 10309, being Part 1 on Plan 65R-14039, PIN 03274-0104 LT, 7850 Dufferin Street, Vaughan, Ontario; and (iii) a leasehold interest in Part Lot 22, 25, 26, 27 & 28, RCP 10309, PINs 03274-0106 LT, 03274-0107 LT, 03274-0185 LT & 03274-0186 LT, 7818 Dufferin Street, Vaughan;

AND WHEREAS the Borrower is in default under the Loan for several reasons, including, without limitation, failure to pay interest now due and payable under the Loan;

NOW THEREFORE in consideration of the premises, the sum of TWO DOLLARS (\$2.00) and other good and valuable consideration now paid or given by each party to each of the other parties hereto (the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto), the parties hereto hereby covenant and agree as follows:

1. **Definitions** - In addition to the words and phrases elsewhere defined herein, in this Agreement the following words and phrases shall have the following meanings ascribed thereto:
 - (a) "Borrower Entity" means the Borrower, each guarantor and/or indemnitor of all or part of the Loan Indebtedness or in respect of or related to the Property or any part thereof, and any person having a beneficial ownership interest in all or any part of the Property from time to time;
 - (b) "Enforcement Action" means the commencement of power of sale, foreclosure or other judicial or private sale proceedings, appointing or obtaining the appointment of a receiver, a manager or a receiver and manager or other person having similar powers in respect of any person or property, attornment of rents, taking possession or control of any property or undertaking, commencing, giving or making any demand for payment, any notice of intention to enforce security or any action or proceeding seeking payment or recovery of all or any part of any indebtedness or damages in lieu thereof, or accepting a transfer of any property in lieu of foreclosure, or the exercise of any other rights or remedies available to a creditor under its security or otherwise at law or in equity, including without limitation, any bankruptcy proceedings;
 - (c) "Loan Documents" means, collectively, all documents, instruments, agreements and opinions now or hereafter evidencing, securing, guaranteeing and/or relating to the Loan and the Loan Indebtedness or any part thereof;
 - (d) "Loan Indebtedness" means the aggregate of: (i) the outstanding principal balance of the Loan at any time and from time to time; (ii) all accrued and unpaid interest and compound interest payable under the Loan at any time and from time to time, whether or not then due, at the rate provided by the First Mortgage; (iii) all Costs (as defined in the First Mortgage); (iv) any amount, cost, charge, expense or interest added to the Loan Indebtedness under the Loan Documents or applicable laws or which is

otherwise due and payable thereunder or secured thereby from time to time; and (v) the payment, performance, discharge and satisfaction of all other obligations of any Borrower Entity under or in respect of the Loan and Loan Documents;

- (e) "Monthly Mortgage Interest Receivable" means each monthly payment of interest accrued and payable under the Loan in accordance with the First Mortgage which remains unpaid by the Borrower to the Lender at any time and from time to time;
- (f) "Aggregate Mortgage Interest Receivables" means the aggregate amount of all Monthly Mortgage Interest Receivables plus compound interest thereon payable in accordance with the First Mortgage.
2. **Sale and Assignment** - Upon the Lender notifying the Assignee that the Borrower has failed to pay any monthly mortgage interest payment due and payable from time to time under the Loan, and upon the Assignee paying to the Lender the amount of any such Monthly Mortgage Interest Receivable, the Lender shall and does hereby:
- (a) sell and assign to the Assignee such Monthly Mortgage Interest Receivable and all compound interest accrued and to be accrued thereon in accordance with the First Mortgage, and the Lender's rights to seek demand and recovery of the same from any Borrower Entity in accordance with the Loan Documents, provided that, (i) the Assignee shall not take any Enforcement Action against or in respect of the Property or any part thereof without the prior written consent of the Lender in its sole discretion, (ii) the Assignee shall not take any Enforcement Action against any Borrower Entity without prior written notice to the Lender; and (iii) the Assignee shall not take any Enforcement Action against any Borrower Entity which may adversely affect the Lender's continuing rights under the Loan Documents as determined by the Lender acting reasonably; and
- (b) assign to the Assignee an interest in the Loan Documents to the extent of the Aggregate Mortgage Interest Receivables paid for by the Assignee and assigned to it pursuant to this Agreement, provided that such interest shall be and is hereby fully subordinate and postponed to all of the Lender's rights to repayment of the Loan Indebtedness (other than such Aggregate Mortgage Interest Receivables) and to take any and all such Enforcement Actions under the Loan Documents in order to collect the same.
3. **Payments Not Applied to Loan Indebtedness** - It is acknowledge and agreed that the payments to be made by the Assignee to the Lender pursuant to this Agreement are not intended to be payments made on behalf of any Borrower Entity and shall not be applied on account of the Loan Indebtedness, but rather will be made to the Lender so as to assist it in satisfying its obligations to its own investors. Accordingly, the Aggregate Mortgage Interest Receivables shall continue, and compound interest shall accrue thereon, until the same are paid by or on behalf of the Borrower and shall continue to constitute default by the Borrower under the Loan and the Loan Documents.
4. **Distribution of Loan Proceeds** - Notwithstanding anything otherwise provided by the Loan Documents or at law, upon receipt by the Lender of the outstanding Loan Indebtedness or any part thereof, either from the Borrower or in consequence of any Enforcement Action(s) taken by the Lender, the net proceeds thereof shall be applied and paid as follows:
- (i) firstly, to the Lender on account of all Loan Indebtedness then due other than Aggregate Mortgage Interest Receivables paid for by the Assignee and assigned to it pursuant to this Agreement;
- (ii) secondly, to the Assignee to the extent of the Aggregate Mortgage Interest Receivables paid for by the Assignee and assigned to it pursuant to this Agreement; and
- (iii) thirdly, to all other persons in accordance with their respective entitlements thereto.
5. **No Registration**- The Assignee covenants and agrees that this Agreement or any notice thereof or any security interest created hereby shall not be registered on title to the Property or under the Personal Property Security Act (Ontario).
6. **Successors, Assigns & Governing Law** - This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, legal personal representatives, successors and assigns. This

Agreement shall be read with all changes of gender and number as required by the context, and shall be construed in accordance with the laws of the Province of Ontario and the law of Canada applicable therein, and the parties hereto hereby attorn to the jurisdiction of the Province of Ontario.

7. **Counterparts** - This Agreement may be executed by the parties hereto in two or more counterparts, and when each party has executed and delivered a counterpart of this Agreement to all of the other parties hereto, such counterparts taken together shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document. The Borrower hereby irrevocably consent to and authorize the Lender and the Lender's Solicitors to consolidate the signed pages of each such executed counterpart into a single document, which consolidated document shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

VECTOR FINANCIAL SERVICES LIMITED

Per: 

Mickey Baratz, Director of Finance

I have authority to bind the Corporation.

TIER 1 TRANSACTION ADVISORY SERVICES INC.

Per: 

Raj Singh, President

I have authority to bind the Corporation.

This is Exhibit "S" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

Court File No. CV-16-11447-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

SCOLLARD TRUSTEE CORPORATION

Applicant

- and -

VAUGHAN CROSSINGS INC.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

NOTICE OF APPLICATION

TO THE RESPONDENT(S)

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 on Thursday, July 14, 2016, at 10:00 a.m., before a judge presiding over the Commercial List at 330 University Avenue, 7th Floor, Toronto, Ontario M5G 1R7.

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

- 2 -

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 June 30, 2016

Issued by

Local Registrar

Address of court office: 330 University Avenue, 7th Floor
Toronto, Ontario M5G 1R7

**TO: VAUGHAN CROSSINGS INC.
7501 Keele Street, Suite # 306
Concord, Ontario L4K 1Y2**

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APPLICATION

1. The Applicant, Scollard Trustee Corporation ("Scollard") makes application for:
 - (a) an order validating service of this Notice of Application and the Application Record in the manner effected, abridging the time for service thereof (if necessary), and dispensing with service thereof on any party other than the parties served;
 - (b) an order appointing KSV Kofman Inc. ("KSV") as receiver ("Receiver") of the property, assets and undertaking of Vaughan Crossings Inc. (the "Debtor") pursuant to Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3 (the "*BIA*"), and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43; and
 - (c) such further and other relief as to this Honourable Court may deem just.

2. The grounds for the application are:

THE PARTIES

- (a) The Debtor is a corporation governed by the *Business Corporations Act* (Ontario) and has its registered office located in Concord, Ontario.

- (b) The Debtor was incorporated for the purpose of acquiring and developing 5.5 acres of land located at the northwest corner of Dufferin Street and Centre Street in Vaughan, Ontario, which were acquired on April 17, 2007 and September 4, 2007 (the "Owned Real Property").

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- (c) The Debtor is also a tenant of approximately 3.75 acres of land adjacent to the land it owns (the "Leased Real Property", and together with the Owned Real Property, the "Properties") pursuant to a 35-year land lease (the "Lease").
- (d) The Debtor intended to develop an approximately 150,000 square foot commercial project on the Properties to be known as "The Dufferin Centre" (also known as Vaughan Crossings).
- (e) Scollard is a syndicated mortgage trustee corporation that acts on behalf of investors.

SCOLLARD'S LOAN TO THE DEBTOR

- (f) Pursuant to a loan agreement dated August 8, 2013 between Scollard and the Debtor (the "Scollard Loan Agreement"), Scollard agreed to lend \$14.8 million to the Debtor to be used to fund the development and construction of the commercial project on the Properties.
- (g) As security for the advances to be made to the Debtor under the Scollard Loan Agreement, the Debtor granted, among other things, a Charge/Mortgage in the amount of \$14.8 million registered on title to the Owned Real Property on October 18, 2013 as Instrument No. YR2048941 (the "Scollard Charge").
- (h) Scollard has been authorized by all of the investors to take any and all steps to enforce the Scollard Charge upon default.
- (i) Scollard has made three advances to the Debtor under the Scollard Loan Agreement, totalling \$14,798,411.

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- (j) Following the Debtor providing the required extension notice, Scollard's loan was to mature on or about April 18, 2016.

VECTOR'S LOAN TO THE DEBTOR

- (k) The Debtor secured construction financing from Vector Financial Services Limited ("Vector") in the total amount of \$32.5 million pursuant to a commitment letter dated December 6, 2013 (the "Vector Commitment Letter").
- (l) In connection with the Vector Commitment Letter, Vector received, as security, a Charge/Mortgage in the amount of \$32.5 million registered against title to the Properties on February 6, 2014 as Instrument No. YR2092552 (the "Vector Charge").
- (m) Scollard agreed to postpone the Scollard Charge in favour of the Vector Charge.
- (n) Vector advanced approximately \$8.6 million to the Debtor in connection with the Vector Commitment Letter.

FINANCIAL DIFFICULTIES

- (o) The Debtor has made no payments to Scollard with respect to the Scollard Loan Agreement since its interest payments for the months of October, November and December, 2015.
- (p) Four (4) construction liens totalling approximately \$2,427,466 have been registered against title to the Properties.

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- (q) The registration of the construction liens caused Vector's and Scollard's loans to go into default as well as triggering a default under the Lease.
- (r) In an attempt to protect the interest of the investors represented by Scollard, Mr. Raj Singh, the President of Scollard, arranged for \$314,755.91 to be paid to Vector with respect to the interest payments payable by the Debtor under the Vector Commitment Letter for the months of February, March, April, May and June 2016.
- (s) Mr. Singh also arranged for \$188,408.30 to be paid to Vector as a protective disbursement to keep the Lease payments current for the same five (5) month period pursuant.
- (t) Scollard was informed in April 2016 that the Debtor had a bank account with Toronto-Dominion Bank ("TD Bank"). Scollard had no knowledge of the existence of the TD Bank account prior to this time despite repeated requests for the Debtor to provide copies of all of its financial statements, bank statements and an export of the entries from its accounting system.
- (u) The landlord has delivered a notice of default under the Lease as a result of the registration of the construction liens, non-payment of realty taxes in the amount of \$30,371.32 as at June 30, 2016, and non-payment of the landlord's outstanding legal fees and costs relating to enforcement under the Lease in the amount of \$27,319.2.
- (v) The Scollard Loan Agreement matured on or about April 18, 2016.

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- (w) On June 15, 2016, Scollard demanded payment of its loan and delivered a notice of intent to enforce security under the *BIA*.

JUST AND CONVENIENT TO APPOINT A RECEIVER

- (x) Scollard has received no payments from the Debtor since December 2015. The Scollard loan matured on or about April 18, 2016. Scollard has demanded payment of the loan from the Debtor and has sent a *BIA* notice. The 10-day *BIA* notice period has expired.
- (y) The Debtor is in default under the Lease and there are constructions liens in excess of \$2.4 million registered against the Properties. There are outstanding real property taxes of \$30,371.32.
- (z) It appears that there may have been a misuse or misappropriation of the loan advances made by Scollard and Vector to the Debtor. The Debtor has failed to provide an accounting of its use of the approximately \$23.2 million loaned to it by Scollard and Vector and it has failed to provide information concerning the TD Bank account.
- (aa) The Debtor is insolvent and cannot pay its liabilities generally as they become due.
- (bb) It is in the best interests of Scollard, the investors, and the Debtor's creditors generally that a Receiver be appointed to take control over and realize on the Owned Real Property and the Debtor's interest in the Leased Real Property.

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- (cc) It is just and convenient in the circumstances to appoint a Receiver over the Debtor's property, with the power to market and sell the property for the benefit of all of the Debtor's creditors.
- (dd) The appointment of the Receiver will also provide for a stay of proceedings that will prevent the landlord from terminating the Lease.
- (ee) Scollard proposes that KSV be appointed as Receiver. KSV has agreed to accept the appointment.
- (ff) In the event that a Receiver is appointed, Scollard will request that the Receiver be authorized to borrow up to \$500,000, subject to further order of the Court, so that the Receiver will have funds available to, among other things, pay monthly rent of approximately \$35,000 to the landlord under the Lease and to pay monthly interest of approximately \$63,000 to Vector.
- (gg) Such further and other grounds as the lawyers may advise.

3. The following documentary evidence will be used at the hearing of the application:

- (a) The Affidavit of Bhaktraj Singh sworn June 30, 2016; and
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

- 9 -

Date: June 30, 2016

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

Harvey Chaiton
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Tel: (416) 218-1129
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Sam Rappos
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Fax: (416) 218-1837
E-mail: samr@chaitons.com

Lawyers for the Applicant

SCOLLARD TRUSTEE CORPORATION
Applicant

-and-

VAUGHAN CROSSINGS INC.
Respondent

Court File No.

CV-16-11447-0002

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF APPLICATION

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

Harvey Chaiton
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Sam Rappos
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Fax: (416) 218-1837
E-mail: samr@chaitons.com

Lawyers for the Applicant

This is Exhibit "T" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

JOINT RETAINER AGREEMENT

THIS AGREEMENT is made as of the _____ day of August, 2016,

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED,
hereinafter called "**Vector**"

- and -

SCOLLARD TRUSTEE CORPORATION and
OLYMPIA TRUST COMPANY
hereinafter individually and collectively called "**Scollard**"

WHEREAS Vaughan Crossings Inc. (the "**Borrower**") is indebted to the Vector for a loan (the "**Vector Loan**") in the original principal amount of \$32,500,000 made pursuant to a Loan Proposal dated November 27, 2013 and a Commitment Letter dated December 6, 2013, each as amended or further amended from time to time (collectively, the "**Vector Commitment**") issued by Vector to the Borrower and secured, in part, by (a) a first Charge/Mortgage of all property and assets (collectively, the "**Owned Property**") comprising (i) Part Lot 24, RCP 10309, being Parts 10 & 11 on Plan 64R-7307 exc Part 1 on Expr Plan R650078, PIN 03274-0103 LT, 0 Dufferin Street, Vaughan, Ontario, and (ii) Part Lot 25, RCP 10309, being Part 1 on Plan 65R-14039, PIN 03274-0104 LT, 7850 Dufferin Street, Vaughan, Ontario; and (iii) a first Charge of Lease of all property and assets (collectively, the "**Leased Property**") comprising the leasehold interest in Part Lot 22, 25, 26, 27 & 28, RCP 10309, PINs 03274-0106 LT, 03274-0107 LT, 03274-0185 LT & 03274-0186 LT, 7818 Dufferin Street, Vaughan;

AND WHEREAS the Borrower is indebted to the Scollard for a loan (the "**Scollard Loan**") in the original principal amount of \$14,800,000 made pursuant to a Loan Agreement dated August 8, 2013, each as amended or further amended from time to time (collectively, the "**Scollard Commitment**") issued by Scollard to the Borrower and secured, in part, by a second Charge/Mortgage of all property and assets comprising Owned Property;

AND WHEREAS the Borrower is in default of both the Vector Loan and the Scollard Loan;

AND WHEREAS each of Vector and Scollard (each a "**party**" and collectively the "**parties**") have the right to appoint a receiver of the Borrower as of the date of the date hereof;

AND WHEREAS both Vector and Scollard desire to cooperate with each other in the realization of the Owned Property and the Leased Property (collectively, the "**Property**") in order to recover the amounts due and owing under the Vector Loan and the Scollard Loan to the greatest extent possible having regard to the fair realisable value of the Property and upon commercially reasonable terms and conditions;

NOW THEREFORE in consideration of the premises, the sum of TWO DOLLARS (\$2.00) and other good and valuable consideration now paid or given by each party to each of the other parties hereto (the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto), the parties hereto hereby covenant and agree as follows:

1. **Retainer** - Ira Smith Trustee & Receiver Inc. (the "**Receiver**") will be jointly retained by Vector and Scollard as the private receiver of the Borrower and all of its assets upon the terms and conditions set out in an engagement letter of the Receiver (the "**Engagement Letter**") to be entered into amongst the parties and the Receiver, the form and content of which has been settled prior to the parties entering into this Agreement. Vector and Scollard agree to execute the Engagement Letter once issued by the Receiver and forthwith thereafter return a signed copy of it to the Receiver and its counsel. The Receiver shall only be required to act upon instructions and directions which are unanimously agreed upon and consented to by each party; provided that in the event that either party is in default of any obligation under this Agreement which is not cured within three (3) business days after written notice thereof given to the defaulting party by the Receiver or the non-defaulting party, thereafter the non-defaulting party shall be entitled to instruct and give directions to the Receiver unilaterally, and the Receiver shall be entitled to rely upon the same, until such time as such default has been fully cured; and any instructions and directions given during the period of any such default shall remain binding and effective upon the Receiver notwithstanding the subsequent cure of such default.

2. **Purpose of the Receivership** - As set out in the Engagement Letter, the services of the Receiver will be limited only to those necessary to market and sell the Property, including any services ancillary thereto, and the Receiver will not be required or instructed to undertake any forensic or other investigative work with respect to the Borrower, except to the extent required for the purposes of selling the Property or where Scollard covenants directly with the Receiver to pay for any such additional forensic or investigative work. The parties agree that Scollard, as second mortgagee, shall be permitted to submit a stalking horse purchase offer or otherwise participate in any sale or auction that the Receiver considers worth accepting and can bid on the Property with a combination of cash and credit (to the extent of tendering a portion or all of the amount owed to Scollard under the Scollard Commitment). Vector shall not object to any such bid by Scollard; provided that the cash component of the bid shall be sufficient to repay all monies owing to Vector under the Vector Loan and the claims of all other parties found to have priority over the Scollard Loan.

3. **Co-operation with Receiver** - Each party will fully cooperate with the Receiver as reasonably required, including providing it with any necessary information or documents as may be requested by it to fulfill its mandate and services.

4. **Receiver's Costs** - Each of Vector and Scollard agree to pay one-half (50%) of the Receiver's fees, costs, expenses and applicable taxes as invoiced from time to time in accordance with the Engagement Letter, and acknowledge that, as between the parties and the Receiver, the parties shall be jointly and severally liable to the Receiver for such fees, costs, expenses and applicable taxes.

5. **Ground Lease Rents** - Unless otherwise agreed with the landlord of the Leased Property, the rents payable under the Ground Lease of the Leased Property shall be kept current during the term of the Receiver's appointment, with each party contributing one-half (50%) of the amounts thereof, either by forwarding funds to the Receiver as required to allow it to make the rent payments or, upon agreement of the parties and direction of the Receiver, by payment directly to the landlord.

6. **Other Costs and Funding Thereof -**

(a) The parties agree that they shall instruct the Receiver, to the extent possible and before requiring the parties to fund any of the same, to borrow all funds necessary to satisfy payment of the monies payable by the parties pursuant to Sections 4 and 5 hereof and all other monies required by the Receiver in order to fulfill its mandate. The Receiver shall be entitled to arrange such borrowings from either or both of the parties or their respective affiliates, as lender(s), at such rate of interest and upon such other terms as mutually agreed by the parties, and any such borrowings shall rank in priority to both the Vector Loan and the Scollard Loan and be repaid in proportion to the monies so advanced by the parties or their respective affiliates as the case may be.

(b) To the extent not so borrowed by the Receiver, all monies payable by the parties pursuant to Sections 4 and 5 hereof and all other monies required by the Receiver in order to fulfill its mandate shall be provided by the parties, each as to one-half (50%) thereof. The monies so advanced by each party shall be treated as a protective advance made by each such party under its respective loan, and shall bear the same rate of interest as applicable to each respective loan, but as between Vector and Scollard, such advances shall be repaid to them in proportion to the amounts so advanced in priority to all other amounts owing under the Vector Loan and the Scollard Loan.

(c) Notwithstanding anything otherwise provided herein, all of the Receiver's fees, costs, expenses and applicable taxes related to any additional forensic or investigative work as referred to in Section 2 hereof shall not be satisfied by any Receiver borrowings and shall be paid for only by Scollard, and all amounts so paid shall rank subordinate to the Vector Loan and the claims of all other parties found to have priority over the Scollard Loan.

7. **Priority of Receiver's Costs and Borrowings** - The parties agree that all Receiver's costs to the extent not paid by the parties in accordance with this Agreement and all monies borrowed by the Receiver from any third party in order to fulfill its mandate under the Engagement Letter shall have priority over the Vector Loan and the Scollard Loan and the security therefore.

8. **Indemnities** - If and to the extent that any party shall be or become liable for or shall provide more than its share of any obligation or liability hereunder, all other parties who have provided less than their share shall indemnify and save harmless the first-mentioned party and shall forthwith pay or provide to such first-mentioned party and save it harmless from

and against any and all liability. Each party hereby indemnifies and agrees to save the other party harmless from and against any and all liabilities, damages, actions, causes of action, proceedings, claims, demands, costs and expenses which shall or may arise by virtue of: (a) anything done by such party (or any agent, employee or representative of such party) outside the scope of or in breach of the terms of this Agreement; or (b) the non-performance by such party (or any agents, employees or representative of such party) of all or any part of the obligations of such party under this Agreement.

9. **Conversion to Court Appointment** - In the event that (i) the Receiver cannot proceed with the sale of the Property as a result of the action(s) of any third party(ies) or other circumstances not within the control of the Receiver, Vector and Scollard, (ii) where a purchaser whose offer the Receiver is willing to accept, requires a vesting order of a court in relation to a purchase of the Property or (iii) there is a disagreement between Vector and Scollard as to instructions to be given to the Receiver which cannot be resolved within a reasonable time, at the request of the Receiver and upon an application to be brought by Vector at the expense of both parties, both parties will consent to a court order appointing the Receiver as the court appointed receiver of the Borrower and all of its assets

10. **Legal counsel** - Legal counsel are or will be appointed for the parties and the Receiver as follows:

Vector	Rose, Persiko, Rakowsky, Melvin LLP Attention: Ronald B. Melvin
Scollard	Harris + Harris LLP Attention: Gregory H. Harris
Receiver	Steinberg, Title, Hope & Israel LLP ("STHI") Attention: David A. Brooker

The parties hereto acknowledge that Vector is represented by STHI in various construction lien actions that have been brought against it with respect to the Property, and in current outstanding proceedings brought by Scollard to appoint a receiver over the Borrower, and agree that all claims regarding any potential conflict of interest are waived.

In the event that a court appointment of the Receiver is required, STHI will continue acting for the Receiver in that proceeding, and will also act for Vector in that same proceeding until such time as conflict may exist that would require the Receiver retaining new counsel; the determination of whether such a conflict exists will be either on consent of the parties to this agreement, or if such consent is not obtained, then as determined by the court. In any event, STHI shall continue to act for Vector in the construction lien actions that have been commenced.

11. **Communications** - Each party at and its legal counsel and other representatives may communicate directly to the Receiver, provided that a copy of each such communication shall be sent to the other party (and its legal counsel if and as appropriate). All communications by the Receiver shall be simultaneously made to each of the parties, with copies to legal counsel for the parties if and as appropriate. Olympia Trust Company hereby irrevocably authorizes and directs Scollard Trustee Corporation to communicate and make all decisions on its behalf in connection with this Agreement and the Engagement Letter.

12. **Withdrawal of Scollard Application** - Forthwith after execution of this Agreement and the Engagement Letter, Scollard will withdraw its current application to appoint a receiver (Ontario Court File No. CV-16-11447-00CL) on a without costs basis.

13. **Termination** - This Agreement shall terminate and be at an end upon the occurrence of the earlier of (i) court appointment of the Receiver pursuant to Section 9 hereof, and (ii) completion of the realization upon and sale of Property and distribution of the proceeds of such sale amongst all parties entitled thereto in accordance with their respective legal priorities to the same. After termination of this Agreement, Scollard shall be entitled to continue with the engagement of the Receiver for such purposes as Scollard may see fit in its sole discretion and at Scollard's sole cost and expense.

14. **Successors, Assigns & Governing Law** - This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, legal personal representatives, successors and assigns. This Agreement shall be read with all changes of gender and number as required by the context, and shall be construed in accordance with the laws of the Province of Ontario and the law of Canada applicable therein, and the parties hereto hereby attorn to the jurisdiction of the Province of Ontario.

15. **Counterparts** - This Agreement may be executed by the parties hereto in two or more counterparts, and when each party has executed and delivered a counterpart of this Agreement to all of the other parties hereto, such counterparts taken together shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document. The Borrower hereby irrevocably consent to and authorize the Lender and the Lender's Solicitors to consolidate the signed pages of each such executed counterpart into a single document, which consolidated document shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

VECTOR FINANCIAL SERVICES LIMITED

SCOLLARD TRUSTEE CORPORATION

Per: _____

Mickey Baratz, Director of Finance

Per: _____

Raj Singh, President

I have authority to bind the Corporation.

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

I/We have authority to bind the Corporation.

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VECTOR FINANCIAL SERVICES LIMITED

Per: _____
Mickey Baratz, Director of Finance

I have authority to bind the Corporation.

SCOLLARD TRUSTEE CORPORATION

Per: _____
Raj Singh, President

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

15. **Counterparts** - This Agreement may be executed by the parties hereto in two or more counterparts, and when each party has executed and delivered a counterpart of this Agreement to all of the other parties hereto, such counterparts taken together shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document. The Borrower hereby irrevocably consent to and authorize the Lender and the Lender's Solicitors to consolidate the signed pages of each such executed counterpart into a single document, which consolidated document shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

VECTOR FINANCIAL SERVICES LIMITED

SCOLLARD TRUSTEE CORPORATION

Per: _____
Mickey Baratz, Director of Finance

Per: _____
Raj Singh, President

I have authority to bind the Corporation.

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: _____
Name: _____
Title: _____

Johnny Luong
Team Lead

Per: _____
Name: _____
Title: _____

Vibha Bhagat
Vibha Bhagat, Supervisor

I/We have authority to bind the Corporation.

This is Exhibit "U" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK



167 Applewood Cres. Suite 6, Concord, ON L4K 4K7
 Phone: 905.738.4167
 Fax: 905.738.9848
 irasmithinc.com

Ira Smith

Phone: 905.738.4167 ext. 111
 Email: ira@irasmithinc.com

August 26, 2016

Vector Financial Services Limited
 c/o Rose, Persiko, Rakowsky, Melvin LLP
 390 Bay Street, Suite 600
 Toronto, ON
 M5H 2Y2

Attention: Mr. R.B. Melvin

**Scollard Trustee Corporation and
 Olympia Trust Company**
 c/o Harris + Harris LLP
 2355 Skymark Avenue, Suite 300
 Mississauga, ON
 L4W 4Y6

Attention: Mr. G.H. Harris

Dear Sirs

RE: VAUGHAN CROSSINGS INC. (the “Debtor”)

RE: 5.5 ACRES OF OWNED DEVELOPMENT LAND LOCATED AT THE NORTHWEST CORNER OF DUFFERIN AND CENTRE STREETS IN THE CITY OF VAUGHAN (the “Owned Real Property”), TOGETHER WITH THE APPROXIMATELY 3.5 ACRES OF LEASED LAND LOCATED ADJACENT THERETO (the “Leased Real Property”)

Introduction

This letter confirms that, pursuant to the Joint Retainer Agreement dated August ____, 2016 (the “**Joint Retainer Agreement**”) entered into amongst you, an executed copy of which is attached hereto, we, Ira Smith Trustee & Receiver Inc., have been retained by you jointly to act as Receiver of the Debtor, whose sole assets are the Owned Real Property and its interest in the Leased Real Property. This letter sets out the services (the “**Services**”) to be provided and the fees to be paid in respect of those Services.

Our Understanding of the Current Situation

You have advised us that the Debtor is indebted to you in the approximate amounts and under specific security as follows:

Vector Financial Services Limited (“**Vector**”) – approximately \$8.6 million plus interest and costs, which indebtedness is secured, inter alia, under a first ranking Charge/Mortgage registered against the owned and leased real properties, with a face value of \$32.5 million.

Scollard Trustee Corporation (and Olympia Trust Company (individually and collectively, “**Scollard**”) – approximately \$14.8 million plus interest and costs, which indebtedness is secured, inter alia, under a second ranking Charge/Mortgage registered against the owned and leased real properties, with a face value of \$14.8 million.

You have advised us that your respective security agreements are now in full force and effect and that the Debtor is in default thereunder, and that you each have the legal power to appoint us as Receiver of the Debtor.

You have further advised us that, to the best of your knowledge and belief, there are no persons having claims in priority to your security, apart from those claims given priority by statute. However, you have advised us that there are various construction liens registered against the owned and/or leased real properties, and that those claims will have to be investigated in order to ultimately determine what amount, if any, ranks in priority to your security.

You have further advised us that, to the best of your knowledge and belief, neither the Debtor nor the Debtor’s property is and was in violation of any environmental laws.

We will rely on the foregoing representations in accepting this appointment and we will continue to rely thereon in carrying out our duties as Receiver until notified to the contrary.

Scope of our Services

As soon as possible following our appointment, we will take possession of the owned and leased real properties covered by your security and develop a plan to maximize the realization therefrom. The realization with respect to the Owned Real Property will take place coordinated with you under a Sale Under Mortgage. Where necessary, you will provide us with sufficient funds to cover any obligations properly incurred by us in the course of the receivership, including our own fees and expenses.

As your appointee, we will endeavour to carry out this assignment in a prompt and cost efficient manner and in accordance with the best professional standards. We will provide you with a written report on the progress of the receivership as soon as possible following our appointment and from time to time thereafter, as required. In addition, we will schedule meetings to keep you informed of our progress and to obtain your instructions on matters of importance.

We confirm having advised you that as Receiver, we are required to perform the duties of a receiver in accordance with the *Bankruptcy and Insolvency Act* (Canada). While we will endeavour to work cooperatively with you throughout the assignment, the performance of our duties under the Act, including compliance with any order made by the court, must take priority over your wishes. Should we require the services of independent legal counsel, the cost of obtaining such legal counsel will constitute a recoverable expense in addition to our fees.

We will only act in accordance with instructions that are received from both Vector and Scollard. In the event that we do not receive instructions from both Vector and Scollard, or receive conflicting or opposing instructions, the parties agree that in such event, the parties will act in accordance with the provisions of the Joint Retainer Agreement with respect to the continuance of the receivership.

