

2 of 3

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

BETWEEN:

**GENESIS MORTGAGE INVESTMENT CORP.**

Applicant

- and -

**1776411 ONTARIO LTD. AND 1333 WEBER STREET KITCHENER LP**

Respondents

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

**APPLICATION RECORD  
(Part 2 of 3)  
(Returnable October 12, 2023)**

October 2, 2023

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## GUARANTEE AND POSTPONEMENT OF CLAIMS

This Guarantee is made as of the 13<sup>th</sup> day of August, 2021.

**WHEREAS** 1639993 Ontario Ltd., Jaykam Developers Limited, Werner Leuschner and Kamal Patel (hereinafter individually and collectively referred to as the "Guarantor") have agreed to provide Computershare Trust Company of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp. (collectively the "Lender") with a guarantee of the Obligations (as hereinafter defined) of 1776411 Ontario Ltd. as general partner on behalf of 1333 Weber Street Kitchener LP (hereinafter referred to as the "Borrower");

**AND WHEREAS** the Guarantor has agreed that if the guarantee is not enforceable, the Guarantor will indemnify the Lender or be liable as primary obligor;

**NOW THEREFORE THIS GUARANTEE WITNESSES** that in consideration of the premises and the covenants and agreements herein contained, the sum of \$1.00 now paid by the Lender to the Guarantor and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Guarantor covenants with the Lender as follows:

### **ARTICLE 1** **GUARANTEE**

#### **1.1 Guarantee**

The Guarantor hereby unconditionally and irrevocably guarantees, on a joint and several basis with any other guarantor as principal debtor, and not as surety, payment of all the debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Borrower to the Lender or remaining unpaid by the Borrower to the Lender under, and the performance of obligations pursuant to, the charge/mortgage (the "Mortgage") in favour of the Lender of the lands and premises known municipally as 1333 Weber Street East, Kitchener, Ontario (collectively referred to as the "Obligations").

#### **1.2 Indemnity**

If any or all of the Obligations are not duly paid or performed by the Borrower and are not recoverable under Section 1.1 for any reason whatsoever, the Guarantor will, as a separate and distinct obligation, indemnify and save harmless the Lender from and against all losses resulting from the failure of the Borrower to pay or perform such Obligations.

#### **1.3 Primary Obligation**

If any or all of the Obligations are not duly paid or performed by the Borrower and are not recoverable under Section 1.1 or the Lender is not indemnified under Section 1.2, in each case, for any reason whatsoever, such Obligations will, as a separate and distinct obligation, be recoverable from the Guarantor as primary obligor.

#### **1.4 Obligations Absolute**

The liability of the Guarantor hereunder will be absolute and unconditional and will not be affected by:

- (a) any lack of validity or enforceability of any agreement between the Borrower and the Lender;

- (b) any impossibility, impracticability, frustration of purpose, illegality, *force majeure* or act of government;
- (c) the bankruptcy, winding-up, liquidation, dissolution or insolvency of the Borrower or any other person or the amalgamation of or any change in the status, function, control or ownership of the Borrower, the Guarantor, the Lender or any other person;
- (d) any lack or limitation of power, incapacity or disability on the part of the Borrower or of the directors, partners or agents thereof or any other irregularity, defect or informality on the part of the Borrower in its obligations to the Lender; or
- (e) any other law, regulation or other circumstance that might otherwise constitute a defence available to, or a discharge of, the Borrower in respect of any or all of the Obligations.

**ARTICLE 2**  
**DEALINGS WITH DEBTOR AND OTHERS**

**2.1 No Release**

The liability of the Guarantor hereunder will not be released, discharged, limited or in any way affected by anything done, suffered or permitted by the Lender in connection with any duties or liabilities of the Borrower to the Lender or any security therefor including any loss of or in respect of any security received by the Lender from the Borrower or others. Without limiting the generality of the foregoing and without releasing, discharging, limiting or otherwise affecting in whole or in part the Guarantor's liability hereunder, without obtaining the consent of or giving notice to the Guarantor, the Lender may:

- (a) discontinue, reduce, increase or otherwise vary the credit of the Borrower in any manner whatsoever;
- (b) make any change in the time, manner or place of payment under, or in any other term of, any agreement between the Borrower and the Lender whether or not the Borrower carries out any of its obligations under any such agreement;
- (c) grant time, renewals, extensions, indulgences, releases and discharges to the Borrower;
- (d) take or abstain from taking or enforcing securities or collateral from the Borrower or from perfecting securities or collateral of the Borrower;
- (e) accept compromises from the Borrower;
- (f) apply all money at any time received from the Borrower or from securities upon such part of the Obligations as the Lender may see fit or change any such application in whole or in part from time to time as the Lender may see fit; and
- (g) otherwise deal with the Borrower and all other persons and securities as the Lender may see fit.

## **2.2 No Exhaustion of Remedies**

The Lender will not be bound or obligated to exhaust its recourse against the Borrower or other persons or any securities or collateral it may hold or take any other action before being entitled to demand payment from the Guarantor hereunder.

## **2.3 Prima Facie Evidence**

Any account settled or stated in writing by or between the Lender and the Borrower will be *prima facie* evidence that the balance or amount thereof appearing due to the Lender is so due.

## **2.4 No Set-off**

In any claim by the Lender against the Guarantor, the Guarantor is not entitled to assert any set-off or counterclaim that either the Guarantor or the Borrower may have against the Lender.

## **ARTICLE 3 DEMAND**

### **3.1 Demand**

Upon the occurrence of an Event of Default (as defined in the Mortgage) that has not been either cured or waived in accordance with the provisions of the Mortgage, the Lender will be entitled to make demand upon the Guarantor for payment of all Obligations.

### **3.2 Interest**

The Guarantor will pay interest to the Lender at the Interest Rate stipulated in the Mortgage on the unpaid portion of all amounts payable by the Guarantor under this Guarantee, such interest to accrue from and including the date of demand by the Lender on the Guarantor.

## **ARTICLE 4 ASSIGNMENT, POSTPONEMENT AND SUBROGATION**

### **4.1 Assignment and Postponement**

All debts and liabilities, present and future, of the Borrower to the Guarantor are hereby assigned to the Lender and postponed to the Obligations, and all money received by the Guarantor in respect thereof will be held in trust for the Lender and forthwith upon receipt will be paid over to the Lender, the whole without in any way lessening or limiting the liability of the Guarantor hereunder and this assignment and postponement is independent of the Guarantee and will remain in full force and effect until, in the case of the assignment, the liability of the Guarantor under this Guarantee has been discharged or terminated and, in the case of the postponement, until all Obligations are performed and paid in full.

### **4.2 Subrogation**

The Guarantor will not be entitled to subrogation until (i) the Guarantor performs or makes payment to the Lender of all amounts owing by the Guarantor to the Lender under this Guarantee and (ii) the Obligations are performed and paid in full. Thereafter, the Lender will, at the Guarantor's request and expense, execute and deliver to the Guarantor appropriate documents, without recourse and without representation and warranty,

necessary to evidence the transfer by subrogation to the Guarantor of an interest in the Obligations and any security held therefor resulting from such performance or payment by the Guarantor.

**ARTICLE 5**  
**GENERAL**

**5.1 Binding Effect of the Guarantee**

This Guarantee will be binding upon the heirs, executors, administrators and successors of the Guarantor and will enure to the benefit of the Lender and its successors and assigns.

**5.2 Entire Agreement**

Save and except for the commitment letter issued by the Lender dated June 28, 2021, this Guarantee constitutes the entire agreement between the Guarantor and the Lender with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties except as expressly set forth herein. The Lender will not be bound by any representations or promises made by the Borrower to the Guarantor and possession of this Guarantee by the Lender will be conclusive evidence against the Guarantor that the Guarantee was not delivered in escrow or pursuant to any agreement that it should not be effective until any condition precedent or subsequent has been complied with and this Guarantee will be operative and binding notwithstanding the non-execution thereof by any proposed signatory.

**5.3 Amendments and Waivers**

No amendment to this Guarantee will be valid or binding unless set forth in writing and duly executed by the Guarantor and the Lender. No waiver of any breach of any provision of this Guarantee will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided in the written waiver, will be limited to the specific breach waived.

**5.4 Severability**

If any provision of this Guarantee is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof will continue in full force and effect.

**5.5 Notices**

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and may be given by delivery or by facsimile, addressed to the recipient as follows:

To the Guarantor:

1639993 Ontario Ltd.  
258 Edgewater Crescent, Suite 8  
Kitchener, Ontario N2A 4M2  
Facsimile No:  
Attention: Werner Leuschner (President)

Jaykam Developers Limited  
29 Idle Ridge Court  
Kitchener, ON N2A 3W3  
Facsimile No:  
Attention: Kamal Patel (President)

Werner Leuschner  
258 Edgewater Crescent, Suite 8  
Kitchener, Ontario N2A 4M2  
Facsimile No.:

Kamal Patel  
29 Idle Ridge Court  
Kitchener, ON N2A 3W3  
Facsimile No.:

To the Lender:

CMLS Financial Ltd.  
Suite 2110 - 1066 West Hastings Street  
Vancouver, BC V6E 3X2  
Facsimile:  
Attention:

Computershare Trust Company of Canada  
100 University Avenue, 8th Floor, South Tower  
Toronto, Ontario M5J 2Y1  
Facsimile:  
Attention:

Genesis Mortgage Investment Corp.  
#805-8400 West Road  
North Tower, International Trade Centre  
Richmond, BC, V6X 0S7  
Facsimile:  
Attention:

or such other address, individual or facsimile number as may be designated by notice given by any party to the other. Any demand, notice or other communication given by delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by facsimile, on the day of transmittal thereof if given on a Business Day (as defined in the Mortgage) or on the next Business Day if given by facsimile on a day that is not a Business Day.

## **5.6 Discharge**

The Guarantor will not be discharged from any of its obligations hereunder except by a release or discharge signed in writing by the Lender.

## **5.7 Governing Law**

This Guarantee will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

## **5.8 Headings**

The division of this Guarantee into Articles and Sections and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Guarantee. The terms, "hereof", "hereunder", and similar expressions refer to this Guarantee and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Guarantee.

## **5.9 Extended Meanings**

In this Guarantee words importing the singular number only include the plural and *vice versa*, words importing any gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.

## **5.10 Executed Copy**

The Guarantor acknowledges receipt of a fully executed copy of this Guarantee.

***[signature page follows]***



[Guarantee and Postponement of Claims]

IN WITNESS WHEREOF the Guarantor has signed, sealed and delivered this Guarantee.

**GUARANTOR:**

**1639993 ONTARIO LTD.**

Per: \_\_\_\_\_

Name: Werner Leuschner

Title: President

I have the authority to bind the corporation

**JAYKAM DEVELOPERS LIMITED**


Per: \_\_\_\_\_

Name: Kamal Patel

Title: President

I have the authority to bind the corporation

Witness: \_\_\_\_\_

  
D. Fedry

  
Name: Werner Leuschner

\_\_\_\_\_

Name: Kamal Patel

[Guarantee and Postponement of Claims]

IN WITNESS WHEREOF the Guarantor has signed, sealed and delivered this Guarantee.

**GUARANTOR:**

**1639993 ONTARIO LTD.**

Per: \_\_\_\_\_

Name: Werner Leuschner

Title: President

I have the authority to bind the corporation

**JAYKAM DEVELOPERS LIMITED**

Per: \_\_\_\_\_

Name: Kamal Patel

Title: President

I have the authority to bind the corporation

Witness: \_\_\_\_\_

**HARLEY N.K. YULE**

\_\_\_\_\_  
Name: Werner Leuschner

\_\_\_\_\_  
Name: Kamal Patel

**THIS IS EXHIBIT "H" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**

*Michelle Singh-Cheema*

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**A Commissioner for taking affidavits, etc.**

**Properties**

*PIN* 22590 - 0549 LT *Interest/Estate* Fee Simple  
*Description* 1STLY: LOTS 29 TO 34, 45 TO 50, 91 PLAN 322, TWP OF WATERLOO; LOT 127 STREETS & LANES KITCHENER ( CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 12 TO 17, 43, 44, 86, 87, 89, 90 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 141 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4445, INST. 210008); PT. LOT 173 STREEST & LANES KITCHENER (BEING PT. OF SUNNYSIDE AVE., CLOSED BY BYLAW NO. 5094, INST. 270276) PT. 1 ON 58R-1868; EXCEPT PT. 1 ON 58R-3067 & PT. 34 ON 58R-11552 & PT. 7 ON 58R-12048 AND PART 1 ON 58R21025; 2NDLY: PT. LOTS 12 TO 17 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368), PT. 7 ON 58R-12048;; SUBJECT TO AN EASEMENT IN GROSS OVER PART OF LOTS 16 AND 17, PLAN 322, BEING PART 1 ON PLAN 58R11736 AS IN WR1306081; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 2 AND 3 ON 58R21025 AS IN WR1324371; SUBJECT TO AN EASEMENT AS IN WR1326075; SUBJECT TO AN EASEMENT AS IN 687124; CITY OF KITCHENER  
*Address* 1333 WEBER STREET EAST KITCHENER

**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* 1776411 ONTARIO LTD.  
*Address for Service* 258 Edgewater Crescent, Suite 8  
 Kitchener, Ontario N2A 4M2  
 I, Werner Leuschner (President), have the authority to bind the corporation.  
 This document is not authorized under Power of Attorney by this party.

| <b>Chargee(s)</b> | <b>Capacity</b> | <b>Share</b> |
|-------------------|-----------------|--------------|
|-------------------|-----------------|--------------|

|                            |   |
|----------------------------|---|
| <i>Name</i>                | CMLS FINANCIAL LTD.   |
| <i>Address for Service</i> | Suite 2110 - 1066 West Hastings Street<br>Vancouver, BC V6E 3X2                         |
| <i>Name</i>                | COMPUTERSHARE TRUST COMPANY OF CANADA   |
| <i>Address for Service</i> | 100 University Avenue, 8th Floor, South Tower<br>Toronto, Ontario M5J 2Y1               |
| <i>Name</i>                | GENESIS MORTGAGE INVESTMENT CORP.   |
| <i>Address for Service</i> | #805-8400 West Road<br>North Tower, International Trade Centre<br>Richmond, BC, V6X 0S7 |

**Statements**

Schedule: See Schedules

**Provisions**

|                                 |                      |                 |     |
|---------------------------------|----------------------|-----------------|-----|
| <i>Principal</i>                | \$82,000,000.00      | <i>Currency</i> | CDN |
| <i>Calculation Period</i>       |                      |                 |     |
| <i>Balance Due Date</i>         | On Demand            |                 |     |
| <i>Interest Rate</i>            | 25% per annum        |                 |     |
| <i>Payments</i>                 |                      |                 |     |
| <i>Interest Adjustment Date</i> |                      |                 |     |
| <i>Payment Date</i>             | On Demand            |                 |     |
| <i>First Payment Date</i>       |                      |                 |     |
| <i>Last Payment Date</i>        |                      |                 |     |
| <i>Standard Charge Terms</i>    |                      |                 |     |
| <i>Insurance Amount</i>         | Full insurable value |                 |     |
| <i>Guarantor</i>                |                      |                 |     |

**Signed By**

|                        |  |                          |        |            |
|------------------------|--|--------------------------|--------|------------|
| David Mathew Markowitz | 1000-120 Adelaide St. W.<br>Toronto<br>M5H 3V1 | acting for<br>Chargor(s) | Signed | 2021 08 17 |
|------------------------|--|--------------------------|--------|------------|

Tel 416-363-2211

Fax 416-363-0645

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

**Submitted By**

|  |  |  |            |
|--|--|--|------------|
| Schneider Ruggiero Spencer Milburn LLP | 1000-120 Adelaide St. W.<br>Toronto<br>M5H 3V1 |  | 2021 08 17 |
|--|--|--|------------|

Tel 416-363-2211

Fax 416-363-0645

**Fees/Taxes/Payment**

|                            |         |
|----------------------------|---------|
| Statutory Registration Fee | \$65.30 |
| Total Paid                 | \$65.30 |

**File Number**

Chargee Client File Number : 42896 DM

## ADDITIONAL PROVISIONS:

The following additional provisions shall be included in and form part of this Mortgage:

### INTERPRETATION

#### 1. Definitions

Unless there is something in the subject matter or context inconsistent therewith, in these additional provisions, the following expressions shall have the following meanings:

“**Act**” means the *Land Registration Reform Act*, R.S.O. 1990, c.L.4, as amended and/or restated from time to time.

“**Applicable Laws**” means all applicable federal, provincial or municipal laws, statutes, regulations, rules, by-laws, policies and guidelines, orders, permits licenses, authorizations, approvals and all applicable common laws or equitable principles whether now or hereafter in force and effect.

“**Business Day**” means a day other than Saturday, Sunday, or any other day which is a statutory or municipal holiday in the Provinces of Ontario or British Columbia.

“**Change of Control**” means if either Werner Leuschner and/or Kamal Patel, as applicable, ceases to Control, directly or indirectly, any of the Obligor.

“**Chargee**” means collectively Computershare Trust Company Of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp., and its respective successors and assigns.

“**Chargor**” means any Person who signs this Mortgage as Chargor, and includes heirs, executors, administrators, personal legal representatives, successors and assigns of any such Person.

“**Commitment Letter**” means collectively the mortgage loan commitments for the Loan, and all amendments thereto.

“**Control**” means the power, directly or indirectly, to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, and “**Controlling**” and “**Controlled**” have corresponding meanings.

“**Costs**” means all fees, costs, charges and expenses of the Chargee of and incidental to:

- (a) the preparation, execution and registration of this Mortgage and any other instruments connected herewith and every renewal hereof, including without limitation all of the Loan and Security Documents,
- (b) the collection, enforcement, realization of and upon this Mortgage and the other Loan and Security Documents,
- (c) procuring payment of the Indebtedness due and payable hereunder, including without limitation, foreclosure, power of sale, execution, judicial sale, court appointed receivership and management of the Mortgaged Property or other proceedings of enforcement commenced by the Chargee or any other party,
- (d) any inspection required to be made of the Mortgaged Property,
- (e) all necessary repairs required to be made to the Mortgaged Property,
- (f) the Chargee having to go into possession of the Mortgaged Property and secure, complete and equip the building or buildings in any way in connection therewith, including without limitation any leasehold inducements or improvements required to lease the Mortgaged Property,
- (g) the Chargee's renewal of any leasehold interests,
- (h) the exercise of any of the powers of a receiver contained herein, and
- (i) any Transfers or any changes to, amendments of, or alterations to, the Loan or Loan and Security Documents by request or reason of the Chargor, including without limitation, any

costs of the Chargee in granting approvals or consents thereto and the costs of obtaining confirmation thereof by applicable rating agencies,

and all legal costs incurred by the Chargee on a substantial indemnity basis, and all costs and expenses of any examination of title to and of valuation of the Mortgaged Property or the obtaining of credit reports on the Chargor and any Guarantor.

“**Default**” means any event or condition that would constitute an Event of Default upon satisfaction of any condition subsequent required to make the event or condition an Event of Default, including giving of any notice, passage of time, or both.

“**Electronic Form**” means an electronic form of charge/mortgage.

“**Event of Default**” means any one or more of the following events:

- (a) if the Chargor fails to pay any amount of principal, interest or other amounts of Indebtedness when due;
- (b) if a Transfer occurs in contravention of the requirements pertaining to Transfers in this Mortgage;
- (c) if any Obligor neglects to observe or perform any Obligations contained in this Mortgage, the Commitment Letter or any other Loan and Security Document on its part to be observed or performed (other than a covenant or condition whose breach or default in performance is specifically dealt with elsewhere in this definition or such Loan and Security Document) and such Obligor fails to remedy such default within 15 days from the earlier of (i) the date such Obligor becomes aware of such default, and (ii) the date the Chargee delivers written notice of the default to such Obligor;
- (d) if any information, representation or warranty given or made by any Obligor in the Commitment Letter, any Loan and Security Document or in any certificate or other document at any time delivered hereunder to the Chargee proves to have been incorrect or misleading in any material respect on and as of the date that it was made or was deemed to have been made and such Obligor fails to remedy such default within 10 Business Days of the occurrence of such event (or such longer period as the Chargee may agree to having regard to the nature of such default and provided the affected Obligor is proceeding diligently to cure such default);
- (e) if any Obligor ceases or threatens to cease to carry on business generally or admits its inability or fails to pay its debts generally;
- (f) if any Obligor denies, to any material extent, its obligations under any Loan and Security Document or claims any of the Loan and Security Documents to be invalid or withdrawn in whole or in part;
- (g) any of the Loan and Security Documents or any material provision of any of them becomes unlawful or is changed by virtue of legislation or by a governmental authority, if any Obligor does not, within 15 Business Days of being given notice of such Loan and Security Document or material provision becoming unlawful or being changed, replace such Loan and Security Document with a new agreement that is in form and substance satisfactory to the Chargee, acting reasonably, or amend such Loan and Security Document to the satisfaction of the Chargee acting reasonably;
- (h) if a decree or order of a court of competent jurisdiction is entered adjudging an Obligor a bankrupt or insolvent or approving as properly filed a petition seeking the winding-up of an Obligor under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada), the *United States Bankruptcy Code* or the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous laws or issuing sequestration or process of execution against any substantial part of the assets of an Obligor or ordering the winding-up or liquidation of its affairs;
- (i) if any Obligor becomes insolvent, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable law, seeks relief under the *Companies' Creditors Arrangement Act* (Canada), the *United States Bankruptcy Code*, the *Winding-up*

and Restructuring Act (Canada) or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other Person with similar powers of itself or of all or any substantial portion of its assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to, or acquiesces in, the filing of such a petition;

- (j) if any Person takes possession, by appointment of a receiver, receiver and manager or otherwise, of all or any part of the Mortgaged Property;
- (k) if proceedings are commenced for the dissolution, liquidation or voluntary winding-up of any Obligor, or for the suspension of the operations of any Obligor unless such proceedings are being actively and diligently contested in good faith;
- (l) if a final judgment or decree for the payment of money due has been obtained or entered against an Obligor and such judgment or decree has not been and remained vacated, discharged or stayed pending appeal within the applicable appeal period or the applicable Obligor has not demonstrated to the satisfaction of the Chargee that it has the financial ability to satisfy such judgement or decree without adversely affecting in any material way, such Obligor's ability to perform its Obligations under the Loan and Security Documents;
- (m) if an event of default as defined in any indenture or instrument evidencing, or under which, any indebtedness for borrowed money of an Obligor is outstanding occurs and is continuing;
- (n) if any security for the Loan ceases to constitute a valid and perfected first priority security interest and, provided the Chargee is satisfied that its position will not be prejudiced, the applicable Obligor has failed to remedy such default within five Business Days of becoming aware of such fact;
- (o) if, except as permitted under the Loan and Security Documents, there is any reorganization of any Obligor or any consolidation, merger or amalgamation of any Obligor with any other company or companies, the effect of which would be a Change of Control;
- (p) if any part of the Mortgaged Property becomes subject to a condominium regime or any other form of multiple ownership or governance, without the Chargee's prior written consent;
- (q) if any part of the Mortgaged Property is expropriated and, in the opinion of the Chargee, such expropriation materially impairs any of (i) the value of the Property, (ii) the validity, enforceability or priority of the Loan and Security Documents, or (iii) the ability of any Obligor to fulfil its Obligations; or
- (r) there has been an adverse change in:
  - (i) the financial position of any Obligor;
  - (ii) the Chargor's representations and warranties made in connection with this Mortgage; or
  - (iii) the Mortgaged Property.

**"Governmental Authority"** means any federal, provincial, municipal or other form of government or any political subdivision or agency thereof, and any body or authority exercising any functions of government, including any court.

**"Guarantor"** means any Person or entity who has entered into a contract of guarantee with the Chargee from time to time guaranteeing the Obligations of the Chargor under this Mortgage and the other Loan and Security Documents.

**"Hazardous Substances"** means substances or conditions that are prohibited, controlled or otherwise regulated or are otherwise hazardous in fact, such as contaminants, pollutants, toxic, dangerous or hazardous substances, toxic, dangerous or hazardous materials, designated substances, controlled products, including without limitation, wastes, subject wastes, urea formaldehyde foam type of insulation, asbestos or asbestos-containing materials, polychlorinated biphenyls ("PCBs") or PCB contaminated fluids or equipment,



explosives, radioactive substances, petroleum and associated products, underground storage tanks or surface impoundments.

**"Indebtedness"** means the aggregate of:

- (a) the Principal Amount of the Loan;
- (b) all interest thereon and compound interest as provided in this Mortgage;
- (c) all Costs;
- (d) any amount, cost, charge, expense and interest, including without limitation, Costs, added to the Indebtedness under the terms of this Mortgage; and
- (e) any other amount, cost, charge, expense and interest otherwise due and payable to the Chargee hereunder or secured by this Mortgage.

**"Interest Rate"** means the rates of interest rate set out in and calculated in accordance with the Commitment Letter.

**"Lease"** means any lease, sublease, or agreement to lease or sublease space at or in the Mortgaged Property.

**"Lien"** means any mortgage, charge, pledge, hypothec, assignment, lien, lease, sublease, easement (express or prescribed), preference, priority, trust, or other security interest or encumbrance of any kind or nature whatsoever with respect to any property.

**"Loan"** means the loan advanced by the Chargee to the Chargor in the Principal Amount in accordance with this Mortgage.

**"Loan and Security Documents"** means, collectively, the Commitment Letter and all other documents, security agreements, instruments, guarantees, indemnities, agreements, certificates, undertakings and opinions now or hereafter given or entered into as evidence of or as security for the Loan.

**"Mortgage"** means the Electronic Form to which these additional provisions are attached as a schedule and these additional provisions.

**"Mortgaged Property"** means the lands described under the heading of "Properties" in the Electronic Form, together with all buildings, structures and improvements built upon or made to the lands from time to time, all fixtures described in Section 42, entitled Fixtures, of these additional provisions, and all other appurtenances thereto.

**"Obligations"** means all obligations of the Obligors or any of them to the Chargee under or in connection with the Loan and Security Documents, including payment of all Indebtedness when due and performance of all other obligations under the Loan and Security Documents as and when required by the terms thereof.

**"Obligors"** means, together, the Chargor, the borrower identified in the Commitment Letter and all Guarantors and any other Persons promising any indemnification, guarantee or performance of Obligations.

**"Permitted Encumbrances"** means, as of any particular time, any of the following encumbrances provided that the Chargee is satisfied in its sole discretion that same do not, in the aggregate, materially impair the servicing, development, construction, operation, management or marketability of the Mortgaged Property, or the validity, enforceability or priority of this Mortgage:

- (a) Liens for Taxes or utility charges in either case only if same are not yet due or payable;
- (b) registered easements, rights of way, restrictive covenants and servitudes and other similar rights in land granted to, reserved or taken by any Governmental Authority or public utility, or any registered subdivision, development, servicing, site plan or other similar agreement with any Governmental Authority or public utility provided in each case that
  - (i) same has been complied with, and
  - (ii) the Chargee is satisfied in its sole discretion with the nature, scope and cost of any outstanding obligations thereunder and security has been posted to ensure performance of all such obligations;

- (c) minor title defects or irregularities;
- (d) any subsisting reservations contained in the original grant of the Mortgaged Property from the Crown; or
- (e) leases of the Mortgaged Property which are either
  - (i) disclosed by the Chargor to the Chargee prior to the Loan being made in a rent roll or other document, or
  - (ii) entered into after the Loan is made in accordance with the Loan and Security Documents; and
- (f) such other Liens consented to in writing by the Chargee in its sole discretion.

“**Person**” includes any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority, or other entity.

“**Principal Amount**” means the amount referred to as “Principal” under the heading of “Provisions” in the Electronic Form.

“**Required Records**” is defined in Section 38, entitled Financial Statements, of these additional provisions.

“**Requirements of Environmental Law**” means all requirements of the common law or of statutes, regulations, by-laws, ordinances, treaties, judgments and decrees, and (whether or not they have the force of law) rules, policies, guidelines, orders, approvals, notices, permits, directives and the like, of any federal, territorial, provincial, regional, municipal or local judicial, regulatory or administrative agency, board or governmental authority relating to environmental or occupational health and safety matters and the Mortgaged Property and the activities carried out thereon (whether in the past, present or the future) including, but not limited to, all such requirements relating to: (a) the protection, preservation or remediation of the natural environment (the air, land, surface water or groundwater); (b) the generation, handling, treatment, storage, transportation or disposal of or other dealing with solid, gaseous or liquid waste; and (c) the presence on or at the Mortgaged Property of Hazardous Substances.

“**Servicer**” means CMLS Financial Ltd. and its successors and permitted assigns and any replacement thereof by the Chargee from time to time.

“**Taxes**” means all taxes, rates, assessments, levies, liens and penalties, municipal, local, parliamentary or otherwise, that now are or may hereafter be imposed, charged or levied upon or with respect to the Mortgaged Property.

“**Transfer**” means any sale, transfer, assignment, conveyance or other disposition by the Chargor of the Mortgaged Property, in whole or in part, or of any interest therein, subject to the further provisions of Section 44, entitled Transfers, of these additional provisions.

“**Transferee**” means any purchaser, transferee or assignee pursuant to a Transfer.

## **2. Obligations as Covenants**

Each of the Obligations of the Chargor and of any Guarantor expressed in this Mortgage, even though not expressed as a covenant, is deemed for all purposes to be a covenant made with the Chargee.

## **3. Land Registration Reform Act**

The parties hereby exclude from this Mortgage all of the covenants deemed to be included by Section 7(1) of the Act, which covenants are hereby replaced by the covenants and agreements contained herein.

## **4. Severability**

If any one or more of the provisions contained in this Mortgage shall for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Chargee, be severable from and shall not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Mortgage.

## **5. Interpretation and Headings**

The words "hereto", "herein", "hereof", "hereby", "hereunder" and similar expressions refer to the whole of this Mortgage including, without limitation, these additional provisions, and not to any particular Section or other portion thereof or hereof and extend to and include any and every document supplemental or ancillary hereto or in implementation hereof. Words in the singular include the plural and words in the plural include the singular. Words importing the masculine gender include the feminine and neuter genders where the context so requires. Words importing the neuter gender include the masculine and feminine genders where the context so requires. Whenever two or more persons are under a liability hereunder such liability shall be both joint and several. The headings do not form part of this Mortgage and have been inserted for convenience of reference only.

**6. Successors and Assigns**

Every reference in this Mortgage to a party hereto shall extend to and include the heirs, executors, administrators, successors and assigns of such party. This Mortgage shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. This Mortgage may be assigned by the Chargee at any time without prior notice to or consent of the Chargor.

**7. Date of Mortgage**

The parties hereby acknowledge and agree that for the purpose of defining "the date of the mortgage" with respect to any statutory right of prepayment, the date of this Mortgage shall be conclusively deemed to be the "Interest Adjustment Date" as set out under the heading of "Provisions" in the Electronic Form, or as otherwise defined herein, as the case may be. For all other purposes, this Mortgage shall be deemed to be dated as of the date of electronic signing hereof by the Chargor.

**8. No Merger**

- (a) Notwithstanding the execution and delivery of this Mortgage and the other Loan and Security Documents and the advance of all or part of the Loan, the Commitment Letter shall remain in full force and effect and the provisions thereof are intended not to merge or be extinguished.
- (b) Notwithstanding any terms contained in the Commitment Letter to the contrary, in the event of conflict between the Commitment Letter and the terms of this Mortgage, the provisions of the Commitment Letter shall prevail; provided that any provision herein contained that is not contained in the Commitment Letter and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

**CHARGE, PAYMENTS, INTEREST**

**9. Mortgage**

The Chargor charges the Mortgaged Property with the payment to the Chargee of the Indebtedness and with performance of the other Obligations, with a power of sale to be exercised after Default as hereinafter provided.

**10. Interest**

The Principal Amount shall bear interest at the Interest Rate, both before and after default, demand, maturity and judgment, until paid.