Olympia Trust Company hereby irrevocably authorizes and directs Scollard Trustee Corporation to communicate and make all decisions on its behalf in connection with this engagement.

In conducting our services we shall have regard to and respect the terms and conditions of the Joint Retainer Agreement, including but not limited to the right of Scollard to submit a stalking horse purchase offer prior to the Receiver beginning a stalking horse sales process, should such a stalking horse bid be made and to participate in any auction process by bidding a combination of cash and credit (all or a portion of the amount owed to Scollard by Vaughan Crossings Inc. and pursuant to Scollard's registered Charge/Mortgage against the Property); provided that such cash portion of the bid will at least be sufficient to retire the then outstanding indebtedness owed to Vector and any other parties found to be ranking in priority to Scollard's claims. If a real estate broker is utilized and if Scollard is the successful purchaser, the commission payable will be in a reduced amount as agreed to by the parties.

Fees

You will on a joint and several basis, indemnify us for our fees and expenses in respect of our acting as Receiver. Our fees are based on the hours actually incurred by each staff member at the normal hourly billing rate for that individual. In addition to the fees outlined above, HST and out-of-pocket expenses will be charged.

The hourly rates of our staff are:

Mr. Ira Smith	President and Trustee	\$450
Mr. Brandon Smith CIRP	Senior Vice President	\$375
Ms. Elaine Kilmer-Choi CA	Vice President	\$375
Mr. Stanley Sugar CA	Senior Consultant	\$375
Mr. Martin Wolfe CA	Senior Consultant	\$375
	Technicians	\$125-\$200 (based on experience)

For the better financial control of the assignment, we will submit to you at regular intervals a billing showing details of the fees and expenses incurred during the prior month for your approval. However, it may be that assets will not be sufficient, or readily available, to pay such fees and expenses.

We will pay such billings from funds on hand from the realization of your security in our possession and control. If the assets will not be sufficient, or readily available, to pay such fees and expenses, you will pay such billings as an interim draw against our final fees and expenses.



In addition to our fees and expenses, you agree to indemnify and save us harmless against all liabilities, costs, taxes, accounts, charges, actions, demands and damages of any nature whatsoever, whether at law or in equity, arising out of our acting as Receiver including without limiting the generality of the foregoing, any liabilities or costs arising from the *Environmental Protection Act*, excepting however any liabilities, costs, taxes, accounts, charges, actions, demands and damages which result from any gross negligence, willful misconduct, misfeasance or unlawful acts of, our officers, employees or agents.

You agree that this retainer does not preclude us from acting as Court-appointed Receiver in the event it becomes necessary at some point to have the Court supervise the realization of the assets, properties and undertaking of the Debtor.

Governing Law and Jurisdiction

The Contract shall be governed by and interpreted in accordance with the laws of Canada and Ontario. The Courts of Canada shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning the Contract and any matter arising from it.

Other matters

We further confirm your agreement that we may use email and the internet to communicate with you and any other party we are required to in fulfilling our duties under this mandate, and that you agree that we will not assume any risk of delivery failures, security breaches, timeliness, confidentiality breaches or the unauthorized alteration of any documents during our as a result of our using such electronic transmission.

This letter and the Joint Retainer Agreement comprises the entire contract for the provision of the Services to the exclusion of any other express or implied term, whether expressed orally or in writing, including any conditions, warranties and representations and shall supersede all previous letters of engagement, undertakings, agreements and correspondence regarding the Services.

Acknowledgement and Acceptance

Please acknowledge your acceptance of the terms of our engagement under the Contract by signing the confirmation below and returning a copy of this letter and a copy of the attached terms and conditions to us at the above address.

[Remainder of Page Intentionally Left Blank]

If you have any questions regarding this letter, please do not hesitate to contact us.

Yours truly,

IRA SMITH TRUSTEE & RECEIVER INC.

Per:

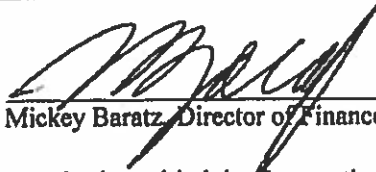


Ira Smith
President

[Signature Page to Follow]

EACH OF THE UNDERSIGNED agrees to the terms and conditions as outlined herein as of the date first written above.

VECTOR FINANCIAL SERVICES LIMITED

Per: 
Mickey Baratz, Director of Finance

I have authority to bind the Corporation.

SCOLLARD TRUSTEE CORPORATION

Per: _____
Raj Singh, President

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have authority to bind the Corporation.

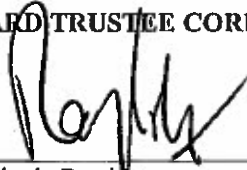
EACH OF THE UNDERSIGNED agrees to the terms and conditions as outlined herein as of the date first written above.

VECTOR FINANCIAL SERVICES LIMITED

Per: _____
Mickey Baratz, Director of Finance

I have authority to bind the Corporation.

SCOLLARD TRUSTEE CORPORATION

Per:  _____
Raj Singh, President

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have authority to bind the Corporation.

EACH OF THE UNDERSIGNED agrees to the terms and conditions as outlined herein as of the date first written above.

VECTOR FINANCIAL SERVICES LIMITED

Per: _____
Mickey Baratz, Director of Finance

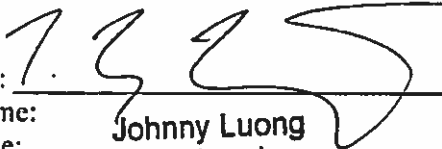
I have authority to bind the Corporation.


SCOLLARD TRUSTEE CORPORATION

Per: _____
Raj Singh, President

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per:  _____
Name: Johnny Luong
Title: Team Lead

Per:  _____
Name: Vibha Bhagat
Title: Supervisor

I/We have authority to bind the Corporation.

This is Exhibit "V" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

APPOINTMENT

TO: Ira Smith Trustee & Receiver Inc.

RE: VAUGHAN CROSSINGS INC. (the “Debtor”)

As security for the indebtedness of the Debtor to Vector Financial Services Limited (“**Vector**”) – approximately \$8.6 million plus interest and costs, which indebtedness is secured, inter alia, under a first ranking Charge/Mortgage registered against the owned and leased real properties, with a face value of \$32.5 million.

As security for the indebtedness of the Debtor to Scollard Trustee Corporation (and Olympia Trust Company (individually and collectively, “**Scollard**”) – approximately \$14.8 million plus interest and costs, which indebtedness is secured, inter alia, under a second ranking Charge/Mortgage registered against the owned and leased real properties, with a face value of \$14.8 million. Each of Vector’s and Scollard’s security is hereby referred to jointly as the Security.

By reason of the default of the Debtor in the performance of its obligations under the Security and the Security thereby having become enforceable, Vector and Scollard jointly hereby appoints you in accordance with the terms of the Joint Retainer Agreement as Receiver of the real property of the Debtor described as **5.5 ACRES OF OWNED DEVELOPMENT LAND LOCATED AT THE NORTHWEST CORNER OF DUFFERIN AND CENTRE STREETS IN THE CITY OF VAUGHAN (the “Owned Real Property”), TOGETHER WITH THE APPROXIMATELY 3.5 ACRES OF LEASED LAND LOCATED ADJACENT THERETO (the “Leased Real Property”)** (jointly described as the “**Real Property**”) pursuant to the terms of the said Security with such powers as are contained therein, including the power:

1. to take possession of all the Real Property of the Debtor; and
3. to sell or otherwise dispose of the Real Property of the Debtor pursuant to the sale provisions contained therein and the laws of the Province of Ontario.

PURSUANT TO the terms of the Security, the Receiver is deemed to be the agent of the Debtor and the Debtor shall be responsible for all acts, defaults, remuneration and expenses of the Receiver and Vector and Scollard shall not be in any way responsible for any misconduct or negligence of the Receiver.

DATED at Toronto, Ontario, this _____ day of August, 2016.

VECTOR FINANCIAL SERVICES LIMITED

SCOLLARD TRUSTEE CORPORATION

Per:


Mickey Baratz, Director of Finance

I have authority to bind the Corporation.

Per:

Raj Singh, President

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

I/We have authority to bind the Corporation.

IRA SMITH TRUSTEE & RECEIVER INC. hereby consents to act as Receiver of the Debtor and its property and assets in accordance with the terms and conditions above.

DATED at Toronto, Ontario, this _____ day of August, 2016.

IRA SMITH TRUSTEE & RECEIVER INC.

Per: _____

President

I have authority to bind the Corporation

PURSUANT TO the terms of the Security, the Receiver is deemed to be the agent of the Debtor and the Debtor shall be responsible for all acts, defaults, remuneration and expenses of the Receiver and Vector and Scollard shall not be in any way responsible for any misconduct or negligence of the Receiver.

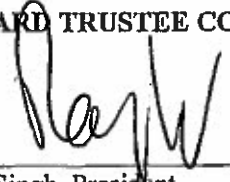
DATED at Toronto, Ontario, this _____ day of August, 2016.

VECTOR FINANCIAL SERVICES LIMITED

Per: _____
Mickey Baratz, Director of Finance

I have authority to bind the Corporation.

SCOLLARD TRUSTEE CORPORATION


Per: _____
Raj Singh, President

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have authority to bind the Corporation.

IRA SMITH TRUSTEE & RECEIVER INC. hereby consents to act as Receiver of the Debtor and its property and assets in accordance with the terms and conditions above.

DATED at Toronto, Ontario, this _____ day of August, 2016.

IRA SMITH TRUSTEE & RECEIVER INC.

Per: _____
President

I have authority to bind the Corporation

PURSUANT TO the terms of the Security, the Receiver is deemed to be the agent of the Debtor and the Debtor shall be responsible for all acts, defaults, remuneration and expenses of the Receiver and Vector and Scollard shall not be in any way responsible for any misconduct or negligence of the Receiver.

DATED at Toronto, Ontario, this _____ day of August, 2016.

VECTOR FINANCIAL SERVICES LIMITED

SCOLLARD TRUSTEE CORPORATION

Per:

Mickey Baratz, Director of Finance

I have authority to bind the Corporation.

Per:

Raj Singh, President

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per:

Name: Johnny Luong
Title: Team Lead

Per:

Name: Vibha Bhagat, Supervisor
Title: Vibha Bhagat, Supervisor

I/We have authority to bind the Corporation.

IRA SMITH TRUSTEE & RECEIVER INC. hereby consents to act as Receiver of the Debtor and its property and assets in accordance with the terms and conditions above.

DATED at Toronto, Ontario, this 14th day of August, 2016.

IRA SMITH TRUSTEE & RECEIVER INC.

Per:

President

I have authority to bind the Corporation

This is Exhibit "W" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

Court File No. CV-16-11567-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) THURSDAY, THE 27TH DAY
JUSTICE NEWBOULD) OF OCTOBER, 2016

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947
ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE
CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE
CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION and
HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION

Respondents

APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006, c.
29 and SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. C.43

APPOINTMENT ORDER

THIS APPLICATION, made by The Superintendent of Financial Services (the "Superintendent"), for an Order, *inter alia*, pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended (the "MBLAA"), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, appointing Grant Thornton Limited ("GTL") as trustee (in such capacity, the "Trustee"), without security, of all of the assets, undertakings and properties of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC

- 2 -

Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trust Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "**Respondents**"), was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the affidavit of Mohammed Ali Marfatia sworn October 20, 2016 and the exhibits thereto (the "**Supporting Affidavit**") and on reading the Affidavit of Mr. John Davies sworn October 26, 2016 and the Affidavit of Mr. Gregory Harris sworn October 26, 2016 and the consent of GTL, and on hearing the submissions of counsel for the Superintendent, counsel for certain of the developers, counsel for Harris + Harris, LLP and counsel for Tier 1 Advisory Transaction Advisory Services Inc. and Mr. Singh, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Eunice Baltkois sworn October 20, 2016, filed;

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the notice of application and the application record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 37 of the MBLAA, GTL is hereby appointed Trustee, without security, of all of the assets, undertakings and properties of the Respondents, including, without limitation, all of the assets held in trust or required to be held in trust by the Respondents, their counsel, agents and/or assignees on behalf of syndicated mortgage investors (collectively, the "**Property**"), which Property, for greater certainty, includes any and all real property charges in favour of the Respondents (the "**Real Property Charges**"), including, without limitation, any and all monetary and non-monetary entitlements in respect to the assets and values thereunder.

TRUSTEE'S POWERS

3. **THIS COURT ORDERS** that the Trustee 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

- 3 -

of the foregoing, the Trustee is hereby expressly empowered and authorized to do any of the following where the Trustee 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, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the holding of mortgage security in trust on behalf of syndicated mortgage investors, the administering of the mortgages, 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 businesses of the Respondents, 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 each of the Respondents;
- (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 Trustee'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 each of the Respondents or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to each of the Respondents and to exercise all remedies of each of the Respondents in collecting such monies, including, without limitation, to enforce any security held by each of the Respondents, including, without limitation, such security held on behalf of syndicated mortgage investors;
- (g) to settle, extend or compromise any indebtedness owing to each of the Respondents;

- 4 -

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Trustee's name or in the name and on behalf of the Respondents, or any of them, 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 any of the Respondents, the Property or the Trustee, 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 Trustee in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in 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, and in such 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 or 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 Trustee deems appropriate on all matters relating to the Property and the Trustee's mandate, and to share information, subject to such terms as to confidentiality as the Trustee deems advisable;
- (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, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of

- 5 -

and, if thought desirable by the Trustee, in the name of the Respondents, or any of them;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of any of the Respondents, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any of the Respondents;
- (q) to exercise any shareholder, partnership, joint venture or other rights which each of the Respondents 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 Trustee 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 Respondents, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE TRUSTEE

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

5. **THIS COURT ORDERS** that, pursuant to and without limiting the generality of paragraph 4 of this Order, all Persons, including, without limitation, Harris + Harris LLP ("H&H"), shall, unless otherwise instructed by the Trustee: (i) deliver to the Trustee (or in the case of RRSP or other registered funds administered by Olympia Trust Company ("OTC") not release to any Person without further Order of this Court) any and all monies held in trust that are related to any of the Respondents or their businesses (collectively, the "Trust Funds"), which Trust Funds, for greater certainty, include any and all monies in any H&H or OTC account that are purported to be held in trust for the investors in or beneficiaries under any of the Real Property

- 6 -

Charges, including, without limitation, all monies held by way of interest reserve to satisfy interest payments to such investors or beneficiaries, which Trust Funds are to be held or used by the Trustee in accordance with the terms of this Order and any further Order of this Court; and (ii) upon the Trustee's request, provide an accounting of all funds received from or on behalf of the Respondents or their associated businesses.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Trustee 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 any of the Respondents, 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 Trustee or permit the Trustee to make, retain and take away copies thereof and grant to the Trustee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 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 Trustee 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 Trustee for the purpose of allowing the Trustee 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 Trustee in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Trustee. Further, for the purposes of this paragraph, all Persons shall provide the Trustee with all such assistance in gaining immediate access to the information in the Records as the Trustee may in its discretion require including providing the Trustee with instructions on the use of any computer or other system and providing the Trustee 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 Trustee shall provide each of the relevant landlords with notice of the Trustee's intention to remove any fixtures from any leased premises at least

- 7 -

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 Trustee'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 Trustee, or by further Order of this Court upon application by the Trustee on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE TRUSTEE

9. **THIS COURT ORDERS** that, with the exception of each of the NOP (as defined in the Supporting Affidavit), the Suspension Order (as defined in the Supporting Affidavit) and the Compliance Order (as defined in the Supporting Affidavit), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Trustee except with the written consent of the Trustee or with leave of this Court.

NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY

10. **THIS COURT ORDERS** that, with the exception of each of the NOP, the Suspension Order and the Compliance Order: (i) no Proceeding against or in respect of the Respondents, or any of them, or the Property shall be commenced or continued except with the written consent of the Trustee or with leave of this Court; and (ii) any and all Proceedings currently under way against or in respect of the Respondents, or any of them, 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, with the exception of each of the NOP, the Suspension Order and the Compliance Order, all rights and remedies against each of the Respondents, the Trustee, or affecting the Property, are hereby stayed and suspended except with the written consent of the Trustee 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 *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"), and further provided that nothing in this paragraph shall: (i) empower the Trustee or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on; (ii) exempt the Trustee or the Respondents from compliance with statutory or regulatory provisions relating to health, safety or

- 8 -

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 TRUSTEE

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 any of the Respondents, without written consent of the Trustee or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Respondents, or any of them, 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 Respondents 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 Trustee, and that the Trustee shall be entitled to the continued use of the Respondents' 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 Trustee in accordance with normal payment practices of the Respondents or such other practices as may be agreed upon by the supplier or service provider and the Trustee, or as may be ordered by this Court.

TRUSTEE TO HOLD FUNDS

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Trustee 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 Trustee (the "**Post Trusteeship Accounts**") and the monies standing to the credit of such Post Trusteeship Accounts from time to time, net of any disbursements provided for herein, shall be held by the Trustee 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 Respondents shall remain the employees of the Respondents until such time as the Trustee, on the Respondents' behalf, may terminate the employment of such employees. The Trustee shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the BIA, other than such amounts as the Trustee may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) and 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* and any other applicable privacy legislation, the Trustee 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 Trustee, 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 Respondents, and shall return all other personal information to the Trustee, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. **THIS COURT ORDERS** that nothing herein contained shall require the Trustee 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 Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Trustee shall not, as a result of this Order or anything done in pursuance of the Trustee'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 TRUSTEE'S LIABILITY

18. **THIS COURT ORDERS** that the Trustee 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 subsections 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 Trustee by section 14.06 of the BIA or by any other applicable legislation.

TRUSTEE'S ACCOUNTS

19. **THIS COURT ORDERS** that the Trustee and counsel to the Trustee 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, which fees and disbursements shall be added to the indebtedness secured by the Real Property Charges, and that the Trustee and counsel to the Trustee shall be entitled to and are hereby granted a charge (the "Trustee'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 Trustee'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 subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

20. **THIS COURT ORDERS** that the Trustee and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Trustee 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 Trustee shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its

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fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Trustee or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE APPOINTMENT

22. **THIS COURT ORDERS** that the Trustee 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 \$300,000.00 (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 Trustee 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 "**Trustee'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 Trustee's Charge and the charges as set out in subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

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

24. **THIS COURT ORDERS** that the Trustee is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Trustee'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 Trustee pursuant to this Order or any further order of this Court and any and all Trustee'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 Trustee'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 these proceedings, 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/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "Rules"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules 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: <http://www.grantthornton.ca/tier1>.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Trustee 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 Respondents' creditors or other interested parties at their respective addresses as last shown on the records of the Respondents 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 Trustee 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 Trustee from acting as a trustee in bankruptcy of any of the Respondents.

30. **THIS COURT ORDERS** that Confidential Exhibit "A" and Confidential Exhibit "B" to the Supporting Affidavit be and are hereby sealed until further Order of this Court.

31. **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 Trustee 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 Trustee, as an officer of

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this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

32. **THIS COURT ORDERS** that the Trustee 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 Trustee 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.

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, or such shorter period of time as the Court may permit, to the Trustee 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.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

OCT 27 2016

PER / PAR: 

SCHEDULE "A"

TRUSTEE CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that Grant Thornton Limited., the Trustee (in such capacities, the "Trustee") of all of the assets, undertakings and properties of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trust Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "**Respondents**"), including all of the assets held in trust by the Respondents on behalf of syndicated mortgage investors (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 27th day of October, 2016 (the "**Order**") made in an action having Court file number CV-16-11567-00CL, has received as such Trustee from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Trustee 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 Trustee pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), 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 Trustee to indemnify itself out of such Property in respect of its remuneration and expenses.

- 2 -

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 Trustee 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 Trustee to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.
7. The Trustee 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 _____, 2016.

GRANT THORNTON LIMITED, solely in its capacity as Trustee of the Property (as defined in the Order), and not in its personal capacity

Per: _____

Name: Jonathan Krieger

Title: Senior Vice President

THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -
TEXTBOOK STUDENT SUITES (525 PRINCESS STREET)
TRUSTEE CORPORATION, ET AL.

Applicant

Respondents

Court File No. CV-16-11567-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

APPOINTMENT ORDER

THE SUPERINTENDENT OF FINANCIAL SERVICES

5160 Yonge Street
P.O. Box 85
Toronto, ON M2N 6L9

Tel: (416) 590-7143
Fax: (416) 590-7556

Mark Bailey
Email: mark.bailey@fSCO.gov.on.ca

Daniel Di Fonzo
Email: daniel.difonzo@fSCO.gov.on.ca

*Lawyers for the Applicant, The Superintendent of
Financial Services*

This is Exhibit "X" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

ROSE, PERSIKO, RAKOWSKY, MELVIN LLP
Barristers and Solicitors

Suite 600, 390 Bay Street
 Toronto, Ontario
 M5H 2Y2

Telephone: 416-868-1900
 Facsimile: 416-868-1708

Direct Line: 416-868-1908
 Email: rbmelvin@rplaw.com

July 21, 2016

BY REGISTERED MAIL

TO: VAUGHAN CROSSINGS INC. (the "Borrower")
 7501 Keele Street, Suite 401
 Vaughan, Ontario
 L4K 1Y2

AND TO: VINCENT ALBERT GUIDO (the "Guarantor")
 4 Magic Avenue
 Markham, Ontario
 L4C 0A5

AND TO: ANTHONY DECRISTOFARO (the "Guarantor")
 64 Carmen Crescent
 Woodbridge, Ontario
 L4L 5P5

Dear Sirs:

RE: VECTOR FINANCIAL SERVICES LIMITED loan to VAUGHAN CROSSINGS INC. upon the security of all property and assets comprising: Part Lot 24, RCP 10309, being Parts 10 & 11 on Plan 64R-7307 exc Part 1 on Expr Plan R650078, PIN 03274-0103 LT, 0 Dufferin Street, Vaughan, Ontario, and Part Lot 25, RCP 10309, being Part 1 on Plan 65R-14039, PIN 03274-0104 LT, 7850 Dufferin Street, Vaughan, Ontario (collectively, the "Freehold Lands"); and leasehold interest in Part Lot 22, 25, 26, 27 & 28, RCP 10309, PINs 03274-0106 LT, 03274-0107 LT, 03274-0185 LT & 03274-0186 LT, 7818 Dufferin St., Vaughan (the "Leasehold Lands", and together with the Freehold Lands collectively called the "Property") - VFSL Loan No. 13-18

We are the solicitors for Vector Financial Services Limited (the "Lender") and have been retained by it in connection with the above-noted loan (the "Loan"). We are advised by the Lender that the Borrower has been and continues to be in default under the Loan for multiple reasons, the particulars of which include the following:

1. The Borrower has failed to pay interest accrued and coming due under the Loan on and after February 10, 2016, as set out in the attached Statement for Discharge Purposes dated July 20, 2016;
2. Contrary to the Loan documents, the Borrower has failed to pay monthly rents coming due from and after February 14, 2016 under the Ground Lease dated April 11, 2007 in respect of the Leasehold Lands, which rents have been paid by the Lender as protective advances under the Lender's security, as more particularly set out in the attached Statement for Discharge Purposes;

Rose, Persiko, Rakowsky, Melvin LLP
 July 21, 2016
 Page 2

3. Contrary to the Loan documents, the Borrower has failed to perform other obligations under the said Ground Lease including, without limitation, failure to pay invoices for the legal costs of the Landlords' solicitors, details of which have been provided by them to the Borrower;
4. Contrary to the Loan documents, the Borrower has failed to pay amounts due to its contractors as and when due, in consequence of which the following Construction Liens and/or Certificates of Action have been registered and continue to remain on title to the Property:

Construction Lien Claimant	Nature of Instrument	Instrument No.
Sora Construction Ltd.	Construction Lien	YR2415393
Triaxis Construction Limited	Construction Lien	YR2422509
Kohn Partnership Architects Inc.	Construction Lien	YR2423085
2388208 Ontario Incorporated	Construction Lien	YR2427861
Sora Construction Ltd.	Certificate of Action	YR2436540
Triaxis Construction Limited	Certificate of Action	YR2439974
2388208 Ontario Incorporated	Certificate of Action	YR2445729
Kohn Partnership Architects Inc.	Certificate of Action	YR2452308

5. Contrary to the Loan documents, the Borrower has failed to pay realty taxes accruing due in respect of the Property. As at June 15, 2016, the amount due for realty taxes was in the aggregate sum of \$61,035.38.

On behalf of the Lender, we hereby accelerate payment of all principal, interest and other amounts secured by the Loan and demand that, on or before 10:00 a.m. on August 2, 2016, the Borrower make payment to the Lender, by bank draft or wire transfer in accordance with instructions attached hereto, in the aggregate amount of \$9,437,413.05 plus per diem interest as set out on the attached Statement for Discharge Purposes (representing \$9,421,413.05 on account of all amounts now due as set out on the attached Statement for Discharge Purposes plus \$16,000.00 on account of our services rendered in connection with this matter inclusive of disbursements and HST).

In the event that the Borrower fails to make payment as aforesaid in the manner and within the time specified above, we are instructed to proceed immediately with all remedies available to the Lender under its security and at law, without further notice to you except as may be required pursuant to such security or at law.

On behalf of the Lender, we hereby also demand, under and pursuant to all covenants and agreements in respect of the Loan made by each Guarantor, but subject to any limitations of liability thereunder, that each such Guarantor perform the Borrower's obligations as aforesaid in the manner and within the time specified above, failing which, we are instructed to proceed immediately with all remedies available to the Lender under its security and at law, without further notice to you except as may be required pursuant to such security or at law.

We enclose and hereby serve Notice of Intention to Enforce Security pursuant to subsection 244(1) of the Bankruptcy and Insolvency Act (Canada).

Rose, Persiko, Rakowsky, Melvin LLP
July 21, 2016
Page 3

Be advised that any future payments tendered on account of the Loan in an amount less than the aggregate amount demanded herein will only be accepted by the Lender without prejudice to the Lender's rights under the Loan and the applicable Loan documents and shall not constitute any form of Loan amendment, extension of the term of the Loan or forbearance in any respect. On behalf of the Lender, we hereby reserve all of its rights to pursue all remedies available to it under contract and at law, without further notice except as required by contract or at law.

This matter is of a most serious nature, and we urge you to govern yourselves accordingly.

Yours very truly,

ROSE, PERSIKO, RAKOWSKY, MELVIN LLP

Per: 
Ronald B. Melvin

RBM/hc
Encl.

- c. Brattys LLP
Attn: Helen A. Mihailidi
(by email, with enclosures)
- c. Vincent Albert Guido
(by email, with enclosures)
- c. Vector Financial Services Limited
Attn: Mickey Baratz
(by email, with enclosures)
- c. Steinberg Title Hope & Israel LLP
Attn: David A Broker
(by email, with enclosures)



Payout Statement

July 20, 2016

Re: Mortgagor: Vaughan Crossings Inc.
Property : 1st Mortgage at 7818 Dufferin Street

STATEMENT FOR DISCHARGE PURPOSE (With interest currently paid to June 10, 2016)

Original Principal Balance	\$8,800,000.00
Add: land lease payments made	<u>188,333.30</u>
Revised Principal	8,988,333.30
Interest at 8.50% due Feb 10, 2016 (net of payment of \$31,485)	30,848.33
Interest at 8.50% due Mar 10, 2016, compounded	62,735.54
Interest at 8.50% due Apr 10, 2016, compounded	63,529.83
Interest at 8.50% due May 10, 2016, compounded	64,198.52
Interest at 8.50% due June 10, 2016, compounded	64,955.06
Interest at 8.50% due July 10, 2016, compounded	65,655.72
Interest for the period July 11-20, 2016, inclusive at 12.00% per annum (10 days @ \$3,062.38)	30,623.80
Reimbursement for legal and disbursements	45,578.95
Unpaid NSF charges	3,600.00
Discharge fee	500.00
Bank processing fee	500.00
Statement fees (including HST – BN 10550 1209RT0001)	339.00

25 Imperial Street, Suite 500, Toronto, Ontario M5P 1B9
Phone: 416-483-8018 Fax: 416-483-9763
www.vectorfinancialservices.com



Bank wire fee 15.00

Total Amount payable to Vector Financial Services Limited \$9,421,413.05

Per diem interest at 12.00% per annum is \$3,088.99.

These figures are an approximation and are subject to change with any subsequent transactions and do not include any legal fees.

Yours truly,
Vector Financial Services Limited
Per:

A handwritten signature in black ink, appearing to read 'Mickey Baratz', is written over the 'Per:' line.

Mickey Baratz
Director of Finance

I:\1 VFSL\02 CURRENT LOANS\7818 Dufferin Street, Vaughan\New Construction Loan October 2013\PayoutStatement 2016-07-20.docx

25 Imperial Street, Suite 500, Toronto, Ontario M5P 1B9
Phone: 416-483-8018 Fax: 416-483-9763
www.vectorfinancialservices.com

VECTOR FINANCIAL SERVICES LIMITED**WIRE TRANSFER INSTRUCTIONS**

BENEFICIARY Name & Address:	VECTOR FINANCIAL SERVICES LIMITED TRUST ACCOUNT 500 – 25 Imperial Street, Toronto, Ontario, M5P 1B9
BANK Name & Address:	CANADIAN IMPERIAL BANK OF COMMERCE 1700 Wilson Avenue, Toronto, Ontario, M3L 1B2
BANK No.	010
TRANSIT No.	00922
ACCOUNT No.	92-06116

NOTICE OF INTENTION TO ENFORCE SECURITY
 (Subsection 244(1) of the Bankruptcy and Insolvency Act (Canada))

TO: VAUGHAN CROSSINGS INC., an insolvent person
 VINCENT ALBERT GUIDO, an insolvent person
 ANTHONY DECRISTOFARO, an insolvent person

TAKE NOTICE THAT:

1. VECTOR FINANCIAL SERVICES LIMITED, a secured creditor, intends to enforce its security on the property of the insolvent person described below:

 Part Lot 24, RCP 10309, being Parts 10 & 11 on Plan 64R-7307 exc Part 1 on Expr Plan R650078, PIN 03274-0103 LT, 0 Dufferin Street, Vaughan, Ontario, and Part Lot 25, RCP 10309, being Part 1 on Plan 65R-14039, PIN 03274-0104 LT, 7850 Dufferin Street, Vaughan, Ontario (collectively, the "Freehold Lands"); and Leasehold interest in Part Lot 22, 25, 26, 27 & 28, RCP 10309, PINs 03274-0106 LT, 03274-0107 LT, 03274-0185 LT & 03274-0186 LT, 7818 Dufferin St., Vaughan (the "Leasehold Lands")
2. The security that is to be enforced is in the form of:
 - (a) Charge/Mortgage registered on title to the Freehold Lands on February 6, 2014 as Instrument No. YR2092552;
 - (b) General Assignment of Rents registered on title to the Freehold Lands on February 6, 2014 as Instrument No. YR2092553;
 - (c) Notice of Charge of Lease registered on title to the Leasehold Lands on February 6, 2014 as Instrument No. YR2092557;
 - (d) General Assignment of Rents registered on title to the Leasehold Lands on February 6, 2014 as Instrument No. YR2092558;
 - (e) General Security Agreement dated January 9, 2014 made by the Borrower in favour of the Lender;
 - (f) Assignment of Material Documents dated January 9, 2014 made by the Borrower in favour of the Lender;
 - (g) Assignment of Sale Agreements dated January 9, 2014 made by the Borrower in favour of the Lender;
 - (h) Assignment of Insurance Proceeds dated January 9, 2014 made by the Borrower in favour of the Lender;
 - (i) Assignment and Agreement re Contingency Reserve dated January 9, 2014 made between the Borrower and the Lender;
 - (j) Guarantee dated January 9, 2014 made by Anthony DeCristofaro and Vincent Albert Guido in favour of the Lender;
 - (k) Postponement of Shareholder Rights dated January 9, 2014 made by principals of the Borrower in favour of the Lender and acknowledged by the Borrower;
 - (l) Undertaking to Complete dated January 9, 2014 made by the Borrower in favour of the Lender;
3. The total amount of indebtedness secured by the security is \$9,437,413.05.
4. The secured creditor 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 this 21st day of July, 2016.