**11. Payment**

- (a) This Mortgage shall operate until all Indebtedness is paid in full to the Chargee, and each of the Obligations whose performance is secured by this Mortgage is performed, in the manner provided in this Mortgage. The provisions of subsection 6(2) of the Act are hereby expressly excluded from the terms of this Mortgage.
- (b) Interest at the Interest Rate on the amounts from time to time advanced, computed from the respective dates of such advances, shall become due and be paid on the first day of each month following the date of the first advance to and including the Interest Adjustment Date specified under the heading of "Provisions" in the Electronic Form. At the option of the Chargee, interest so due and payable may be deducted from such advances. Thereafter the sums set out under the heading of "Provisions" in the Electronic Form shall become due and be paid on each Payment Date under the heading of "Provisions" in the Electronic Form. If specific dates have not been inserted under the heading of "Provisions" in the Electronic

Form for the Interest Adjustment Date, First Payment Date, Last Payment Date and Balance Due Date, then the Interest Adjustment Date shall be deemed to be the first day of the calendar month next following the earlier of the following dates:

- (i) the date by which the entire Principal Amount has been advanced, and
- (ii) the date the Chargee exercises any right it may have to cancel its commitment to advance any unadvanced portion of the Principal Amount,

(unless the earlier of such dates occurs on the first day of a calendar month, in which event that date shall be deemed to be the Interest Adjustment Date), the First Payment Date shall be deemed to be the first day of the calendar month next following the deemed Interest Adjustment Date and both the Last Payment Date and Balance Due Date shall be deemed to be the date that occurs such number of months following the deemed Interest Adjustment Date as corresponds with the number of months in the term of this Mortgage. If the Payment Date has not been inserted under the heading of "Provisions" in the Electronic Form, then principal and interest payments shall be payable monthly on the first day of each month commencing on the First Payment Date.

**12. Timing, Place of Payments to be made to Servicer**

Notwithstanding any other provision of this Mortgage, all payments under this Mortgage shall be paid to the Servicer, acting for and on behalf of the Chargee in the administration and servicing of the Loan, or as the Servicer may otherwise direct the Chargor in writing, such payments to be made by electronic direct-debit transfer before 9:00 o'clock AM (Pacific Time) on any day on which payment is to be made. If for any reason the electronic direct-debit transfer for a monthly payment is made after 9:00 o'clock AM (Pacific Time) on any particular day, it is understood and agreed that any such payment will be deemed to have been made on the next following Business Day.

**13. Advances and Expenses**

All advances are to be made in such manner at such times and in such amounts, up to the Principal Amount, as the Chargee in its sole discretion may determine, subject always to the proviso that the Chargee is not bound to advance any unadvanced portion thereof. The Chargor agrees that neither the preparation, execution nor registration of this Mortgage shall bind the Chargee to advance the Principal Amount, nor shall the advance of a part of the Principal Amount bind the Chargee to advance the unadvanced portion thereof, but nevertheless this Mortgage shall take effect forthwith upon the electronic signing of this Mortgage by the Chargor. The Chargee's Costs shall be, in the event of the whole or any balance of the Principal Amount not being advanced, payable forthwith by the Chargor to the Chargee and, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage.

**14. Compound Interest**

All interest on becoming overdue, and any amount, cost, charge or expense that has been added to the Indebtedness under the terms of this Mortgage, shall be treated (as to payment of interest thereon as aforesaid) as principal and shall bear compound interest at the Interest Rate both before and after default, demand, maturity and judgment until paid, and all such interest and compound interest shall be added to the Indebtedness and secured by this Mortgage. If any of the monies hereby secured are not paid when due, the Chargor will, so long as any part thereof remains unpaid, pay interest thereon as above provided.

**15. Application of Instalments**

The monthly instalments set out under the heading of "Provisions" in the Electronic Form are to be applied firstly to the interest portion of the Indebtedness and the balance of the said monthly instalments shall be applied to the principal component of the Indebtedness; except, however, in the case of default by the Chargor, the Chargee may then apply any payments received during the period of default to any part of the Indebtedness in whatever order it may elect notwithstanding any contrary stipulation by the Chargor.

**16. Pre-Authorized Payment Plan**

- (a) The Chargor, on written request from the Chargee, and at the Chargee's option, will make all payments pursuant to this Mortgage by pre-authorized chequing or electronic debit entry on an account maintained by the Chargor and will execute and provide such written authorizations and sample cheques as the Chargee may require.

- (b) If any cheque issued by the Chargor to the Chargee and/or the Servicer or any electronic direct-debit transfer in payment of any amount due and owing hereunder is not honoured when presented for payment, the Chargor shall pay to the Chargee on demand all expenses incurred by the Chargee as a result of such dishonour and the Chargee's reasonable administrative costs arising therefrom, which shall include, without limitation, any administrative costs of the Servicer, which expenses and costs shall, together with interest thereon at the Interest Rate, be added to the Indebtedness and secured by this Mortgage and shall be forthwith due and payable to the Chargee.

#### 17. Taxes, Other Covenants

The Chargor covenants to pay all Taxes and observe and perform all covenants, provisos and conditions herein contained.

#### 18. Covenant to Pay and Perform

The Chargor covenants with the Chargee that the Chargor will pay the Indebtedness to the Chargee as and when provided in this Mortgage without any deduction, set-off, abatement or counterclaim, and perform all other Obligations as and when required under this Mortgage. If more than one Person signs this Mortgage as Chargor, such Persons are jointly and severally liable to pay, perform and observe all of the Chargor's Obligations herein.

#### 19. Taxes

- (a) The Chargor covenants with the Chargee to pay the Taxes promptly as they fall due and will forthwith provide the Chargee with evidence satisfactory to the Chargee of payment thereof. Without limiting or restricting any Obligations on the part of the Chargor under this Mortgage, it is understood and agreed that the Chargee shall during the term of this Mortgage estimate the amount of the Taxes and,
  - (i) the Chargor will pay to the Chargee on each monthly instalment due date hereunder, an amount estimated by the Chargee to be sufficient to pay the Taxes as they become due and payable;
  - (ii) in the event that the Taxes for any period together with any interest and penalties thereon exceed the estimated amount or in the event of any part of the estimated amount paid to the Chargee being applied by the Chargee in or toward principal, interest or other monies in default, the Chargor will pay to the Chargee on demand the amount required to make up the deficiency (the "Deficiency") occurring as a result of the foregoing. In the event of a Deficiency, the Chargee may, but shall not be obliged to, pay the Taxes and the Chargor shall, on request by the Chargee, either pay the Deficiency, with interest thereon at the Interest Rate, to the Chargee forthwith or, if the Chargee so elects, pay the Deficiency to the Chargee, with interest thereon at the Interest Rate, in monthly instalments specified by the Chargee from time to time;
  - (iii) so long as there is not default under this Mortgage, the Chargee may apply such payments on the Taxes annually, semi-annually or as and when such Taxes become owing and due;
  - (iv) if before any such sum or sums in the hands of the Chargee shall have been so applied, there shall be default in respect of any payment of the Indebtedness, the Chargee may, at its option, apply such sum or sums in or toward payment of such Indebtedness so in default;
  - (v) if the Chargor desires to take advantage of any discounts or avoid any penalties in connection with the payment of Taxes, the Chargor shall pay to the Chargee such additional amounts as are required for that purpose;
  - (vi) when making advances from time to time of the Principal Amount or any part thereof, the Chargee may, and is hereby directed to, deduct and pay out of any such advances any amount that shall have become due and payable on account of Taxes; and

- (vii) at the time of the first advance the Chargor shall pay to the Chargee an amount that Chargee reasonably estimates is required to pay the Taxes next coming due following the making of the Loan.
- (b) Nothing herein shall create, with respect to any monies paid pursuant hereto, a relationship of trust between the Chargee and the Chargor nor shall the Chargee be accountable to the Chargor for any interest on any monies so received or for any penalties accruing from time to time on unpaid Taxes.
- (c) The Chargor agrees that the Chargee has no obligation to pay to the Chargor, and the Chargor is not entitled to, any interest on any amount of monies held by the Chargee on account of payment of Taxes from the time the Chargee receives such monies from the Chargor until the Chargee disburses such monies in accordance with this Section.
- (d) The Chargor will transmit to the Chargee true copies of the assessment notices, tax bills and other notices affecting the imposition of Taxes forthwith upon receipt of the same by the Chargor.

## **REPRESENTATIONS, WARRANTIES, COVENANTS**

### **20. Authorization**

The Chargor represents and warrants to the Chargee that each Obligor: (a) which is a corporation is a duly organized and validly existing corporation under the laws of its governing jurisdiction; (b) which is a partnership is a valid and subsisting general or limited partnership, as the case may be, under the laws of its governing jurisdiction; (c) which owns an interest in the Mortgaged Property has full power, authority and legal right to own the Mortgaged Property and to carry on its business thereon in compliance with all Applicable Laws and is duly licensed, registered or qualified in all jurisdictions where the character of its undertaking, property and assets or the nature of its activities makes such licensing, registration or qualification necessary or desirable; (d) has full power, authority and legal right to enter into each of the Loan and Security Documents to which it is a party and to do all acts and execute and deliver all other documents as are required to be done, observed or performed by it in accordance with their respective terms; (e) has taken all necessary action and proceedings to authorize the execution, delivery and performance of the Loan and Security Documents to which it is a party and to observe and perform the provisions of each in accordance with its terms; and (f) shall maintain in good standing its existence, capacity, power and authority as a corporation or partnership, as the case may be, and shall not liquidate, dissolve, wind-up, terminate, merge, amalgamate, consolidate, reorganize or restructure or enter into any transaction or take any steps in connection therewith.

### **21. Enforceability**

The Chargor represents and warrants that the Loan and Security Documents constitute valid and legally binding obligations of each Obligor that is a party thereto, enforceable against each of them in accordance with their terms and are not subject to any right of rescission, and at the date of entering into the Loan and Security Documents, no Obligor has any right of set-off, counterclaim or defence in respect of the Chargee, the Loan or the Loan and Security Documents. Neither execution and delivery of the Loan and Security Documents, nor compliance with the terms and conditions of any of them (a) has resulted or will result in a violation of the constating documents governing any Obligor, including any unanimous shareholders' agreement, or any resolution passed by the board of directors, shareholders or partners, as the case may be, of any Obligor, (b) has resulted or will result in a breach of or constitute a default under Applicable Laws or any agreement or instrument to which any Obligor is a party or by which it or the Mortgaged Property or any part thereof is bound, or (c) requires any approval or consent of any Person except such as has already been obtained.

### **22. Litigation**

The Chargor represents and warrants that there are no existing or threatened actions, proceedings or claims against or relating to the Mortgaged Property or any Obligor except as disclosed to and accepted by the Chargee in writing prior to the Loan advance. Upon becoming aware of any threatened or actual action, proceeding or claim against or relating to the Mortgaged Property or any Obligor, the Chargor shall promptly notify the Chargee of same and shall provide the Chargee with reasonable information concerning such action, proceeding or claim as the Chargee may require from time to time.

### **23. Good Title**

The Chargor covenants that it has a good and marketable title in fee simple to the Mortgaged Property.

**24. Right to Mortgage**

The Chargor covenants that it has the right to give this Mortgage.

**25. Quiet Possession**

The Chargor covenants that upon the occurrence and during the continuance of an Event of Default, the Chargee shall have quiet possession of the Mortgaged Property, free from all Liens except Permitted Encumbrances and those disclosed at the date of this Mortgage by the records of the appropriate land registry office as are agreed to by the Chargee.

**26. Services, Access and No Expropriation**

All services and utilities (including storm and sanitary sewers, water, hydro, telephone and gas services) necessary for the use and operation of the Mortgaged Property are located in the public highway(s) abutting the Mortgaged Property (or within easements disclosed to and approved by the Chargee in writing prior to the Loan advance) and are connected and available to the Mortgaged Property. The Mortgaged Property has unrestricted and unconditional rights of public access to and from public highways (completed, dedicated and fully accepted for public use by all applicable Governmental Authorities) abutting the Mortgaged Property at all existing access points. The Chargor is not aware of any proposed changes affecting such access or public highways. The Chargor is not aware of any existing or threatened expropriation or other similar proceeding in respect of the Mortgaged Property or any part thereof.

**27. Right of Inspection**

The Chargee, the Servicer and their respective agents and employees shall have the right, subject to the rights of tenants under any Lease, to enter and inspect the Mortgaged Property at all reasonable times and, except in an emergency or following a default of the Chargor under any of the Loan and Security Documents, upon reasonable notice to the Chargor. Upon a default of the Chargor under any of the Loan and Security Documents, the Chargee may also enter upon the Mortgaged Property and make such repairs as it deems necessary and the costs of such repairs, together with interest thereon at the Interest Rate, shall be payable immediately by the Chargor to the Chargee and until paid, shall be added to the Indebtedness and secured by this Mortgage. The Chargee shall not be a mortgagee in possession by reason of its exercise of any of its rights hereunder.

**28. Permits; Conduct of Business**

The Chargor: (a) has obtained all necessary permits, agreements, rights, licences, authorizations, approvals, franchises, trademarks, trade names and similar property and rights (collectively "Permits") necessary to permit the lawful construction, occupancy, operation and use of the Mortgaged Property; (b) shall maintain all such Permits in good standing and in full force and effect; (c) has delivered to the Chargee complete copies of each Permit existing as of the date of the Loan advance; (d) shall not terminate, amend or waive any of its rights and privileges under any Permits without the Chargee's prior written consent in its sole discretion; (e) is not in default under any Permits and is not aware of any proposed changes to any Permits (including pending cancellation, termination or expiry thereof); and (f) will engage in business of the same general type as now conducted by it and carry on and conduct its business and operations in a proper, efficient, lawful and businesslike manner, in accordance with good business practice. No action, proceeding, notice, judgment, order or claim has been given or received by or on behalf of the Chargor alleging or relating to any such default, proposed changes or other dispute in respect of any Permit and the Chargor shall promptly deliver to the Chargee any such action, proceeding, notice, order, judgment or claim given or received by the Chargor at any time in the future.

**29. Estoppel Certificates**

Within 10 Business Days following a request by the Chargee from time to time, the Chargor shall, at the Chargor's expense, provide the Chargee with a statement certifying (a) the original and outstanding Principal Amount, (b) the Interest Rate, (c) the date of the last payment of principal and interest, (d) that no offsets or defences to the payment of the Indebtedness exist, or if any are alleged, the particulars thereof, (e) that the Loan and Security Documents have not been amended, or if amended, the particulars thereof, and (f) that, to its knowledge, there is no existing Default or Event of Default, or if any such Default or Event of Default exists, the particulars thereof and any action being taken to remedy such Default or Event of Default.

**30. Further Assurances**

The Chargor covenants that it will execute such documents and further assurances of the Mortgaged Property and take such action, all at its own expense, as may be requisite to carry out the intention of this Mortgage or any other Loan and Security Document.

**31. No Act to Encumber**

The Chargor covenants that neither it nor any other Obligor has done any act to encumber the Mortgaged Property, except as the records of the appropriate land registry office disclose; the Chargor shall not, without the Chargee's prior written approval, which approval shall be in the Chargee's sole discretion, charge, encumber or otherwise create any Lien in respect of the Mortgaged Property or any part thereof or interest therein or permit any Lien thereon, in each case other than Permitted Encumbrances. If the Chargee grants written approval, in its sole discretion, to an encumbrance of the Mortgaged Property that is not a Permitted Encumbrance, then, at the further sole discretion of the Chargee, as a condition of such approval, the Chargee may require the holder of such encumbrance to enter into a full and complete subordination and standstill agreement in Chargee's standard form. All Costs of the Chargee in considering, processing and documenting such approval (whether or not the approval is granted) as herein contemplated, shall be payable by the Chargor in advance of the Chargee considering any such encumbrance for approval.

**32. Compliance and No Adverse Change**

The Chargor is not aware of any action, proceedings, notices, judgments, orders or claims by any Person alleging or relating to any non-compliance by the Mortgaged Property with any Applicable Laws, Permitted Encumbrances, material agreements or any permits, licenses or approvals and the Chargor shall promptly deliver to the Chargee copies of any such actions, proceedings, notices, judgments, orders or claims received by the Chargor after the Loan advance. The Chargor covenants and agrees to forthwith provide written notice to the Chargee and to the Servicer of any circumstances, events, actions, claims or changes which have or may have an adverse effect on the Chargor's financial position or the financial position of any Guarantor.

**33. Hazardous Substances**

- (a) The Chargor warrants and represents that, except as disclosed in any environmental assessment report in regard to the Mortgaged Property delivered by the Chargor to the Chargee prior to the first advance of the Loan:
  - (i) no Hazardous Substances have been or will be used, stored, processed, manufactured, handled or discharged in, on, under or from the Mortgaged Property (except in accordance with all Requirements of Environmental Law);
  - (ii) to the best of the Chargor's belief, neither the Mortgaged Property nor any adjacent lands have ever been used as or for a waste disposal site or coal gasification site, and there are not now, nor were there ever, any underground storage tanks on the Mortgaged Property;
  - (iii) all permits, licences, certificates, approvals, authorizations, registrations or the like required by the Requirements of Environmental Law for the operation of the Chargor's business on the Mortgaged Property have been obtained and are valid, in full force and effect and in good standing;
  - (iv) no environmental damage has ever occurred on, or will result from the Chargor's use of, the Mortgaged Property; and
  - (v) there are no convictions (or prosecutions settled prior to conviction) or outstanding or threatened investigations, claims, work orders, notices, directives or other similar remedial actions against the Mortgaged Property or the Chargor in relation to any Requirements of Environmental Law.
- (b) The Chargor covenants that it will:
  - (i) remedy forthwith, at its own expense, any environmental damage that may occur or be discovered on the Mortgaged Property in the future,
  - (ii) comply with and monitor, on a regular basis, its compliance with all Requirements of Environmental Law,



- (iii) notify the Chargee promptly of any event or occurrence that will, or is likely to, give rise to a report, inquiry or investigation relating to a matter that may have an adverse effect on the financial position of the Chargor or the Mortgaged Property or any action, suit or proceeding against the Chargor or others having an interest in the Mortgaged Property relating to, or a violation of, the Requirements of Environmental Law,
  - (iv) not lease or consent to any sub-lease of any part of the Mortgaged Property to a tenant or sub-tenant who may engage in a business involving the storing, handling, processing, manufacturing or disposing of Hazardous Substances (except in the ordinary course of such tenant's or sub-tenant's business and in compliance with all Requirements of Environmental Law) in, on, under or from the Mortgaged Property or the generation of environmental contamination,
  - (v) remove, in accordance with all Requirements of Environmental Law, any Hazardous Substances from the Mortgaged Property forthwith upon their discovery and advise the Chargee forthwith in writing of the procedures taken, and
  - (vi) provide to the Chargee upon request such information, certificates, or statutory declarations as to compliance with the provisions hereof and all Requirements of Environmental Law and conduct such environmental audits or site assessments as may be reasonably necessary to ensure compliance with the Requirements of Environmental Law, all at the Chargor's expense.
- (c) The Chargor will indemnify and hold harmless the Chargee, each of its directors, officers, employees, affiliates and agents from and against all costs, losses, damages, expenses, judgments, suits, claims, awards, fines, sanctions and liabilities whatsoever (including, without limitation, legal fees and costs on a substantial indemnity basis incurred in the investigation, defence and settlement of any claim and any costs or expenses for preparing any necessary environmental assessment report or other such reports) relating to the release, deposit, discharge, disposal or presence of any Hazardous Substance on, from or under the Mortgaged Property, including, without limitation, the remedial actions (if any) taken by the Chargee, in respect of any such release, deposit, discharge or disposal. This indemnity will survive the repayment of the Loan and discharge of the Loan and Security Documents.

#### 34. Insurance

- (a) The Chargor shall insure the buildings, structures, chattels, fixtures and equipment, and improvements on the land forming part of the Mortgaged Property and keep them constantly insured against loss or damage by fire and against loss or damage by such other risks, hazards or perils as the Chargee may require to be protected by insurance, to the full extent of their insurable value on a stated amount replacement cost basis, both during the period of construction and thereafter. Without limiting the foregoing, this covenant shall include comprehensive broad form boiler insurance (including unfired pressure vessels and air conditioning equipment, if any, and including repair and replacement and use and occupancy coverage), rental and/or business interruption insurance for not less than a 18 month period and public liability insurance, all to be in amounts and with insurers satisfactory to the Chargee. Prior to the making of any advance by the Chargee, the Chargor shall deliver to the Chargee a policy or policies evidencing such insurance, and at least 30 days prior to the expiry of a policy or at least 15 days prior to the date fixed for cancellation of a policy, should notice of cancellation be given, the Chargor shall deliver to the Chargee evidence of renewal or replacement in a form satisfactory to the Chargee. Without limiting the generality of the foregoing, the Chargor shall comply with the insurance requirements contained in the Commitment Letter.
- (b) Every policy of insurance shall be acceptable to the Chargee as to form and content, shall be signed by the insurer and shall be placed with such insurer and through such agency as may be approved of by the Chargee and shall not contain a co-insurance clause but shall contain a by-law endorsement; the loss under each policy shall be made payable to the Chargee pursuant to an Insurers Advisory Organization or a Boiler and Machinery Insurance Association approved mortgage clause with preference in its favour over any claim of any other Person; and each policy shall be retained by the Chargee during the currency of this Mortgage. Should an insurer at any time cease to have the approval of the Chargee, or in the event of failure on the part of the Chargor to execute any obligation undertaken under

this Section, the Chargee may effect such insurance as it deems proper and the Chargor covenants to repay to the Chargee all premiums paid by it together with interest thereon at the Interest Rate and such premiums and interest shall be added to the Indebtedness and secured by this Mortgage.

- (c) In case of loss or damage, the Chargor shall immediately notify the Chargee and the Chargee shall have the right to receive the proceeds of each policy and to apply them wholly or in part in reduction either of the Indebtedness remaining unpaid notwithstanding that the Indebtedness or any part thereof may not otherwise be due and payable under this Mortgage at that time, and/or in repayment of any legal expenses and costs on a substantial indemnity basis incurred by the Chargee in connection with the disbursement or application of such insurance proceeds, and/or of any other sums owing to the Chargee and/or in meeting costs of repair or reconstruction, but unless the amount received by the Chargee is applied expressly by it in reduction of the Indebtedness, the receipt by the Chargee of such proceeds shall not operate as payment of the Indebtedness. The Chargor further agrees to furnish, at its own expense, all necessary proofs and do all things necessary to enable the Chargee to obtain payment of the insurance proceeds to the Chargee and the production of this Mortgage shall be sufficient authority for the insurer to pay such proceeds to the Chargee and the insurer is hereby directed to pay same to the Chargee. No damage may be repaired nor any reconstruction effected without the approval of the Chargee.

### **35. Waste, Condition of Mortgaged Property, Repair and Inspection**

The Chargor covenants and agrees with the Chargee that the Chargor will not permit waste to be committed or suffered on the Mortgaged Property and the Chargor will not remove or attempt to remove from the Mortgaged Property any building, structure or improvement forming part of the Mortgaged Property and the Chargor shall refrain from doing anything or allowing anything to be done which would result in an impairment or diminution of the value of the Mortgaged Property. The Chargor will maintain such buildings, structures, or other improvements in good order and repair to the satisfaction of the Chargee. The Mortgaged Property are in good condition and repair. All heating, air conditioning, electrical, plumbing and other major building systems within the Mortgaged Property are in good working order and condition. The Mortgaged Property comply with all Applicable Laws, Permitted Encumbrances and all material agreements and the present use and location of the improvements on or forming part of the Mortgaged Property are legal conforming uses under all Applicable Laws. No improvements have been made or removed from the Mortgaged Property since the date of the survey of the Mortgaged Property delivered by the Chargor prior to the Loan advance and such survey accurately shows the location of all improvements. The Chargee may, whenever it deems necessary, enter upon and inspect the Mortgaged Property and review such records and information relating thereto and may require the Chargor, at its sole expense, to effect such repair or remediation of which the Chargor is notified by the Chargee, or the Chargee may effect such repairs or remediation as it deems necessary and the Chargor shall execute all consents, authorizations and directions that are required to permit any such inspection, review, repair or remediation, and the cost thereof and of such inspection, review, repair or remediation, together with interest thereon at the Interest Rate, shall be payable forthwith by the Chargor to the Chargee and shall be added to the Indebtedness and secured by this Mortgage.

### **36. Alterations**

The Chargor covenants and agrees with the Chargee that the Chargor will not make or permit to be made any alterations or additions in or to the Mortgaged Property without the consent of the Chargee.

### **37. Observance of Laws**

The Chargor covenants and agrees with the Chargee to promptly observe, perform, execute and comply with all Applicable Laws concerning the Mortgaged Property (including without limitation all Requirements of Environmental Law) as well as with all private covenants and restrictions affecting the Mortgaged Property and the Chargor further agrees at its own cost and expense to make any and all repairs, alterations and improvements ordinary or extraordinary, which may be required at any time hereafter by any such present or future law, rule, requirement, order, direction, ordinance, regulation, covenant or restriction.

### **38. Financial Statements**

The Chargor covenants and agrees with the Chargee to maintain at all times proper records and books of account with respect to the Mortgaged Property and to furnish to the Chargee:

- (a) On an annual basis, a certified, unaudited financial report in respect of the Mortgaged Property which shall include, without limitation, a rent roll, including occupancy statistics and

Lease expiration dates for each Lease, a breakdown of fixed minimum rent payments, percentage rent calculations and temporary tenant income, monthly or quarterly, as the case may be, and year to date operating statements prepared for each calendar month or quarter and other information necessary and sufficient to fairly represent the financial position and results of operation of the Mortgaged Property, all in form satisfactory to the Chargee, and the actual capital expenditure at the Mortgaged Property with respect to the particular monthly or quarterly period; and

- (b) within 120 days after the end of each fiscal year for each Obligor, each Obligor shall provide to the Lender consolidated annual financial statements prepared in accordance with a "review engagement" retainer in accordance with the generally accepted accounting principles and shall include a balance sheet and statement of change in financial position, statement of earnings and retained earnings, together with all applicable notes to reader which may be reasonably required by the Lender. Such statements shall be prepared by a firm of independent chartered accountants of recognized standing acceptable to the Lender, acting reasonably. Such statements shall clearly identify the Mortgaged Property both by municipal address and by the Chargee's mortgage reference number.

The Chargor further covenants and agrees to provide to the Chargee such further financial information as required by the Chargee. The Chargee may, either by its officers or authorized agents at any time during normal business hours, inspect and examine the records and books of account of the Chargor relating to the Mortgaged Property and the business of the Chargor pertaining thereto and make copies or extracts from them and generally conduct such examination of the records and books of account and other records of the Chargor as the Chargee may deem necessary and the Chargor will, immediately upon the request of the Chargee, advise where the records and books of account are maintained and will render such assistance in connection with such examination as the Chargee deems necessary.

#### **39. Security Interest in Personal Property**

The Chargor covenants and agrees to execute and deliver to the Chargee, on demand, a security interest in all chattels, furnishings, equipment, appliances and all other personal property owned now or in the future by the Chargor and situate in or about the Mortgaged Property. The form and content of such security interest shall be acceptable to the Chargee. The Chargor agrees to pay all legal and other expenses incurred by the Chargee in connection with the preparation and registration of the security interest and any renewals thereof forthwith upon demand and such fees and expenses, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage.

#### **40. Construction Act**

- (a) At the time of each advance there shall have been full and complete compliance with all requirements of the *Construction Act* R.S.O. 1990, c.C.30, as amended and/or restated from time to time, and the Chargor shall submit to the Chargee, in form and content satisfactory to the Chargee, evidence of such compliance. The Chargor agrees that the Chargee shall be entitled to withhold from any advance, or pay into court as an advance, such amounts as the Chargee, in its sole discretion, considers advisable to protect its interests from subordination under the provisions of the said act, and to secure the priority of this Mortgage over any actual or potential construction liens. Nothing in this Section shall be construed to make the Chargee an "owner" or "payer" as defined by the said act, nor shall there be, or be deemed to be, any obligation by the Chargee to retain any holdback or otherwise or to maintain on the Chargor's behalf any holdback which may be required to be made by the owner or payer. Any such obligation shall remain solely the Chargor's obligation. The Chargor hereby covenants and agrees to comply in all respects with the provisions of the said act.
- (b) The Chargor covenants and agrees to provide to the Chargee, prior to each advance, statutory declarations sworn by an officer of the Chargor and outlining the particulars of all contracts entered into by the Chargor in respect of the supply of services or materials to any improvements on the Mortgaged Property. Such statutory declarations shall be acceptable to the Chargee as to form and content. In addition, the Chargor covenants and agrees to produce such contracts for examination by the Chargee if and whenever the Chargee shall so require.
- (c) The Chargor covenants and agrees that all improvements to the Mortgaged Property shall comply in all respects with the provisions of the said act and if a construction lien is filed against all or part of the Mortgaged Property, then within ten days after receipt of notice thereof, the Chargor shall have the lien vacated or discharged. If the Chargor fails to do so,

then in addition to its other rights provided herein, the Chargee shall be entitled to pay into court a sum sufficient to obtain an order vacating such lien or to purchase a financial guarantee bond in the form prescribed under the said act. All costs, charges and expenses incurred by the Chargee in connection with such payment into court or in connection with the purchase of a financial guarantee bond or in connection with any legal proceedings described below, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage and shall be payable forthwith by the Chargor to the Chargee. If any person that performs work, labour or services or that provides materials to or for the Mortgaged Property names the Chargee as a party to any legal proceedings which it takes to enforce a construction lien or trust claim, then the Chargor agrees to reimburse the Chargee for any and all legal expenses (on a substantial indemnity basis) incurred by the Chargee in such legal proceedings.

**41. Farm Debt Mediation Act**

- (a) The Chargor warrants and represents that it is not a "farmer" as defined in the *Farm Debt Mediation Act*, S.C. 1997, c.21, as amended and/or restated from time to time.
- (b) The Chargor covenants that it will promptly notify the Chargee in writing if the Chargor becomes a "farmer" as defined by the said act.

**42. Fixtures**

It is the intention of the parties hereto that the building or buildings forming part of the Mortgaged Property form part of the security for the full amount of the monies secured by this Mortgage. It is hereby mutually covenanted and agreed by and between the parties hereto that all erections, buildings, improvements, machinery, plant, furnaces, boilers, oil burners, stokers, electric light fixtures, plumbing and heating equipment, refrigeration equipment, air conditioning and cooling equipment, screen doors and windows, gas and electric stoves and water heaters, floor coverings, window coverings, and all apparatus and equipment appurtenant thereto, which are now or which shall hereafter be placed or installed upon the Mortgaged Property, are or shall thereafter be deemed to be fixtures and an accession to the freehold and a part of the Mortgaged Property as between the parties hereto, their heirs, executors, administrators, successors, legal representatives and assigns, and all persons claiming by, through or under them, and shall be subject to this Mortgage.

**43. Prior Encumbrances etc.**

It is hereby agreed that the Chargee may pay the amount of any Lien now or hereafter existing, arising or claimed upon or against the Mortgaged Property having priority, or purporting to have priority, over this Mortgage, including any Taxes, and may pay all Costs, whether or not any action or any other proceeding is taken, which may be incurred in taking, recovering, protecting and keeping possession of the Mortgaged Property and/or collecting all or any portion of the Indebtedness payable by the Chargor under this Mortgage, and all such amounts, Costs, charges and expenses so paid shall, together with interest thereon at the Interest Rate, be added to the Indebtedness and secured by this Mortgage, and shall be payable forthwith by the Chargor to the Chargee. If the Chargee pays the amount of any such Lien, Costs or Taxes, either out of the monies advanced under this Mortgage or otherwise, the Chargee shall be entitled and subrogated to all of the rights, equities and securities of the Person so paid, without the necessity of a formal assignment, and the Chargee is hereby authorized to retain any discharge thereof, without registration, if it thinks proper to do so.