VECTOR FINANCIAL SERVICES LIMITED,
 by its solicitors,
 ROSE, PERSIKO, RAKOWSKY, MELVIN LLP

Per: 
 Ronald B. Melvin

This is Exhibit "Y" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK



Payout Statement

January 19, 2017

Re: Mortgagor: Vaughan Crossings Inc.
Property : 1st Mortgage at 7818 Dufferin Street

Original Principal Balance	\$8,800,000.00
<u>Additions:</u>	
Land lease payments made	188,333.30
Funds raised on September 21, 2016 to cover legal fees	<u>96,000.00</u>
Revised Principal	9,084,333.30
Interest at 8.50% due Feb 10, 2016 (net of payment of \$31,485)	30,848.33
Interest at 8.50% due Mar 10, 2016, compounded	62,736.05
Interest at 8.50% due Apr 10, 2016, compounded	63,529.83
Interest at 8.50% due May 10, 2016, compounded	64,199.13
Interest at 8.50% due June 10, 2016, compounded	64,955.77
Interest at 8.50% due July 10, 2016, compounded	65,656.35
Interest at 12.00% due Aug 10, 2016, compounded	93,402.59
Interest at 12.00% due Sep 10, 2016, compounded	94,336.61
Interest at 12.00% due Oct 10, 2016, compounded	95,879.65
Interest at 12.00% due Nov 10, 2016, compounded	97,198.78
Interest at 12.00% due Dec 10, 2016, compounded	98,170.76
Interest at 12.00% due Jan 10, 2017, compounded	99,152.47



Reimbursement for balance of legal fees (net of \$96,000 above)	49,224.25
Reimbursement of costs for searches	121.36
Unpaid NSF charges	3,600.00
Discharge fee	500.00
Bank processing fee	500.00
Statement fees (including HST – BN 10550 1209RT0001) – 2 @ \$339	678.00
Bank wire fee	<u>15.00</u>
Total Amount payable to Vector Financial Services Limited	<u>\$10,069,038.23</u>

Per diem interest from January 10, 2017 at 12.00% per annum is \$3,310.37.

These figures do not include legal fees that have not been invoiced and/or estimate of future legal fees.

Yours truly,
Vector Financial Services Limited
Per:


Mickey Baratz
Director of Finance

This is Exhibit "Z" referred to in the Affidavit of Michael Baratz
sworn January 19, 2017



Commissioner for Taking Affidavits (or as may be)

DARIA KRYSIK

Court File No.: CV -

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF Section 101 of the
Courts of Justice Act and Section 243 of the *Bankruptcy and Insolvency Act*

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

-and-

VAUGHAN CROSSINGS INC.

Respondent

CONSENT

Ira Smith Trustee & Receiver Inc., a licensed trustee in bankruptcy, hereby agrees to act as Receiver of the following properties in which the Respondent, **Vaughan Crossings Inc.**, has an interest:

1. PIN 03274-0103 LT

PT LT 24 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PTS 10 & 11
64R7307 EXCEPT PT 1 EXPROP PL R650078; S/T VA84766 ASSIGNED BY
R312155; VAUGHAN

DUFFERIN STREET, VAUGHAN

PIN 03274- 0104 LT

PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1,
65R14039; VAUGHAN

7818 DUFFERIN STREET, VAUGHAN; and

2. PIN 03274- 0106 LT

PT LT 28 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2
65R11525; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

03274- 0107 LT

LT 27 REGISLAR'S COMPILED PLAN 10309 VAUGHAN; CITY OF
VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

03274- 0185 LT

PT L T 22 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 1
65R8928;; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

03274- 0186 LT

PT LT 25 REGISTRAR'S COMPILED PLAN 10309 VAUGHAN PT 2
65R14039; PT LTS 25 & 26 REGISTRAR'S COMPILED PLAN 10309
VAUGHAN PT 3 65R14039 EXCEPT PT 1, 65R8928; S/T VA84765
ASSIGNED BY R312155; CITY OF VAUGHAN

7818 DUFFERIN STREET, VAUGHAN

Dated at Toronto this ¹⁴th day of January, 2017.

Ira Smith Trustee & Receiver Inc.

Per: 

Name: Brandon Smith,
CIRP, Licensed Insolvency Trustee
Title: Senior Vice-President

VECTOR FINANCIAL SERVICES LIMITED

- and -

VAUGHAN CROSSINGS INC.

Applicant

Respondent

Court File No.: CV-

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF Section 101 of the
Courts of Justice Act and Section 243 of the *Bankruptcy
and Insolvency Act***

PROCEEDING COMMENCED AT TORONTO

CONSENT

STEINBERG TITLE HOPE & ISRAEL LLP
Barristers & Solicitors
5255 Yonge Street, Suite 1100
Toronto, Ontario
M2N 6P4

David A. Brooker (35787W)
Email: dbrooker@sthilaw.com
Tel: 416-225-2777
Fax: 416-225-7112

Lawyers for the Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF MICHAEL BARATZ
SWORN JANUARY 19, 2017

STEINBERG TITLE HOPE & ISRAEL LLP
Barristers & Solicitors
5255 Yonge Street, Suite 1100
Toronto, Ontario
M2N 6P4

David A. Brooker (35787W)
Email: dbrooker@sthilaw.com
Tel: 416-225-2777
Fax: 416-225-7112

Lawyers for the Applicant

TAB 3

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

and

VAUGHAN CROSSINGS INC.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3 and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43.

DATED JANUARY 19, 2017**1.0 INTRODUCTION**

1. This report (the “**Report**”) is filed by Ira Smith Trustee & Receiver Inc. (“**ISI**”) in its capacity as putative Court-appointed Receiver (the “**Putative Receiver**”), 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**”), without security, of certain of the assets, properties and undertaking of Vaughan Crossings Inc. (collectively the “**Company**” or the “**Debtor**”).

- 2 -

1.1 Purpose of this Report

2. The purpose of this Report is for the Putative Receiver to report to this Honourable Court on the:

- a) actions and activities of ISI as privately appointed Receiver (the “**receiver**”);
- b) the Putative Receiver’s recommendation for a proposed Court supervised sales proceeds.

1.2 Disclaimer

3. In preparing this Report, the Putative Receiver, where stated, has relied upon information obtained from and discussions with contractors and other third parties as stated herein (collectively, the “**Information**”). The Putative Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information and expresses no opinion, or other form of assurance, in respect of the Information. As indicated herein, notwithstanding having served the principal of the Debtor, Mr. A. Guido, with a copy of ISI’s private appointment as receiver, Mr. Guido has failed to meet or otherwise communicate with the receiver and has failed to supply the books and records of the Company. Such books and records to date have not been found. Accordingly, the receiver had to collect data from third parties to be able to initially determine the position of the known Property of the Company and to accumulate the Information.

4. This report is prepared solely for the use of the Court and the stakeholders in this proceeding, for the purpose of assisting the Court in making a determination whether to approve the appointment of the Putative Receiver and the recommended sales process. It is based on the

- 3 -

receiver's analysis of information provided to it by third parties as stated herein, which included unaudited financial statements and internal plans and correspondence. The receiver's procedures did not constitute an audit or financial review engagement of the Debtor's financial reporting. Where stated, the receiver has relied upon the Information in reaching the conclusions set out in this report.

2.0 BACKGROUND AND OVERVIEW

5. ISI was privately appointed as the receiver under a joint retainer agreement which was fully signed on September 19, 2016 by the first mortgagee, Vector Financial Services Limited (“**Vector**”) and the second mortgagee Scollard Trustee Corporation (“**Scollard**”) and Olympia Trust Company (“**Olympia**”). Attached hereto as **Exhibit “A”** is a copy of the joint retainer agreement.

6. The Company's known principal assets are the:

- a) freehold interest in the lands with the legal description of PIN:03274-0104; -0103, PLAN RCP 10309 PT LOTS 22, 25, 26, 28 AND LOT 27 RP 65R8928 PART 1 RP 65R14039 PARTS 2 AND 3 RP 65R11525 PART being vacant commercial land for development comprising 4.976 acres on the West side of Dufferin Street, north of Centre Street, in the City of Vaughan. (the “**freehold lands**”) and;
- b) leasehold interest in the lands comprising 4.976 acres on the West side of Dufferin Street, north of Centre Street, municipally known as 7818 Dufferin Street, Vaughan, Ontario (the “**leasehold lands**”) under a lease made as of and effective from April 11, 2007 between

- 4 -

the Estate of Harry Kranc, Sarah Kranc the Estate of Leib Schwartzberg as landlord and the Company as tenant (the “**Lease**”). Attached hereto as **Exhibit “B”** is a copy of the Lease.

7. The leasehold lands adjoin the freehold lands and are located immediately due south of the freehold lands. Therefore, the two pieces form one larger area of vacant commercial land for development.

8. On October 27, 2016 Grant Thornton Limited (“**GTL**”) was appointed Trustee over the assets, properties and undertakings of Scollard et al by Order of the Honourable Mr. Justice Newbould. Attached hereto as **Exhibit “C”** is a copy of the GTL Appointment Order.

3.0 ACTIVITIES OF THE RECEIVER

3.1 *Information gathering*

9. As indicated above, the receiver provided written notice of its appointment to the principal of the Company, Mr. A. Guido, and requested that the books, records and other property of the Company be delivered to the receiver. To date, no response has been received to the receiver’s written request.

10. Accordingly, the receiver has spent time gathering information and documentation, primarily from Vector and Scollard (prior to the appointment of GTL as Trustee).

- 5 -

3.2 *Purported stalking horse bid*

11. The receiver's understanding is that the second mortgage is a syndicated mortgage amongst various investors. The receiver also understands that Scollard and Olympia were acting as trustees on behalf of the syndication. The main reason for the appointment of the receiver was to receive a stalking horse bid from either Scollard, or a corporation to be controlled by Scollard, for the purchase of the freehold lands, acceptable to both Vector and Scollard/Olympia. The receiver was then to run a stalking horse sales process to determine if there was a party willing to make an offer to purchase they freehold lands for an amount higher than the stalking horse bid, after exposing the freehold lands and the stalking horse bid to potential purchasers through a well advertised public sale.

12. Notwithstanding various discussions and draft documents, as of the date of the appointment of GTL as Trustee, no binding stalking horse agreement of purchase and sale was entered into.

3.3 *Meeting and communications with GTL*

13. On November 2, 2016 a meeting was held at the offices of Aird & Berlis LLP, legal counsel for GTL in its capacity as Trustee. The meeting was attended by Messrs. F. Laurie and M. Baratz of Vector, Vectors' legal counsel Mr. R. Melvin of Rose, Persiko, Rakowsky, Melvin LLP, Mr. I. Smith of the receiver, the receiver's legal counsel, Mr. D. Brooker of Steinberg Title Hope & Israel LLP and representatives of GTL and its legal counsel.

14. GTL provided an overview of its appointment and the receiver did the same. The Vector representatives discussed the history of its involvement with the Company and the freehold and

- 6 -

leasehold lands and the discussions to date which took place leading up to the appointment of the receiver and Vector's desire to market the Property for sale.

15. At the conclusion of the meeting, the GTL representatives asked for a brief time in order to call a meeting of the investors in the Scollard mortgage in order to determine whether or not GTL in its capacity as Trustee would either adopt or disclaim the joint retainer agreement and to see if the investors wished to put forward a stalking horse bid substantially in the form discussed with Scollard's principal prior to the appointment of GTL.

16. Notwithstanding this meeting, and further communications between the parties, GTL as Trustee has neither adopted nor disclaimed the joint retainer agreement and has not submitted an Agreement of Purchase and Sale in a form that would be accepted by the receiver and supported by Vector as first mortgagee.

3.4 Other Matters

17. There several construction liens registered against the freehold and leasehold lands. To date the receiver has not attempted to determine the validity, ranking and amounts of the construction liens and has not obtained a legal opinion on the security of Vector as first mortgagee. Such work would be undertaken by the Putative Receiver as part of a Court-supervised sales process.

18. The Lease was in arrears as as the date of the receiver's appointment. The receiver has not had the funding to bring the Lease current. Accordingly, it remains in arrears.

- 7 -

19. The receiver retained Avison Young Valuation and Advisory Services to prepare an appraisal of the freehold lands. Such appraisal will be shared with this Honourable Court by the Court-appointed Receiver as part of any application for the approval of an Agreement of Purchase and Sale.

4.0 PROPOSED SALES PROCESS

20. Through initially Scollard and then GTL, the receiver has been advised that the investors in the second mortgage wish to submit an acceptable Agreement of Purchase and Sale for the purchase of the freehold lands. As indicated above, to date no such Agreement has been provided to the receiver.

21. To date the receiver has been contacted by a few parties expressing interest in finding out more information regarding the assets, properties and undertakings of the Company to determine if they wish to submit an offer to purchase.

22. The receiver believes that no further time should be spent waiting to see if the investors might submit an Agreement of Purchase and Sale acceptable to the receiver which would be supported by the first mortgagee. Rather, the receiver believes that the freehold lands and the receiver's interest in the leasehold lands should be exposed to the marketplace, in a Court-supervised sales process. The receiver further believes that this should be done through a listing of the freehold lands on the Multiple Listing Service utilizing a realtor experienced in the marketing and sale of real estate like the freehold lands.

- 8 -

23. This way, the second mortgage investors may participate and submit an offer to purchase, along with anyone else interested in this opportunity. As part of this proposed sales process, the Court-appointed Receiver will be able to determine also if any party either has an interest in purchasing the receiver's right, title and interest, if any, in the leasehold lands, or hold discussions directly with the landlord to purchase the leasehold lands as part of its purchase of the freehold lands.

24. Attached as **Exhibit "D"** is a listing agreement prepared by Mr. R. Viele, Broker-Land Services of Royal LePage Commercial Division. Attached as **Exhibit "E"** is a copy of Mr. Viele's CV. The listing agreement purposely does not state a listing price. Rather, Mr. Viele will be encouraging all potential purchasers to submit their highest and best offer.

5.0 CONCLUSION AND RECOMMENDATIONS

25. For the reasons set out in this Report, the Putative Receiver, if appointed, respectfully requests that this Honourable Court approve:

- i. the appointment of ISI as Court-appointed Receiver of the assets, properties and undertakings of the Company;
 - ii. the proposed sales process described herein;
 - iii. the Court-appointed Receiver entering into a listing agreement with Royal LePage Commercial Division, substantially in the form attached hereto as Exhibit "D";
- and

iv. this Report.

**

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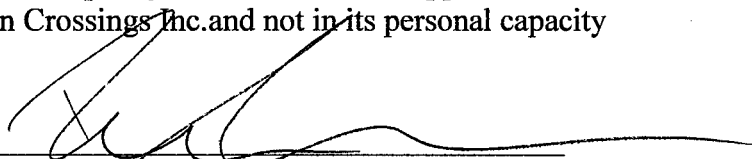
**

All of which is respectfully submitted at Toronto, Ontario this 19th day of January, 2017.

IRA SMITH TRUSTEE & RECEIVER INC.

solely in its capacity as Putative Court-Appointed Receiver of
Vaughan Crossings Inc. and not in its personal capacity

Per:



Brandon Smith, CIRP, LIT
Senior Vice-President

This is Exhibit "A" referred to in the Report of Ira Smith Trustee
& Receiver Inc. dated January 19, 2017

JOINT RETAINER AGREEMENT

THIS AGREEMENT is made as of the _____ day of August, 2016,

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED,
hereinafter called "**Vector**"

- and -

SCOLLARD TRUSTEE CORPORATION and
OLYMPIA TRUST COMPANY
hereinafter individually and collectively called "**Scollard**"

WHEREAS Vaughan Crossings Inc. (the "**Borrower**") is indebted to the Vector for a loan (the "**Vector Loan**") in the original principal amount of \$32,500,000 made pursuant to a Loan Proposal dated November 27, 2013 and a Commitment Letter dated December 6, 2013, each as amended or further amended from time to time (collectively, the "**Vector Commitment**") issued by Vector to the Borrower and secured, in part, by (a) a first Charge/Mortgage of all property and assets (collectively, the "**Owned Property**") comprising (i) Part Lot 24, RCP 10309, being Parts 10 & 11 on Plan 64R-7307 exc Part 1 on Expr Plan R650078, PIN 03274-0103 LT, 0 Dufferin Street, Vaughan, Ontario, and (ii) Part Lot 25, RCP 10309, being Part 1 on Plan 65R-14039, PIN 03274-0104 LT, 7850 Dufferin Street, Vaughan, Ontario; and (iii) a first Charge of Lease of all property and assets (collectively, the "**Leased Property**") comprising the leasehold interest in Part Lot 22, 25, 26, 27 & 28, RCP 10309, PINs 03274-0106 LT, 03274-0107 LT, 03274-0185 LT & 03274-0186 LT, 7818 Dufferin Street, Vaughan;

AND WHEREAS the Borrower is indebted to the Scollard for a loan (the "**Scollard Loan**") in the original principal amount of \$14,800,000 made pursuant to a Loan Agreement dated August 8, 2013, each as amended or further amended from time to time (collectively, the "**Scollard Commitment**") issued by Scollard to the Borrower and secured, in part, by a second Charge/Mortgage of all property and assets comprising Owned Property;

AND WHEREAS the Borrower is in default of both the Vector Loan and the Scollard Loan;

AND WHEREAS each of Vector and Scollard (each a "**party**" and collectively the "**parties**") have the right to appoint a receiver of the Borrower as of the date of the date hereof;

AND WHEREAS both Vector and Scollard desire to cooperate with each other in the realization of the Owned Property and the Leased Property (collectively, the "**Property**") in order to recover the amounts due and owing under the Vector Loan and the Scollard Loan to the greatest extent possible having regard to the fair realisable value of the Property and upon commercially reasonable terms and conditions;

NOW THEREFORE in consideration of the premises, the sum of TWO DOLLARS (\$2.00) and other good and valuable consideration now paid or given by each party to each of the other parties hereto (the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto), the parties hereto hereby covenant and agree as follows:

1. **Retainer** - Ira Smith Trustee & Receiver Inc. (the "**Receiver**") will be jointly retained by Vector and Scollard as the private receiver of the Borrower and all of its assets upon the terms and conditions set out in an engagement letter of the Receiver (the "**Engagement Letter**") to be entered into amongst the parties and the Receiver, the form and content of which has been settled prior to the parties entering into this Agreement. Vector and Scollard agree to execute the Engagement Letter once issued by the Receiver and forthwith thereafter return a signed copy of it to the Receiver and its counsel. The Receiver shall only be required to act upon instructions and directions which are unanimously agreed upon and consented to by each party; provided that in the event that either party is in default of any obligation under this Agreement which is not cured within three (3) business days after written notice thereof given to the defaulting party by the Receiver or the non-defaulting party, thereafter the non-defaulting party shall be entitled to instruct and give directions to the Receiver unilaterally, and the Receiver shall be entitled to rely upon the same, until such time as such default has been fully cured; and any instructions and directions given during the period of any such default shall remain binding and effective upon the Receiver notwithstanding the subsequent cure of such default.

2. **Purpose of the Receivership** - As set out in the Engagement Letter, the services of the Receiver will be limited only to those necessary to market and sell the Property, including any services ancillary thereto, and the Receiver will not be required or instructed to undertake any forensic or other investigative work with respect to the Borrower, except to the extent required for the purposes of selling the Property or where Scollard covenants directly with the Receiver to pay for any such additional forensic or investigative work. The parties agree that Scollard, as second mortgagee, shall be permitted to submit a stalking horse purchase offer or otherwise participate in any sale or auction that the Receiver considers worth accepting and can bid on the Property with a combination of cash and credit (to the extent of tendering a portion or all of the amount owed to Scollard under the Scollard Commitment). Vector shall not object to any such bid by Scollard; provided that the cash component of the bid shall be sufficient to repay all monies owing to Vector under the Vector Loan and the claims of all other parties found to have priority over the Scollard Loan.

3. **Co-operation with Receiver** - Each party will fully cooperate with the Receiver as reasonably required, including providing it with any necessary information or documents as may be requested by it to fulfill its mandate and services.

4. **Receiver's Costs** - Each of Vector and Scollard agree to pay one-half (50%) of the Receiver's fees, costs, expenses and applicable taxes as invoiced from time to time in accordance with the Engagement Letter, and acknowledge that, as between the parties and the Receiver, the parties shall be jointly and severally liable to the Receiver for such fees, costs, expenses and applicable taxes.

5. **Ground Lease Rents** - Unless otherwise agreed with the landlord of the Leased Property, the rents payable under the Ground Lease of the Leased Property shall be kept current during the term of the Receiver's appointment, with each party contributing one-half (50%) of the amounts thereof, either by forwarding funds to the Receiver as required to allow it to make the rent payments or, upon agreement of the parties and direction of the Receiver, by payment directly to the landlord.

6. **Other Costs and Funding Thereof -**

(a) The parties agree that they shall instruct the Receiver, to the extent possible and before requiring the parties to fund any of the same, to borrow all funds necessary to satisfy payment of the monies payable by the parties pursuant to Sections 4 and 5 hereof and all other monies required by the Receiver in order to fulfill its mandate. The Receiver shall be entitled to arrange such borrowings from either or both of the parties or their respective affiliates, as lender(s), at such rate of interest and upon such other terms as mutually agreed by the parties, and any such borrowings shall rank in priority to both the Vector Loan and the Scollard Loan and be repaid in proportion to the monies so advanced by the parties or their respective affiliates as the case may be.

(b) To the extent not so borrowed by the Receiver, all monies payable by the parties pursuant to Sections 4 and 5 hereof and all other monies required by the Receiver in order to fulfill its mandate shall be provided by the parties, each as to one-half (50%) thereof. The monies so advanced by each party shall be treated as a protective advance made by each such party under its respective loan, and shall bear the same rate of interest as applicable to each respective loan, but as between Vector and Scollard, such advances shall be repaid to them in proportion to the amounts so advanced in priority to all other amounts owing under the Vector Loan and the Scollard Loan.

(c) Notwithstanding anything otherwise provided herein, all of the Receiver's fees, costs, expenses and applicable taxes related to any additional forensic or investigative work as referred to in Section 2 hereof shall not be satisfied by any Receiver borrowings and shall be paid for only by Scollard, and all amounts so paid shall rank subordinate to the Vector Loan and the claims of all other parties found to have priority over the Scollard Loan.

7. **Priority of Receiver's Costs and Borrowings** - The parties agree that all Receiver's costs to the extent not paid by the parties in accordance with this Agreement and all monies borrowed by the Receiver from any third party in order to fulfill its mandate under the Engagement Letter shall have priority over the Vector Loan and the Scollard Loan and the security therefore.

8. **Indemnities** - If and to the extent that any party shall be or become liable for or shall provide more than its share of any obligation or liability hereunder, all other parties who have provided less than their share shall indemnify and save harmless the first-mentioned party and shall forthwith pay or provide to such first-mentioned party and save it harmless from

and against any and all liability. Each party hereby indemnifies and agrees to save the other party harmless from and against any and all liabilities, damages, actions, causes of action, proceedings, claims, demands, costs and expenses which shall or may arise by virtue of: (a) anything done by such party (or any agent, employee or representative of such party) outside the scope of or in breach of the terms of this Agreement; or (b) the non-performance by such party (or any agents, employees or representative of such party) of all or any part of the obligations of such party under this Agreement.

9. **Conversion to Court Appointment** - In the event that (i) the Receiver cannot proceed with the sale of the Property as a result of the action(s) of any third party(ies) or other circumstances not within the control of the Receiver, Vector and Scollard, (ii) where a purchaser whose offer the Receiver is willing to accept, requires a vesting order of a court in relation to a purchase of the Property or (iii) there is a disagreement between Vector and Scollard as to instructions to be given to the Receiver which cannot be resolved within a reasonable time, at the request of the Receiver and upon an application to be brought by Vector at the expense of both parties, both parties will consent to a court order appointing the Receiver as the court appointed receiver of the Borrower and all of its assets

10. **Legal counsel** - Legal counsel are or will be appointed for the parties and the Receiver as follows:

Vector	Rose, Persiko, Rakowsky, Melvin LLP Attention: Ronald B. Melvin
Scollard	Harris + Harris LLP Attention: Gregory H. Harris
Receiver	Steinberg, Title, Hope & Israel LLP (“STHI”) Attention: David A. Brooker

The parties hereto acknowledge that Vector is represented by STHI in various construction lien actions that have been brought against it with respect to the Property, and in current outstanding proceedings brought by Scollard to appoint a receiver over the Borrower, and agree that all claims regarding any potential conflict of interest are waived.

In the event that a court appointment of the Receiver is required, STHI will continue acting for the Receiver in that proceeding, and will also act for Vector in that same proceeding until such time as conflict may exist that would require the Receiver retaining new counsel; the determination of whether such a conflict exists will be either on consent of the parties to this agreement, or if such consent is not obtained, then as determined by the court. In any event, STHI shall continue to act for Vector in the construction lien actions that have been commenced.

11. **Communications** - Each party at and its legal counsel and other representatives may communicate directly to the Receiver, provided that a copy of each such communication shall be sent to the other party (and its legal counsel if and as appropriate). All communications by the Receiver shall be simultaneously made to each of the parties, with copies to legal counsel for the parties if and as appropriate. Olympia Trust Company hereby irrevocably authorizes and directs Scollard Trustee Corporation to communicate and make all decisions on its behalf in connection with this Agreement and the Engagement Letter.

12. **Withdrawal of Scollard Application** - Forthwith after execution of this Agreement and the Engagement Letter, Scollard will withdraw its current application to appoint a receiver (Ontario Court File No. CV-16-11447-00CL) on a without costs basis.

13. **Termination** - This Agreement shall terminate and be at an end upon the occurrence of the earlier of (i) court appointment of the Receiver pursuant to Section 9 hereof, and (ii) completion of the realization upon and sale of Property and distribution of the proceeds of such sale amongst all parties entitled thereto in accordance with their respective legal priorities to the same. After termination of this Agreement, Scollard shall be entitled to continue with the engagement of the Receiver for such purposes as Scollard may see fit in its sole discretion and at Scollard’s sole cost and expense.

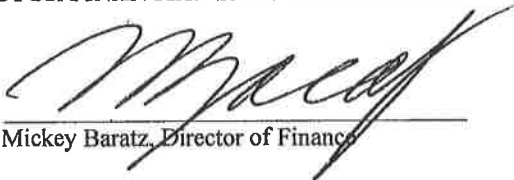
14. **Successors, Assigns & Governing Law** - This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, legal personal representatives, successors and assigns. This Agreement shall be read with all changes of gender and number as required by the context, and shall be construed in accordance with the laws of the Province of Ontario and the law of Canada applicable therein, and the parties hereto hereby attorn to the jurisdiction of the Province of Ontario.

15. **Counterparts** - This Agreement may be executed by the parties hereto in two or more counterparts, and when each party has executed and delivered a counterpart of this Agreement to all of the other parties hereto, such counterparts taken together shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document. The Borrower hereby irrevocably consent to and authorize the Lender and the Lender's Solicitors to consolidate the signed pages of each such executed counterpart into a single document, which consolidated document shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

VECTOR FINANCIAL SERVICES LIMITED

Per:


Mickey Baratz, Director of Finance

I have authority to bind the Corporation.

SCOLLARD TRUSTEE CORPORATION

Per:

Raj Singh, President

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per:

Name:

Title:

Per:

Name:

Title:

I/We have authority to bind the Corporation.

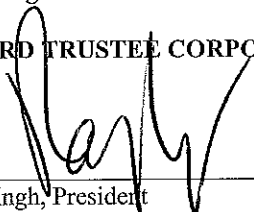
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IN WITNESS WHEREOF the parties hereto have executed this Agreement.

VECTOR FINANCIAL SERVICES LIMITED

SCOLLARD TRUSTEE CORPORATION

Per: _____
Mickey Baratz, Director of Finance

Per: _____

Raj Singh, President

I have authority to bind the Corporation.

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

15. **Counterparts** - This Agreement may be executed by the parties hereto in two or more counterparts, and when each party has executed and delivered a counterpart of this Agreement to all of the other parties hereto, such counterparts taken together shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document. The Borrower hereby irrevocably consent to and authorize the Lender and the Lender's Solicitors to consolidate the signed pages of each such executed counterpart into a single document, which consolidated document shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

VECTOR FINANCIAL SERVICES LIMITED

SCOLLARD TRUSTEE CORPORATION

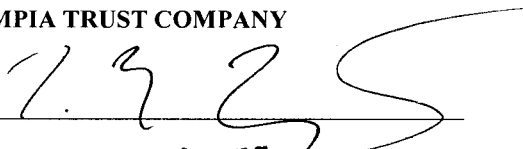
Per: _____
Mickey Baratz, Director of Finance

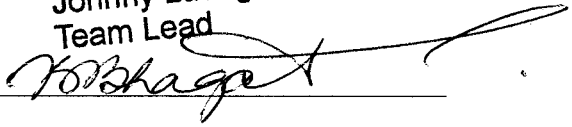
Per: _____
Raj Singh, President

I have authority to bind the Corporation.

I have authority to bind the Corporation.

OLYMPIA TRUST COMPANY

Per: 
Name: _____
Title: **Johnny Luong
Team Lead**

Per: 
Name: _____
Title: **Vibha Bhagat, Supervisor**

I/We have authority to bind the Corporation.

This is Exhibit "B" referred to in the Report of Ira Smith Trustee & Receiver Inc. dated January 19, 2017

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THIS LEASE made as of and effective from the 11th day of April, 2007,

BETWEEN:

THE ESTATE OF HARRY KRANC, as to a 25% interest,

SARAH KRANC, as to a 25% interest, and

THE ESTATE OF LEJB SCHWARTZBERG, as to a 50% interest

(collectively, the "**Landlord**")

AND

VAUGHAN CROSSINGS INC.

(the "**Tenant**")

WITNESSETH AS FOLLOWS:

ARTICLE 1.00 - BASIC TERMS, DEFINITIONS

1.1 Basic Terms

- (a) Landlord: THE ESTATE OF HARRY KRANC, as to a 25% interest, SARAH KRANC, as to a 25% interest and THE ESTATE OF LEJB SCHWARTZBERG, as to a 50% interest
- Address: The Estate of Harry Kranc and Sarah Kranc: 1131 Steeles Ave. W., PH105, Toronto ON M2R 3W8
- The Estate of Lejb Schwartzberg: c/o Sharon Katz, 182 Choquette Dollard Des Ormeaux, QC H9A 3H1
- (b) Tenant: VAUGHAN CROSSINGS INC.
- Address: 7501 Keele Street, Suite 401, Vaughan, Ontario, L4K 1Y2
- (c) Lands: the lands situated on the west side of Dufferin Street north of Centre Street, in Thornhill ON, illustrated in **Schedule "A"**, legally described in **Schedule "B"** and municipally known as **7818 Dufferin Street, Vaughan, Ontario**
- (d) Area of the Lands: approximately 3.75 acres
- (e) Term: 35 years, subject to Section 2.2

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- (f) Possession Date: **July 16, 2007**
- (g) Commencement Date: **October 14, 2007**
- (h) End of Term: **October 13, 2042**, subject to Section 2.2
- (i) Ground Rent (Section 4.1):

Period	Per Year	Per Month
Years 1-5 inclusive	\$325,000.00	\$27,083.33
Years 6-10 inclusive	\$400,000.00	\$33,333.33
Years 11-15 inclusive	\$450,000.00	\$37,500.00
Years 16-20 inclusive	\$500,000.00	\$41,666.67
Years 21-25 inclusive	\$625,000.00	\$52,083.33

from **Year 26** to end of Term in accordance with Section 4.2

- (j) Permitted Use (Section 8.1): to construct and/or renovate or reconstruct and operate from the Premises a retail plaza or any other use that the Tenant wishes to conduct, or product or service that the Tenant wishes to sell or provide, from the Premises which is permitted by Applicable Laws subject to and in accordance with the terms and conditions of this Lease.
- (k) Extension Rights, if any: None.
- (l) Schedules forming part of this Lease:
 - Schedule "A", Sketch of Lands
 - Schedule "B", Legal Description
 - Schedule "C", Plan Showing Initial Buildings and Improvements
 - Schedule "D", Additional Terms
 - Schedule "E", Notice to Trades

1.2 Definitions

In this Lease, unless there is something in the subject matter or context inconsistent therewith, the following terms have the following respective meanings:

- (a) "**Additional Rent**" means all sums of money or charges required to be paid by the Tenant under this Lease (except Ground Rent and Rental Taxes) either to the Landlord or otherwise including, without limitation, payment of Taxes and charges for water, gas, electricity, telephone and other utilities and other charges which may give rise to a lien upon the interest of the Landlord in the Lands, whether or not the same are designated as "Additional Rent".