**44. Transfers**

- (a) If a Transfer occurs and if:
  - (i) the Chargor, or any subsequent owner of the Mortgaged Property, fails to apply for the approval of the Chargee as to the Transferee and the terms and conditions of the Transfer,
  - (ii) the Chargee does not approve the Transferee (which approval may be withheld by the Chargee in its sole discretion),
  - (iii) the Chargee does not approve the terms and conditions of the Transfer (which approval may be withheld by the Chargee in its sole discretion),
  - (iv) the Transferee fails to enter into an assumption agreement agreeing to assume this Mortgage and any amendments hereto, and any collateral agreements and to pay

the Indebtedness at the times and in the manner set out in this Mortgage and to observe, perform, keep and be liable under and be bound by all Obligations contained in this Mortgage and any amendments hereto and any collateral agreements to be performed by the Chargor thereunder (including this obligation) at the time and in the manner and in all respects as therein contained and to be bound by each and all of the terms, covenants, conditions and Obligations of this Mortgage and any amendments hereto and any collateral agreements as though the same had originally been made, executed and delivered by such Transferee as Chargor, and

- (v) the Chargor fails to satisfy such other conditions as the Chargee or any applicable rating agency may require,

then, and in any such case, there shall be a default hereunder and the outstanding Indebtedness shall, at the option of the Chargee, immediately become due and payable.

- (b) A Change in Control of the Chargor or any beneficial owner of the Mortgaged Property, or any other change in the ownership of the Chargor or any beneficial owner of the Mortgaged Property, shall be deemed to be a Transfer within the meaning of this Mortgage and the Transferee shall be deemed to be the Person or Persons who acquired the shares, units or other interests in the Chargor or beneficial owner and the provisions hereof in respect of any Transfer and any Transferee (except for the requirement for the Transferee to enter into an assumption agreement) shall apply with all necessary changes thereto. The Chargor shall make available to the Chargee or the Chargee's representatives, all of the corporate books and records of the Chargor or any beneficial owner of the Mortgaged Property for inspection and provide such other information required by the Chargee in order to ascertain whether a Change in Control has occurred.
- (c) The Chargee shall be entitled to charge a fee equal to one (1%) per cent of the Principal Amount outstanding at the time of the Transfer in consideration for granting approval to a Transfer as well as all Costs of the Chargee in processing and documenting such approval (whether or not the approval is granted) as herein contemplated, which fee shall be payable by the Chargor in advance of the Chargee considering the Transfer for approval.

#### **45. Releases**

It is hereby agreed that the Chargee may at all times at its discretion and subject to the provisions of the *Planning Act*, R.S.O. 1990, as amended and/or restated from time to time, release any part or parts of the Mortgaged Property from the security of this Mortgage or any other security for the Indebtedness either with or without any consideration therefor, without thereby releasing any Person from this Mortgage or from any of the covenants herein contained, and no such release shall diminish or prejudice this Mortgage or such other security as against the portion of the Mortgaged Property remaining unreleased.

#### **46. No Change in Chargor Liability**

It is hereby agreed that no sale or other dealing by the Chargor with the Mortgaged Property or any part thereof, whether with the consent or approval of the Chargee or not, shall in any way change the liability of the Chargor or any Guarantor or in any way alter the rights of the Chargee as against the Chargor, any Guarantor or any other Person liable for payment of the Indebtedness.

#### **47. Extension of Time**

No extension of time given by the Chargee to the Chargor, or anyone claiming under the Chargor, or any other dealing by the Chargee with the owner of the Mortgaged Property, 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 Indebtedness.

#### **48. Statements**

Upon written request of the Chargor, the Chargee will provide to the Chargor, once per year, without charge, an annual mortgage statement in the Chargee's standard form. In addition, upon request, the Chargee will provide the Chargor, without charge, one additional mortgage statement per calendar year, in the Chargee's standard form. If the Chargor requests additional statements or quotations, it shall pay to the Chargee in advance such processing fee as the Chargee may require.

#### **49. Discharge**

The Chargee shall have a reasonable time after payment of the Indebtedness within which to prepare and execute a discharge of this Mortgage, and interest as aforesaid shall continue to run and accrue until actual payment in full of the Indebtedness has been received by the Chargee, and all legal and other expenses for the preparation and execution of such discharge, including the Chargee's then current standard discharge fee, shall be paid by the Chargor.

**50. Expropriation**

It is hereby agreed that if the Mortgaged Property or any material part thereof shall be expropriated by any Governmental Authority, body or corporation having powers of expropriation, the Indebtedness, at the Chargee's option, shall become forthwith due and payable, together with interest thereon at the Interest Rate to the date of payment and together with an additional amount equal to the greater of: (x) 3 months interest on such Indebtedness at the Interest Rate or (y) an amount equal to, as of the date of prepayment, the sum by which the present value of the remaining future installments of principal and interest due during the remaining term of the Loan, plus the present value of the prepaid portion of principal which would have been due on the date of maturity, exceeds the prepaid portion of principal as of the date of prepayment. For the purpose of calculating the amount payable pursuant to (y), the present value of the remaining future installments of principal and interest with respect to the remaining term of the Loan plus the present value of the prepaid portion of principal which would have been due on the date of maturity will be determined by using a discount rate equal to the yield, as of the Business Day preceding the date of prepayment, on a non-callable Government of Canada bond selected by the Chargee and having a term most closely approximating the then remaining unexpired term of the Loan.

**51. Waiver**

It is understood and agreed that a waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof or of the Obligations secured by this Mortgage shall apply to the particular instance or instances and at the particular time or times only. And no such waiver shall be deemed a continuing waiver, but all of the terms, covenants, conditions and other provisions of this Mortgage and of the Obligations secured thereby shall survive and continue to remain in full force and effect.

**52. Priority of Extension Agreements**

- (a) It is understood and agreed that any agreement for the extension of the time of payment of the Indebtedness or any part thereof and any renewal of the term of this Mortgage made at, before or after maturity, and prior to the execution of a discharge of this Mortgage, altering the term, Interest Rate (whether increased or decreased), the amount of the payments of principal, interest or other monies owing and secured by this Mortgage or any other provision, covenant or condition hereof, whether made with the Chargor named herein or a subsequent owner of the Mortgaged Property (and whether or not consented to by the Chargor named herein or any successor in title if made with a subsequent owner), need not be registered in any land registry office but shall be effectual and binding upon the Chargor and upon every subsequent mortgagee, encumbrancer or other person claiming an interest in the Mortgaged Property or any part thereof.
- (b) The Chargor shall, forthwith on request therefor by the Chargee, provide or cause to be provided to the Chargee, at the Chargor's expense, all such postponements and other assurances as the Chargee may require to ensure or confirm the effect and priority of any such agreement. All extensions and renewals (if any) shall be done at the Chargor's expense (including, without limitation, payment of the Chargee's legal expenses on a substantial indemnity basis). No such extension or renewal, even if made by a successor in title to the Chargor named herein, shall in any way release or abrogate or render unenforceable the covenants or Obligations of the Chargor named herein, or any subsequent owner, which shall continue notwithstanding such extension or renewal. Provided that nothing contained in this provision shall confer any right of renewal or extension upon the Chargor.

**53. Notice**

Notice, if required, may be served upon the Chargor:

- (a) by sending it through the post by a prepaid registered letter addressed to the party at the Mortgaged Property or its last known address or in the case of a company to its head office, and any notice so served shall be deemed to have been served at the expiration of the third Business Day after posting; or

- (b) by delivering it addressed to the party at the Mortgaged Property or its last known address or in the case of a company to its head office, and any notice so served shall be deemed to have been served on the expiration of one Business Day after delivery; or
- (c) by sending notice by facsimile to the Chargor at the facsimile number given by the Chargor to the Chargee prior to the registration of the Mortgage, or such other facsimile as the Chargor may from time to time advise Chargee is the facsimile number for the business of the Chargor; or
- (d) by any means whereby actual notice is given to the Chargor;

but nothing in this Section shall require the Chargee to give notice to the Chargor or Guarantor.

## DEFAULT

### 54. Acceleration

In addition to the Chargee's other rights under this Mortgage, at law, in equity, or otherwise (including the right to require payment of the Obligations or any part thereof), the Obligations shall, at the option of the Chargee, become immediately due and payable upon the occurrence of an Event of Default.

### 55. Power of Sale, etc.

- (a) If an Event of Default has occurred and continued for the minimum period provided by Applicable Law, the Chargee, on giving the minimum notice required by Applicable Law, may enter on, lease or sell the Mortgaged Property or any part thereof; and it is agreed that such notices shall be given in such manner and to such Persons as may be lawfully required at the time when such notices are given and in the absence of any such requirement and/or to the extent that such requirements shall not be applicable, such notices may be effectually given either by leaving the same with an adult person on the Mortgaged Property, if occupied, or by placing it thereon if unoccupied, or at the option of the Chargee by mailing the same in a registered letter addressed to the Chargor's last known address or by publishing the same once in a newspaper published in the municipality in which the Mortgaged Property is situate and shall be sufficient though not addressed to any person or persons by name or designation and notwithstanding any person or persons to be affected thereby may be unborn, unascertained or under disability.
- (b) The Chargee may sell the Mortgaged Property or any part thereof by public auction or private contract, or partly one or partly the other; and the proceeds of any sale hereunder may be applied in payment of any costs, charges and expenses incurred about taking, recovering or keeping possession of the Mortgaged Property or by reason of non-payment or procuring payment of the Obligations or otherwise, including a reasonable allowance for the time and effort of the Chargee's employees; and the Chargee may sell any part of the Mortgaged Property on such terms as to credit and otherwise as shall appear to it most advantageous and for such prices as can reasonably be obtained 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 Mortgaged Property and resell without being answerable for loss occasioned thereby; and in the case of a sale on credit the Chargee shall be bound to account to subsequent encumbrancers and to the Chargor for only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of such purposes may make and execute all agreements and assurances as it shall think fit; and that any purchaser shall not be bound to see to the propriety or regularity of any sale or be affected by express notice that any sale is improper; and that no want of notice or publication when required hereby shall invalidate any sale hereunder.
- (c) The Chargee may sell as aforesaid without entering into possession of the Mortgaged Property, and when it desires to take possession it may break locks and bolts as it may in its discretion see fit.
- (d) Provided that the title of a purchaser upon a sale made in professed exercise of the above power shall not be liable to be impeached on the ground that no case 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.

**56. Distress**

Provided that the Chargee may distrain for arrears of interest and for arrears of principal and for any other monies lawfully charged against the Mortgaged Property in the same manner as if the same were arrears of interest.

**57. No Merger on Judgment**

It is hereby agreed that the taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Chargee's right to interest at the rate and times herein provided; and further that said judgment shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until the said judgment shall have been fully paid and satisfied.

**58. Possession**

The Chargor covenants and agrees with the Chargee that upon default by the Chargor in the payment of the Indebtedness or in the performance or observance of any covenant, proviso or condition contained in this Mortgage, the Chargee may at its sole option and at such time or times as it may deem necessary and without the concurrence of any Person, enter into possession of the Mortgaged Property and may complete the construction thereof, repair any buildings, structures or improvements forming part of the Mortgaged Property, inspect, take care of, and lease the Mortgaged Property for such term and subject to such provisions as it may deem advisable or expedient (including providing any leasehold improvements the Chargee deems necessary, in its sole discretion, to lease the Mortgaged Property), collect the rents of, and manage the Mortgaged Property as it may deem expedient, and all costs, charges and expenses incurred by the Chargee in connection with the exercise of any such rights (including allowances for the time, service and effort of any officer of the Chargee or other person appointed for the above purposes) shall, together with interest thereon at the Interest Rate, be added to the Indebtedness and secured by this Mortgage and shall be forthwith payable by the Chargor to the Chargee. Any lease made by the Chargee while in possession of the Mortgaged Property shall continue for the full term and any permitted renewals thereof notwithstanding the termination of the Chargee's possession.

**59. Receiver**

It is hereby agreed that at any time and from time to time following the occurrence and during the continuance of an Event of Default, the Chargee may, with or without entry into possession of the Mortgaged Property or any part thereof, and whether before or after such entry into possession, appoint a receiver or manager, or receiver and manager (herein called the "Receiver") of the Mortgaged Property or any part thereof and of the rents and profits thereof or of only the rents and profits thereof, and with or without security, and may from time to time by similar writing remove any Receiver with or without appointing another in his 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. Upon the appointment of any Receiver or Receivers from time to time, the following provisions shall apply:

- (a) a statutory declaration of an officer of the Chargee as to default under this Mortgage shall be conclusive evidence thereof for the purposes of the appointment of a Receiver;
- (b) every Receiver shall be the agent or attorney of the Chargor (whose appointment as such shall be revocable only by the Chargee) for the collection of all rents and profits falling due and becoming payable in respect of the Mortgaged Property or any part thereof whether in respect of any tenancies created in priority to this Mortgage or subsequent thereto, or otherwise;
- (c) every Receiver may, in the discretion of the Chargee, be vested with all or any of the powers and discretions of the Chargee;
- (d) the rights and powers conferred herein in respect of the Receiver are supplemental to and not in substitution of any other rights and powers which the Chargee may have;
- (e) the Chargee may from time to time fix the remuneration for every Receiver, who shall be entitled to deduct the same out of revenue or sale proceeds of the Mortgaged Property;



- (f) every Receiver shall so far as concerns responsibility for its acts or omissions, be deemed the agent or attorney of the Chargor and in no event the agent of the Chargee;
  - (g) the appointment of every Receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the Receiver or to the Chargor or to any other Person in any respect, and such appointment or anything which may be done by any Receiver or the removal of any Receiver or the termination of any receivership shall not have the effect of constituting the Chargee a mortgagee-in-possession in respect of the Mortgaged Property or any part thereof;
  - (h) every such Receiver shall from time to time have the power to lease any portion of the Mortgaged Property which may become vacant, for such term and subject to such provisions as it may deem advisable or expedient, subject to the restrictions on leasing contained in any existing leases or agreements to lease affecting any of the Mortgaged Property, and in so doing, every Receiver shall act as the attorney or agent of the Chargor and shall have authority to execute under seal any lease of any such premises in the name of and on behalf of the Chargor, and the Chargor agrees to ratify and confirm whatever any Receiver may do in the Mortgaged Property;
  - (i) every Receiver may make such arrangements, at such time or times as it may deem necessary without the concurrence of any other persons, for the repairing, finishing, adding to, or putting in order of the Mortgaged Property, including without restricting the generality of the foregoing, completing the construction of any building or buildings, structures, services or improvements on the Mortgaged Property left in an unfinished state, and constructing or providing for leasehold improvements notwithstanding that the resulting cost may exceed the Principal Amount, and the Receiver shall have the right to register plans of subdivision and condominium declarations and descriptions in respect of the Mortgaged Property as well as the right to take possession of and use or permit others to use all or any part of the Chargor's materials, supplies, plans, tools, equipment (including appliances on this Charged Premises) and property of every kind and description;
  - (j) every Receiver shall have full power to manage, operate, amend, repair or alter the Mortgaged Property and the buildings and improvements thereon or any part thereof in the name of the Chargor for the purpose of obtaining rental and other income from the Mortgaged Property or any part thereof;
  - (k) no Receiver shall be liable to the Chargor to account for monies other than monies actually received by it in respect of the Mortgaged Property and out of such monies so received from time to time every Receiver shall, in the following order, pay:
    - (i) its remuneration as aforesaid,
    - (ii) all obligations, costs and expenses made or incurred by it, including but not limited to, any expenditures in connection with the management, operation, amendment, repair, construction or alteration of the Mortgaged Property or any part thereof,
    - (iii) interest, principal and other monies which may, from time to time, be or become charged upon the Mortgaged Property in priority to this Mortgage, including all Taxes,
    - (iv) to the Chargee, all Indebtedness, to be applied in such order as the Chargee in its discretion shall determine, and
    - (v) subject to subparagraph (iv) above, at the discretion of the Receiver, interest, principal and other monies which may from time to time constitute a charge or encumbrance on the Mortgaged Property subsequent in priority or subordinate to the interest of the Chargee under this Mortgage,
- and every Receiver may in its discretion retain reasonable reserves to meet accruing amounts and anticipated payments in connection with any of the foregoing and further any surplus remaining in the hands of every Receiver, after payments made and such reasonable reserves retained as aforesaid, shall be payable to the Chargor;
- (l) the Chargee may at any time and from time to time terminate any receivership by notice in writing to the Chargor and to any Receiver; and

- (m) save as to monies payable to the Chargor pursuant to subparagraph (k) of this Section, the Chargor hereby releases and discharges the Chargee and every Receiver from every claim of every nature, whether sounding in damages for negligence or trespass or otherwise, which may arise or be caused to the Chargor or any Person claiming through or under it by reason of or as a result of anything done by the Chargee or any Receiver under the provisions of this Section, unless such claim be the direct and proximate result of bad faith or gross neglect.