- (b) **"Applicable Laws"** means all laws, by-laws, rules, codes, orders, covenants and regulations and any other requirements of any governmental or quasi-governmental authority with jurisdiction over any matter which now or at any time during the Term or Interim Period are applicable to the Premises or any part of them, the use or operation thereof or the Landlord's and/or the Tenant's covenants and obligations hereunder. Without limiting the foregoing, **"Applicable Laws"** includes all Environmental Laws and all police fire, occupational health and safety, health and sanitary rules, regulations imposed by any governmental or quasi-governmental authority with jurisdiction over any matter or made by the insurers.
- (c) **"Buildings"** means all existing and future buildings and structures located on the Lands and all related amenities, alterations and additions thereto from time to time and all Improvements thereon or thereunder from time to time.
- (d) **"Business Day"** means a day other than a Saturday, Sunday or other day which is a statutory holiday in the province in which the Lands are located;
- (e) **"Capital Taxes"** means any tax or taxes levied against the Landlord and any owner of the Lands and/or Buildings by any governmental authority having jurisdiction (including, without limitation, the "large corporations tax" imposed under the *Income Tax Act* (Canada) and the tax imposed under any applicable provincial corporate tax legislation) based upon or computed by reference to the paid-up capital or place of business of the Landlord or any owner of the Lands or the taxable capital employed in Canada by the Landlord or any owner of the Lands as determined for the purposes of such tax or taxes;
- (f) **"Changes"** has the meaning set out in Section 7.4;
- (g) **"Claim"** or **"Claims"** means all actions, causes of action, liabilities, suits, costs (including, without limitation, all legal and/or other professional fees, costs and disbursements), expenses, sanctions, taxes, fees, fines, penalties, losses, charges, demands, damages, claims and expenses;
- (h) **"Commencement Date"** means the date specified in Section 1.1(g).
- (i) **"C.P.I."** means (a) the Consumer Price Index (All Items) for the city of Toronto published by Statistics Canada (or by a successor or other governmental agency), or (b) if the Consumer Price Index is no longer published, an index published in substitution for the Consumer Price Index or any replacement index designated by the Landlord.
- (j) **"Environmental Laws"** means all statutes, laws, ordinances, codes, rules, regulations, orders, notices and directives now or at any time hereafter in effect regulating, relating to or imposing liability or standards of conduct concerning any material, substance or thing which may be at any time in, on, under or about the Lands or any part thereof or emanate therefrom including the Environmental

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Protection Act, R.S.O., 1990 and all other Environmental Laws in respect of environmental land use or health and safety matters.

- (k) "**Event of Default**" has the meaning set out in Section 14.1;
- (l) "**Expert**" has the meaning set out in Section 16.1;
- (m) "**Fair Market Rent**" means, in respect of the Premises, the annual amount that the Premises would realize if the Premises were vacant, unimproved, free from encumbrance and immediately available for new development, and may lawfully be used: (i) for the purposes for which they are to be used under the terms of this Lease; or (ii) for the purposes for which they might on the relevant date lawfully be used, whichever purpose is the greatest, highest and most valuable purpose then available, and without regard to the existence of this Lease or the Improvements then standing thereon, and were sold in the open market by a willing seller to a willing buyer, as determined pursuant to Section 4.3;
- (n) "**Ground Rent**" means the Ground Rent payable by the Tenant pursuant to Article 4.00.
- (o) "**Hazardous Substance**" means any contaminate, dangerous or potentially dangerous substance, noxious substance, toxic substance, hazardous waste or flammable material or explosive substance, radio-active material or any other waste, substance or material whatsoever covered by or regulated under any Environmental Laws.
- (p) "**Improvements**" means all chattels, equipment and machinery used in connection with the operation of the Premises or any part thereof, all of the fixtures annexed thereto or located thereat or thereunder, including, without limitation, all heating, plumbing, electrical, sprinkler, drainage, mechanical and ventilating systems, boilers, air-conditioners, compressors and transformers, and all service equipment, cleaning supplies and replacement and maintenance inventories located thereat in order to make the Buildings fully operational, including any additions, substitutions, alterations or replacements thereto or thereof.
- (q) "**Initial Improvements**" means the initial Buildings and Improvements to be constructed by the Tenant in accordance with the Initial Plans as the same may be amended in accordance with Section 6.5(a) and other terms hereof;
- (r) "**Initial Plans**" means the initial conceptual plans for the Initial Improvements as prepared by the Tenant's Architect and approved by the Landlord prior to the date of execution hereof, which Initial Plans are listed in **Schedule "C"**;
- (s) "**Initiating Party**" has the meaning set out in Section 16.3;
- (t) "**Interim Period**" means the period specified in Section 2.3;

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- (u) "**Lands**" means the lands identified in Section 1.1(c) and having the area as set out in Section 1.1(d);
- (v) "**Lease**" means this lease, as amended from time to time;
- (w) "**Leasehold Mortgage**" means any mortgage or other security against the Buildings and/or the Tenant's interest in this Lease, from time to time;
- (x) "**Leasehold Mortgagee**" means the holder of any Leasehold Mortgage from time to time;
- (y) "**Lease Year**" or "**lease year**" means a period of time, the first lease year commencing on the Commencement Date and ending twelve (12) calendar months after the Commencement Date. Thereafter, lease years shall consist of consecutive periods of twelve (12) calendar months, save for the last lease year of the Term which shall terminate upon the expiration or earlier termination of this Lease, as the case may be.
- (z) "**Mortgage**" means any mortgage, charge, trust deed, debenture or other security against the Landlord's interest in the Premises and/or the Lands and/or the Landlord's interest in this Lease, from time to time;
- (aa) "**Mortgagee**" means the holder of any Mortgage from time to time;
- (bb) "**Premises**" means the Lands and the Buildings;
- (cc) "**Prime Rate**" means the annual rate of interest from time to time publicly quoted by The Toronto-Dominion Bank as its reference rate of interest (commonly known as its "**prime rate**") for determining rates of interest chargeable in Toronto on Canadian dollar amount loans to commercial customers;
- (dd) "**Rent**" means all Ground Rent and Additional Rent;
- (ee) "**Rental Taxes**" means any and all existing and/or future sales tax, goods and services tax, harmonised sales tax, value added tax, or any other tax, levy and/or duty imposed on the Landlord with respect to Rent, or in respect of the rental of the Lands, whether characterized as a sales tax, goods and services tax, harmonised sales tax, value added tax, excise taxes or duties, business transfer tax or otherwise;
- (ff) "**Responding Party**" has the meaning set out in Section 16.3;
- (gg) "**Stipulated Rate**" means the Prime Rate plus three percent (3%) per annum;
- (hh) "**Substantially Completed**" means the date that the contract(s) pursuant to which any work to be carried out by the Tenant are to be completed have been substantially performed as defined in the *Construction Lien Act*, R.S.O. 1990, as amended from time to time, or other applicable legislation, and, in the case of the

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construction of the Initial Leasehold Improvements, the Tenant's Architect has also certified to the Landlord that:

- (i) all work of a structural nature has been properly completed;
 - (ii) all building equipment and services, including heating and air-conditioning systems and utilities, have been completed and are operating properly and available for use by tenants and all lobbies, stairwells and other areas intended for the common use of tenants are completed except for work of a decorative or superficial nature, which is both minor in character and of a type which, owing to the likelihood of damage, is reasonably to be deferred until the Initial Improvements are partially or substantially occupied by the Tenant;
 - (iii) all building by-laws and other regulations have been complied with and all necessary permits for occupancy have been obtained;
 - (iv) all rentable space is completed for occupancy by the Tenant, except for work of a superficial nature which is dependent upon individual lessee's requirements as yet unascertained (such as painting and the installation of lighting fixtures, dividing partitions and lessee's fixtures) and work which is reasonably and customarily allocated to lessees to complete;
 - (v) all areas are clean and all surplus building material and rubbish is removed;
 - (vi) the Initial Improvements generally are in a condition in which they can be leased to and occupied by lessees and any work that is still unfinished is work that can be completed promptly and is work the incompleteness of which a reasonable tenant would not object to; and
 - (vii) the Initial Improvements have been completed in all material respects in a good and workmanlike manner in accordance with the Initial Plans, except for any requirements of the Initial Plans which have been waived or varied by the Landlord in writing and except for faults and defects which, in the opinion of the Tenant's Architect, are minor and the correction of which is adequately assured;
- (ii) "**Taxes**" means all existing and future taxes, duties, levies, charges, school and local improvement rates and assessments whatsoever (including local improvements rates) levied, rated, assessed or charged against the Premises or any part thereof or against the Landlord on account of its ownership of the Premises, or any part thereof, or its interest therein by any lawful authority, whether federal, provincial, municipal, school or otherwise, and including any amounts levied, rated, assessed or charged in substitution for or in lieu of any such taxes, whether of the foregoing character or not, and whether or not in existence at the date hereof, and all costs incurred in contesting or appealing such taxes, but excluding only such taxes as capital gains taxes, corporate, income, capital taxes, profit or

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excess profit taxes to the extent such taxes are not levied in lieu of any of the foregoing against the Premises or the Landlord in respect thereof. In addition to the foregoing, Taxes shall include any and all taxes, charges, levies or assessments that may in the future be levied, rated, charged or assessed in lieu thereof or in addition thereto.

- (jj) "**Tenant's Architect**" means Global Architects Inc. of the City of Toronto, the architect responsible for supervising the construction of the Initial Improvements as hereinafter defined, or from time to time any other architect as the Tenant may have appointed in their stead with the written approval of the Landlord, who shall be an architect duly qualified in the province in which the Lands are located and a member in good standing of the provincial association of architects.
- (kk) "**Term**" means the period specified in Section 2.2, and, where the context requires, any renewal, extension or overholding thereof.
- (ll) "**Transfer**" means, (i) an assignment, sale, conveyance, sublease, disposition, or licensing of this Lease or the Premises, or any part of them, or any interest in this Lease (whether or not by operation of law) or in a partnership that is a Tenant under this Lease, (ii) a mortgage, charge, lien or debenture (floating or otherwise) or other encumbrance of this Lease (save and except for a general security agreement given by the Tenant securing all of its assets in connection with a bona-fide financing of the Tenant's business) or the Premises or any part of them or of any interest in this Lease, (iii) a parting with or sharing of possession of all or part of the Premises, or (iv) a transfer or issue by sale, assignment, bequest, inheritance, operation of law or other disposition, or by subscription of all or part of the corporate shares of the Tenant or an "Affiliate" of the Tenant which results in a change in the effective voting control of the Tenant. "**Transferor**" and "**Transferee**" have meanings corresponding to the definition of "Transfer" set out above.
- (mm) "**Trustee**" has the meaning set out in Section 9.3.

ARTICLE 2.00 - DEMISE AND TERM

2.1 Demise

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord demises and leases to the Tenant, and the Tenant leases from the Landlord, the Premises to have and to hold for the Term upon and subject to the payment of Rent and the observance and performance by the Tenant of the terms, covenants and conditions set out in this Lease. Save and except for any representations and warranties of the Landlord expressly set out in this Lease, and except as otherwise expressly provided in this Lease, the Tenant accepts the Premises on an "as is, where is" basis.

2.2 Term

The Term shall commence on the Commencement Date, run for the period set out in Section 1.1(g), and end on the date set out in Section 1.1(h), unless terminated earlier pursuant to the provisions of this Lease.

2.3 Interim Period

(a) The Landlord acknowledges and agrees that the Tenant (subject only to the Landlord's right contained in Section 2.3(c) hereof) shall be entitled to possession of the Premises on the Possession Date. During the period between the Possession Date and the Commencement Date (the "**Interim Period**") the Tenant shall be granted possession of the Premises for the purpose of demolishing the existing buildings and other improvements currently located on the Premises as may be required by the Tenant, and constructing at its sole expense for its use and occupation its Buildings and Improvements (the "**Tenant's Facility**") for the operation of the Permitted Use provided that the Tenant may not demolish the existing structures until it has fulfilled its obligations pursuant to Sections 2.3(c) and 3.6(c). The Landlord acknowledges and confirms that the Tenant's obligations pursuant to Sections 2.3(c) and 3.6(c) have been fulfilled.

(b) The Tenant shall not be liable for payment of Ground Rent during the Interim Period but will pay all items of Additional Rent, including, without limitation, Taxes, during the Interim Period and all other terms of this Lease shall govern. Any demolition and construction by the Tenant shall be carried out in accordance with all Applicable Laws and the Tenant shall obtain at its sole cost and expense all requisite permits, approvals and consents which may be required pursuant to any Applicable Laws evidence of which shall be provided by the Tenant to the Landlord prior to the Tenant commencing any such demolition or construction.

(c) **Motel Chattels:** The parties acknowledge and agree that all of the chattels and fixtures attached to or contained within the structure(s) on the Premises which existed as of April 11, 2007, are/were the property of the Landlord, and that the Landlord has removed all such chattels and fixtures which it intended to remove prior to demolition of the said existing structures by the Tenant. Any such existing chattels and fixtures remaining on the Premises may be removed and disposed of by the Tenant, without liability to the Landlord.

2.4 Overholding

If, at the expiration of the initial Term or any subsequent renewal or extension thereof, the Tenant shall continue to occupy the Lands without further written agreement, there shall be no tacit renewal of this Lease, and the tenancy of the Tenant thereafter shall be from month to month only, and may be terminated by either party on one (1) month's notice. Rent shall be payable in advance on the first day of each month equal to the sum of one hundred and twenty-five percent (125%) of the monthly installment of Ground Rent payable during the last year of the Term and one-twelfth (1/12) of all Additional Rent charges provided for herein, and all terms and conditions of this Lease shall, so far as applicable, apply to such monthly tenancy.

2.5 Landlord's Covenants, Representations and Warranties

The Landlord warrants and represents to the Tenant that as at the date of this Lease the Landlord has good and marketable title to the Lands and that to the best of the Landlord's knowledge and belief, the Lands are subject to no encumbrances, liens, or restrictive covenants save as disclosed to the Tenant in this Lease or as disclosed by the registered title to the Lands.

ARTICLE 3.00 – RENT

3.1 Covenant to Pay, Net Lease

(a) The Tenant covenants to pay Rent as and when due and as provided in this Lease. All Rent and other amounts to be paid by the Tenant and other amounts payable by the Tenant under this Lease will be paid without any deduction, abatement, set-off or compensation whatsoever, except as set out in this Lease or otherwise permitted by law and the Tenant waives the benefit of any statutory or other rights in respect of abatement, set-off or compensation in its favour on the date of this Lease or at any future time.

(b) This Lease is a completely and absolutely net and carefree lease to the Landlord, except as otherwise expressly set out herein. Save and except, and only to the extent, as otherwise expressly provided in this Lease, the Landlord is not responsible for any costs relating to the Premises, or its use, occupancy or contents, or the business carried on in it, and the Tenant will pay all charges, impositions, costs and expenses relating to the Premises. Without limiting the generality of the foregoing, it is agreed that, except as expressly set out in this Lease: (i) the Tenant is solely responsible for the condition, operation, maintenance and management of the Premises, the Buildings and other Improvements thereon in accordance with the requirements of this Lease, and the Landlord shall not be liable for any Claims in connection with the Premises or any property of the Tenant or any other Person at any time upon the Premises on any account or for any reason whatsoever except as expressly set out in this Lease; and (ii) except as expressly set out in this Lease, the Tenant shall be responsible, at its own expense, throughout the Term, for all maintenance, repairs and replacements relating to the Premises (including all Buildings and other Improvements) and, except as expressly set out in this Lease, the Tenant shall also be responsible, at its own expense, for all costs, charges, taxes, expenses and outlays of any nature whatsoever arising from or relating to the Premises or this Lease, whether foreseen or unforeseen, ordinary or extraordinary and for all the performance of all obligations and covenants under any agreements entered into by, on behalf or for the benefit of, the Tenant relating to all or any part of the Premises. All obligations of the Tenant under this Lease shall be absolute obligations and no event, act, circumstance or other matter whatsoever, whether foreseen or unforeseen, ordinary or extraordinary, shall relieve the Tenant from its obligations under this Lease. This Section will not be interpreted to make the Tenant responsible for Landlord's income taxes and debt service on any Mortgage.

3.2 Rental Taxes

- (a) The Tenant shall pay to the Landlord the Rental Taxes assessed upon:
- (i) the Rent;

- (ii) the Landlord; and/or
- (iii) the Tenant;

pursuant to the laws, rules and regulations governing the administration of the Rental Taxes by the authority having jurisdiction, and as such may be amended from time to time during the Term of this Lease or any extension thereof.

- (b) The Rental Taxes shall not be deemed to be Additional Rent under this Lease, but may be recovered by the Landlord as though they were Additional Rent.

3.3 Payment Method

The Landlord may, at any time and from time to time, require the Tenant to provide to the Landlord a series of monthly post-dated cheques, each cheque in the amount of the monthly instalment of Rent. In the event of any change in the estimates of Additional Rent, the Landlord may require a new series of monthly post-dated cheques.

3.4 Rent Past Due

If the Tenant shall fail to pay any Rent when the same is due and payable, such unpaid amount shall bear interest at the Stipulated Rate, such interest to be calculated from the time such Rent becomes due until paid in full by the Tenant.

3.5 Partial Periods

If the Term commences on any day other than the first day of the month, or ends on any day other than the last day of the month, Rent for the fraction of a month at the commencement or end of such period shall be calculated on a *pro rata* basis and shall be payable on the first day of the partial month.

3.6 Pre-Paid Rent & Deposits

(a) The Tenant has deposited with the Landlord's solicitors, Marciano Beckenstein LLP, In Trust, the sum of Fifty Seven Thousand Four Hundred and Sixteen Dollars and Sixty Seven Cents (\$57,416.67) to be held in trust and to be credited towards the Ground Rent due and payable for the first two (2) months of the Term of this Lease.

(b) (i) The Tenant has deposited with the Landlord, the sum of Eighty Eight Thousand Three Hundred and Thirty Three Dollars and Thirty Three cents (\$88,333.33) to be held by the Landlord as a security deposit to secure the faithful performance of the Tenant's terms, conditions, covenants and obligations pursuant to the Lease (the "Security Deposit").

(ii) If at any time during the Term the Rent or other sums payable by the Tenant to the Landlord hereunder are overdue and unpaid or if the Tenant fails to keep and perform any of the terms, covenants and conditions of this Lease to be kept, observed and performed by the Tenant, then, the Landlord, at its option, may, in addition to any and all other rights and remedies provided for in this Lease or by law, appropriate and apply the entire amount of the Security

Deposit or so much thereof as is necessary to compensate the Landlord for loss or damage sustained or suffered by the Landlord due to such breach on the part of the Tenant. If the entire amount of the Security Deposit or any portion thereof, is appropriated and applied by the Landlord for payment of overdue Rent or other sums due and payable to the Landlord by the Tenant hereunder, then the Tenant shall, upon written demand, forthwith remit to the Landlord the amount required to reimburse it for the amounts so applied, and the Tenant's failure to do so within five (5) business days after receipt of such demand constitutes a breach of this Lease. The Security Deposit, or such portion thereof as shall remain with the Landlord, shall be held by the Landlord in an interest-bearing account and the Security Deposit plus all accrued interest shall be returned to the Tenant within five (5) business days following the expiration of the Term so long as the Tenant was not in default under the Lease at the expiry of the Term..

(iii) The Landlord may deliver the aforesaid Security Deposit to any purchaser of the Landlord's interest in the Premises or any part thereof, whereupon the Landlord will immediately be discharged from any further liability with respect to the Security Deposit. The Tenant will not assign or encumber its interest in the deposit except in connection with a permitted Transfer, in which case the Tenant's interest in the deposit will be deemed to have been assigned to the permitted Transferee as of the date of the Transfer.

(d) Rent Security Deposit: (i) (1) In further consideration of the Landlord providing possession of the Lands to the Tenant on the Possession Date and allowing the Tenant to demolish existing buildings and improvements, the Tenant has delivered to and in favour of the Landlord, an irrevocable letter of credit in the amount of Five Hundred and Twenty-Five Thousand Dollars (\$525,000.00) (the "Rent Security Deposit"). The Rent Security Deposit shall be in addition to any other security or other deposits contemplated in this Lease and shall be in form acceptable to the Landlord, acting reasonably. The Rent Security Deposit shall have a term of not less than one (1) year and must provide for automatic annual renewal and must be issued by one of the five (5) largest Canadian banks. In the event this Lease is terminated prior to the full reduction and release of the Rent Security Deposit (as hereinafter set out) due to the default of the Tenant, or if this Lease is terminated, disclaimed or repudiated in the event of any bankruptcy, insolvency, winding-up or other creditors' proceeding prior to the full reduction and release of the Rent Security Deposit (as hereinafter set out), the Tenant agrees that the Rent Security Deposit (or any portion thereof remaining in accordance with paragraph (d)(ii) below) is forfeited and shall immediately become the property of the Landlord, and to the extent that the Rent Security Deposit (or any portion thereof remaining) is in the form of a letter of credit, the Tenant hereby consents to the Landlord immediately drawing on such letter of credit, and the payor thereunder is hereby irrevocably directed to draw on such letter of credit in favour of the Landlord. The provisions of this paragraph shall survive any termination, repudiation or disclaimer of this Lease.

(2) If at any time prior to the full reduction and release of the Rent Security Deposit (as hereinafter set out) any Rent payable under this Lease shall be overdue beyond any applicable curative period, all or any portion of the Rent Security Deposit (or the balance thereof then remaining) shall, at the Landlord's option, be applied to the payment of any Rent then due and owing. Further, if the Tenant defaults in the performance of any of the terms, covenants, conditions and provisions of this Lease as and when the same are due to be performed by the Tenant beyond any applicable curative period, then all or any part of the Rent Security Deposit

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shall, at Landlord's option, be applied on account of any losses or damages sustained by the Landlord as a result of such default.

(3) If all or any part of the Rent Security Deposit is applied by the Landlord on account of the payment of Rent or on account of any default or any losses or damages sustained by the Landlord as aforesaid, then the Tenant shall, within three (3) business days after demand from Landlord, remit to Landlord a sufficient amount in cash or by certified cheque to restore the Rent Security Deposit to the original sum required to be deposited as set forth herein (subject to the reductions set out below) plus interest on the amount of such default, loss or damages sustained by Landlord at a rate of three (3%) percent per annum in excess of the rate of interest known as the prime rate of interest charged by Landlord's bank in Ontario and which serves as the basis on which other interests rates are calculated for Canadian dollar loans in Ontario from time to time, from the date of default to the date the Rent Security Deposit is restored as aforesaid.

(ii) The Rent Security Deposit shall be reduced in the following manner:

(I) The amount of the Rent Security Deposit shall be reduced on the following dates and times and in the following amounts:

(A) By \$200,000.00 on the date that is two (2) years from the date of completion of the Tenant's Facility, provided that the Landlord has received all Rent owing pursuant to this Lease, in full, to such date;

(B) By \$325,000.00 on the date that is three (3) years from the date of completion of the Tenant's Facility, provided that the Landlord has received all Rent owing pursuant to this Lease, in full, to such date.

(e) The rights of Landlord hereunder in respect of the Rent Security Deposit shall continue in full force and effect and shall not be waived, released, discharged, impaired or affected by reason of the release or discharge of the Tenant, if any, in any receivership, bankruptcy, insolvency, winding-up or other creditor's proceedings, including, without limitation, any proceedings under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies Creditors Arrangement Act* (Canada), or the surrender, disclaimer, repudiation or termination of this Lease (individually and collectively referred to herein as "Disclaimed") in any such proceedings and shall continue with respect to the periods thereto and thereafter as if this Lease had not been Disclaimed.

(f) As at the date of execution of this Lease, the Landlord acknowledges that the Tenant has paid to the Landlord the sum of \$508,500.00 (\$450,000.00 plus applicable HST) as a pre-payment, and in full satisfaction, of Ground Rent and HST for the period of May 14, 2013 to and including June 13, 2014 plus a portion of the Ground Rent for the period of June 14, 2014 to July 13, 2014. The foregoing pre-paid Ground Rent is the absolute property of the Landlord and is non-refundable notwithstanding any termination, disclaimer or repudiation of this Lease.

ARTICLE 4.00 - GROUND RENT

4.1 Ground Rent

The Tenant covenants and agrees to pay, from and after the Commencement Date, to the Landlord at the office of the Landlord or to such other person or at such other location as the Landlord shall direct by notice in writing, in lawful money of Canada, without any prior demand therefor and without any deduction, abatement or set-off whatsoever, as annual Ground Rent, the sum(s) set out in Section 1.1(i) of this Lease, in equal monthly instalments in advance in the amount(s) set out in Section 1.1(i), on the first day of each and every month during the Term, subject to the adjustments provided for in Section 4.2.

4.2 Adjusted Ground Rent

(a) The annual Ground Rent for the period from and after the commencement of the twenty-sixth (26th) lease year to the end of the thirtieth (30th) lease year shall be calculated in accordance with the following:

(i) during the period commencing on the first day of the twenty-sixth (26th) lease year until the expiration of the twenty-sixth (26th) lease year, annual Ground Rent shall be the greater of (the "Year 26 Base Rent"):

(1) the greater of (1) the annual Ground Rent payable during the twenty-fifth (25th) lease year, and (2) the annual Ground Rent payable during the twenty-fifth (25th) lease year multiplied by the percentage increase, if any, in the C.P.I. from the month in which the twenty-fifth (25th) lease year commenced to the last month of the twenty-fifth (25th) lease year; and

(2) the Fair Market Rent;

(ii) the Tenant acknowledges that the annual Ground Rent for each of lease years 27 to 30 inclusive shall be the greater of (i) the Year 26 Base Rent, and (ii) the annual Ground Rent payable during the previous lease year multiplied by the percentage increase, if any, in the C.P.I. from the month in which the previous lease year commenced to the last month of the previous lease year.

(b) The annual Ground Rent for the period from and after the commencement of the thirty-first (31st) lease year to the end of the thirty-fifth (35th) lease year shall be calculated in accordance with the following:

(i) during the period commencing on the first day of the thirty-first (31st) lease year until the expiration of the thirty-first (31st) lease year, annual Ground Rent shall be the greater of (the "Year 31 Base Rent"):

(1) the greater of (1) the annual Ground Rent payable during the thirtieth (30th) lease year, and (2) the annual Ground Rent payable during the thirtieth (30th) lease year multiplied by the percentage increase, if any, in the C.P.I.

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from the month in which the thirtieth (30th) lease year commenced to the last month of the thirtieth (30th) lease year; and

- (2) the Fair Market Rent;
- (ii) the Tenant acknowledges that the annual Ground Rent for each of lease years 32 to 35 inclusive shall be the greater of (i) the Year 31 Base Rent, and (ii) the annual Ground Rent payable during the previous lease year multiplied by the percentage increase, if any, in the C.P.I. from the month in which the previous lease year commenced to the last month of the previous lease year

4.3 Calculation of Fair Market Rent

The Fair Market Rent for the lease year in question shall be mutually agreed upon between the Landlord and the Tenant within six (6) months prior to the expiry of the then current lease year. In the event the parties fail to agree within such six (6) month period, then the Fair Market Rent shall be fixed by arbitration in accordance with the provisions of Article 16.00 of this Lease. Any arbitrator shall be a disinterested person of recognized competence in the real estate business in the City of Toronto.

ARTICLE 5.00 - ADDITIONAL RENT

5.1 Additional Rent

- (a) In addition to the Ground Rent reserved in favour of the Landlord, the Tenant shall, throughout the Interim Period and the Term, pay to the Landlord or as otherwise provided in this Lease, in lawful money of Canada, without any deduction, abatement or set-off whatsoever (except as set out in this Lease or otherwise permitted by law), as Additional Rent, the following costs:
 - (i) all Taxes levied, rated, charged or assessed on or in relation to the Premises or any parts thereof as provided for in Section 5.2 of this Lease;
 - (ii) all charges, costs, accounts and any other sums payable by reason of the supply of the utilities and services to the Premises or any parts thereof; and
 - (iii) all other sums, amounts, costs, cost escalations and charges specified in this Lease to be payable by the Tenant.
- (b) All of the payments set out in this Lease (other than Rental Taxes and Ground Rent) shall constitute Additional Rent, and shall be deemed to be and shall be paid as Additional Rent, whether or not any payment is payable to the Landlord or otherwise, and whether or not as compensation to the Landlord for expenses to which it has been put. The Landlord has all the rights against the Tenant for default in payment of Additional Rent that it has against the Tenant for default in payment of Ground Rent.

5.2 Taxes

(a) The Tenant covenants to pay to the lawful taxing authorities, in a timely manner, on or before the due date therefor, as Additional Rent, all Taxes which are due and payable during the Term, or which are attributable to any period of time during the Term, and provide written evidence of said payment to the Landlord on an annual basis within thirty (30) days of the date the final instalment of Taxes is due, and otherwise at the written request of the Landlord from time to time. The Tenant shall pay Taxes on or before the due date during every year of the Term and before any fine, penalty, interest or costs shall accrue for the non-payment thereof. Provided the Tenant is not in default hereunder, the Tenant may take advantage of any Applicable Law whereby Taxes may be paid by installments or deferred for some portion of the fiscal year to which they relate, provided that no fine, penalty, interest or costs are incurred thereby. Taxes payable to the relevant authority shall constitute Additional Rent.

(b) If any Taxes relate to a fiscal period a part of which is subsequent to the expiration or earlier termination of the Term and the Tenant is otherwise obligated by the provisions of this Section 5.2 to pay such Taxes, the Tenant shall be responsible for payment only for that portion of such Taxes which are applicable to the Term. Similarly, the Tenant shall forthwith remit to the Landlord any rebates, credits, refunds, settlements, reduction, adjustments, discounts and the like in connection with Taxes in connection with the period prior to the Commencement Date.

The obligation of the Tenant to pay Taxes shall commence as of the start of the Interim Period, and shall be apportioned for the current taxation year between the Landlord and Tenant as at such date on a *per diem* basis. Upon the expiry or termination of this Lease, Taxes during the taxation year of termination shall be similarly apportioned between the parties as at the termination date.

(c) If the Tenant fails to pay any Taxes when due to the appropriate taxing authorities in situations where the Tenant (or persons on its behalf) is not contesting Taxes in accordance with the provisions of Section 5.3, then the Landlord may itself, after notice to the Tenant as required herein, pay the Taxes, and the amount paid by the Landlord on account of Taxes, plus interest at the Stipulated Rate from the date paid by the Landlord, shall be immediately repaid by the Tenant to the Landlord as Additional Rent under this Lease together with an administration fee equal to 15% of such amounts.

5.3 Contesting Taxes

(a) So long as the Tenant is not in default hereunder, and subject to Section 5.3(b) below, the Tenant will have the right, in its sole and absolute discretion and at its sole cost and expense, to contest or appeal the validity or the amount of any Taxes, but this shall not relieve the Tenant of its obligations to pay Taxes or authorize the Tenant to defer payment of Taxes in their entirety and in a timely manner unless and only to the extent such deferment is lawful. At least twenty (20) days before the last day for filing appeals, the Tenant will deliver to the Landlord notice of any appeal the Tenant intends to institute with respect to Taxes, payable by the Tenant.

(b) The Tenant shall prosecute such proceedings with due diligence.

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(c) If the Tenant wishes to take advantage of any lawful right to defer payment of any Taxes, pending the outcome of any proceedings being taken by the Tenant to contest or appeal Taxes, and if the entire amount (including fines, penalties, interest and cost) for which the Tenant might be liable, if unsuccessful, exceeds ten percent (10%) of the Taxes, as the case may be, payable hereunder in respect of the prior Lease year and provided such deferral does not affect the title to and/or result in an Encumbrance affecting the Premises, the Tenant shall deposit with the Landlord's solicitors, to be held in the name of the Landlord in a trust account with a Canadian Schedule I chartered bank or trust company regulated under Canadian law, as the Landlord may direct in writing, as security for the payment of Taxes, a sum sufficient in the opinion of the Landlord, acting reasonably, to pay Taxes, together with all fines, penalties, interest and costs in connection therewith and any amounts that may be assessed against or become a charge upon the Premises or any part thereof as a result of the proceedings being taken by the Tenant. The Tenant shall prosecute such proceedings with due diligence. If it shall at any time become unlawful to further defer the payment of Taxes, and if Taxes shall remain unpaid, the Landlord may (in addition to any other rights or remedies it may have hereunder or at law) apply or direct the application of the sum so deposited, or so much thereof as may be necessary for the purpose, to the payment of Taxes, but otherwise upon the termination of the proceedings taken by the Tenant, the sum so deposited shall be applied to so much of the Taxes, (and any fines, penalties, interest and costs resulting thereto) as shall then remain unpaid, and the balance, if any, shall be repaid to the Tenant provided there is no default under this Lease. In the event that the money so deposited shall at any time become insufficient in the Landlord's reasonable opinion to pay the Taxes, and all fines, penalties, interest and costs relating thereto, the Tenant shall, upon demand, deposit such additional sum as may be requested to render the sum on deposit sufficient for such purpose, and if at any time the sum on deposit shall be applied to the payment of Taxes, fines, penalties, interest and costs of discharging the same, shall be insufficient for the purpose, the Tenant shall forthwith upon demand pay any balance. Any interest earned on the sum from time to time on deposit pursuant to this Section shall be added to the sum on deposit and be dealt with as a part thereof.

(d) If the Tenant is disputing, contesting and/or appealing in good faith the amount or validity of any Taxes and it is necessary in the Tenant's opinion for the Landlord to join therein or consent thereto in order to prosecute any such proceedings, the Landlord shall, at the Tenant's sole cost and expense, join in or consent as may be required, provided the Tenant shall reimburse, indemnify and save harmless the Landlord from all Claims relating thereto and has first delivered such written assurances and posted such security as the Landlord, acting reasonably, may require in connection therewith.

(d) The Tenant will in any event indemnify and hold the Landlord harmless from and against payment of all Claims occasioned by or arising from all Taxes, Business Taxes and Rental Taxes payable by the Tenant and any taxes which may in future be levied in lieu of or in addition to such amounts or any portion thereof which may be assessed against any rentals payable pursuant to this Lease in lieu of such amounts, whether against the Landlord or the Tenant, including, without limitation, any increase in Taxes, Business Taxes or Rental Taxes arising directly or indirectly out of any appeal or contestation by the Tenant.

(f) The Tenant shall be entitled to any rebate of any Taxes with respect to periods during the Term of this Lease unless such Taxes have been paid by the Landlord in accordance with Section 5.2 and the Tenant has not reimbursed the Landlord.

5.4 Business and Other Taxes

In each and every year during the Interim Period and the Term, the Tenant shall pay directly to the appropriate taxing authority as and when due, or to the Landlord within ten (10) days of invoice if billed to the Landlord, and indemnify the Landlord from and against payment of, and any interest or penalty in respect of, the following:

- (a) every tax, licence fee, rate, duty and assessment of every kind with respect to any business carried on by the Tenant on the Lands or by any subtenant, licensee, concessionaire or franchisee or anyone else, or in respect of the use or occupancy of the Lands by the Tenant, its subtenants, licensees, concessionaires or franchisees, or anyone else (other than such taxes as income, profits or similar taxes assessed upon the income of the Landlord); and
- (b) all Taxes in respect of the Tenant's fixtures, Improvements, equipment or facilities on or about the Lands, and any Taxes occurring as a result of any reason peculiar to the Tenant.

5.5 Capital Taxes

The Tenant shall not be responsible for payment of any portion of Capital Taxes which are assessed against the Landlord in connection with the Landlord's ownership of the Lands but Tenant shall be responsible for Capital taxes to the extent they relate to Tenant's development, redevelopment and/or operations on the Lands or if such Capital Taxes are imposed as a replacement for real property taxes.

5.6 Utilities and Services

The Tenant shall be solely responsible for and shall promptly pay or cause to be paid promptly, prior to delinquency, all utility charges and rates, deposits, license fees, and similar taxes, rates, charges and assessments, including payments in lieu of them, which may be charged, levied, assessed or otherwise imposed by any public authority or quasi-public authority or supplier or any agency of a public authority on or against the Tenant, any subtenant, licensee or occupant of any part of the Premises, the Premises, or any part of them, including, without limitation, where non-payment would create a lien or charge upon the Landlord's interest in the Premises. This obligation of the Tenant extends to and is not limited to water, gas, electricity, telephone and all other utilities and services serving, used or consumed in, or on, the Premises. The Tenant shall cause the accounts for such utilities and services to be set up in the name of the Tenant. The Tenant will indemnify and save harmless the Landlord from any failure to provide, or to ensure the continuous availability of any utility or other service in connection with the Premises, or any part of them and from any liability or damages pertaining to utilities or other such services. In no event is the Landlord liable for, nor has the Landlord any obligation with respect to, an interruption or cessation of or a failure in the supply of any utilities, services or systems in, to or

serving the Premises or any part thereof unless and only to the extent caused by the intentional or wilful misconduct of the Landlord or those for whom the Landlord is in law responsible.

ARTICLE 6.00 - CONSTRUCTION OF INITIAL IMPROVEMENTS

6.1 Tenant to Construct Initial Improvements

It is the intention of the parties hereto that the Tenant is to erect the Initial Improvements on the Lands subject to and in accordance with the terms and conditions of this Lease. It is further agreed that the Initial Improvements, and all future Buildings and Improvements, shall be constructed and located entirely within the boundaries of the Lands and shall not be connected in any manner to, or be constructed or located partially on, any lands adjoining or abutting the Lands. For greater certainty, the Tenant shall construct the Tenant's Facilities, including the Initial Improvements, within the boundaries of the Premises' property lines and in accordance with all Applicable Laws including, without limitation, setback requirements. The Tenant shall construct and complete the Initial Improvements expeditiously and in good and workmanlike manner and substantially in accordance with the plans and specifications first approved by the Landlord, acting reasonably and without delay and in accordance with the provisions of this Article 6.00.

6.2 Development

The Tenant will supply and install all improvements required for the Tenant's development of the Premises and the Tenant will pay for each and every cost associated with developing the Premises for the Tenant's use, including, without limitation, the costs of the following, if required by the Tenant, in its discretion, or by the municipality or other lawful authorities, for the development of the Premises:

- (i) obtain all necessary site plan approvals for the property and zoning;
- (ii) obtain all demolition and building permits for the Premises;
- (iii) an electrical service sufficient to meet the Tenant's requirements;
- (iv) setting the grades for the overall site, as per the approved Site Plan Agreement;
- (v) any road widening on Dufferin Street or Highway 7;
- (vi) any frontage charges for water mains and sanitary sewers;
- (vii) all storm water management requirements to the perimeter of the Lands;
- (viii) any traffic light changes at the entry to the Premises;
- (ix) urbanization along Dufferin Street or Highway 7, including, but not limited to, curbs, gutters, sidewalks, etc.; and
- (x) all site services to the property line of the Lands including, without limitation, sanitary sewer, storm sewer, municipal water, hydro and natural gas.

6.3 Intentionally Deleted.

6.4 Commencement of Construction of Initial Improvements

Before commencing excavation or any work on the Premises for the construction of the Initial Improvements, the Tenant shall have:

- (a) furnished proof of the insurance required by Section 6.6;
- (b) obtained the approval of the Landlord.

6.5 Duties of Tenant in Construction

The Tenant shall perform and comply with the following covenants and requirements in the construction of the Initial Improvements:

- (a) the Initial Improvements shall be constructed substantially in accordance with the plans and specifications approved by the Landlord in writing, subject to such changes as may be required by governmental authorities or otherwise any substantial changes as approved in writing by the Landlord, such approval not to be unreasonably withheld or delayed;
- (b) all necessary building permits shall be obtained and all municipal by-laws and legal requirements pertaining to the conduct of the work shall be complied with;
- (c) the construction work shall be conducted expeditiously in a good and workmanlike manner and otherwise in accordance with Applicable Laws and the provisions of this Lease;
- (d) the Tenant, through the Tenant's Architect or other qualified consultant or project manager, shall properly supervise the work;
- (e) the Landlord and its agents and engineers shall at all times, at its own expense, have the right to inspect the work, and to protest to the Tenant or the Tenant's Architect any default or non-compliance with the construction contract or this Lease, and the Tenant shall forthwith deal with the protest and remedy any default or non-compliance;
- (f) the Landlord may require the Tenant, at its own expense, to submit at reasonable intervals certificates of the Tenant's Architect, consultant or project manager, as to the status of the work, the existence and extent of any faults or defects, the value of the work then done and to be done under any contract, the amount owing to any contractor and the amounts paid or retained by the Tenant on any contract, and the Tenant shall also, whenever requested by the Landlord, furnish copies of certificates furnished to it by contractors or by the Tenant's Architect in connection with construction;
- (g) the Tenant covenants and agrees to deliver to the Landlord, from time to time as requested by the Landlord, copies of the following in respect of the Initial Improvements, to the extent that same are in the possession or control of the Tenant, its subtenants, agents, employees, architects, consultants or contractors or others over whom Tenant exercises control:
 - (i) soil tests;

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- (ii) architects' and development plans and drawings;
 - (iii) consultants' reports;
 - (iv) applications to amend by-laws;
 - (v) site plan applications and approvals;
 - (vi) building permit applications;
 - (vii) building permits issued; and
 - (viii) all other documents or information pertaining to the development of the Initial Improvements in the possession or control of the Tenant.
- (h) the Tenant hereby covenants and agrees that it shall comply with all provisions of the *Construction Lien Act* (Ontario), including all holdback provisions. The Tenant covenants that it shall promptly pay, when due, all costs incurred by or on behalf of the Tenant in constructing, altering, repairing, improving the Premises, whether for work, services or materials. Tenant covenants to take all steps required to discharge any construction and similar liens from title to the Lands and indemnify and save harmless the Landlord therefrom. The Tenant agrees to attach a notice, in the form attached as Schedule "E" to this Lease (the "CLA Notice"), to all construction and supply contracts and agrees that at all times during the Tenant's construction of the improvements and the Tenant's Facility on or about the Premises, that it will keep posted on all entrances in visible places the said CLA Notices.

6.6 Fire and Liability Insurance During Construction

- (a) The Tenant shall obtain or shall cause its contractor or contractors to obtain prior to the commencement of construction of the Initial Improvements, and shall maintain and keep in force until the insurance required under Article 9.00 has been obtained, insurance naming the Landlord and the Tenant as insureds and:
- (i) protecting both the Tenant and the Landlord (without any rights of cross claim or subrogation against the Landlord) against claims for personal injury, death or property damage or other third party or public liability claims arising from any accident or occurrence upon, in or about the Lands and from any cause, including the risks occasioned by the construction of the Initial Improvements, and to an amount of not less than fifteen million dollars (\$15,000,000) for any personal injury, death, property or other claims in respect of any one accident or occurrence; and
 - (ii) protecting both the Tenant and the Landlord from loss or damage (without any rights of cross claim or subrogation against the Landlord) to the Initial Improvements and all buildings, structures, fixtures, equipment, improvements and building materials on the Premises from time to time,

both during and after construction (but which may be by policies obtained from time to time covering the risk during different phases of construction) against fire and extended perils under a standard extended form of fire insurance policy in such amounts and on such terms and conditions as would be carried by a prudent owner of a similar project during construction to the full insurable value thereof at all times (to be computed upon a replacement cost basis with deduction only of the cost of excavation and foundations and of the value of building materials from time to time on the site but not incorporated in the Initial Improvements, and in any event in an amount sufficient to prevent the Landlord being deemed a co-insurer).

- (b) The proceeds of insurance which may become payable under any policy of insurance obtained pursuant to Section 6.6(a)(ii) shall be payable to the Trustee in accordance with Section 9.3.
- (c) All the provisions of Article 9.00 respecting insurance which are of general application apply to the insurance during construction of the Initial Improvements required by this Section 6.6.

6.7 Landlord Consents and Assurances

(a) Subject to the terms of this Lease, the Tenant shall have the right to develop and manage the Premises in accordance with the Permitted Use and subject to compliance with all Applicable Laws. The Landlord shall co-operate in all respects with the Tenant, at the Tenant's sole cost and expense (including, without limitation, all reasonable legal and professional fees incurred by the Landlord in connection therewith) and will execute and deliver promptly upon request any applications, consents or other documents, in a form acceptable to the Landlord acting reasonably, reasonably required by the Tenant to obtain permits or otherwise carry out any demolition, construction or any alterations and/or improvements to the Leased Premises from time to time, provided any such applications, consents or other documents shall be at the Tenant's sole cost. The Landlord shall, at Tenant's sole cost and expense (including, without limitation, all legal and professional fees incurred by the Landlord in connection therewith), provide all consents, authorizations and approvals, as well as all easements and conveyances (for example, for road widening) as may be required by any Applicable Authority and approved by the Landlord acting reasonably, and enter into all usual and necessary agreements as may be required for such purpose including as to any re-zoning, variances and site plan approvals which are sought by the Tenant for the purpose of constructing and operating the Initial Improvements and all other Buildings and Improvements on the Lands, so long as the aforesaid do not result in any expense or obligation of the Landlord, whether within or outside the boundaries of the Premises, in respect of which the Landlord is not fully indemnified and saved harmless, and so long as the Buildings and Improvements contemplated by such agreements are in compliance with the terms hereof. The Tenant shall be responsible for any costs in relation to any matters referred to in any such agreement(s) and for all of Landlord's reasonable costs incurred in reviewing and approving any such agreement(s). The Tenant shall forthwith deliver to the Landlord from time to time complete copies of all applications and supporting documentation to be submitted, and submitted, by or on behalf of the Tenant to the authorities. The Tenant shall

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maintain all such agreements in good standing at all times and covenants and agrees with the Tenant to perform all covenants and obligations of the Tenant or the Landlord under such agreements at the Tenant's sole cost and expense and to the complete exoneration of the Landlord.

(b) The Landlord is not responsible for any matters relating to the development or redevelopment of the Premises (including, without limitation, any work required to be carried out outside the boundaries of the Premises) and specifically is not responsible for any costs whatsoever relating, directly or indirectly, to the development, re-development operation, maintenance, repair or replacement of the Premises or any part thereof or anything serving or for the benefit of the Premises except as otherwise expressly set out in this Lease.

(c) Notwithstanding the foregoing or anything else contained herein, the Tenant acknowledges, covenants and agrees in favour of the Landlord: (i) that the Landlord shall not incur any direct or indirect costs and/or expenses in connection with the Landlord's co-operation with the Tenant pursuant to this Article 6.00; and (ii) to indemnify and save harmless the Landlord and/or those for whom the Landlord is at law responsible from time to time from any and all Claims affecting the Landlord and/or those for whom the Landlord is at law responsible from time to time in connection with any aspects of this Article 6.0 (including, without limitation, the Tenant's failure to abide by or perform any and all of the terms, conditions and obligations set out in any such agreements on the part of the Tenant or the Landlord to perform or abide by).

ARTICLE 7.00 - OWNERSHIP, MAINTENANCE AND REPAIR

7.1 Ownership of Improvements and Fixtures

- (a) The Tenant's Facility and all Improvements and the equipment, fixtures, elevators, heating and plumbing apparatus, motors and machinery appurtenant thereto, and other chattel assets located in or about the Tenant's Facility and constructed and/or acquired by the Tenant are (subject only to the rights of the lender to the Tenant (the "Lender") as mortgagee) and remain the property of the Tenant and, other than Tenant's trade fixtures and personal property, shall become the property of the Landlord upon the expiration or earlier termination of the Term notwithstanding that the Tenant may have paid for them. The Tenant shall upon the expiration, or other sooner termination, for any reason whatsoever, of the Term, or any renewal or extension thereof, yield up and surrender to the Landlord the Tenant's Facility and all Improvements, together with the equipment, fixtures, elevators, heating and plumbing apparatus, motors and machinery appurtenant thereto, and other chattel assets, other than Tenant's trade fixtures and personal property, all in good working order, condition and repair, and free and clear of all claims, liens and encumbrances of the Tenant or of any person, firm or corporation claiming by, through or under the Tenant.
- (b) All dealings by the Tenant with the Buildings or Improvements which in any way affect title thereto shall be made expressly subject to the provisions of Section 7.1(a), and the Tenant shall not assign, encumber or otherwise deal with the

Buildings and/or Improvements separately from any permitted dealing with the leasehold interest under this Lease, to the intent that no person who does not at the same time hold a like interest in the Buildings and the Improvements shall hold or enjoy any interest in this Lease acquired from the Tenant.

- (c) The provisions of Section 7.1(a) shall not be construed to prevent the Tenant from conferring on lessees or occupants of the Buildings the right of property in, or the right to remove, trade fixtures or improvements which are of the nature of usual tenants' fixtures and normally removable by lessees, and which are not part of the structure or any essential part of the Buildings or any building services. The Tenant shall make good, or shall cause the lessees to make good, all damage to the Premises (including all Buildings and Improvements) caused by any removal of the Tenant's, subtenant's or occupants fixtures.
- (d) The Tenant shall, at or immediately before the expiration of the Term, remove its furniture, chattels and other usual tenants' fixtures not forming any part of the structure of the Improvements or any building services and, provided the Tenant is not in default, the Tenant may from time to time, when not in default, remove such tenants' fixtures in the ordinary course of its business or in the event of any Changes made pursuant to this Lease, provided that the Tenant shall, except upon the expiration of the Term, cause the Tenant's fixtures to be replaced with fixtures having a value and utility at least equal to that of the fixtures so removed, considering the need to replace obsolete or defective fixtures and to substitute improved fixtures, and the consequences of any reconstruction, changes and alterations to the Improvements.
- (e) Upon the expiry or earlier termination of the Term, the Tenant shall, at the request of the Landlord, remove its trade fixtures and equipment, and all Tenant's and subtenants' names, marks and other distinctive colours (including canopy banding), all resale merchandise, and subtenant's fixtures and equipment.
- (f) The Tenant shall, at its own expense, repair any damage caused to the Premises by the leasehold improvements or trade fixtures or the removal thereof. In the event that the Tenant fails to remove its trade fixtures prior to the expiry or earlier termination of the Term, such trade fixtures shall, at the option of the Landlord, become the property of the Landlord and may be removed from the Premises and sold or disposed of by the Landlord in such manner as it deems advisable or may be stored by the Landlord at the sole cost and expense of the Tenant. For greater certainty, the Tenant's trade fixtures shall not include any Improvements, Buildings, HVAC Equipment or light fixtures. Notwithstanding anything in this Lease, the Landlord shall be under no obligation to repair or maintain all of any part of the Tenant's Facility or installations.

7.2 Maintenance and Repair of Lands and Improvements

- (a) The Tenant shall, at its own cost and expense, during the entire Term, operate the Premises as a first class development and keep in first class order and condition the Lands,

Buildings and Improvements, and the appurtenances and equipment thereof (including, without limitation, those outside of the Lands but which serve the Premises), both inside and outside, and shall promptly carry out, at Tenant's sole cost and expense, all necessary repairs, replacements, substitutions, improvements and additions of or to the Premises and the Buildings and Improvements from time to time thereon or used in connection therewith, or any part thereof, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise and whether or not any repairs, replacements, rebuilding or reconstruction are major or commonly known as a repair, replacement, rebuilding or reconstruction of a capital nature. Without limiting in any way the generality of the foregoing, the Tenant will maintain, repair, replace, rebuild and reconstruct the buildings, structures, erections, roofs, foundations and appurtenances, entrances, elevators, glass windows, plumbing, heating, ventilating and air conditioning systems, and electrical systems, water, sewer and gas connections, wiring, pipes, drains and mains attributable to the Premises and/or which serve the Premises, interior and exterior signs, sidewalks, parking facilities, and all other machinery, and facilities belonging to or connected with the Premises or any part thereof, or used in the operation of the Premises including the buildings thereon. Such repairs shall be completed in a good and workmanlike manner and in all respects consistent in quality and workmanship appropriate for a similar first class project in the vicinity, and shall meet the requirements of all Applicable Laws and the fire insurance underwriters.

(b) The Tenant shall promptly upon notice in writing from the Landlord make all repairs, replacements, and maintenance, which the Tenant has herein covenanted to perform. In the event of default by the Tenant under any of the provisions of Article 7.00 hereof, the Landlord shall, unless the nature of the default shall endanger any part of the Premises and in which event (except in the case of an emergency) reasonable written notice shall be given by the Landlord to the Tenant, give written notice to the Tenant requiring the Tenant to repair such default within thirty (30) days thereafter, and if the Tenant fails to remedy such default within the aforesaid thirty (30) day period, or such longer period as may be reasonably necessary having regard to the nature of the default complained of (provided the Tenant commences to remedy such default within such thirty (30) day period and thereafter diligently proceeds to remedy such default), the Landlord may take such steps as it may reasonably deem necessary under the circumstances to remedy such default, and the Tenant will forthwith upon the Landlord's demand, pay the cost of remedying or attempting to remedy such default (including any legal fees), plus an administration fee equal to 15% of such costs and expenses, as Additional Rent.

7.3 Inspection by Landlord

The Landlord, its servants, agents and contractors shall be entitled to enter upon the Premises at any time during normal business hours, on reasonable prior notice, for the purpose of inspecting the Lands, Buildings and Improvements. The Tenant shall not be entitled to compensation for any inconvenience, nuisance or discomfort occasioned thereby. The Landlord shall take reasonable precautions and attempt to schedule such inspections so as not to unreasonably interfere with the operation of any subtenant's business and to minimize interference with the Tenant's use and enjoyment of the Premises.

7.4 Repairs, Alterations and Replacements

- (a) Provided the Tenant replaces the Tenant's Facility with buildings and/or structures and/or Improvements which are of equal or greater value and quality than those existing at the time, the Tenant shall have the unfettered right during the first twenty-five (25) years of the Term of this Lease, at its own expense, to construct, reconstruct and replace buildings, structures and other improvements on or at the Premises and make alterations and/or improvements thereto, provided that all such construction, alterations and/or improvements shall be made in conformity with all Applicable Laws, and the Tenant shall obtain the prior consent of the Landlord, which consent will not be unreasonably withheld, to any major alteration, renovation or improvement involves alteration to the frame or permanent structure or base building systems of any of the Buildings or Improvements at the Premises, and it is understood and agreed that the Landlord's right of approval in such circumstances will be limited to approval of such major alteration(s) to the frame or permanent structure or base building systems.
- (b) Notwithstanding anything in this Lease to the contrary, the Tenant shall not be entitled to demolish any Buildings, structures, or Improvements on or at the Premises after the 25th year of the Term of this Lease, and if the Tenant should demolish any part or parts of any Buildings or Improvements on the Premises contrary to this paragraph, the Tenant shall be required to pay to the Landlord a fee of Five Million (\$5,000,000.00) Dollars (the "Demolition Fee") payable within ten (10) days of any such demolition.
- (c) The construction, alterations, renovations and/or improvements shall be constructed by the Tenant, without cost to the Landlord, in a good and workmanlike manner, using first-class materials. Before requesting (where required) the Landlord's approval of any construction, alterations, renovations and/or improvements, the Tenant shall submit to the Landlord conceptual plans of the proposed construction, alterations, renovations and/or improvements for the Landlord's approval. Within fifteen (15) days after receiving such plans from the Tenant, the Landlord, acting reasonably, shall advise the Tenant in writing whether or not it approves of the construction, alterations, renovations and/or improvements, and if not, request modifications to such plans and other items. Within fifteen (15) days after the Tenant receives the Landlord's request, the Tenant shall submit revised plans and other similar material for the Landlord's approval, acting reasonably, and the parties agree to negotiate in good faith to modify the proposed construction, alterations, renovations and/or improvements in order to obtain the Landlord's consent thereto within the limits of the Landlord's rights to withhold consent set out in this Section 7.4. If the Landlord does not respond to the Tenant's request within the time period as aforesaid, the Tenant shall provide the Landlord with written notice of its failure to respond and if the Landlord does not respond within ten (10) days of receipt of said second notice, Landlord shall be deemed to have approved the proposed construction, alterations, renovations and/or improvements.

- (d) Save and except as may be expressly set out in this Lease, the Tenant shall not demolish any Buildings or structures or Improvements comprising the Tenant's Facility.

7.5 Waste, Nuisance

The Tenant shall not commit or suffer any waste or injury to the Lands and Improvements or any part thereof save and except any demolition and alteration respecting the Improvements on the Lands as herein permitted, and shall not use or occupy or permit to be used or occupied the Lands and Improvements or any part thereof so as to constitute a nuisance or for any illegal or unlawful purpose, nor in any manner which may contravene any lawful restrictions of the use thereof by any municipal or governmental authorities. The Tenant shall at all times, at its own expense, keep the sidewalks, curbs and passageways within, and, if required by any lawful authority, adjacent to, the Lands and Improvements clean from rubbish, ice and snow and shall not encumber or obstruct the same or allow the same to be encumbered or obstructed in any manner. The Tenant shall not injure or disfigure the Lands and Improvements or permit the same to be injured or disfigured in any way save and except as herein permitted.

7.6 Services

The Tenant covenants that it shall install or cause to be installed all municipal services required to be constructed and installed in connection with any development of the Lands, and shall pay all levies, imposts, deposits and charges required by the municipality or any public utility or other authority having jurisdiction, which services may be installed as local improvements. The Tenant shall indemnify and save harmless the Landlord of and from all claims and demands relating to such services, it being the intention of the parties that the Landlord shall not be required at any time to pay any levies, imposts, deposits or other charges whatever in connection with the servicing or preparation of the Lands from time to time for building, use or occupancy. Without limiting the generality of the foregoing, the Tenant shall, at its own expense, install or cause to be installed paved roadways, sanitary sewers, storm sewers, sidewalks, curbs, street lighting, sprinklers, water pipes and underground hydro facilities as may be required by the municipality or other relevant authorities. The Tenant further covenants that it shall construct, renew and repair all services with respect to the Premises as the municipality, utilities or other relevant authorities shall require from time to time without expense to or contribution from the Landlord.

7.7 Lien Claims

- (a) The Tenant will not permit any lien under the *Construction Lien Act* (Ontario) or any similar statute (a "**Construction Lien**") to be filed or registered against the Premises or any part of them, by reason of work, labour, services or materials supplied or claimed to have been supplied to the Tenant or anyone holding an interest in any part of the Premises through or under the Tenant. If a Construction Lien is filed or registered, the Tenant will procure registration of its discharge, or cause same to be vacated from title, within ten (10) days after the Tenant becomes aware of the lien's filing or registration. If the Tenant shall fail to discharge or otherwise remove from title to the Premises such Construction Lien within such period, then, in addition to any other right or remedy of the Landlord, the Landlord may, but shall not be

obligated to, remove the same from title by procuring the discharge of such lien by the deposit of monies into court or bonding, and in such event the Landlord shall be entitled, if the Landlord so elects, to compel the prosecution of any action for such construction lien by the lien claimant and, in the event of judgment in favour of the lien claimant, to pay the amount of the judgment, if any, in favour of the lien claimant with interest, costs and allowances. Any amount paid by the Landlord for any of the aforesaid purposes or for the satisfaction of any other lien, not caused or claimed to be caused by the Landlord, and all reasonable legal and other expenses of Landlord, including, without limitation, reasonable counsel fees, in defending any such action or in or about procuring the discharge of such lien, with all necessary disbursements in connection therewith, with interest thereon at the Stipulated Rate from the date of payment, shall be repaid by the Tenant to the Landlord on demand, and if unpaid may be treated and collected as Additional Rent as provided in this Lease. Nothing in this Section will be construed, however, to authorize the Tenant or permit it to subject the Landlord's estate and interest in the Premises to any lien.

(b) The Tenant will ensure that no lien under the *Workers' Compensation Act* (Ontario), no lien under any other statute (whether or not it is similar to the *Workers' Compensation Act*) and no claim as a result of anything done or permitted to be done by the Tenant, its contractors, subcontractor or materialmen is registered or filed against the Premises or any part of them and that no proceedings for the enforcement of any lien or claim against the Premises or any part of them or against the Landlord or its assets are taken. The Landlord may, but will not be required to, discharge any lien filed or registered or may satisfy any claim made if in the Landlord's judgment, exercised reasonably, the Landlord's interest in the Premises or any part of them becomes liable to forfeiture or sale or may otherwise be in jeopardy, and any amount paid by the Landlord in doing so, together with all reasonable costs and expenses of the Landlord, will be reimbursed to the Landlord by the Tenant on demand.

(c) The Tenant agrees to attach a notice, in the form attached as Schedule "E" to this Lease (the "CLA Notice"), to all construction and supply contracts and agrees that at all times during the Tenant's construction of the improvements and the Tenant's Facility on or about the Premises, that it will keep posted on all entrances in visible places the said CLA Notices.

7.8 End of Term – Surrender of Premises

(a) At the expiration or earlier termination of the Term, the Tenant shall surrender to the Landlord the Premises and all then existing Buildings and Improvements thereon and all improvements, together with the equipment, fixtures, elevators, heating and plumbing apparatus, motors and machinery appurtenant thereto, all in working order, condition and repair, and deliver vacant possession of the Premises to the Landlord, free and clear of all claims, liens and encumbrances of the Tenant or of any person, firm or corporation claiming by, through or under the Tenant, provided that each of the subtenants permitted under Section 10.4(a) of this Lease will be permitted to remain in occupation of their respective sublet premises in accordance with the then existing subleases to the extent that the Landlord has specifically previously agreed in writing that a specific subtenant is permitted to do so.