#### **60. Cumulative Remedies**

All remedies contained in this Mortgage are cumulative and the Chargee shall also have all other remedies provided at law and in equity or in any of the other Loan and Security Documents. Such remedies may be pursued separately, successively or concurrently at the sole subjective direction of the Chargee and may be exercised in any order and as often as occasion thereof shall arise. No act of the Chargee shall be construed as an election to proceed under any particular provisions of this Mortgage to the exclusion of any other provision of this Mortgage or as an election of remedies to the exclusion of any other remedy which may then or thereafter be available to the Chargee. No delay or failure by the Chargee to exercise any right or remedy under this Mortgage shall be construed to be a waiver of that right or remedy or of any default hereunder. The Chargee may exercise one or more of its rights and remedies at its option without regard to the adequacy of its security.

#### **61. Maximum Rate of Return**

Notwithstanding any provision of any of the Loan and Security Documents to the contrary, in no event will the aggregate "interest" (as defined in Section 347 of the *Criminal Code* (Canada)) payable under the Loan exceed the effective annual rate of interest on the Principal Amount lawfully permitted under that Section and, if any payment, collection or demand pursuant to the Loan in respect of "interest" (as defined in that Section) is determined to be contrary to the provisions of that Section, such payment, collection or demand will be deemed to have been made by mutual mistake of the Chargor and Chargee and the amount of such payment or collection shall either be applied to the Principal Amount (whether or not due and payable), and not to the payment of interest (as defined in Section 347 of the said *Criminal Code*), or be refunded to the Chargor at the option of the Chargee. For purposes of each Loan and Security Document, the effective annual rate of interest will be determined in accordance with generally accepted actuarial practices and principles over the term of the Loan on the basis of annual compounding of the lawfully permitted rate of interest. In the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Chargee will be conclusive for the purposes of such determination.

#### **62. Covenants with respect to Indebtedness; Operations and Fundamental Changes of Chargor**

The Chargor represents, warrants and covenants as of the date hereof and until such time as the Indebtedness secured hereby is paid in full, that the Chargor:

- (a) will not enter into any contract or agreement with any general partner, principal, member or affiliate of the Chargor or any affiliate of any such general partner, principal, or member of the Chargor, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with third parties other than an affiliate;
- (b) without the Prior written consent of the Chargee, will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the Indebtedness, and (ii) trade payables or accrued expenses incurred in the ordinary course of business of operating the Mortgaged Property; no debt whatsoever may be secured (senior, subordinate or *pari passu*) by the Chargor and/or Mortgaged Property without the Prior written consent of the Chargee;
- (c) has not made and will not make any loans or advances to any third party (including any general partner, principal, member or affiliate of the Chargor, or any Guarantor);
- (d) is and will be solvent and pay its debts from its assets as the same shall become due;
- (e) has done or caused to be done and will do all things necessary to preserve its existence and corporate, limited liability company and partnership formalities (as applicable), and will not, nor will any partner, limited or general, or member or shareholder thereof, amend, modify or otherwise change its partnership certificate, partnership agreement, certificate or articles of

incorporation or organization, or by-laws or operating agreement or regulations, in a manner which adversely affects the Chargor's or any such partner's, member's or shareholder's existence as a single-purpose, single-asset "bankruptcy remote" entity;

- (f) will conduct and operate its business as presently conducted and operated;
- (g) The Chargor shall retain professional property management acceptable to the Chargee for the operation of the Mortgaged Property. The Chargor shall obtain Chargee's approval for any changes in property management throughout the term of the Loan. Notwithstanding the foregoing, the Chargee acknowledges that property management by the Chargor or an affiliate is acceptable. Satisfactory management through the term of the Loan includes but is not limited to the following:
  - (i) that the Property not be abandoned for a period exceeding fifteen (15) consecutive days;
  - (ii) that the Property not be physically altered without the Chargee's written consent; and
  - (iii) that the Property be reasonably maintained;
- (h) will maintain books and records and bank accounts separate from those of its affiliates, including its general partners, principals and members;
- (i) will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any general partner, principal, member or affiliate);
- (j) will file its own tax returns;
- (k) will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;
- (l) will not, nor will any shareholder, partner, member or affiliate, seek the dissolution or winding up, in whole or in part, of the Chargor;
- (m) will not enter into any transaction of merger or consolidation, or acquire by purchase or otherwise all or substantially all of the business or assets of, or any stock or beneficial ownership of any entity;
- (n) will not commingle the funds and other assets of the Chargor with those of any general partner, principal, member or affiliate, or any other person;
- (o) has and will maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate or any other person;
- (p) has, and any general partner or operating member of the Chargor has, at all times since its formation, observed all legal and customary formalities regarding its formation and will continue to observe all legal and customary formalities; and
- (q) does not and will not hold itself out to be responsible for the debts or obligations of any other person.

#### **MULTIFAMILY/CONDOMINIUM**

##### **63. Additional Definitions**

If the Mortgaged Property are registered under the *Condominium Act, 1998*, (Ontario), as amended and/or restated from time to time (the "*Condominium Act*") or are proposed to be registered under the *Condominium Act*, the following definitions and provisions shall apply to this Mortgage:

**"Declaration"** means the declaration which, together with the description, was registered under the *Condominium Act* and subjected the Mortgaged Property to the provisions of the *Condominium Act*, and all amendments to such declaration.

**"Condominium Corporation"** means the corporation created by the registration of the Declaration and the description relating thereto.

“**Common Expenses**” means the expenses of the performance of the objects and duties of the Condominium Corporation and any expenses specified as common expenses in the Declaration.

“**Insurance Trustee**” means the insurance trustee appointed pursuant to the Declaration.

#### **64. Condominium Provisions**

If all or any part of the Mortgaged Property is a condominium unit or units and its or their appurtenant common interest then:

- (a) If and only to the extent that the Condominium Corporation maintains any insurance that the Chargor would otherwise be responsible to obtain and maintain under this Mortgage, the Chargor shall be relieved from such responsibility,

The Chargor shall insure all improvements which at any time the Chargor or any previous owner makes or made to the Mortgaged Property and the Chargor's common or other interest in buildings which are part of the condominium property, against such risks as the Chargee may require. If the Condominium Corporation fails to obtain and maintain the insurance required by the Condominium Act, the Declaration, the by-laws or rules of the Condominium Corporation or otherwise with respect to all or any part of the Mortgaged Property, the condominium property or the assets of the Condominium Corporation, the Chargor shall do so. If the Chargor fails to so insure, the Chargee may (but shall not be obligated to) do so and all amounts so paid by the Chargee, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage and shall be forthwith payable by the Chargor to the Chargee. All policies of insurance required to be effected pursuant to this subsection upon or in respect of the buildings on the Mortgaged Property shall provide for any loss to be payable to the Chargee or an Insurance Trustee pursuant to an insurance trust agreement approved by the Chargee, the terms of which shall not be altered without the Chargee's prior written consent.

In the event of loss or damage, the Chargor or the Condominium Corporation or both of them shall notify the Chargee, and the Chargor and the Condominium Corporation shall forthwith upon such event comply fully with the terms of the policy or policies of insurance, and without limiting the application of any provision in this Mortgage or the obligation of the Chargor to observe and perform all of the duties and obligations imposed by the Condominium Act, the Declaration and/or the by-laws of the Condominium Corporation, the Chargor and the Condominium Corporation shall comply with the insurance provisions of the Declaration. The Chargor shall furnish at his own expense all necessary proofs and do all necessary acts to enable the Chargee or the Insurance Trustee to obtain payment of the insurance proceeds.

In the event of loss or damage, the Chargee shall have the right to apply the insurance proceeds in whole or in partial reduction of the Indebtedness, notwithstanding that the Indebtedness may not otherwise be due and payable under the terms of this Mortgage and/or in meeting costs of repair or reconstruction and/or the Chargee may pay such proceeds in whole or in part to the Chargor or to the assigns of the Chargor.

- (b) The Chargor agrees to comply with all of the terms imposed by the *Condominium Act*, the Declaration, the by-laws and rules of the Condominium Corporation, all as amended from time to time. Any contravention of those terms will constitute a contravention and default under this Mortgage;
- (c) The Chargor agrees to pay Common Expenses as they fall due and in default of so doing, the Chargee may at its option pay these contributions and the amounts so paid, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage and shall be immediately due and payable by the Chargor to the Chargee;
- (d) The Chargor authorizes and empowers the Chargee to exercise its right as an owner of the Mortgaged Property to vote or to consent in all matters relating to the affairs of the Condominium Corporation and will forthwith deliver to the Chargee all notices of meetings of the Condominium Corporation which the Chargor receives provided that until the Chargee gives notice in writing to the Chargor and to the Condominium Corporation, the Chargor may exercise the right to vote and to consent. The Chargee is not under any obligation to vote or consent or protect the Chargor's interest and the exercise by the Chargee of the right to vote

or consent will not constitute the Chargee a mortgage in possession of the Mortgaged Property;

- (e) The Chargor covenants with the Chargee to deliver to the Chargee in person or by prepaid registered mail, a copy of the following:
  - (i) every request or claim for the consent of the Chargor affecting the unit or common elements of the condominium which copy is to be received by the Chargee within five days from the date such request or claim is received or made by the Chargor, and
  - (ii) any information known to the Chargor concerning the termination of any management agreement or insurance trust agreement in respect of the condominium, such information to be delivered immediately upon the Chargor learning of such information.
- (f) the Chargor hereby assigns to the Chargee the proceeds of all insurance that may be otherwise payable to the Chargor by the Insurance Trustee.

## ACKNOWLEDGEMENT AND DIRECTION

TO: All Lawyers within the firm of Schneider Ruggiero Spencer Milburn LLP and any and all of their designees

RE: Computershare Trust Company of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp. (collectively the "**Lender**") loan facilities to 1776411 Ontario Ltd. as general partner on behalf of 1333 Weber Street Kitchener LP (collectively the "**Borrower**"), first mortgage from 1776411 Ontario Ltd. (the "**Chargor**"), guaranteed by 1639993 Ontario Ltd., Jaykam Developers Limited, Werner Leuschner and Kamal Patel (the "**Guarantors**"), pursuant to two (2) facility letters issued by CMLS Financial Ltd., each dated June 28, 2021, as they may be amended from time to time (collectively the "**Facility Letter**"), relating to the property municipally known as 1333 Weber Street East, Kitchener, Ontario and legally described in PIN 22590-0549(LT) (the "**Property**")

---

This will confirm that:

- The undersigned has reviewed the information set out in the draft documents attached, and that this information is accurate;
- You are authorized and directed to register or cause to be registered electronically on behalf of the undersigned the following documents:
  - (a) **Charge/Mortgage granted by the Chargor in favour of the Lender encumbering the Property in the principal amount of \$82,000,000.00; and**
  - (b) **A Notice of Assignment of Rents-General granted by the Chargor in favour of the Lender encumbering the Property.**

As well as any other documents required to complete the transaction described above;

- You are authorized to amend with any minor changes or additions the above-described documents as required in order to complete the transaction in accordance with its terms or as the undersigned may instruct from time to time;
- The effect of the electronic documents described in this Acknowledgement and Direction has been fully explained to the undersigned and the undersigned understands that the undersigned is a party to and bound by the terms and provisions of these electronic documents to the same extent as if the undersigned had personally signed these documents;
- The undersigned is in fact the party named in the electronic documents described in this Acknowledgement and Direction and the undersigned has not misrepresented the identity of the undersigned to you;
- This Acknowledgement and Direction may be executed in counterparts, each of such counterpart when executed shall constitute an original document, and such counterparts taken together shall constitute one and the same instrument; and
- The Acknowledgement and Direction may be executed either in original or faxed form and the parties adopt any signatures received by a receiving fax machine as original signatures of the parties; provided however, that any party providing its signature in such manner shall promptly forward to the other party an original of the signed copy of this Acknowledgment and Direction which was so faxed.

*[signature page follows]*

The undersigned acknowledges and agrees that in effecting the electronic registrations hereby authorized, you will be relying on the accuracy and authority of the foregoing statements.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333 WEBER  
STREET KITCHENER LP

Per: \_\_\_\_\_  
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation


1776411 ONTARIO LTD.

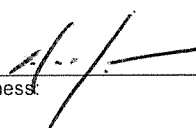
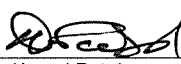
Per: \_\_\_\_\_  
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

1639993 ONTARIO LTD.

Per: \_\_\_\_\_  
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

JAYKAM DEVELOPERS LIMITED

Per:   
Name: Kamal Patel  
Title: President  
I have the authority to bind the corporation

Witness:  \_\_\_\_\_ }  
Name: Werner Leuschner  
  
Name: Kamal Patel

## ACKNOWLEDGEMENT AND DIRECTION

TO: All Lawyers within the firm of Schneider Ruggiero Spencer Milburn LLP and any and all of their designees

RE: Computershare Trust Company of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp. (collectively the "**Lender**") loan facilities to 1776411 Ontario Ltd. as general partner on behalf of 1333 Weber Street Kitchener LP (collectively the "**Borrower**"), first mortgage from 1776411 Ontario Ltd. (the "**Chargor**"), guaranteed by 1639993 Ontario Ltd., Jaykam Developers Limited, Werner Leuschner and Kamal Patel (the "**Guarantors**"), pursuant to two (2) facility letters issued by CMLS Financial Ltd., each dated June 28, 2021, as they may be amended from time to time (collectively the "**Facility Letter**"), relating to the property municipally known as 1333 Weber Street East, Kitchener, Ontario and legally described in PIN 22590-0549(LT) (the "**Property**")

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- The undersigned is in fact the party named in the electronic documents described in this Acknowledgement and Direction and the undersigned has not misrepresented the identity of the undersigned to you;
- This Acknowledgement and Direction may be executed in counterparts, each of such counterpart when executed shall constitute an original document, and such counterparts taken together shall constitute one and the same instrument; and
- The Acknowledgement and Direction may be executed either in original or faxed form and the parties adopt any signatures received by a receiving fax machine as original signatures of the parties; provided however, that any party providing its signature in such manner shall promptly forward to the other party an original of the signed copy of this Acknowledgement and Direction which was so faxed.

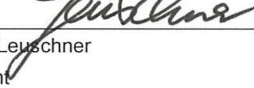
*[signature page follows]*



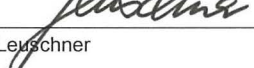
The undersigned acknowledges and agrees that in effecting the electronic registrations hereby authorized, you will be relying on the accuracy and authority of the foregoing statements.

Dated this 13<sup>th</sup> day of Aug., 2021.