(b) At the expiration or earlier termination of the Term, the Tenant shall do the following:

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- (i) upon the Landlord's request, remove all Tenant's and subtenant's names, marks and other distinctive colours (including canopy banding), all resale merchandise, its subtenants' trade fixtures and equipment;
 - (ii) upon the Landlord's request, remove all of its equipment;
 - (iii) deliver to the Landlord photocopies or originals of all of the Tenant's files and records for the then current subtenants and business records for the previous twelve (12) months in connection with the operation of the Premises (subject to the right of the Tenant to retain copies thereof);
 - (iv) deliver all keys, pass cards and the like for the Premises and give to the Landlord the combination of any locks, safes and vaults on the Premises which are then in the Tenant's possession and control;
 - (v) prepare and deliver all notices and directions to each of the subtenants in the manner required by the Landlord, including without limitation, those notices and directions relating to rent and insurance; and
 - (vi) ensure that title to the Premises (including, without limitation, all Buildings and Improvements) are free and clear from any encumbrances caused to be registered by the Tenant and arising out of this Lease, save and except for any municipal agreements, easements or similar instruments registered, with the Landlord's consent (which consent shall not be unreasonably withheld), in connection with the development of the Lands. For greater certainty, all Leasehold Mortgages granted pursuant to Subsection 10.5 hereof must be discharged by the Tenant.
- (c) Immediately prior to the expiration or earlier termination of the Term, the Tenant shall be deemed to have automatically assigned to the Landlord, all rents, rights, remedies and benefits of the Tenant pursuant to the subleases arising after the end of the Term and which the Landlord has agreed to assume.
- (d) At the expiration or earlier termination of the Term, where and if applicable, all income and expense items customarily adjusted in real estate transactions shall be apportioned between the Landlord and the Tenant as of the date of expiration or earlier termination of the Term.

ARTICLE 8.00 - USE, COMPLIANCE WITH LAWS

8.1 Use

The Tenant covenants that at all times the use made of the Premises shall be solely for the use set out in Section 1.1(j). The Tenant shall be entitled to sub-let the Premises (and/or any portion(s) thereof) to retail subtenants and/or for any other use(s) which is/are permitted by Applicable Laws. The Tenant shall have the right but not the obligation to keep the Premises open for business the maximum number of hours permitted by applicable by-law. The Tenant shall not be required to continuously operate its (or any) business at the Premises, however the Tenant shall not abandon the Premises during the Term or any renewals thereof.

8.2 Compliance with Laws

The Tenant covenants that at all times the use made of the Premises shall be in conformity with all of the requirements of the zoning by-laws and any other municipal or governmental regulations which may affect the Lands. The Tenant shall comply with all police, fire and sanitary regulations imposed by any local, municipal or provincial or federal authorities or recommendations or requirements made by fire insurance underwriters, and observe and obey all Applicable Laws governing the conduct of any businesses carried out on the Premises or with respect to the use of the Premises. The Tenant shall indemnify and save the Landlord harmless against any and all liabilities, claims, damages, interest, penalties, fines, monetary sanctions, losses, costs and expenses whatsoever (including, without limitation, counsel and solicitor's fees on a substantial indemnity basis, reasonable costs of professional advisors, consultants and experts) arising out of non-compliance with or violation of any of the said laws and regulations by the Tenant, its agents, employees, subtenants, contractors or those for whom the Tenant is in law responsible, or from any liability for costs for damage or injury to any person or property resulting therefrom on and after the start of the Interim Period. Notwithstanding the provisions of this Section 8.2, the Tenant shall not be responsible for, nor be required to indemnify the Landlord with respect to, any Existing Contamination (as hereinafter defined).

8.3 SIGNS

Provided all Applicable Laws and municipal requirements are complied with,

- (a) The Tenant shall be permitted to install on the Premises signage typically used by the Tenant in other similar retail plazas in use from time to time for the Tenant's business, which may include the Tenant's or its subtenants trade name and logo together with other messages related to the Tenant's business such as hours of operation and key business activities, all in its standard type face and all in the Tenant's corporate colours or such other colours as it may adopt from time to time;
- (b) The Tenant shall have the right at its own expense to erect on the Premises two (2) pylon signs for its exclusive use and one or more enter/exit and directional signs of such size and in such location(s) as the Tenant shall determine;
- (c) There shall be no restrictions on interior building signage, whether or not such interior signage is visible from outside the Buildings upon the Premises; and
- (d) The Landlord agrees that the Tenant may remove and/or replace all signs installed by it, in its discretion, whether or not same are or are deemed at law to be fixtures, at any time and from time to time during the Term.

The Landlord will co-operate with the Tenant and will execute and deliver promptly upon request any applications, consents or other documents, which may be required by the Tenant to obtain permits or approvals for the Tenant's signs.

ARTICLE 9.00 - INSURANCE AND INDEMNITY**9.1 Tenant's Indemnity**

Subject to the Landlord's obligations under this Article 9.00, throughout the Interim Period and the Term, the Tenant covenants and agrees to indemnify and save the Landlord harmless against any and all liabilities, claims, damages, interest, penalties, fines, monetary sanctions, losses, costs and expenses whatsoever (including, without limitation, counsel and solicitor's fees on a substantial indemnity basis, reasonable costs of professional advisors, consultants and experts) arising from injury to property or injury to any person or entity, caused by the use, occupancy or presence of the Tenant, its agents, employees, subtenants, contractors or any others for whom the Tenant is responsible in law, at, in, on or upon the Lands or the Premises.

9.2 Tenant's Insurance

- (a) The Tenant will take out and maintain, at its sole cost and expense, the insurance described below throughout the Term and any period when it is in possession of the Premises, and each policy of that insurance will name, as insureds, the Tenant and the Landlord, and, if applicable, the Landlord's Mortgagee as its respective interest may appear. The insurance which the Tenant is required to take out and maintain is as follows:
- (i) "all risks" property insurance, including insurance on each of the Buildings, the Improvements, trade fixtures and the machinery, boilers and equipment contained therein (including the Landlord's property) against perils covered by an "all risks" policy including sprinkler leakage, flood, earth movement (including earthquake) and sewer back-up for the full replacement cost without deduction for depreciation
 - (ii) broad form boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident for the full replacement cost (with a replacement cost endorsement) of all boilers, pressure vessels, equipment (including, heating and air-conditioning equipment and miscellaneous electrical apparatus owned or operated by the Tenant or by others);
 - (iii) comprehensive general liability insurance, including premises and operations, broad form property damage, personal injury liability, occurrence coverage, contractual liability, non-owned automobile liability including contractual employers' liability and owners' and contractors' protective insurance coverage with respect to the Premises and the Tenant's use thereof, with coverage including the activities and operations conducted by the Tenant and any other Person on the Premises and by the Tenant and any other Person performing work on behalf of the Tenant and those for whom the Tenant is in law responsible, in any part of the Premises. Such policies shall (1) be written on a comprehensive basis with inclusive limits of at least Fifteen Million Dollars (\$15,000,000.00) per

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- occurrence for bodily injury for any one or more Persons, or property damage, and (2) contain a severability of interests clause and cross liability clauses;
- (iv) business interruption insurance in an amount that will reimburse the Tenant for loss of earnings attributable to all perils insured against under Sections 9.2(a)(i) and 9.2(a)(ii), and other perils commonly insured against by prudent tenants, or attributable to prevention of access to the Premises or the Shopping Centre as a result of those perils;
 - (v) Tenant's legal liability insurance for the actual cash value of the Premises, including loss of use thereof ;
 - (vi) standard owner's form automobile policy providing third party liability insurance with \$5,000,000.00 inclusive limits, and accident benefits insurance, covering all licensed vehicles owned or operated by or on behalf of the Tenant; and
 - (vii) any other form of insurance, in such amounts and against such risks, as Landlord may in its discretion require.
- (b) The policies specified under Sections 9.2(a)(i), 9.2(a)(ii) and 9.2(a)(iv) will contain the Mortgagee's standard mortgage clause and a waiver of subrogation rights which the Tenant's insurers may have against the Landlord, the Mortgagee, and those for whom all, or any, of them are in law responsible, or a permitted prior release clause achieving the same effect, in either case whether or not the damage is caused by their act, omission or negligence.
- (c) All policies will (i) be taken out with insurers reasonably acceptable to the Landlord; (ii) be in a form reasonably satisfactory to the Landlord; (iii) contain reasonable deductibles; (iv) be non-contributing with, and will apply only as primary and not excess to any other insurance available to all and any of the Landlord and the Mortgagee; (v) not be invalidated with respect to the interests of all and any of the Landlord and the Mortgagee by reason of any breach or violation of warranties, representations, declarations or conditions contained in the policies; and (vi) contain an undertaking by the insurers to notify the Landlord and the Mortgagee in writing not less than thirty (30) days before any cancellation or termination.
- (d) Certificates of insurance will be delivered to the Landlord before the Tenant obtains possession of the Premises for any purpose. Certificates or certified copies of the Tenant's insurance policies will be provided by the Tenant to the Landlord within thirty (30) days prior to the expiry dates of such policies to evidence their renewal and continuous coverage. No review or approval of any insurance certificate by the Landlord diminishes its rights or the Tenant's obligations in this Lease.

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- (e) All proceeds of any insurance shall first be used by the Tenant for the costs of repairing, reconstructing or replacing, as the case may be, the damaged or destroyed portions of the Buildings and/or Improvements to the standard set out herein, except as otherwise provided for in this Lease.
- (f) The Tenant hereby releases the Landlord, its directors, officers, servants, agents, employees, contractors and those for whom the Landlord is in law responsible from all Claims of any kind in respect of which the Tenant is insured or would have been insured had the Tenant maintained the insurance the Tenant is required to maintain pursuant hereto save and except where such losses, damages or claims were caused by the negligence of the Landlord, its directors, officers, servants, agents, employees or those for whom the Landlord is in law responsible.

9.3 Insurance Trustee

Where a partial or complete destruction occurs and the Tenant is required to rebuild, and the cost of such rebuilding exceeds the sum of \$250,000.00, the following procedures shall apply:

- (a) the insurance proceeds shall be paid to a trustee (the "**Trustee**") jointly named by the Landlord and the Tenant and any Mortgagee, and the Trustee shall be expressly instructed to act on behalf of both the Landlord and the Tenant and any Mortgagee according to their interests. The Trustee shall be instructed to invest the insurance proceeds, insofar as possible, with a bank or trust company so as to earn interest pending their distribution as contemplated by this Section 9.3. Work-in-progress shall be paid for in instalments as progress payments out of the insurance proceeds, and provision shall be made to ensure that no increase in the cost over the amount of the original estimate shall be the responsibility of the Landlord or the Trustee, so that the Trustee at all times retains in its hands sufficient insurance proceeds to pay for the estimated cost of repair outstanding at the date it makes any progress payment;
- (b) before any contract having a value in excess of \$250,000.00 is entered into by the Tenant for the carrying out of any repair work, copies of the estimates for any work and the contracts for the completion of the work shall be submitted to the Trustee, and it shall distribute such copies to the Landlord, the Mortgagee and the Tenant. Such contracts shall be deemed to be approved unless notice to the contrary is delivered to the Trustee within fourteen (14) business days of receipt of the contract from the Trustee;
- (c) any progress payments to be made under this Section 9.3 by the Trustee shall not be made without the submission of a statement, certified by the architect or engineer of the party to whom the payments are to be made, stating the estimated amount required to complete the work or repair at the date of the certificate, the amount owing on work already done, and the amount of any payments made at that date for work already done, and verifying the standard and quality of the work already done, and the Trustee shall be required to retain in its hands, at the date of any payment, an amount sufficient to pay the estimated outstanding cost of

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completion, even if that has the effect that the payment made becomes less than the amount certified to be due;

- (d) in making any payment under this Section 9.3, the Trustee shall have regard to construction lien or similar legislation applicable in the province in which the Lands are located and shall retain within its control for the period specified in such legislation the amount of any hold-back required;
- (e) the fees and expenses of the Trustee shall be borne by the Tenant and shall be paid, to the extent available, out of the moneys held by the Trustee;
- (f) in the case of any dispute as to the terms of any contract or the amount of any estimate or any matter relating to the actual work or repair, such dispute shall be decided by an Expert pursuant to the terms hereof; and
- (g) should the insurance moneys, if any, be insufficient to pay the entire cost of the work of restoring and repairing the Buildings and Improvements, the Tenant agrees to pay the deficiency. Upon the completion of such work and payment in full therefor by the Tenant, the Landlord shall, upon receipt of proof that such work has been paid for in full and that there is no outstanding lien claim, release to the Tenant any insurance moneys then remaining and in the possession or control of the Trustee and shall so authorize the Trustee.

9.4 Landlord's Right to Insure

If the Tenant fails to obtain and maintain the policies of insurance required hereunder, or should any of that insurance not be approved by the Landlord, the Landlord may itself, at its sole option and without obligation, after not less than twenty-four (24) hours' notice to the Tenant, obtain such policies at the Tenant's cost and all costs of the Landlord will be immediately paid by the Tenant to the Landlord as Additional Rent, together with an administration fee of 15% of such costs representing the Landlord's overhead. Interest shall accrue on all such payments made by the Landlord, calculated at the Stipulated Rate, on the various amounts from the respective dates of payment thereof by the Landlord. Any sum so expended by the Landlord, together with such interest as aforesaid, shall constitute Rent hereunder and be collectable as such Rent payable on demand. This right is without prejudice to the other rights and remedies of the Landlord under this Lease.

9.5 Cancellation of Insurance

If any insurance policy upon the Premises or any part thereof shall be cancelled or threatened to be cancelled or the coverage thereunder reduced by reason of the use of the Premises, and if the Tenant fails to remedy such condition within 48 hours after notice, the Landlord may, at its option, at the Tenant's cost, (i) exercise its rights under Article 14.00, or (ii) enter upon the Premises and remedy the condition giving rise to such cancellation, threatened cancellation or reduction. The Landlord shall not be liable for any damage or injury caused to any property located on the Premises as a result of any such entry.

9.6 Loss or Damage

Neither the Landlord nor its affiliates, directors, officers, employees, shareholders, agents or those for whom the Landlord is in law responsible (collectively, "Released Persons" and individually, a "Released Person") shall be liable for death or injury arising from any occurrence in, upon, at, or relating to the Premises or damage to property of the Tenant or of others located on the Premises or elsewhere, nor will they be responsible for loss of or damage to, or loss of use of property of the Tenant or others from any cause (whether or not it results from the negligence or misconduct of a Released Person) unless and to the extent caused by the intentional or wilful misconduct of a Released Person and then only to the extent the Tenant is not insured or required to be insured under the provisions of this Lease. Without limiting the general intent of the previous sentence, no Released Person is liable for injury or damage to Persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, flood, snow or leaks from or onto any part of the Premises or from pipes, appliances, plumbing works, roof or subsurface of any floor or ceiling, or from the street or any other place, or by dampness, the existence of any Hazardous Substances in any part of the Premises or resulting by any other cause and no Released Person is liable for damage caused by other tenants or Persons in or upon the Premises or by occupants of property adjacent to the Premises, or the public, or caused by construction or by any private, public, or quasi-public work unless and to the extent caused by the intentional or wilful misconduct of a Released Person and then only to the extent the Tenant is not insured or required to be insured under the provisions of this Lease. All property shall be so kept at the risk of the Tenant only and the Tenant releases and agrees to indemnify and save harmless the Released Persons and save them harmless from any Claims arising out of any damage to the same, including any subrogation claims by the Tenant's insurers save and except to the extent caused by the intentional or wilful misconduct of a Released Person and then only to the extent the Tenant is not insured or required to be insured under the provisions of this Lease.

9.7 Indemnification of Landlord

Despite anything else in this Lease, the Tenant will indemnify the Released Persons and save them harmless from all loss (including loss of Rent payable by the Tenant under this Lease), claims, actions, damages, liability and expenses in connection with loss of life, personal injury, damage to property or any other loss or injury arising from this Lease, or any occurrence in, on, or at the Premises, or from the occupancy or use by the Tenant of the Premises, or any part of them, occasioned wholly or in part by an act or omission of the Tenant or by anyone for whom the Tenant is responsible in law. However, the Tenant is not required to indemnify the Released Persons or save them harmless from loss, claims, actions, damages, liability or expenses to the extent they arise in whole or in part from the negligence, act or omission of the Landlord, any Released Person or Persons for whom the Landlord is responsible in law.

ARTICLE 10.00 - TRANSFERS

10.1 Transfers by Tenant

Except as may otherwise be provided in this Article 10.00, the Tenant will not effect or permit a Transfer without the consent of the Landlord which consent will not be unreasonably withheld or

unduly delayed. If the Tenant intends to effect a Transfer, the Tenant shall first give written notice to the Landlord specifying the identity of the proposed Transferee and provide such financial, business or other information relating to the proposed Transferee and its principals as the Landlord requires, acting reasonably, together with copies of any Transfer documents. Within twenty (20) days after having received such notice and all requested information, notify the Tenant either that the Landlord consents or does not consent to the Transfer. In the event that the Landlord does not provide its response within such 20-day period, the Tenant may deliver written notice to the Landlord of its failure to respond and if the Landlord does not respond within ten (10) days of receipt of said second notice Landlord shall be deemed to have consented to such Transfer.

10.2 Granting Consent

- (a) Despite anything in the *Commercial Tenancies Act* and despite any other statute or law; without limiting the grounds upon which a Transfer may be refused (provided the Landlord is acting reasonably), in deciding whether to give its consent to a Transfer the Landlord may refuse to give its consent if:
 - (A) the Tenant is in default under this Lease;
 - (B) the Transferee, (A) does not have a good credit rating and a net worth sufficient, in the Landlord's reasonable opinion, to finance the business to be operated in the Premises, or (B) has a history of defaults under commercial leases either by the Transferee or by companies or partnerships in which the Transferee was a principal shareholder or partner at the time of the defaults or (C) is not suitable to the Landlord, acting reasonably, on the basis of the proposed Tenant's business and characteristics in accordance with its financial capability, its business history, experience and ability to operate the business required to be operated under this Lease;
 - (C) the Landlord, acting reasonably, does not receive sufficient information from the Tenant or the Transferee to enable it to make a determination concerning the matters set out above or does not receive its fees under Section 10.3(g).
- (b) Section 10.2(a) does not apply to (i) a Transfer described in Subsection (iv) of the definition of Transfer which occurs when the Tenant is a corporation (a "Public Corporation") whose shares are traded and listed on a stock exchange in Canada or the United States, or (ii) a Transfer that occurs when (1) the Tenant is a "subsidiary body corporate" (as that term is defined on the date of this Lease under the *Canada Business Corporations Act*, R.S.C. 1985, c.C-44) of a Public Corporation and (2) it is the shares of the Public Corporation and not of the Tenant that are transferred or issued.

10.3 Terms and Conditions of Transfer

The following terms and conditions apply in respect of any Transfer:

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- (a) the consent by the Landlord is not a waiver of the requirement for consent to subsequent Transfers;
- (b) no acceptance by the Landlord of Rent or other payments by a Transferee is, (i) a waiver of the requirement for the Landlord to consent to the Transfer, (ii) the acceptance of the Transferee as Tenant, or (iii) a release of the Tenant from its obligations under this Lease;
- (c) the Landlord may apply amounts collected from the Transferee to any unpaid Rent;
- (d) the Transferor, unless the Transferee is a sub-tenant of the Tenant, will retain no rights under this Lease in respect of obligations to be performed by the Landlord or in respect of the use or occupation of the Premises after the Transfer;
- (e) save and except with respect to a Leasehold Mortgage granted pursuant to Section 10.5 or a sublease entered into pursuant to Section 10.4(a) of this Lease, the Transferee will execute an agreement directly with the Landlord agreeing to be bound by this Lease as if the Transferee had originally executed this Lease as Tenant and agreeing to deliver to the Landlord an additional security deposit equal to six (6) months Rent, but the Transferor will remain jointly and severally responsible with the Transferee for the fulfilment of all obligations to be performed after the Transfer by the Transferee including the punctual payment of Rent under this Lease during the remainder of the Term and, if required by the Landlord, the Transferor will execute an indemnity agreement on the Landlord's standard form, to give full force and effect to the foregoing. This obligation of the Transferor will survive any termination, repudiation, disaffirmation, disclaimer or surrender (except with the consent of the Landlord) of this Lease by any trustee in bankruptcy or by a court representative;
- (f) except for the subleases contemplated in Section 10.4(a), in the case of a sublease, the Transferee shall waive any rights it may have under any legal or equitable rule of law or under the *Commercial Tenancies Act* (Ontario), as amended from time to time, or any other applicable legislation, to apply to a court or to otherwise elect to (i) retain the unexpired Term of this Lease or the unexpired sublease term, (ii) obtain any right to enter into any lease or other agreement directly with the Landlord for the Premises or the subleased premises, or (iii) otherwise remain in possession of any portion of the subleased premises or the Premises, in any case where this Lease is terminated, surrendered or otherwise cancelled, including a disclaimer of this Lease by a trustee in bankruptcy of the Tenant. The Tenant and the Transferee shall promptly execute any agreement required by the Landlord to give effect to the foregoing terms; and
- (g) In the event of any Transfer, the Tenant shall be responsible for and shall pay or reimburse the Landlord forthwith upon demand, in advance if required by the Landlord, for all expenses incurred (or to be incurred) by the Landlord's solicitors in connection with the preparation and/or review of all documents required and information delivered pursuant to this Article 10.00.

10.4 Permitted Transfers

- (a) The Tenant shall however have the right to sublet the Leased Premises, in parts, but not as a whole, at any time, without the prior consent of the Landlord, provided that (i) the Tenant shall not enter into any subleases which contain terms and/or extensions and/or renewal rights beyond the last day of the Term of this Lease without the prior written consent of the Landlord, which consent may be arbitrarily withheld, and (ii) the Landlord has pre-approved the Tenant's standard form of sub-lease (which must be in compliance with the terms of this Lease), the standard form of Tenant's sub-lease has been used, and the Tenant promptly delivers copies of all executed sub-leases to the Landlord. Notwithstanding any subletting, the obligations of the Tenant under this Lease shall continue in full force and effect and the Tenant shall remain liable thereunder. For greater certainty, the Tenant shall be prohibited from entering into any subleases which impose financial or monetary obligations (including without limitation, rent free periods, inducements and/or improvements) upon the Landlord following the expiration of the Term;
- (b) Notwithstanding the provisions of Section 10.1, the Tenant shall be entitled to assign the whole, and not part, of this Lease to a an affiliate corporation (as such term is defined in the *Business Corporations Act (Ontario)*) without the consent of the Landlord, but on at least ten (10) business days prior written notice to the Landlord, provided that (i) the Transferor will remain jointly and severally responsible with the Transferee for the fulfilment of all obligations to be performed after the Transfer by the Transferee including the punctual payment of Rent under this Lease during the remainder of the Term and, if required by the Landlord, the Transferor will execute an indemnity agreement on the Landlord's standard form, to give full force and effect to the foregoing, (ii) the new tenant shall execute any and all documentation required by the Landlord (acting reasonably) in connection with such assignment, (iii) the Tenant shall reimburse the Landlord for all expenses incurred in connection therewith. The obligations of the Transferor will survive any termination, repudiation, disaffirmation, disclaimer or surrender (except with the consent of the Landlord) of this Lease by any trustee in bankruptcy or by a court representative.

10.5 Tenant Financing

- (a) The Landlord agrees that the Tenant may, with the consent of the Landlord, which consent shall not be unreasonably or arbitrarily withheld and shall be delivered without an unreasonable delay, mortgage its entire right, title and interest in the Premises by granting a Leasehold Mortgage to a *bona fide* Leasehold Mortgagee. If required by the Tenant, so long as the Tenant is not in default hereunder, each of the Tenant, the Leasehold Mortgagee and the Landlord will enter into a mutually acceptable leasehold mortgage agreement (a "**Leasehold Mortgage Agreement**"), each party acting reasonably. The Tenant acknowledges and agrees that the Landlord's refusal to subordinate this Lease to the Leasehold Mortgage is reasonable.

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- (b) The Leasehold Mortgage shall be subject to the Landlord's rights and remedies under this Lease and at law and the rights and remedies granted to the Leasehold Mortgagee shall in no way alter or prejudice any of the rights or remedies available to the Landlord against the Tenant or any other rights or remedies available to the Landlord under this Lease or at law except as may otherwise be specifically agreed to the contrary in the Leasehold Mortgage Agreement.
- (c) The Landlord shall not be deemed to have acknowledged or approved of any of the terms of the Leasehold Mortgage as between the Leasehold Mortgagee and the Tenant, except for the granting itself of the Leasehold Mortgage and the Landlord shall not be bound by nor be deemed to have knowledge of any of the terms of the Leasehold Mortgage except as may otherwise be specifically agreed to the contrary in the Leasehold Mortgage Agreement.
- (d) The Tenant shall be responsible for and promptly pay all out-of-pocket costs, fees and expenses incurred by the Landlord in respect of the Leasehold Mortgage and/or the Leasehold Mortgage Agreement and all related agreements or security from time to time including all legal costs incurred in connection with the preparation and negotiation of the Leasehold Mortgage Agreement and all related agreements or security from time to time and any further documentation related thereto from time to time. The Tenant shall also indemnify and hold harmless the Landlord from and against any Claims which may be made or brought against the Landlord or which the Landlord may suffer or incur, directly or indirectly in connection with the Leasehold Mortgage and/or the Leasehold Mortgage Agreement and all related agreements or security from time to time. The Tenant's covenants, indemnity and obligations pursuant to this Section 10.5 shall survive the expiration, repudiation, rejection, disclaiming, unenforceability or termination of this Lease or the Leasehold Mortgage Agreement.
- (e) Subject to the provisions of this Section 10.5, any Leasehold Mortgagee hereunder may enforce its Leasehold Mortgage and acquire title to such leasehold estate in any lawful way and, without limitation, such Leasehold Mortgagee may, by its representatives or by a receiver, as the case may be, take possession of and manage the Lands and the improvements thereon provided that such Leasehold Mortgagee shall cure all curable defaults under this Lease and agree in writing with the Landlord to observe and perform all obligations of the Tenant under this lease during such time as the Leasehold Mortgagee (or its representative or receiver) has ownership or possession of such leasehold estate and, upon foreclosure of, or without foreclosure upon exercise of any contractual or statutory power of sale under any such Leasehold Mortgage, may sell or assign the leasehold estate and such Leasehold Mortgagee shall be liable to perform the obligations imposed on the Tenant by this Lease only so long as such Leasehold Mortgagee has ownership or possession of such leasehold estate. Such Leasehold Mortgagee shall only be entitled to assign or sell the leasehold estate created hereby if this Lease is otherwise in good standing, the provisions of Sections 10.1, 10.2 and 10.3 have been complied with and the Landlord has received all payments required to be received by it to the date of such sale or assignment.

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- (f) No Leasehold Mortgage shall be made by the Tenant unless the Leasehold Mortgagee shall covenant with the Landlord:
- (i) to be bound by all the covenants and obligations of the Tenant hereunder as soon as such mortgagee or encumbrancer enters into possession of the Tenant's interest or otherwise takes steps to enforce its security which have the effect of depriving the Tenant of the ability to perform fully those covenants and obligations, and such covenant shall continue to bind such mortgagee or encumbrancer so long as the Leasehold Mortgagee continues in possession or continues to enforce its security with the effect as aforesaid;
 - (ii) to obtain, upon any exercise of any power of sale (which power of sale shall be subject to the consent of the Landlord as set out in Section 10.1), a covenant from the assignee approved by the Landlord, in favour of the Landlord to perform all of the Tenant's obligations under this Lease, but as soon as the assignee becomes bound by the Tenant's obligations, the Leasehold Mortgagee shall be relieved from its covenant.

10.6 Landlord's Sale

In the event of the sale, transfer or other disposition by the Landlord of its interest in the Lands or any part thereof, or the assignment by the Landlord of this Lease or any interest of the Landlord hereunder, the Landlord shall cause the purchaser, transferee or assignee thereof to directly assume the covenants and obligations of the Landlord hereunder and, thereupon, the Landlord shall, without further agreement, be freed and relieved of all liability with respect to such covenants and obligations under this Lease relating to matters arising prior to and from and after such assignment.

ARTICLE 11.00 - STATUS STATEMENT, SUBORDINATION AND ATTORNMENT

11.1 Status Certificates

Each party shall, on ten (10) days' notice from the other, execute and deliver to the other and any Mortgagee or Leasehold Mortgagee (as applicable), a statement as prepared by the other in writing certifying the following:

- (a) that this Lease is unmodified and in full force and effect, or, if modified, stating the modifications and that the same is in full force and effect as modified;
- (b) the Commencement Date and the expiry date of the Term;
- (c) the amount of the Ground Rent then being paid;
- (d) the dates to which Ground Rent, by installments or otherwise, and Additional Rent and charges hereunder have been paid;

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- (e) whether there are any set-offs, defences or counterclaims against enforcement of the obligations to be performed by the Landlord or the Tenant under this Lease;
- (f) whether or not there is any existing default by the Tenant in the payment of any Rent or other sum of money under this Lease and whether or not there is any other existing or alleged default by the Landlord or the Tenant under this Lease and if there is any such default, specifying the nature and extent thereof; and
- (g) such other reasonable items as the party requesting the statement may require in connection with this Lease.

11.2 **Subordination and Non-Disturbance of Tenant**

- (a) At the Landlord's option this Lease, and all of the rights of the Tenant hereunder, shall be prior to, or shall be subject and subordinate in all respects to, any and all existing and future Mortgages and any renewals or extensions thereof now or hereinafter in force however, the Landlord shall use commercially reasonable efforts to have any such Mortgagees postpone their respective encumbrances to the interest of the Tenant, or, alternative, to provide the Tenant with a Non-Disturbance Agreement. The Tenant, on request by and without cost to Landlord, shall execute and deliver any and all instruments further evidencing such priority or subordination in such form or forms as the Landlord or the Mortgagee may reasonably require (and subject to review and approval of the form and content thereof by the Tenant and its solicitors, acting reasonably), subject to delivery of the Non-Disturbance Agreement as aforesaid.
- (b) If the interest of Landlord is transferred to any person (herein called a "Purchaser") by reason of foreclosure or other proceedings for enforcement of any such Mortgage, or by delivery of a deed in lieu of such foreclosure or other proceedings, or if any Mortgagee or other encumbrance holder shall take possession of the Lands and/or the Buildings the Tenant shall, at the option of the Purchaser or Mortgagee, immediately attorn to the Purchaser or Mortgagee. Landlord may require Tenant, at Tenant's cost, to enter into an agreement in the form required by any Purchaser or Mortgagee to attorn to the Purchaser or Mortgagee in order to give effect to what is stated above. If the Tenant fails to execute and deliver the required agreement, the Tenant hereby irrevocably appoints Landlord the true and lawful attorney of Tenant to execute any and all instruments necessary to give effect to what is stated above.
- (c) Upon attornment the obligations of the Tenant under this Lease shall continue in full force and effect upon all the same terms, conditions and covenants in this Lease.

ARTICLE 12.00- QUIET ENJOYMENT**12.1 Quiet Enjoyment**

The Tenant, upon paying the Rent hereby reserved and performing and observing the covenants and provisions herein required to be performed and observed on its part, shall peaceably enjoy the Lands for the Interim Period and the Term subject to the other provisions of this Lease.

ARTICLE 13.00 - DAMAGE AND DESTRUCTION**13.1 Damage or Destruction of Improvements**

(a) The complete or partial destruction or damage, by fire, the elements, accident or other casualty, of the Buildings and/or Improvements shall not, except as provided herein, terminate this Lease or entitle the Tenant to surrender possession of the Premises or to have or to demand any abatement or reduction of the Rent or other charges payable under this Lease.

(b) If at any time during the Term, the Premises, or any parts thereof, are destroyed or damaged (including, without limitation, smoke and water damage) as a result of fire, the elements, accident or other casualty, the Tenant shall forthwith commence diligently and thereafter proceed diligently to repair, replace or rebuild (or to cause to be repaired, replaced or rebuilt) the Premises to or in at least the same condition as it existed immediately prior to the damage or destruction (and, in any event, to or in the state of repair required pursuant to the provisions of this Lease). There shall be no abatement of Rent or other charges payable by the Tenant pursuant to this Lease under any circumstances. All insurance moneys shall be made available to the Tenant pursuant to the terms of this Lease to pay for the cost of such restoration, reconstruction and repair and, should the insurance moneys be insufficient to pay the entire cost, the Tenant agrees to pay the deficiency.

(c) Notwithstanding any other provision contained herein, the Tenant shall not be obligated to restore the Premises in the event that the damage or destruction occurs within the last two (2) years of the Term provided that the Tenant has maintained the insurance required to be maintained by the Tenant under this lease and provided that all proceeds of insurance with respect to the Buildings and Improvements are paid to the Landlord.

13.2 Expropriation

Each of the Landlord and the Tenant agrees to co-operate with the other in respect of any expropriation of all or any part of the Premises so that each may receive the maximum award to which it is entitled to at law.

ARTICLE 14.00 - DEFAULT**14.1 Default and Right to Re-enter**

Any of the following constitutes an Event of Default under this Lease:

- (a) the Tenant fails to pay any Rent on the day or dates appointed for the payment thereof and fails to pay the same within five (5) days of written notice to the Tenant of such failure;
- (b) save as set out in the balance of this Section 14.1 below (where no notice is required), the Tenant defaults in the performance of its terms, covenants, conditions and/or obligations under this Lease and the default is not remedied within thirty (30) days after notice from the Landlord to the Tenant, or if the default would reasonably take more than thirty (30) days to remedy, the Tenant fails to commence to take steps to remedy and diligently proceed to remedy the default within the thirty (30) day period, in good faith and as would a prudent owner of property similar to the Premises;
- (c) the Tenant becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, an assignment or arrangement with its creditors, or any steps are taken or proceedings commenced by any person for the dissolution, winding-up or other termination of the Tenant's existence or the liquidation of its assets;
- (d) a trustee, receiver, receiver/manager or a person acting in a similar capacity is appointed with respect to the business or assets of the Tenant;
- (e) the Tenant makes a sale in bulk of all or a substantial portion of its assets, other than in conjunction with an assignment or sublease approved by the Landlord;
- (f) the Tenant purports to make a Transfer not in compliance with this Lease; or
- (g) this Lease or any of the Tenant's assets are taken under a writ of execution and such writ is not stayed or vacated within fifteen (15) days after the date of such taking.

14.2 Default and Remedies

If and whenever an Event of Default occurs, then the full amount of the current month's Rent together with, in the case of Section 14.1(c) hereinabove, the next 3 months' instalments of Rent, all of which shall accrue on a day-to-day basis, shall immediately become due and payable as accelerated Rent and without prejudice to any other rights and remedies which the Landlord has pursuant to this Lease or at law, the Landlord shall have the following rights and remedies, which are cumulative and not alternative:

- (a) to terminate this Lease by notice to the Tenant or to re-enter the Lands and repossess them and, in either case, enjoy them as of its former estate, and to remove all persons and property from the Lands and store such property at the expense and risk of the Tenant or sell or dispose of such property in such manner as the Landlord sees fit without notice to the Tenant. If the Landlord enters the Lands without notice to the Tenant as to whether it is terminating this Lease under this Section 14.2(a) or proceeding under Section 14.2(b) or any other provision of this Lease, the Landlord shall be deemed to be proceeding under Section 14.2(b),

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and the Lease shall not be terminated, nor shall there be any surrender by operation of law, but the Lease shall remain in full force and effect until the Landlord notifies the Tenant that it has elected to terminate this Lease. No entry by the Landlord shall have the effect of terminating this Lease without written notice to that effect to the Tenant;

- (b) to attorn all rents and revenues pursuant to any subleases or other occupancy agreements provided the Tenant shall remain solely responsible for each of the lessor's covenants and obligations thereunder;
- (c) to enter the Premises as agent of the Tenant to do any or all of the following:
 - (i) relet the Premises for whatever length of time and on such terms as the Landlord, in its discretion, may determine, and to receive the Rent therefor;
 - (ii) take possession of any property of the Tenant on the Lands, store such property at the expense and risk of the Tenant, or sell or otherwise dispose of such property in such manner as the Landlord sees fit without notice to the Tenant;
 - (iii) make alterations to the Lands to facilitate their reletting; and
 - (iv) apply the proceeds of any such sale or reletting, first, to the payment of any expenses incurred by the Landlord with respect to any such reletting or sale, second, to the payment of any indebtedness of the Tenant to the Landlord other than Rent, and, third, to the payment of Rent in arrears, with the residue to be held by the Landlord and applied to payment of future Rent as it becomes due and payable, provided that the Tenant shall remain liable for any deficiency to the Landlord; and/or
- (d) to remedy or attempt to remedy any default of the Tenant under this Lease for the account of the Tenant and to enter upon the Lands for such purposes. The Landlord shall not be liable to the Tenant for any loss, injury or damages caused by acts of the Landlord in remedying or attempting to remedy such default. The Tenant shall pay to the Landlord all expenses incurred by the Landlord in connection therewith; and/or
- (e) to recover from the Tenant all damages, costs and expenses incurred by the Landlord as a result of any default by the Tenant including, if the Landlord terminates this Lease, any deficiency between those amounts which would have been payable by the Tenant for the portion of the Term following such termination and the net amounts actually received by the Landlord during such period of time with respect to the Premises. The Landlord covenants to use reasonable commercial efforts to mitigate its damages should it exercise its right to terminate this Lease pursuant to the provisions of this Section 14.2.

14.3 Distress

Notwithstanding any other provisions hereof, the Landlord hereby waives and renounces the benefit of any present or future laws, statutory or otherwise, granting, expanding or purporting to grant or expand the right to distress or remove the personal property of the Tenant. If the Landlord makes any claim against the goods and chattels of the Tenant by way of distress, this provision may be pleaded as an estoppel against the Tenant in any action brought to test the right of the Landlord to levy such distress.

14.4 Costs

The Tenant shall pay to the Landlord all damages, costs and expenses (including, without limitation, all legal fees on a substantial indemnity basis) incurred by the Landlord in enforcing the terms of this Lease, or with respect to any matter or thing which is the obligation of the Tenant under this Lease, or in respect of which the Tenant has agreed to insure or to indemnify the Landlord, together with the Landlord's reasonable administration fee.

14.5 Remedies Cumulative

Notwithstanding any other provision of this Lease, the Landlord may from time to time resort to any or all of the rights and remedies available to it in the event of any default hereunder by the Tenant, either by any provision of this Lease, by statute or common law, all of which rights and remedies are intended to be cumulative and not alternative. The express provisions contained in this Lease as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to the Landlord by statute or common law.

ARTICLE 15.00 – ENVIRONMENTAL MATTERS

15.1 Environmental Matters

- (a) The Landlord represents and warrants that, as at the effective date of this Lease, it has not received nor is it aware of any notice, citation, directive, order, claim, litigation, proceeding, judgment, letter or other communication, written or oral, from any person or governmental department or agency in respect of the environmental condition in, on or under the Lands and that, as at the effective date of this Lease, the Lands are in compliance with all applicable Environmental Laws.
- (b) The Tenant shall have no responsibility or liability for any Hazardous Substances or contravention of Environmental Laws which may exist prior to the Commencement Date on, in or under the Lands (the "Existing Contamination").
- (c) Any Hazardous Substance which is brought onto or used on the Premises, or any part thereof, by the Tenant, or those for whom the Tenant is in law responsible, shall be transported, used and stored only in accordance with all Applicable Laws. The Tenant will not do or permit or omit to be done in, on or from the Premises anything which may cause or increase the likelihood of the escape, seepage, leakage, spillage, release or discharge of any such Hazardous Substances on, from or under the Premises. The Tenant will promptly notify the Landlord upon becoming aware of any actual, threatened or

potential escape, seepage, leakage, spillage, release or discharge of any such Hazardous Substances on, from or under the Premises. Subject to Section 15.1(b), the Tenant shall be responsible for all costs relating to the clean up and remediation of the Premises related in any way to the Tenant's use and/or occupancy of the Premises and Tenant hereby indemnifies the Landlord from all liabilities, Claims, damages, interest, penalties, fines, losses, including costs of professional consultants and experts in respect of investigation, remedial action and clean-up costs resulting therefrom.

- (d) The Landlord may perform an audit of all discharges (whether they are permitted or not), at its sole expense. Where a prohibited discharge occurs that was caused by the Tenant or its officers, agents, servants, employees or persons or entities for whom the Tenant is responsible in law, the Tenant will immediately notify the Landlord and all authorities having jurisdiction and the Tenant will immediately clean up such discharge and restore the environment affected by such discharge to the satisfaction of the authorities and the Landlord. The Tenant will further provide the Landlord with a certificate from the Tenant's duly qualified consulting engineer and the Authorities indicating that said clean-up and restoration has occurred in accordance with all Applicable Laws. For the purpose of liability, the Tenant and not the Landlord is the owner of all Hazardous Substances that the Tenant authorizes, causes, or permits to be discharged by its officers, agents, servants, employees, contractors or Persons for whom the Tenant is responsible in law.
- (e) The Tenant will comply with all Applicable Laws pertaining to waste reduction in connection with the Premises and the Tenant's conduct of business. Without limiting this requirement, the Tenant will:
 - (i) perform all waste audits and waste reduction work plans required by Applicable Laws;
 - (ii) implement all waste reduction work plans required by Applicable Laws; and
 - (iii) provide to the Landlord, within ten (10) days of the Landlord's request in each case, copies of all evidence that the Landlord, acting reasonably, requires concerning compliance. The Tenant will also do whatever else is reasonably requested by the Landlord in connection with any waste audits, waste reports, and waste reduction work plans that the Landlord prepares.
- (f) The Tenant will fully comply with the orders of all authorities concerning pollution control and environmental clean-ups of the Premises or the Lands in relation to an environmental problem caused by the Tenant, its officers, agents, servants, employees, contractors or Persons for whom the Tenant is responsible in law, and if the Landlord is required by the authorities to do anything in relation to an environmental problem caused by the Tenant, the Tenant will, upon receipt of notice from the Landlord, carry out the order at the Tenant's expense. If the Tenant fails or refuses to promptly and fully carry out such an order or if, in the Landlord's reasonable opinion, the Tenant is not competent to carry out the order, the Landlord may, upon notice to the Tenant, carry out the whole or any part of such order and the Tenant will pay to the Landlord all reasonable costs incurred by the Landlord in so doing, together with an administration fee of fifteen

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percent (15%) of such costs

- (g) The Tenant will complete, at its expense, a current Phase 2 Environmental Soil Assessment ("ESA") and Soil Compaction Assessment ("SCA") for the Premises, both addressed to the Landlord, for the Landlord's review and approval. The Tenant agrees to fully indemnify and save harmless the Landlord and those for whom in law it is responsible, from any and all claims or actions arising from entry upon the Leased Premises by the Tenant's environmental and/or soil testing consultants in connection with the completion of said Assessments.
- (h) It is also agreed and understood that the ESA referred to above will be added as a schedule to this Lease and shall become a benchmark for the environmental condition of the Premises at the Commencement Date of this Lease (the "Benchmark ESA"). In the event the Tenant elects not to perform the ESA and/or SCA, and/or elects to perform other investigations and/or accept other types of investigations and/or reports in lieu thereof as the Benchmark ESA, then to the extent such Benchmark ESA does not disclose environmental contamination on the Premises, it shall be deemed for the purposes of this Section and this Lease to have not existed on the Premises at the Commencement Date.
- (i) Upon the expiry or earlier termination of this Lease, the Tenant shall complete a Phase II Environmental Soil and Groundwater Assessment and environmental soil assessment in accordance with Applicable Laws then in force (the "Exit ESA") and shall cause the report to be addressed to the Landlord and the Tenant and provide a copy of the report to the Landlord. The Tenant agrees to remediate, at the expense of the Tenant, any contamination of the Premises which is attributable to the Tenant's use and occupation of the Premises and to the extent required at the time of termination of the Lease pursuant to then applicable Environmental Laws. In the event the levels of contamination contained in the Exit ESA are in excess of those allowed pursuant to Environmental Laws at the time of the expiry or termination of this Lease, then the Tenant agrees to remediate the Premises (including, without limitation, the Lands) to those levels as required by Environmental Laws as of the expiry or termination of this Lease. Tenant shall indemnify the Landlord against all liabilities, Claims, damages, interest, penalties, fines, losses, including costs of professional consultants and experts in respect of investigation, remedial action and clean-up costs. The Tenant will also indemnify the Landlord and save them harmless from every loss, cost, claim, expense, penalty, fine and liability whether imposed by any Applicable Laws, or otherwise arising from a breach of any of the Tenant's covenants or obligations set out in this Article 15.00.
- (j) The provisions of this Article 15:00 shall survive the expiry or earlier termination of the Term of this Lease.

ARTICLE 16.00 - SETTLEMENT OF DISPUTES

16.1 Settlement by an Expert

Where any dispute arises between the parties hereto as to any matter expressly subject to this Article 16.00, the parties may determine that the resolution of such dispute ought to be by

recourse to a person generally recognized in the business community as having familiarity with and expertise in the matter which is the subject of the dispute (an "**Expert**"). If either party is of such view, it may give written notice to the other party to that effect, listing its choice of Expert. If, within ten (10) days after delivery of such written notice, the parties are able to agree to the use of an Expert for the resolution of the matter in dispute, to the person or persons to be the Expert(s) for such purpose, and as to the time period within which the Expert(s) is (are) to determine such matter, the matter shall be resolved on such basis and the decision of such Expert(s) shall be final and binding on the parties who shall bear equally the costs related to the procedures. If the parties do not agree to any or all of such items within the prescribed time period, the dispute shall not be resolved by an Expert.

16.2 Disputes Subject to Arbitration

Any dispute arising between the Landlord and the Tenant hereunder where recourse is expressly provided to arbitration, or any other dispute arising between the Landlord and the Tenant with regard to this Lease which the parties jointly determine in writing shall be resolved by arbitration, shall be resolved in accordance with Sections 16.3 and 16.4.

16.3 Initiation of Proceedings

Wherever any arbitration is expressly permitted or expressly required under this Lease, arbitration proceedings shall be commenced by the party desiring arbitration (the "**Initiating Party**") giving notice to the other party (the "**Responding Party**") specifying the matter in dispute and requesting that it be resolved. Within ten (10) days of receipt of such notice, the parties shall meet and shall consider whether they wish to have the dispute in question resolved by an Expert pursuant to Section 16.1 (unless the parties have already disagreed as to the use of an Expert). In the event that, within ten (10) days after such meeting, the parties agree to the use of an Expert and agree to the other matters referred to in Section 16.1, the dispute in question shall be resolved pursuant to Section 16.1. In the event that the parties do not agree as to the use of an Expert within such ten (10) day period, the parties shall attempt to agree upon an arbitration procedure within fifteen (15) days after the expiry of such ten (10) day period. If the parties cannot agree upon an arbitration procedure within such fifteen (15) day period, the Initiating Party shall, by written notice to the Responding Party, designate an arbitrator. The Responding Party shall, within fifteen (15) days thereafter, be entitled to appoint an arbitrator by written notice to the Initiating Party, and the two (2) arbitrators so appointed shall meet and select a third arbitrator acceptable to both of them. If the Responding Party fails to appoint an arbitrator within the fifteen (15) day period, then the arbitration will proceed before the arbitrator appointed by the Initiating Party who will act as a sole arbitrator. If the two (2) arbitrators so appointed are unable to agree upon a third arbitrator, then the Initiating Party shall make an application to the appropriate court pursuant to the *Arbitration Act, 1991* (Ontario for the selection of a third arbitrator, and the provisions of the *Arbitration Act, 1991* (Ontario) shall govern such selection. In the alternative to the foregoing, the parties may appoint one (1) jointly selected arbitrator to proceed with the arbitration as aforesaid.

16.4 Arbitration Procedure

When the conditions set out in Section 16.3 have been fulfilled, the resulting arbitration panel shall thereupon proceed to hear the submissions of the parties and shall render a decision within thirty (30) days after the appointment of the third arbitrator, if applicable. The decision of a majority of the arbitration panel shall be deemed to be the decision of the arbitration panel, and that decision shall be final and binding upon the parties and not subject to appeal. The arbitration panel shall have the authority to assess the costs of the arbitration panel against either or both of the parties; however, each party shall bear its own witness and counsel fees.

ARTICLE 17.00 - GENERAL

17.1 Entry

- (a) The Landlord shall be entitled, without notice to or consent by the Tenant:
 - (i) at any time during the last twelve (12) months of the Term, to place upon the exterior of the Lands the Landlord's usual notice(s) that the Lands are for rent; and
 - (ii) at any time during the last twelve (12) months of the Term, on reasonable prior notice, to enter upon the Lands during normal business hours for the purpose of exhibiting same to prospective tenants.
- (b) The Landlord may enter the Lands at any time during the Construction Period and the Term, upon reasonable notice, for the purpose of exhibiting the Lands to prospective Mortgagees and/or purchasers, or for the purpose of inspecting the Lands. The Landlord may place a "for sale" (or similar) sign on or appurtenant to the Lands in a location approved by the Tenant, acting reasonably.
- (c) The Landlord shall exercise its rights pursuant to the foregoing at all times in a manner so as to minimize any interference with the use and occupancy of the Premises by the Tenant, its sub-tenants, and/or any other occupants or users of the Premises.

17.2 Force Majeure

Notwithstanding any other provision contained herein, in the event that either the Landlord or the Tenant should be delayed, hindered or prevented from the performance of any act required hereunder by reason of any unavoidable delay, including strikes, lockouts, unavailability of materials, inclement weather, acts of God or any other cause beyond its reasonable care and control, but not including insolvency or lack of funds, then performance of such act shall be postponed for a period of time equivalent to the time lost by reason of such delay. The provisions of this Section 17.2 shall not under any circumstances operate to excuse the Tenant from prompt payment of Rent and/or any other charges payable under this Lease.

17.3 Waiver

No waiver by any party hereto of any breach by any other party of any of its covenants, agreements or obligations contained in this Lease shall be or be deemed to be a waiver of any subsequent breach thereof or the breach of any other covenants, agreements or obligations, nor shall any forbearance by any party hereto to seek a remedy for any breach by any other party be a waiver by the party so forbearing of its rights and remedies with respect to such breach or any subsequent breach. To be effective, any waiver by the Landlord and/or the Tenant of any breach by the other of any term or condition of this Lease shall be in writing and no waiver shall constitute a waiver of such party's rights in respect of any continuing or subsequent breach. No waiver shall be inferred from or implied by any conduct of the Landlord. The subsequent acceptance of Rent by the Landlord shall not be deemed a waiver of any preceding breach by the Tenant of any term, covenant or condition regardless of the Landlord's knowledge of such preceding breach at the time of the acceptance of such Rent. All Rent and other charges payable by the Tenant to the Landlord hereunder shall be paid without any deduction, set-off or abatement whatsoever, and the Tenant hereby waives the benefit of any statutory or other right in respect of abatement or set off in its favour at the time hereof or at any future time.

17.4 Notices

- (a) Any notice required hereunder shall be in writing and any such notice and any delivery, payment or tender of money or document(s) to the parties hereunder may be delivered personally or sent by prepaid registered mail or prepaid courier to the address for such party as set out in Section 1.1(a) and 1.1(b) as applicable, and any such notice, delivery or payment so delivered or sent shall be deemed to have been given or made and received upon delivery of same or on the third (3rd) business day following the mailing of same, as the case may be. Each party may, by notice in writing to the others from time to time, designate an alternative address in Canada to which notices given more than ten (10) days thereafter shall be addressed.
- (b) Notwithstanding the foregoing, any notice, delivery, payment or tender of money or document(s) to be given or made to any party hereunder during any disruption in the service of Canada Post shall be deemed to have been received only if delivered personally or sent by prepaid courier.

17.5 Registration

- (a) The Tenant, at its sole cost, shall be entitled to register notice of this Lease on title to the Lands and the Landlord hereby consents to the electronic registration of any such notice. Neither party shall register this Lease in full.
- (b) Upon the expiration or earlier termination of the Term, the Tenant shall immediately discharge or otherwise vacate any such notice or caveat.

17.6 Number, Gender, Effect of Headings

Words importing the singular number only shall include the plural and *vice versa*, words importing the masculine gender shall include the feminine and neuter genders, and words importing persons shall include firms and corporations and *vice versa*. The division of this Lease into Articles and Sections and the insertion of headings are for convenience of reference only, and shall not affect the construction or interpretation of this Lease.

17.7 Severability, Subdivision Control

(a) Should any Article or Section or part or parts of an Article or Section in this Lease be illegal or unenforceable, it or they shall be considered separate and severable from the Lease and the remaining provisions of this Lease shall remain in full force and effect and shall be binding upon the Landlord and the Tenant as though such Article or Section or part or parts thereof had never been included in this Lease.

(b) The Landlord hereby covenants, represents and warrants that it has no ownership or other interest in any lands which are adjacent to the Lands. Accordingly, the parties acknowledge that no consent is required for this Lease under the subdivision control provisions of the *Planning Act (Ontario)*.

17.8 Liability of Landlord.

It is agreed among all of the parties to this Lease that notwithstanding any other provision of this Lease or any provision elsewhere, that each party comprising the Landlord is entering into this Lease solely: (A) as an individual party and not as partner of the other Landlord parties or anyone else; (B) on a several basis as to its Landlord's percentage interest in the Premises and not on a joint or joint and several basis. The provisions of this Section 17.8 shall survive expiration or earlier termination of this Lease.

17.9 Survival of Obligations

Notwithstanding anything else contained herein, all covenants and/or obligations of the Landlord or Tenant under this Lease which remain unfulfilled at the determination of this Lease and the Landlord's or Tenant's rights in respect of any failure by the other to perform any of its obligations under this Lease shall survive and remain in full force and effect notwithstanding the expiration or earlier termination of the Term.

17.10 No Contra Proferentem

This Lease has been negotiated and approved by the parties and, notwithstanding any rule or maxim of law or construction to the contrary, any ambiguity or uncertainty will not be construed against either of the parties by reason of the authorship of any of the provisions of this Lease.

17.11 Entire Agreement

There are no covenants, representations, warranties, agreements or other conditions expressed or implied, collateral or otherwise, forming part of or in any way affecting or relating to this Lease,

save as expressly set out or incorporated by reference herein, and this Lease constitutes the entire agreement duly executed by the parties hereto, and no amendment, variation or change to this Lease shall be binding unless the same shall be in writing and signed by the parties hereto.

17.12 Successors and Assigns

The rights and liabilities of the parties shall enure to the benefit of their respective heirs, executors, administrators, successors and assigns, subject to any requirement for consent by the Landlord hereunder.

17.13 Time of the Essence

Time is of the essence of this Lease and of every part of it.

17.14 Amendment or Modification

No alteration or amendment to this Lease shall be binding upon the Landlord or the Tenant unless in writing and signed by the Tenant or the Landlord.

17.15 Governing Law

This Lease shall be construed in accordance with and governed by the laws of the Province of Ontario.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the parties hereto have duly executed this Lease.

Witness:

Albert Guido

Sarah Kranc
Name: Sarah Kranc

The Estate of Lejb Schwartzberg
By its executors/estate trustees:

Ruth Goodman
Ruth Goodman

Barbara Schwartzberg
Barbara Schwartzberg

Sharon Katz
Sharon Katz

We have the authority to bind the Estate

The Estate of Harry Kranc
By its executor/estate trustee:

Sarah Kranc
Name: Sarah Kranc

I have the authority to bind the Estate

VAUGHAN CROSSINGS INC.

Per:

Albert Guido
Name: Albert Guido
Title: ASO

Per:

Anthony J. Gurobano
Name: Anthony J. Gurobano
Title: ASO

I/We have the authority to bind the Corporation

SCHEDULE "A"

[site plan to be inserted showing Lands]

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SCHEDULE "B"

Legal Description

Firstly

Part Lot 22, Registrar's Compiled Plan 10309, Vaughan Designated as Part 1, Plan 65R8928; Vaughan PIN Number 03274-0185 (LT)

Secondly

Part of Lots 25 and 26, Registrar's Compiled Plan 10309, Vaughan Designated as Part 3, Plan 65R14039, save and except Part 1 on Plan 65R-8928; S/T VA84765 assigned by R312155; Vaughan

Part Lot 25, Registrar's Compiled Plan 10309, Vaughan Designated as Part 2, Plan 65R14039; Vaughan

PIN Number 03274-0186 (L T)

Thirdly

Part Lot 28, Registrar's Compiled Plan 10309, Vaughan Designated as Part 2, Plan 65R11525; Vaughan

PIN Number 03274-0106 (LT)

Fourthly

Lot 27, Registrar's Compiled Plan 10309, Vaughan; Vaughan PIN Number 03274-0107 (LT)

SCHEDULE "C"

INITIAL PLANS

SCHEDULE "D"**SPECIAL PROVISIONS****1. PAYMENT OF RENT**

Notwithstanding anything in this Lease to the contrary, the Tenant agrees that for the purpose of payment of Rent to the Landlord, and until otherwise changed by the Landlord by notice in writing to the Tenant, the Tenant shall deliver separate cheques, proportionately as set out herein, on a monthly basis to the individuals comprising the Landlord, as follows:

(i)	Ruth Goodman, Sharon Schwartzberg and Barbara Fisher, Estate Trustees for THE ESTATE OF LEJB SCHWARTZBERG (50%) at:	c/o Sharon Katz, 182 Choquette Dollard Des Ormeaux, QC H9A 3H1
(ii)	THE ESTATE OF HARRY KRANC (25%) at:	1131 Steeles Ave. W., PH105, Toronto ON M2R-3W8
(iii)	SARAH KRANC (25%) at:	1131 Steeles Ave. W., PH105, Toronto ON M2R-3W8

2. OPTION TO PURCHASE

- (a) In the event the Tenant is not in default under this Lease, the Tenant shall have the option (the "Option") to be exercised at any time during the period starting with the date that is twelve (12) months prior to the end of the 35th year of the Term and ending with the date that is six (6) months prior to the end of the 35th year of the Term (the "35th Year Purchase Option Period") to purchase the Lands upon delivering to the Landlord, at any time during the 35th Year Purchase Option Period, written notice of its intention to purchase the Lands at a purchase price equal to the fair market value (the "FMV Purchase Price") of the Lands. Following the exercise of the Option, the parties shall attempt to mutually agree on the FMV Purchase Price and failing agreement within twenty (20) days from the date of exercise of the Option the FMV Purchase Price shall be determined by taking the average of two (2) fair market value appraisals of the Lands from two accredited commercial property appraisers (the "Appraiser"), one chosen by the Landlord and one chosen by the Tenant. The Landlord and Tenant shall have thirty (30) days from the date the Option is exercised to elect an Appraiser. Should either party fail to do so, it shall be bound by the appraisal given by the Appraiser chosen by the other party. In the event the parties cannot agree on the FMV Purchase Price the matter will be submitted to arbitration in accordance with the *Arbitrations Act*. The FMV Purchase Price as determined by the arbitrators will be based on the fair market value for similar lands (zoned Service Commercial Zone (C7) or the equivalent thereof at that time should Vaughan amend their General Zoning By-Law) on the basis of vacant unimproved lands

in a comparable area . The Landlord will deliver the title of the property free and clear of all mortgages, charges or encumbrances (other than encumbrances created by or consented to by the Tenant (including, without limitation, municipal agreements and any reciprocal easement and operating agreements)), and the Tenant shall have thirty (30) days from the date of exercise of the Option to conduct its title search and submit requisitions. The transaction will close on the last day of the 35th year of the Term of the Lease (or if such date is a day when the Land Registry Office is closed for business, the closing date shall be the first business day after the last day of the 35th year of the Term of the Lease), and will be subject to such adjustments as are normal and customary for a transaction of this nature.

- (b) In the event the Tenant is not in default under this Lease, the Tenant shall have the option to be exercised at any time during the period starting with the date that is twelve (12) months prior to the end of the 25th year of the Term and ending with the date that is the six (6) months prior to the end of the 25th year of the Term (the "25th Year Purchase Option Period") to purchase the Lands upon delivering to the Landlord, at any time during the 25th Year Purchase Option Period, written notice of its intention Purchase the Lands at a purchase price equal to the FMV Purchase Price at that time, **plus One Million Five Hundred Thousand (\$1,500,000.00) Dollars**, with the FMV Purchase Price being determined in the same manner as in 2(a) above. The Landlord will deliver the title of the property free and clear of all mortgages, charges or encumbrances (other than encumbrances created or consented to by the Tenant (including, without limitation, municipal agreements and any reciprocal easement and operating agreements)) and the Tenant shall have thirty (30) days from the date of exercise of the option to purchase to conduct its title search and submit requisitions. The transaction will close on the last day of the 25th year of the Term of the Lease (or if such date is a day when the Land Registry Office is closed for business, the closing date shall be the first Business Day after the last day of the 25th year of the Term of the Lease) and will be subject to such adjustments as are normal and customary for a transaction of this nature.

- (c) The following provisions shall also be applicable to such option to purchase transaction and the agreement of purchase and sale arising herefrom:
- (i) the agreement shall be subject to compliance with the *Planning Act* (Ontario) as amended, including, if legally necessary, the obtaining of Consent to Severance by the Tenant at the Tenant's sole cost and expense and the Tenant shall diligently and actively pursue such approval and keep the Landlord fully apprised as to the status of the application;
 - (ii) if consent or approval under the Planning Act is required, the closing date shall be the later of (i) the last day of the 25th year or 35th year, as the case may be, of the Term of the Lease (or if such date is a day when the Land Registry Office is closed for business, the closing date shall be the first Business Day after the last day of

the 25th year or 35th year, as the case may be, of the Term of the Lease) and (ii) the first Business Day that is 30 days after the date that the consent or approval under the *Planning Act*, if required, becomes final and binding and unappealable;

- (iii) the Tenant shall continue to pay Ground Rent and Additional Rent from the giving of the Tenant's purchase notice to the closing as herein set out with an adjustment on the closing date for any partial month's Ground Rent and Additional Rent due and payable to the date preceding the closing date together with all other usual adjustments involved in the purchase and sale of similar properties and the Landlord shall deliver on the closing date all deeds, instruments, assurances and other customary closing documents as may be reasonably required by the Tenant and its legal counsel and approved by the Landlord and Landlord's legal counsel;
- (iv) the Landlord shall, at the request and expense of the Tenant, execute such further assurances in respect of the Tenant's Option to Purchase as may be necessary in order to permit a separate registration of the Tenant Option to Purchase against the Lands in the appropriate Land Registry Office. The Landlord further consents to such registration by the Tenant;
- (v) the Landlord acknowledges that the benefit of the foregoing Tenant Option to Purchase is intended to run with the Lands and to be assigned and exercisable by the Tenant's successors in title to the Tenant's leasehold interest in the Lands, but shall not enure to the benefit of any subtenant of the Tenant.

(d) The Term of this Lease shall terminate on the closing of the sale transaction should the Tenant exercise either of its options to purchase the Lands as provided for in this Section 2.

(e) If the Tenant fails to exercise either of its options to purchase the Lands within the time periods specified in Section 2(a) and 2(b) above, then the options shall be null and void and of no further force or effect.

3. RIGHT OF FIRST REFUSAL

If at any time during the Term of this Lease the Landlord obtains a bona fide offer to purchase the Lands (the "Offer"), which the Landlord is prepared to accept, the Landlord shall deliver a copy of such Offer to the Tenant. The Tenant shall have fourteen (14) days next following delivery of the Offer by the Landlord to the Tenant to notify the Landlord, in writing, that it will purchase the Lands on the same terms and conditions as the Offer. Upon receipt of the Tenant's notice exercising its right of first refusal, an agreement of purchase and sale shall be deemed to have been entered into between the Landlord and the Tenant on the terms and conditions set out

in the Offer. If the Tenant fails to exercise its right of first refusal within the aforesaid time period, the Tenant shall be deemed not to have exercised its right of first refusal and the Landlord shall be entitled to accept the Offer and proceed with the sale of the Lands in accordance with the Offer, which transaction shall close within ninety (90) days thereafter. This right of first refusal shall be an ongoing right and shall not be extinguished by the Tenant's failure or refusal to exercise same at any given time and/or by the sale or transfer of the Lands.