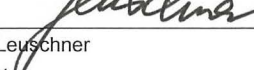
**1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333 WEBER  
STREET KITCHENER LP**

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**1776411 ONTARIO LTD.**

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation


**1639993 ONTARIO LTD.**

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**JAYKAM DEVELOPERS LIMITED**

Per: \_\_\_\_\_  
Name: Kamal Patel  
Title: President  
I have the authority to bind the corporation

Witness:   
D. Fedy

  
Name: Werner Leuschner  
\_\_\_\_\_  
Name: Kamal Patel

**Properties**

|                    |  |                        |            |
|--------------------|--|------------------------|------------|
| <i>PIN</i>         | 22590 - 0549 LT  | <i>Interest/Estate</i> | Fee Simple |
| <i>Description</i> | 1STLY: LOTS 29 TO 34, 45 TO 50, 91 PLAN 322, TWP OF WATERLOO; LOT 127 STREETS & LANES KITCHENER ( CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 12 TO 17, 43, 44, 86, 87, 89, 90 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 141 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4445, INST. 210008); PT. LOT 173 STREEST & LANES KITCHENER (BEING PT. OF SUNNYSIDE AVE., CLOSED BY BYLAW NO. 5094, INST. 270276) PT. 1 ON 58R-1868; EXCEPT PT. 1 ON 58R-3067 & PT. 34 ON 58R-11552 & PT. 7 ON 58R-12048 AND PART 1 ON 58R21025; 2NDLY: PT. LOTS 12 TO 17 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368), PT. 7 ON 58R-12048;; SUBJECT TO AN EASEMENT IN GROSS OVER PART OF LOTS 16 AND 17, PLAN 322, BEING PART 1 ON PLAN 58R11736 AS IN WR1306081; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 2 AND 3 ON 58R21025 AS IN WR1324371; SUBJECT TO AN EASEMENT AS IN WR1326075; SUBJECT TO AN EASEMENT AS IN 687124; CITY OF KITCHENER |                        |            |
| <i>Address</i>     | 1333 WEBER STREET EAST<br>KITCHENER  |                        |            |

**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.

|                            |   |
|----------------------------|---|
| <i>Name</i>                | 1776411 ONTARIO LTD.  |
|                            | Acting as a company   |
| <i>Address for Service</i> | 258 Edgewater Crescent, Suite 8<br>Kitchener, Ontario N2A 4M2 |

I, Werner Leuschner (President), have the authority to bind the corporation.

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

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

|                            |   |
|----------------------------|---|
| <i>Name</i>                | CMLS FINANCIAL LTD.   |
|                            | Acting as a company   |
| <i>Address for Service</i> | Suite 2110 - 1066 West Hastings Street<br>Vancouver, BC V6E 3X2                         |
| <i>Name</i>                | COMPUTERSHARE TRUST COMPANY OF CANADA   |
|                            | Acting as a company   |
| <i>Address for Service</i> | 100 University Avenue, 8th Floor, South Tower<br>Toronto, Ontario M5J 2Y1               |
| <i>Name</i>                | GENESIS MORTGAGE INVESTMENT CORP.   |
|                            | Acting as a company   |
| <i>Address for Service</i> | #805-8400 West Road<br>North Tower, International Trade Centre<br>Richmond, BC, V6X 0S7 |

**Statements**

Schedule:

**Provisions**

|                                 |                 |                 |     |
|---------------------------------|-----------------|-----------------|-----|
| <i>Principal</i>                | \$82,000,000.00 | <i>Currency</i> | CDN |
| <i>Calculation Period</i>       |                 |                 |     |
| <i>Balance Due Date</i>         | On Demand       |                 |     |
| <i>Interest Rate</i>            | 25% per annum   |                 |     |
| <i>Payments</i>                 |                 |                 |     |
| <i>Interest Adjustment Date</i> |                 |                 |     |
| <i>Payment Date</i>             | On Demand       |                 |     |
| <i>First Payment Date</i>       |                 |                 |     |
| <i>Last Payment Date</i>        |                 |                 |     |
| <i>Standard Charge Terms</i>    |                 |                 |     |

**Provisions**

Insurance Amount                      Full insurable value  
Guarantor

**File Number**

Chargee Client File Number :                      42896 DM

## ADDITIONAL PROVISIONS:

The following additional provisions shall be included in and form part of this Mortgage:

### INTERPRETATION

#### 1. Definitions

Unless there is something in the subject matter or context inconsistent therewith, in these additional provisions, the following expressions shall have the following meanings:

“**Act**” means the *Land Registration Reform Act*, R.S.O. 1990, c.L.4, as amended and/or restated from time to time.

“**Applicable Laws**” means all applicable federal, provincial or municipal laws, statutes, regulations, rules, by-laws, policies and guidelines, orders, permits licenses, authorizations, approvals and all applicable common laws or equitable principles whether now or hereafter in force and effect.

“**Business Day**” means a day other than Saturday, Sunday, or any other day which is a statutory or municipal holiday in the Provinces of Ontario or British Columbia.

“**Change of Control**” means if either Werner Leuschner and/or Kamal Patel, as applicable, ceases to Control, directly or indirectly, any of the Obligor.

“**Chargee**” means collectively Computershare Trust Company Of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp., and its respective successors and assigns.

“**Chargor**” means any Person who signs this Mortgage as Chargor, and includes heirs, executors, administrators, personal legal representatives, successors and assigns of any such Person.

“**Commitment Letter**” means collectively the mortgage loan commitments for the Loan, and all amendments thereto.

“**Control**” means the power, directly or indirectly, to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, and “**Controlling**” and “**Controlled**” have corresponding meanings.

“**Costs**” means all fees, costs, charges and expenses of the Chargee of and incidental to:

- (a) the preparation, execution and registration of this Mortgage and any other instruments connected herewith and every renewal hereof, including without limitation all of the Loan and Security Documents,
- (b) the collection, enforcement, realization of and upon this Mortgage and the other Loan and Security Documents,
- (c) procuring payment of the Indebtedness due and payable hereunder, including without limitation, foreclosure, power of sale, execution, judicial sale, court appointed receivership and management of the Mortgaged Property or other proceedings of enforcement commenced by the Chargee or any other party,
- (d) any inspection required to be made of the Mortgaged Property,
- (e) all necessary repairs required to be made to the Mortgaged Property,
- (f) the Chargee having to go into possession of the Mortgaged Property and secure, complete and equip the building or buildings in any way in connection therewith, including without limitation any leasehold inducements or improvements required to lease the Mortgaged Property,
- (g) the Chargee's renewal of any leasehold interests,
- (h) the exercise of any of the powers of a receiver contained herein, and
- (i) any Transfers or any changes to, amendments of, or alterations to, the Loan or Loan and Security Documents by request or reason of the Chargor, including without limitation, any

costs of the Chargee in granting approvals or consents thereto and the costs of obtaining confirmation thereof by applicable rating agencies,

and all legal costs incurred by the Chargee on a substantial indemnity basis, and all costs and expenses of any examination of title to and of valuation of the Mortgaged Property or the obtaining of credit reports on the Chargor and any Guarantor.

“**Default**” means any event or condition that would constitute an Event of Default upon satisfaction of any condition subsequent required to make the event or condition an Event of Default, including giving of any notice, passage of time, or both.

“**Electronic Form**” means an electronic form of charge/mortgage.

“**Event of Default**” means any one or more of the following events:

- (a) if the Chargor fails to pay any amount of principal, interest or other amounts of Indebtedness when due;
- (b) if a Transfer occurs in contravention of the requirements pertaining to Transfers in this Mortgage;
- (c) if any Obligor neglects to observe or perform any Obligations contained in this Mortgage, the Commitment Letter or any other Loan and Security Document on its part to be observed or performed (other than a covenant or condition whose breach or default in performance is specifically dealt with elsewhere in this definition or such Loan and Security Document) and such Obligor fails to remedy such default within 15 days from the earlier of (i) the date such Obligor becomes aware of such default, and (ii) the date the Chargee delivers written notice of the default to such Obligor;
- (d) if any information, representation or warranty given or made by any Obligor in the Commitment Letter, any Loan and Security Document or in any certificate or other document at any time delivered hereunder to the Chargee proves to have been incorrect or misleading in any material respect on and as of the date that it was made or was deemed to have been made and such Obligor fails to remedy such default within 10 Business Days of the occurrence of such event (or such longer period as the Chargee may agree to having regard to the nature of such default and provided the affected Obligor is proceeding diligently to cure such default);
- (e) if any Obligor ceases or threatens to cease to carry on business generally or admits its inability or fails to pay its debts generally;
- (f) if any Obligor denies, to any material extent, its obligations under any Loan and Security Document or claims any of the Loan and Security Documents to be invalid or withdrawn in whole or in part;
- (g) any of the Loan and Security Documents or any material provision of any of them becomes unlawful or is changed by virtue of legislation or by a governmental authority, if any Obligor does not, within 15 Business Days of being given notice of such Loan and Security Document or material provision becoming unlawful or being changed, replace such Loan and Security Document with a new agreement that is in form and substance satisfactory to the Chargee, acting reasonably, or amend such Loan and Security Document to the satisfaction of the Chargee acting reasonably;
- (h) if a decree or order of a court of competent jurisdiction is entered adjudging an Obligor a bankrupt or insolvent or approving as properly filed a petition seeking the winding-up of an Obligor under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada), the *United States Bankruptcy Code* or the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous laws or issuing sequestration or process of execution against any substantial part of the assets of an Obligor or ordering the winding-up or liquidation of its affairs;
- (i) if any Obligor becomes insolvent, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable law, seeks relief under the *Companies' Creditors Arrangement Act* (Canada), the *United States Bankruptcy Code*, the *Winding-up*

and Restructuring Act (Canada) or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other Person with similar powers of itself or of all or any substantial portion of its assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to, or acquiesces in, the filing of such a petition;

- (j) if any Person takes possession, by appointment of a receiver, receiver and manager or otherwise, of all or any part of the Mortgaged Property;
- (k) if proceedings are commenced for the dissolution, liquidation or voluntary winding-up of any Obligor, or for the suspension of the operations of any Obligor unless such proceedings are being actively and diligently contested in good faith;
- (l) if a final judgment or decree for the payment of money due has been obtained or entered against an Obligor and such judgment or decree has not been and remained vacated, discharged or stayed pending appeal within the applicable appeal period or the applicable Obligor has not demonstrated to the satisfaction of the Chargee that it has the financial ability to satisfy such judgement or decree without adversely affecting in any material way, such Obligor's ability to perform its Obligations under the Loan and Security Documents;
- (m) if an event of default as defined in any indenture or instrument evidencing, or under which, any indebtedness for borrowed money of an Obligor is outstanding occurs and is continuing;
- (n) if any security for the Loan ceases to constitute a valid and perfected first priority security interest and, provided the Chargee is satisfied that its position will not be prejudiced, the applicable Obligor has failed to remedy such default within five Business Days of becoming aware of such fact;
- (o) if, except as permitted under the Loan and Security Documents, there is any reorganization of any Obligor or any consolidation, merger or amalgamation of any Obligor with any other company or companies, the effect of which would be a Change of Control;
- (p) if any part of the Mortgaged Property becomes subject to a condominium regime or any other form of multiple ownership or governance, without the Chargee's prior written consent;
- (q) if any part of the Mortgaged Property is expropriated and, in the opinion of the Chargee, such expropriation materially impairs any of (i) the value of the Property, (ii) the validity, enforceability or priority of the Loan and Security Documents, or (iii) the ability of any Obligor to fulfil its Obligations; or
- (r) there has been an adverse change in:
  - (i) the financial position of any Obligor;
  - (ii) the Chargor's representations and warranties made in connection with this Mortgage; or
  - (iii) the Mortgaged Property.

**"Governmental Authority"** means any federal, provincial, municipal or other form of government or any political subdivision or agency thereof, and any body or authority exercising any functions of government, including any court.

**"Guarantor"** means any Person or entity who has entered into a contract of guarantee with the Chargee from time to time guaranteeing the Obligations of the Chargor under this Mortgage and the other Loan and Security Documents.

**"Hazardous Substances"** means substances or conditions that are prohibited, controlled or otherwise regulated or are otherwise hazardous in fact, such as contaminants, pollutants, toxic, dangerous or hazardous substances, toxic, dangerous or hazardous materials, designated substances, controlled products, including without limitation, wastes, subject wastes, urea formaldehyde foam type of insulation, asbestos or asbestos-containing materials, polychlorinated biphenyls ("PCBs") or PCB contaminated fluids or equipment,

explosives, radioactive substances, petroleum and associated products, underground storage tanks or surface impoundments.

**"Indebtedness"** means the aggregate of:

- (a) the Principal Amount of the Loan;
- (b) all interest thereon and compound interest as provided in this Mortgage;
- (c) all Costs;
- (d) any amount, cost, charge, expense and interest, including without limitation, Costs, added to the Indebtedness under the terms of this Mortgage; and
- (e) any other amount, cost, charge, expense and interest otherwise due and payable to the Chargee hereunder or secured by this Mortgage.

**"Interest Rate"** means the rates of interest rate set out in and calculated in accordance with the Commitment Letter.

**"Lease"** means any lease, sublease, or agreement to lease or sublease space at or in the Mortgaged Property.

**"Lien"** means any mortgage, charge, pledge, hypothec, assignment, lien, lease, sublease, easement (express or prescribed), preference, priority, trust, or other security interest or encumbrance of any kind or nature whatsoever with respect to any property.

**"Loan"** means the loan advanced by the Chargee to the Chargor in the Principal Amount in accordance with this Mortgage.

**"Loan and Security Documents"** means, collectively, the Commitment Letter and all other documents, security agreements, instruments, guarantees, indemnities, agreements, certificates, undertakings and opinions now or hereafter given or entered into as evidence of or as security for the Loan.

**"Mortgage"** means the Electronic Form to which these additional provisions are attached as a schedule and these additional provisions.

**"Mortgaged Property"** means the lands described under the heading of "Properties" in the Electronic Form, together with all buildings, structures and improvements built upon or made to the lands from time to time, all fixtures described in Section 42, entitled Fixtures, of these additional provisions, and all other appurtenances thereto.

**"Obligations"** means all obligations of the Obligors or any of them to the Chargee under or in connection with the Loan and Security Documents, including payment of all Indebtedness when due and performance of all other obligations under the Loan and Security Documents as and when required by the terms thereof.

**"Obligors"** means, together, the Chargor, the borrower identified in the Commitment Letter and all Guarantors and any other Persons promising any indemnification, guarantee or performance of Obligations.

**"Permitted Encumbrances"** means, as of any particular time, any of the following encumbrances provided that the Chargee is satisfied in its sole discretion that same do not, in the aggregate, materially impair the servicing, development, construction, operation, management or marketability of the Mortgaged Property, or the validity, enforceability or priority of this Mortgage:

- (a) Liens for Taxes or utility charges in either case only if same are not yet due or payable;
- (b) registered easements, rights of way, restrictive covenants and servitudes and other similar rights in land granted to, reserved or taken by any Governmental Authority or public utility, or any registered subdivision, development, servicing, site plan or other similar agreement with any Governmental Authority or public utility provided in each case that
  - (i) same has been complied with, and
  - (ii) the Chargee is satisfied in its sole discretion with the nature, scope and cost of any outstanding obligations thereunder and security has been posted to ensure performance of all such obligations;

- (c) minor title defects or irregularities;
- (d) any subsisting reservations contained in the original grant of the Mortgaged Property from the Crown; or
- (e) leases of the Mortgaged Property which are either
  - (i) disclosed by the Chargor to the Chargee prior to the Loan being made in a rent roll or other document, or
  - (ii) entered into after the Loan is made in accordance with the Loan and Security Documents; and
- (f) such other Liens consented to in writing by the Chargee in its sole discretion.

“Person” includes any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority, or other entity.

“Principal Amount” means the amount referred to as “Principal” under the heading of “Provisions” in the Electronic Form.

“Required Records” is defined in Section 38, entitled Financial Statements, of these additional provisions.

“Requirements of Environmental Law” means all requirements of the common law or of statutes, regulations, by-laws, ordinances, treaties, judgments and decrees, and (whether or not they have the force of law) rules, policies, guidelines, orders, approvals, notices, permits, directives and the like, of any federal, territorial, provincial, regional, municipal or local judicial, regulatory or administrative agency, board or governmental authority relating to environmental or occupational health and safety matters and the Mortgaged Property and the activities carried out thereon (whether in the past, present or the future) including, but not limited to, all such requirements relating to: (a) the protection, preservation or remediation of the natural environment (the air, land, surface water or groundwater); (b) the generation, handling, treatment, storage, transportation or disposal of or other dealing with solid, gaseous or liquid waste; and (c) the presence on or at the Mortgaged Property of Hazardous Substances.

“Servicer” means CMLS Financial Ltd. and its successors and permitted assigns and any replacement thereof by the Chargee from time to time.

“Taxes” means all taxes, rates, assessments, levies, liens and penalties, municipal, local, parliamentary or otherwise, that now are or may hereafter be imposed, charged or levied upon or with respect to the Mortgaged Property.

“Transfer” means any sale, transfer, assignment, conveyance or other disposition by the Chargor of the Mortgaged Property, in whole or in part, or of any interest therein, subject to the further provisions of Section 44, entitled Transfers, of these additional provisions.