4. SUBLEASES AS SECURITY

The Tenant covenants and agrees to assign all sub-leases relating to the Lands to the Landlord as security for the due performance of the Tenant's obligations herein; provided that such assignment shall not be used by the Landlord to collect rents from the sub-tenants unless and until the Tenant is in default of the Lease beyond any applicable cure period (and, in such event, only for such time as the default shall continue). The form of assignment agreement shall be in a form acceptable to both the Landlord and the Tenant both parties acting reasonably and in good faith. The assignment agreements shall provide that the Landlord may not collect rents from the sub-tenants unless the Tenant is in default under this Lease. The Tenant shall deliver in the form and substance satisfactory to the Landlord and Tenant and their respective solicitors, and concurrently with the execution of the Lease, a formal assignment of all subleases which are in existence at any time during the Term of the Lease granted by the Tenant.

5. DEMOLITION OF EXISTING STRUCTURES

Notwithstanding that the Tenant shall be responsible for carrying out (at its expense) the demolition of the existing structures on the Lands, the parties recognize that as a result of Tenant's requirements with respect to its intended use of the Lands, the Landlord may be in a position to declare a terminal loss on the existing buildings upon the Lands for tax purposes, and the Tenant hereby agrees to do all such acts and execute any such documents that the Landlord may reasonably require to be done or to be executed in order for the Landlord to avail themselves of any taxable benefit resulting from the demolition of the buildings (existing as of the date of the Tenant's possession of the Lands) on the Lands.

6. NAMING OF ROADS

As a material inducement for the Landlord entering into this Lease, the Tenant covenants and agrees that upon first developing the Tenant's Facility in and upon the Premises, the Tenant covenants and agrees that, subject to the approval of the City of Vaughan and any other applicable governmental authority, if approval is required, it shall cause one (1) of the streets/roadways within the development to be named after "Lejb Schwartzberg", and one (1) of the streets/roadways within the development to be named after "Harry Kranc". Prior to finalising the naming of the two (2) streets, the Tenant shall submit the proposed street names to the Landlord for Landlord's approval, such approval not to be unreasonably withheld or unduly delayed and to be delivered within five (5) days of written request.

7. CROSS ACCESS AND EASEMENT AGREEMENT

The Tenant acknowledges that access and egress from Dufferin Street to the Lands require

access over the Adjacent Lands owned by the Tenant as shown on the Initial Plans approved by the Landlord. The Tenant covenants and agrees to enter into a cross-access and easement agreement with the Landlord (which shall also include provision for cost sharing for the ongoing maintenance of such easements as are customary in such agreements), at the Tenant's expense (including, without limitation, all legal and professional fees incurred by the Landlord in connection therewith), in a form acceptable to the Landlord and the Tenant, both parties acting reasonably and in good faith, permitting the Landlord, its employees, customers, tenants and invitees an easement in perpetuity over the Adjacent Lands for access to and from Dufferin Street. The Landlord acknowledges and agrees that, upon the reasonable request of the Tenant, the parties shall enter into a cross-access, servicing and easement agreement, at the Tenant's expense (including, without limitation, all legal and professional fees incurred by the Landlord in connection therewith), to provide for easements for access and servicing across the Lands in favor of the Adjacent Lands in the connection with the joint development of the Lands and the Adjacent Lands as may be reasonably required by the Tenant or any Applicable Authority and approved by the Landlord acting reasonably and in good faith, so long as the aforesaid do not result in any expense or obligation of the Landlord, whether within or outside the boundaries of the Premises, in respect of which the Landlord is not fully indemnified and saved harmless until the date of expiry of the Term of this lease (as renewed or extended). In consideration of the Landlord entering into the cross-access and easement agreement(s), the Tenant covenants and agrees with the Landlord to observe and perform all obligations of the Landlord under the cross-access and easement agreement(s), including, without limitation, payment of any amounts due thereunder, until the date of expiry or earlier termination of this Lease, and failure to comply with and perform the obligations of the Landlord under said agreement(s) during the Term of this Lease (as renewed or extended) shall be deemed to be a default under this Lease. For greater certainty, the consideration for the granting of the above easements shall be \$2.00 and neither party shall charge or request any additional payments (other than as provided for in this Section 7) or consideration for the granting of such easements and/or the entering into the agreements as aforesaid.

SCHEDULE "E"NOTICE TO ALL TRADES

TO : **ALL TRADES**

FROM : **The Owner of 7818 Dufferin Street**
(the "Owner")

RE : **7818 Dufferin Street, Vaughan, Ontario**

THE OWNER, ● , PURSUANT TO SECTION 19(1) OF THE CONSTRUCTION LIEN ACT (ONTARIO), HEREBY NOTIFIES YOU THAT IT ASSUMES NO RESPONSIBILITY WHATSOEVER FOR ANY IMPROVEMENTS BEING MADE TO THE PREMISES UNDER ANY CONTRACTS ENTERED INTO BY THE TENANT, ● (the "Tenant") OR ANY OTHER ENTITY.

DATE:

OWNER / LANDLORD

Per: _____

Per: _____

This is Exhibit "C" referred to in the Report of Ira Smith Trustee & Receiver Inc. dated January 19, 2017

Court File No. CV-16-11567-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

THURSDAY, THE 27TH DAY

JUSTICE NEWBOULD

)

OF OCTOBER, 2016

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

**TEXTBOOK STUDENT SUITES (525 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (555 PRINCESS STREET) TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (ROSS PARK) TRUSTEE CORPORATION, 2223947
ONTARIO LIMITED, MC TRUSTEE (KITCHENER) LTD., SCOLLARD TRUSTEE
CORPORATION, TEXTBOOK STUDENT SUITES (774 BRONSON AVENUE) TRUSTEE
CORPORATION, 7743718 CANADA INC., KEELE MEDICAL TRUSTEE CORPORATION,
TEXTBOOK STUDENT SUITES (445 PRINCESS STREET) TRUSTEE CORPORATION and
HAZELTON 4070 DIXIE ROAD TRUSTEE CORPORATION**

Respondents

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006, c.
29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

APPOINTMENT ORDER

THIS APPLICATION, made by The Superintendent of Financial Services (the "**Superintendent**"), for an Order, *inter alia*, pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended (the "**MBLAA**"), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, appointing Grant Thornton Limited ("**GTL**") as trustee (in such capacity, the "**Trustee**"), without security, of all of the assets, undertakings and properties of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC

Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trust Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "**Respondents**"), was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the affidavit of Mohammed Ali Marfatia sworn October 20, 2016 and the exhibits thereto (the "**Supporting Affidavit**") and on reading the Affidavit of Mr. John Davies sworn October 26, 2016 and the Affidavit of Mr. Gregory Harris sworn October 26, 2016 and the consent of GTL, and on hearing the submissions of counsel for the Superintendent, counsel for certain of the developers, counsel for Harris + Harris, LLP and counsel for Tier 1 Advisory Transaction Advisory Services Inc. and Mr. Singh, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Eunice Baltkois sworn October 20, 2016, filed;

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the notice of application and the application record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 37 of the MBLAA, GTL is hereby appointed Trustee, without security, of all of the assets, undertakings and properties of the Respondents, including, without limitation, all of the assets held in trust or required to be held in trust by the Respondents, their counsel, agents and/or assignees on behalf of syndicated mortgage investors (collectively, the "**Property**"), which Property, for greater certainty, includes any and all real property charges in favour of the Respondents (the "**Real Property Charges**"), including, without limitation, any and all monetary and non-monetary entitlements in respect to the assets and values thereunder.

TRUSTEE'S POWERS

3. **THIS COURT ORDERS** that the Trustee 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 Trustee is hereby expressly empowered and authorized to do any of the following where the Trustee 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, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the holding of mortgage security in trust on behalf of syndicated mortgage investors, the administering of the mortgages, 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 businesses of the Respondents, 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 each of the Respondents;
- (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 Trustee'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 each of the Respondents or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to each of the Respondents and to exercise all remedies of each of the Respondents in collecting such monies, including, without limitation, to enforce any security held by each of the Respondents, including, without limitation, such security held on behalf of syndicated mortgage investors;
- (g) to settle, extend or compromise any indebtedness owing to each of the Respondents;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Trustee's name or in the name and on behalf of the Respondents, or any of them, 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 any of the Respondents, the Property or the Trustee, 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 Trustee in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in 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, and in such 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 or 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 Trustee deems appropriate on all matters relating to the Property and the Trustee's mandate, and to share information, subject to such terms as to confidentiality as the Trustee deems advisable;
- (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, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of

and, if thought desirable by the Trustee, in the name of the Respondents, or any of them;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of any of the Respondents, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any of the Respondents;
- (q) to exercise any shareholder, partnership, joint venture or other rights which each of the Respondents 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 Trustee 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 Respondents, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE TRUSTEE

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

5. **THIS COURT ORDERS** that, pursuant to and without limiting the generality of paragraph 4 of this Order, all Persons, including, without limitation, Harris + Harris LLP ("**H&H**"), shall, unless otherwise instructed by the Trustee: (i) deliver to the Trustee (or in the case of RRSP or other registered funds administered by Olympia Trust Company ("**OTC**") not release to any Person without further Order of this Court) any and all monies held in trust that are related to any of the Respondents or their businesses (collectively, the "**Trust Funds**"), which Trust Funds, for greater certainty, include any and all monies in any H&H or OTC account that are purported to be held in trust for the investors in or beneficiaries under any of the Real Property

Charges, including, without limitation, all monies held by way of interest reserve to satisfy interest payments to such investors or beneficiaries, which Trust Funds are to be held or used by the Trustee in accordance with the terms of this Order and any further Order of this Court; and (ii) upon the Trustee's request, provide an accounting of all funds received from or on behalf of the Respondents or their associated businesses.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Trustee 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 any of the Respondents, 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 Trustee or permit the Trustee to make, retain and take away copies thereof and grant to the Trustee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 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 Trustee 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 Trustee for the purpose of allowing the Trustee 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 Trustee in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Trustee. Further, for the purposes of this paragraph, all Persons shall provide the Trustee with all such assistance in gaining immediate access to the information in the Records as the Trustee may in its discretion require including providing the Trustee with instructions on the use of any computer or other system and providing the Trustee 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 Trustee shall provide each of the relevant landlords with notice of the Trustee'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 Trustee'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 Trustee, or by further Order of this Court upon application by the Trustee on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE TRUSTEE

9. **THIS COURT ORDERS** that, with the exception of each of the NOP (as defined in the Supporting Affidavit), the Suspension Order (as defined in the Supporting Affidavit) and the Compliance Order (as defined in the Supporting Affidavit), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Trustee except with the written consent of the Trustee or with leave of this Court.

NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY

10. **THIS COURT ORDERS** that, with the exception of each of the NOP, the Suspension Order and the Compliance Order: (i) no Proceeding against or in respect of the Respondents, or any of them, or the Property shall be commenced or continued except with the written consent of the Trustee or with leave of this Court; and (ii) any and all Proceedings currently under way against or in respect of the Respondents, or any of them, 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, with the exception of each of the NOP, the Suspension Order and the Compliance Order, all rights and remedies against each of the Respondents, the Trustee, or affecting the Property, are hereby stayed and suspended except with the written consent of the Trustee 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 *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), and further provided that nothing in this paragraph shall: (i) empower the Trustee or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on; (ii) exempt the Trustee or the Respondents 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 TRUSTEE

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 any of the Respondents, without written consent of the Trustee or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Respondents, or any of them, 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 Respondents 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 Trustee, and that the Trustee shall be entitled to the continued use of the Respondents' 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 Trustee in accordance with normal payment practices of the Respondents or such other practices as may be agreed upon by the supplier or service provider and the Trustee, or as may be ordered by this Court.

TRUSTEE TO HOLD FUNDS

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Trustee 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 Trustee (the "**Post Trusteeship Accounts**") and the monies standing to the credit of such Post Trusteeship Accounts from time to time, net of any disbursements provided for herein, shall be held by the Trustee 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 Respondents shall remain the employees of the Respondents until such time as the Trustee, on the Respondents' behalf, may terminate the employment of such employees. The Trustee shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the BIA, other than such amounts as the Trustee may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) and 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* and any other applicable privacy legislation, the Trustee 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 Trustee, 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 Respondents, and shall return all other personal information to the Trustee, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. **THIS COURT ORDERS** that nothing herein contained shall require the Trustee 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 Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Trustee shall not, as a result of this Order or anything done in pursuance of the Trustee’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 TRUSTEE’S LIABILITY

18. **THIS COURT ORDERS** that the Trustee 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 subsections 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 Trustee by section 14.06 of the BIA or by any other applicable legislation.

TRUSTEE’S ACCOUNTS

19. **THIS COURT ORDERS** that the Trustee and counsel to the Trustee 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, which fees and disbursements shall be added to the indebtedness secured by the Real Property Charges, and that the Trustee and counsel to the Trustee shall be entitled to and are hereby granted a charge (the “**Trustee’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 Trustee’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 subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

20. **THIS COURT ORDERS** that the Trustee and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Trustee 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 Trustee 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 Trustee or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE APPOINTMENT

22. **THIS COURT ORDERS** that the Trustee 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 \$300,000.00 (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 Trustee 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 "**Trustee'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 Trustee's Charge and the charges as set out in subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

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

24. **THIS COURT ORDERS** that the Trustee is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Trustee'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 Trustee pursuant to this Order or any further order of this Court and any and all Trustee'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 Trustee'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 these proceedings, 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/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules 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: <http://www.grantthornton.ca/tier1>.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Trustee 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 Respondents' creditors or other interested parties at their respective addresses as last shown on the records of the Respondents 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 Trustee 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 Trustee from acting as a trustee in bankruptcy of any of the Respondents.

30. **THIS COURT ORDERS** that Confidential Exhibit "A" and Confidential Exhibit "B" to the Supporting Affidavit be and are hereby sealed until further Order of this Court.

31. **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 Trustee 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 Trustee, as an officer of

this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

32. **THIS COURT ORDERS** that the Trustee 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 Trustee 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.

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, or such shorter period of time as the Court may permit, to the Trustee 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.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

OCT 27 2016

PER / PAR: 

SCHEDULE "A"
TRUSTEE CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that Grant Thornton Limited., the Trustee (in such capacities, the "Trustee") of all of the assets, undertakings and properties of Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trust Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation (collectively, the "**Respondents**"), including all of the assets held in trust by the Respondents on behalf of syndicated mortgage investors (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 27th day of October, 2016 (the "**Order**") made in an action having Court file number CV-16-11567-00CL, has received as such Trustee from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Trustee 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 Trustee pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), 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 Trustee to indemnify itself out of such Property in respect of its remuneration and expenses.

- 2 -

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 Trustee 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 Trustee to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.
7. The Trustee 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 _____, 2016.

GRANT THORNTON LIMITED, solely in its capacity as Trustee of the Property (as defined in the Order), and not in its personal capacity

Per: _____

Name: Jonathan Krieger

Title: Senior Vice President

THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -

TEXTBOOK STUDENT SUITES (525 PRINCESS STREET)
TRUSTEE CORPORATION, ET AL.

Applicant

Respondents

Court File No. CV-16-11567-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

APPOINTMENT ORDER

THE SUPERINTENDENT OF FINANCIAL SERVICES

5160 Yonge Street

P.O. Box 85

Toronto, ON M2N 6L9

Tel: (416) 590-7143

Fax: (416) 590-7556

Mark Bailey

Email: mark.bailey@fsco.gov.on.ca

Daniel Di Fonzo

Email: daniel.difonzo@fsco.gov.on.ca

*Lawyers for the Applicant, The Superintendent of
Financial Services*

This is Exhibit "D" referred to in the Report of Ira Smith Trustee
& Receiver Inc. dated January 19, 2017

Listing Agreement – Commercial

Seller Representation Agreement

Authority to Offer for Sale

Form 520

for use in the Province of Ontario

545

Commercial Network
Toronto Real Estate Board
Serving Greater Toronto REALTORS®
www.trabcommercial.com



This is a Multiple Listing Service® Agreement

(Seller's Initials)

OR

This Listing is Exclusive

(Seller's Initials)

BETWEEN:

BROKERAGE: ROYAL LEPAGE YOUR COMMUNITY REALTY

8554 Yonge St

Richmond Hill

(the "Listing Brokerage")

SELLER(S): See Schedule "A"

(the "Seller")

In consideration of the Listing Brokerage listing the real property **for sale** known as 7850 Dufferin St, being approx. 5 Acres

of Development Land

in Vaughan, On

(the "Property")

the Seller hereby gives the Listing Brokerage the **exclusive and irrevocable** right to act as the Seller's agent,

commencing at 12:01 a.m. on the day of, 20¹⁷,

until 11:59 p.m. on the 31 day of December, 20¹⁷ (the "Listing Period"),

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

(Seller's Initials)

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

At Market

Dollars (\$Cdn XXXXXXXX)

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

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

1. DEFINITIONS AND INTERPRETATIONS: For the purposes of this Agreement ("Authority" or "Agreement"):

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

2. COMMISSION: In consideration of the Listing Brokerage listing the Property for sale, the Seller agrees to pay the Listing Brokerage a commission

of four (4) % of the sale price of the Property or

for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this Agreement **OR** such other terms and conditions as the Seller may accept.

INITIALS OF LISTING BROKERAGE:

INITIALS OF SELLER(S):

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The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage), and to offer to pay the co-operating brokerage a commission of 1.5 % of the sale price of the Property or out of the commission the Seller pays the Listing Brokerage. The Seller further agrees to pay such commission as calculated above if an agreement to purchase is agreed to or accepted by the Seller or anyone on

the Seller's behalf within 180 days after the expiration of the Listing Period (Holdover Period), so long as such agreement is with anyone who was introduced to the Property from any source whatsoever during the Listing Period or shown the Property during the Listing Period. If, however, the offer for the purchase of the Property is pursuant to a new agreement in writing to pay commission to another registered real estate brokerage, the Seller's liability for commission shall be reduced by the amount paid by the Seller under the new agreement.

The Seller further agrees to pay such commission as calculated above even if the transaction contemplated by an agreement to purchase agreed to or accepted by the Seller or anyone on the Seller's behalf is not completed, if such non-completion is owing or attributable to the Seller's default or neglect, said commission to be payable on the date set for completion of the purchase of the Property.

Any deposit in respect of any agreement where the transaction has been completed shall first be applied to reduce the commission payable. Should such amounts paid to the Listing Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay to the Listing Brokerage on demand, any deficiency in commission and taxes owing on such commission.

In the event the buyer fails to complete the purchase and the deposit or any part thereof becomes forfeited, awarded, directed or released to the Seller, the Seller then authorizes the Listing Brokerage to retain as commission for services rendered, fifty (50%) per cent of the amount of the said deposit forfeited, awarded, directed or released to the Seller (but not to exceed the commission payable had a sale been consummated) and to pay the balance of the deposit to the Seller.

All amounts set out as commission are to be paid plus applicable taxes on such commission.

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

The Seller hereby appoints the Listing Brokerage as the Seller's agent for the purpose of giving and receiving notices pursuant to any offer or agreement to purchase the Property.

MULTIPLE REPRESENTATION: The Seller hereby acknowledges that the Listing Brokerage may be entering into buyer representation agreements with buyers who may be interested in purchasing the Seller's Property. In the event that the Listing Brokerage has entered into or enters into a buyer representation agreement with a prospective buyer for the Seller's Property, the Listing Brokerage will obtain the Seller's written consent to represent both the Seller and the buyer for the transaction at the earliest practical opportunity and in all cases prior to any offer to purchase being submitted or presented.

The Seller understand and acknowledges that the Listing Brokerage must be impartial when representing both the Seller and the buyer and equally protect the interests of the Seller and buyer. The Seller understands and acknowledges that when representing both the Seller and the buyer, the Listing Brokerage shall have a duty of full disclosure to both the Seller and the buyer, including a requirement to disclose all factual information about the Property known to the Listing Brokerage.

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

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

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

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

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

INITIALS OF LISTING BROKERAGE:

Empty oval for listing brokerage initials.

INITIALS OF SELLER(S):

Empty oval for seller initials.



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- 4. REFERRAL OF ENQUIRIES:** The Seller agrees that during the Listing Period, the Seller shall advise the Listing Brokerage immediately of all enquiries from any source whatsoever, and all offers to purchase submitted to the Seller shall be immediately submitted to the Listing Brokerage by the Seller before the Seller accepts or rejects the same. If any enquiry during the Listing Period results in the Seller's accepting a valid offer to purchase during the Listing Period or within the Holdover Period after the expiration of the Listing Period described above, the Seller agrees to pay the Listing Brokerage the amount of commission set out above, payable within five (5) days following the Listing Brokerage's written demand therefor.
- 5. MARKETING:** The Seller agrees to allow the Listing Brokerage to show and permit prospective buyers to fully inspect the Property during reasonable hours and the Seller gives the Listing Brokerage the sole and exclusive right to place "For Sale" and "Sold" sign(s) upon the Property. The Seller consents to the Listing Brokerage including information in advertising that may identify the Property. The Seller further agrees that the Listing Brokerage shall have sole and exclusive authority to make all advertising decisions relating to the marketing of the Property during the Listing Period. The Seller agrees that the Listing Brokerage will not be held liable in any manner whatsoever for any acts or omissions with respect to advertising by the Listing Brokerage or any other party, other than by the Listing Brokerage's gross negligence or wilful act.
- 6. WARRANTY:** The Seller represents and warrants that the Seller has the exclusive authority and power to execute this Authority to offer the Property for sale and that the Seller has informed the Listing Brokerage of any third party interests or claims on the Property such as rights of first refusal, options, easements, mortgages, encumbrances or otherwise concerning the Property, which may affect the sale of the Property.
- 7. INDEMNIFICATION AND INSURANCE:** The Seller will not hold the Listing Brokerage and representatives of the Brokerage responsible for any loss or damage to the Property or contents occurring during the term of this Agreement caused by the Listing Brokerage or anyone else by any means, including theft, fire or vandalism, other than by the Listing Brokerage's gross negligence or wilful act. The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury, including but not limited to loss of the commission payable under this Agreement, caused or contributed to by the breach of any warranty or representation made by the Seller in this Agreement or the accompanying data form. The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury as a result of the Property being affected by any contaminants or environmental problems.
- The Seller warrants the Property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others caused in any way on or at the Property and the Seller indemnifies the Brokerage and all of its employees, representatives, salespersons and brokers (Listing Brokerage) and any co-operating brokerage and all of its employees, representatives, salespersons and brokers (co-operating brokerage) for and against any claims against the Listing Brokerage or co-operating brokerage made by anyone who attends or visits the Property.
- 8. FAMILY LAW ACT:** The Seller hereby warrants that spousal consent is not necessary under the provisions of the Family Law Act, R.S.O. 1990, unless the spouse of the Seller has executed the consent hereinafter provided.
- 9. FINDERS FEES:** The Seller acknowledges that the Brokerage may be receiving a finder's fee, reward and/or referral incentive, and the Seller consents to any such benefit being received and retained by the Brokerage in addition to the commission as described above.
- 10. VERIFICATION OF INFORMATION:** The Seller authorizes the Listing Brokerage to obtain any information from any regulatory authorities, governments, mortgagees or others affecting the Property and the Seller agrees to execute and deliver such further authorizations in this regard as may be reasonably required. The Seller hereby appoints the Listing Brokerage or the Listing Brokerage's authorized representative as the Seller's attorney to execute such documentation as may be necessary to effect obtaining any information as aforesaid. The Seller hereby authorizes, instructs and directs the above noted regulatory authorities, governments, mortgagees or others to release any and all information to the Listing Brokerage.
- 11. USE AND DISTRIBUTION OF INFORMATION:** The Seller consents to the collection, use and disclosure of personal information by the Brokerage for the purpose of listing and marketing the Property including, but not limited to: listing and advertising the Property using any medium including the Internet; disclosing Property information to prospective buyers, brokerages, salespersons and others who may assist in the sale of the Property; such other use of the Seller's personal information as is consistent with listing and marketing of the Property. The Seller consents, if this is an MLS® Listing, to placement of the listing information and sales information by the Brokerage into the database(s) of the MLS® System of the appropriate Board, and to the posting of any documents and other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) provided by or on behalf of the Seller into the database(s) of the MLS® System of the appropriate Board. The Seller hereby indemnifies and saves harmless the Brokerage and/or any of its employees, servants, brokers or sales representatives from any and all claims, liabilities, suits, actions, losses, costs and legal fees caused by, or arising out of, or resulting from the posting of any documents or other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) as aforesaid. The Seller acknowledges that the database, within the board's MLS® System is the property of the real estate board(s) and can be licensed, resold, or otherwise dealt with by the board(s). The Seller further acknowledges that the real estate board(s) may: during the term of the listing and thereafter, distribute the information in the database, within the board's MLS® System to any persons authorized to use such service which may include other brokerages, government departments, appraisers, municipal organizations and others; market the Property, at its option, in any medium, including electronic media; during the term of the listing and thereafter, compile, retain and publish any statistics including historical data within the board's MLS® System and retain, reproduce and display photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions which may be used by board members to conduct comparative analyses; and make such other use of the information as the Brokerage and/or real estate board(s) deem appropriate, in connection with the listing, marketing and

INITIALS OF LISTING BROKERAGE: INITIALS OF SELLER(S): 

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selling of real estate during the term of the listing and thereafter. The Seller acknowledges that the information, personal or otherwise ("information"), provided to the real estate board or association may be stored on databases located outside of Canada, in which case the information would be subject to the laws of the jurisdiction in which the information is located.

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

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

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

..... DATE Renato Viele
 (Authorized to bind the Listing Brokerage) (Name of Person Signing)

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

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

See Schedule "A"
 (Name of Seller)

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

..... DATE
 (Signature of Seller/Authorized Signing Officer) (Seal)

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

..... DATE
 (Spouse) (Seal)

DECLARATION OF INSURANCE	
The broker/salesperson <u>RENATO VIELE</u>	
(Name of Broker/Salesperson)	
hereby declares that he/she is insured as required by the Real Estate and Business Brokers Act (REBBA) and Regulations.	
..... (Signature(s) of Broker/Salesperson)	

ACKNOWLEDGEMENT

The Seller(s) hereby acknowledge that the Seller(s) fully understand the terms of this Agreement and have received a true copy of this Agreement on the day of, 20¹⁷

..... Date:

..... Date:

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Schedule "A"
Listing Agreement – Commercial
Authority to Offer for Sale

This Schedule is attached to and forms part of the Listing Agreement - Commercial Authority to Offer for Sale (Agreement) between:

BROKERAGE, ROYAL LEPAGE YOUR COMMUNITY REALTY, and

SELLER(S), See Schedule "A"

for the property known as 7850 Dufferin St, being approx. 5 Acres of Development Land

in Vaughan, On dated the day of, 2017

The "Seller" of the property is:

Ira Smith Trustee & Receiver Inc., solely in its capacity as Court-appointed Receiver of the assets, properties and undertakings of Vaughan Crossings Inc.

167 Applewood Crescent,
Suite 6
Concord, ON L4K 4K7

This form must be initialed by all parties to the Agreement.

INITIALS OF BROKERAGE:

○

INITIALS OF SELLER(S):

○

This is Exhibit "E" referred to in the Report of Ira Smith Trustee & Receiver Inc. dated January 19, 2017

Renato Viele

1/1/2017

Royal LePage - Sr Level Commercial Broker -Land Services Group


8854 Yonge St, Richmond Hill, On L4C 0T4

O: (905) 731-2000 D: (905)-669-4200

rviele@royallepagecommercial.com

COMMERCIAL REAL ESTATE PROFESSIONAL

Land Services, Consulting and Evaluation, Acquisition and Disposition

Highly accomplished licensed professional with over 25 yrs of industry experience, skilled in evaluating and marketing of commercial development land. Extensive knowledge of development pro-forma, planning approval process and market insights. Analytical thinker with strategic planning skills; develop innovative approaches to problem solving. An award winning multi-million dollar producer who is a highly effective communicator and team leader, well versed in presentations, marketing and negotiation.

AWARDS AND PROFESSIONAL ACCOMPLISHMENTS

Ranked Top 1% in Canada, 2016

Designated "Chairman's Club" –top honor for our company nationwide

Selected to Co-Head the Land Services Group for Royal LePage Commercial Division

Instruct and mentor new commercial agents on how to succeed in the business

250 Acre Industrial/Commercial Land assembly

President of The Mercantile Group –Realty Inc

Former President of 911 Home Experts – USA based

SKILLS

- Knowledge of Development Planning & Process
- Develop Accurate Pro-Forma Scenarios
- Deep Cash Flow Analysis
- Experienced at Research & Evaluation
- Understanding of Market Influences
- Correctly Assess Present Market Conditions
- Understand Developer /Builders Business
- Understand Buyer's Motivation

MOST RECENT TRANSACTIONS

2016-06 to 2016-12 | **R Viele -Commercial Division**

\$18.5 Mil S/E Corner of Major Mackenzie Dr & Pine Valley Dr, Vaughan - development land

\$9 Mil 9560 Islington Ave, Vaughan – development land

\$9.25 Mil 1640 Kingston Rd, Pickering – development land (pending)

\$30 Mil 7241 Kennedy Rd, Markham –development land (pending)

EXPERIENCE

2015 to Current | Broker | **ROYAL LEPAGE -COMMERCIAL DIVISION -LAND SERVICES**

Have applied my many years of industry knowledge and experience in land sales & development. I am specialized exclusively in providing Land Services for a substantial list of premier developer /builder clients in the GTA. My success is directly linked to my depth of knowledge of the competing market, development costs and the planning process. I can accurately assess value on the basis of development opportunity as it applies to specific development sites.

Broker | **Marlin Spring - H&R Development Group**

Assembled a development site for 100 Townhouse units

Broker | **Liv Communities**

Assembled a development site for 110 Stacked Townhouse units

Broker | **HighMark Homes**

Assembled a development site for 150 Stacked Townhouse units

1995 to 2015 Pres | **THE MERCANTILE GROUP -REALTY INC**

The company invests in various real estate related ventures. My responsibility was to manage the operations and grow the business.

President | **911 Home Experts**

Developed the company to purchase foreclosure properties in the USA, primarily in Texas. I managed operations, with the help of local partners, acquiring properties and refurbishing

them for resale. We built up a portfolio of our own properties and by 2013 had liquidated the last property in the portfolio.

President | **Power Video**

Took a video store business and properties out of bankruptcy. Built up the business to 35 locations, was acquired in 2003 by Movie Gallery (NASDAQ-USA). We retained various properties.

1988-1994 | Broker | **CB COMMERCIAL | MICOR REALTY INC**

Specialized in land sales for developer /builders in the GTA. Sold various Industrial/Commercial development sites. Achieved top sales award in the first year with the company.

Broker | **Con-Drain Development Group**

Assembled 250 Acres of Industrial/Commercial development land in Bolton, On – Dealt directly with principals

Broker | **Edilcan Group**

Helped in the disposition of their Industrial lots portfolio at a time when the market had turned severely negative

FURTHER EDUCATION

- Certified Commercial Industrial Manager –completed all courses
- Dale Carnegie –Human Relations Training
- Dale Carnegie –Management Training
- TREB –Industrial/Commercial Specialists
- RLP Commercial –Asset Valuation and Cash Flow Analysis

VECTOR FINANCIAL SERVICES LIMITED
Applicant

-and-

VAUGHAN CROSSINGS INC.
Respondent

Court File No. CV-17-11670-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

APPLICATION RECORD

STEINBERG TITLE HOPE & ISRAEL LLP

Barristers & Solicitors
5255 Yonge Street, Suite 1100
Toronto, Ontario
M2N 6P4

David A. Brooker (35787W)

Email: dbrooker@sthilaw.com

Tel: 416-225-2777

Fax: 416-225-7112

Lawyers for the Applicant

RCP-E 4C (May 1, 2016)