“Transferee” means any purchaser, transferee or assignee pursuant to a Transfer.

## **2. Obligations as Covenants**

Each of the Obligations of the Chargor and of any Guarantor expressed in this Mortgage, even though not expressed as a covenant, is deemed for all purposes to be a covenant made with the Chargee.

## **3. Land Registration Reform Act**

The parties hereby exclude from this Mortgage all of the covenants deemed to be included by Section 7(1) of the Act, which covenants are hereby replaced by the covenants and agreements contained herein.

## **4. Severability**

If any one or more of the provisions contained in this Mortgage shall for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Chargee, be severable from and shall not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Mortgage.

## **5. Interpretation and Headings**



The words "hereto", "herein", "hereof", "hereby", "hereunder" and similar expressions refer to the whole of this Mortgage including, without limitation, these additional provisions, and not to any particular Section or other portion thereof or hereof and extend to and include any and every document supplemental or ancillary hereto or in implementation hereof. Words in the singular include the plural and words in the plural include the singular. Words importing the masculine gender include the feminine and neuter genders where the context so requires. Words importing the neuter gender include the masculine and feminine genders where the context so requires. Whenever two or more persons are under a liability hereunder such liability shall be both joint and several. The headings do not form part of this Mortgage and have been inserted for convenience of reference only.

**6. Successors and Assigns**

Every reference in this Mortgage to a party hereto shall extend to and include the heirs, executors, administrators, successors and assigns of such party. This Mortgage shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. This Mortgage may be assigned by the Chargee at any time without prior notice to or consent of the Chargor.

**7. Date of Mortgage**

The parties hereby acknowledge and agree that for the purpose of defining "the date of the mortgage" with respect to any statutory right of prepayment, the date of this Mortgage shall be conclusively deemed to be the "Interest Adjustment Date" as set out under the heading of "Provisions" in the Electronic Form, or as otherwise defined herein, as the case may be. For all other purposes, this Mortgage shall be deemed to be dated as of the date of electronic signing hereof by the Chargor.

**8. No Merger**

- (a) Notwithstanding the execution and delivery of this Mortgage and the other Loan and Security Documents and the advance of all or part of the Loan, the Commitment Letter shall remain in full force and effect and the provisions thereof are intended not to merge or be extinguished.
- (b) Notwithstanding any terms contained in the Commitment Letter to the contrary, in the event of conflict between the Commitment Letter and the terms of this Mortgage, the provisions of the Commitment Letter shall prevail; provided that any provision herein contained that is not contained in the Commitment Letter and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

**CHARGE, PAYMENTS, INTEREST**

**9. Mortgage**

The Chargor charges the Mortgaged Property with the payment to the Chargee of the Indebtedness and with performance of the other Obligations, with a power of sale to be exercised after Default as hereinafter provided.

**10. Interest**

The Principal Amount shall bear interest at the Interest Rate, both before and after default, demand, maturity and judgment, until paid.

**11. Payment**

- (a) This Mortgage shall operate until all Indebtedness is paid in full to the Chargee, and each of the Obligations whose performance is secured by this Mortgage is performed, in the manner provided in this Mortgage. The provisions of subsection 6(2) of the Act are hereby expressly excluded from the terms of this Mortgage.
- (b) Interest at the Interest Rate on the amounts from time to time advanced, computed from the respective dates of such advances, shall become due and be paid on the first day of each month following the date of the first advance to and including the Interest Adjustment Date specified under the heading of "Provisions" in the Electronic Form. At the option of the Chargee, interest so due and payable may be deducted from such advances. Thereafter the sums set out under the heading of "Provisions" in the Electronic Form shall become due and be paid on each Payment Date under the heading of "Provisions" in the Electronic Form. If specific dates have not been inserted under the heading of "Provisions" in the Electronic

Form for the Interest Adjustment Date, First Payment Date, Last Payment Date and Balance Due Date, then the Interest Adjustment Date shall be deemed to be the first day of the calendar month next following the earlier of the following dates:

- (i) the date by which the entire Principal Amount has been advanced, and
- (ii) the date the Chargee exercises any right it may have to cancel its commitment to advance any unadvanced portion of the Principal Amount,

(unless the earlier of such dates occurs on the first day of a calendar month, in which event that date shall be deemed to be the Interest Adjustment Date), the First Payment Date shall be deemed to be the first day of the calendar month next following the deemed Interest Adjustment Date and both the Last Payment Date and Balance Due Date shall be deemed to be the date that occurs such number of months following the deemed Interest Adjustment Date as corresponds with the number of months in the term of this Mortgage. If the Payment Date has not been inserted under the heading of "Provisions" in the Electronic Form, then principal and interest payments shall be payable monthly on the first day of each month commencing on the First Payment Date.

**12. Timing, Place of Payments to be made to Servicer**

Notwithstanding any other provision of this Mortgage, all payments under this Mortgage shall be paid to the Servicer, acting for and on behalf of the Chargee in the administration and servicing of the Loan, or as the Servicer may otherwise direct the Chargor in writing, such payments to be made by electronic direct-debit transfer before 9:00 o'clock AM (Pacific Time) on any day on which payment is to be made. If for any reason the electronic direct-debit transfer for a monthly payment is made after 9:00 o'clock AM (Pacific Time) on any particular day, it is understood and agreed that any such payment will be deemed to have been made on the next following Business Day.

**13. Advances and Expenses**

All advances are to be made in such manner at such times and in such amounts, up to the Principal Amount, as the Chargee in its sole discretion may determine, subject always to the proviso that the Chargee is not bound to advance any unadvanced portion thereof. The Chargor agrees that neither the preparation, execution nor registration of this Mortgage shall bind the Chargee to advance the Principal Amount, nor shall the advance of a part of the Principal Amount bind the Chargee to advance the unadvanced portion thereof, but nevertheless this Mortgage shall take effect forthwith upon the electronic signing of this Mortgage by the Chargor. The Chargee's Costs shall be, in the event of the whole or any balance of the Principal Amount not being advanced, payable forthwith by the Chargor to the Chargee and, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage.

**14. Compound Interest**

All interest on becoming overdue, and any amount, cost, charge or expense that has been added to the Indebtedness under the terms of this Mortgage, shall be treated (as to payment of interest thereon as aforesaid) as principal and shall bear compound interest at the Interest Rate both before and after default, demand, maturity and judgment until paid, and all such interest and compound interest shall be added to the Indebtedness and secured by this Mortgage. If any of the monies hereby secured are not paid when due, the Chargor will, so long as any part thereof remains unpaid, pay interest thereon as above provided.

**15. Application of Instalments**

The monthly instalments set out under the heading of "Provisions" in the Electronic Form are to be applied firstly to the interest portion of the Indebtedness and the balance of the said monthly instalments shall be applied to the principal component of the Indebtedness; except, however, in the case of default by the Chargor, the Chargee may then apply any payments received during the period of default to any part of the Indebtedness in whatever order it may elect notwithstanding any contrary stipulation by the Chargor.

**16. Pre-Authorized Payment Plan**

- (a) The Chargor, on written request from the Chargee, and at the Chargee's option, will make all payments pursuant to this Mortgage by pre-authorized chequing or electronic debit entry on an account maintained by the Chargor and will execute and provide such written authorizations and sample cheques as the Chargee may require.

- (b) If any cheque issued by the Chargor to the Chargee and/or the Servicer or any electronic direct-debit transfer in payment of any amount due and owing hereunder is not honoured when presented for payment, the Chargor shall pay to the Chargee on demand all expenses incurred by the Chargee as a result of such dishonour and the Chargee's reasonable administrative costs arising therefrom, which shall include, without limitation, any administrative costs of the Servicer, which expenses and costs shall, together with interest thereon at the Interest Rate, be added to the Indebtedness and secured by this Mortgage and shall be forthwith due and payable to the Chargee.

**17. Taxes, Other Covenants**

The Chargor covenants to pay all Taxes and observe and perform all covenants, provisos and conditions herein contained.

**18. Covenant to Pay and Perform**

The Chargor covenants with the Chargee that the Chargor will pay the Indebtedness to the Chargee as and when provided in this Mortgage without any deduction, set-off, abatement or counterclaim, and perform all other Obligations as and when required under this Mortgage. If more than one Person signs this Mortgage as Chargor, such Persons are jointly and severally liable to pay, perform and observe all of the Chargor's Obligations herein.

**19. Taxes**

- (a) The Chargor covenants with the Chargee to pay the Taxes promptly as they fall due and will forthwith provide the Chargee with evidence satisfactory to the Chargee of payment thereof. Without limiting or restricting any Obligations on the part of the Chargor under this Mortgage, it is understood and agreed that the Chargee shall during the term of this Mortgage estimate the amount of the Taxes and,
  - (i) the Chargor will pay to the Chargee on each monthly instalment due date hereunder, an amount estimated by the Chargee to be sufficient to pay the Taxes as they become due and payable;
  - (ii) in the event that the Taxes for any period together with any interest and penalties thereon exceed the estimated amount or in the event of any part of the estimated amount paid to the Chargee being applied by the Chargee in or toward principal, interest or other monies in default, the Chargor will pay to the Chargee on demand the amount required to make up the deficiency (the "Deficiency") occurring as a result of the foregoing. In the event of a Deficiency, the Chargee may, but shall not be obliged to, pay the Taxes and the Chargor shall, on request by the Chargee, either pay the Deficiency, with interest thereon at the Interest Rate, to the Chargee forthwith or, if the Chargee so elects, pay the Deficiency to the Chargee, with interest thereon at the Interest Rate, in monthly instalments specified by the Chargee from time to time;
  - (iii) so long as there is not default under this Mortgage, the Chargee may apply such payments on the Taxes annually, semi-annually or as and when such Taxes become owing and due;
  - (iv) if before any such sum or sums in the hands of the Chargee shall have been so applied, there shall be default in respect of any payment of the Indebtedness, the Chargee may, at its option, apply such sum or sums in or toward payment of such Indebtedness so in default;
  - (v) if the Chargor desires to take advantage of any discounts or avoid any penalties in connection with the payment of Taxes, the Chargor shall pay to the Chargee such additional amounts as are required for that purpose;
  - (vi) when making advances from time to time of the Principal Amount or any part thereof, the Chargee may, and is hereby directed to, deduct and pay out of any such advances any amount that shall have become due and payable on account of Taxes; and

- (vii) at the time of the first advance the Chargor shall pay to the Chargee an amount that Chargee reasonably estimates is required to pay the Taxes next coming due following the making of the Loan.
- (b) Nothing herein shall create, with respect to any monies paid pursuant hereto, a relationship of trust between the Chargee and the Chargor nor shall the Chargee be accountable to the Chargor for any interest on any monies so received or for any penalties accruing from time to time on unpaid Taxes.
- (c) The Chargor agrees that the Chargee has no obligation to pay to the Chargor, and the Chargor is not entitled to, any interest on any amount of monies held by the Chargee on account of payment of Taxes from the time the Chargee receives such monies from the Chargor until the Chargee disburses such monies in accordance with this Section.
- (d) The Chargor will transmit to the Chargee true copies of the assessment notices, tax bills and other notices affecting the imposition of Taxes forthwith upon receipt of the same by the Chargor.

#### **REPRESENTATIONS, WARRANTIES, COVENANTS**

##### **20. Authorization**

The Chargor represents and warrants to the Chargee that each Obligor: (a) which is a corporation is a duly organized and validly existing corporation under the laws of its governing jurisdiction; (b) which is a partnership is a valid and subsisting general or limited partnership, as the case may be, under the laws of its governing jurisdiction; (c) which owns an interest in the Mortgaged Property has full power, authority and legal right to own the Mortgaged Property and to carry on its business thereon in compliance with all Applicable Laws and is duly licensed, registered or qualified in all jurisdictions where the character of its undertaking, property and assets or the nature of its activities makes such licensing, registration or qualification necessary or desirable; (d) has full power, authority and legal right to enter into each of the Loan and Security Documents to which it is a party and to do all acts and execute and deliver all other documents as are required to be done, observed or performed by it in accordance with their respective terms; (e) has taken all necessary action and proceedings to authorize the execution, delivery and performance of the Loan and Security Documents to which it is a party and to observe and perform the provisions of each in accordance with its terms; and (f) shall maintain in good standing its existence, capacity, power and authority as a corporation or partnership, as the case may be, and shall not liquidate, dissolve, wind-up, terminate, merge, amalgamate, consolidate, reorganize or restructure or enter into any transaction or take any steps in connection therewith.

##### **21. Enforceability**

The Chargor represents and warrants that the Loan and Security Documents constitute valid and legally binding obligations of each Obligor that is a party thereto, enforceable against each of them in accordance with their terms and are not subject to any right of rescission, and at the date of entering into the Loan and Security Documents, no Obligor has any right of set-off, counterclaim or defence in respect of the Chargee, the Loan or the Loan and Security Documents. Neither execution and delivery of the Loan and Security Documents, nor compliance with the terms and conditions of any of them (a) has resulted or will result in a violation of the constating documents governing any Obligor, including any unanimous shareholders' agreement, or any resolution passed by the board of directors, shareholders or partners, as the case may be, of any Obligor, (b) has resulted or will result in a breach of or constitute a default under Applicable Laws or any agreement or instrument to which any Obligor is a party or by which it or the Mortgaged Property or any part thereof is bound, or (c) requires any approval or consent of any Person except such as has already been obtained.

##### **22. Litigation**

The Chargor represents and warrants that there are no existing or threatened actions, proceedings or claims against or relating to the Mortgaged Property or any Obligor except as disclosed to and accepted by the Chargee in writing prior to the Loan advance. Upon becoming aware of any threatened or actual action, proceeding or claim against or relating to the Mortgaged Property or any Obligor, the Chargor shall promptly notify the Chargee of same and shall provide the Chargee with reasonable information concerning such action, proceeding or claim as the Chargee may require from time to time.

##### **23. Good Title**

The Chargor covenants that it has a good and marketable title in fee simple to the Mortgaged Property.

**24. Right to Mortgage**

The Chargor covenants that it has the right to give this Mortgage.

**25. Quiet Possession**

The Chargor covenants that upon the occurrence and during the continuance of an Event of Default, the Chargee shall have quiet possession of the Mortgaged Property, free from all Liens except Permitted Encumbrances and those disclosed at the date of this Mortgage by the records of the appropriate land registry office as are agreed to by the Chargee.

**26. Services, Access and No Expropriation**

All services and utilities (including storm and sanitary sewers, water, hydro, telephone and gas services) necessary for the use and operation of the Mortgaged Property are located in the public highway(s) abutting the Mortgaged Property (or within easements disclosed to and approved by the Chargee in writing prior to the Loan advance) and are connected and available to the Mortgaged Property. The Mortgaged Property has unrestricted and unconditional rights of public access to and from public highways (completed, dedicated and fully accepted for public use by all applicable Governmental Authorities) abutting the Mortgaged Property at all existing access points. The Chargor is not aware of any proposed changes affecting such access or public highways. The Chargor is not aware of any existing or threatened expropriation or other similar proceeding in respect of the Mortgaged Property or any part thereof.

**27. Right of Inspection**

The Chargee, the Servicer and their respective agents and employees shall have the right, subject to the rights of tenants under any Lease, to enter and inspect the Mortgaged Property at all reasonable times and, except in an emergency or following a default of the Chargor under any of the Loan and Security Documents, upon reasonable notice to the Chargor. Upon a default of the Chargor under any of the Loan and Security Documents, the Chargee may also enter upon the Mortgaged Property and make such repairs as it deems necessary and the costs of such repairs, together with interest thereon at the Interest Rate, shall be payable immediately by the Chargor to the Chargee and until paid, shall be added to the Indebtedness and secured by this Mortgage. The Chargee shall not be a mortgagee in possession by reason of its exercise of any of its rights hereunder.

**28. Permits; Conduct of Business**

The Chargor: (a) has obtained all necessary permits, agreements, rights, licences, authorizations, approvals, franchises, trademarks, trade names and similar property and rights (collectively "Permits") necessary to permit the lawful construction, occupancy, operation and use of the Mortgaged Property; (b) shall maintain all such Permits in good standing and in full force and effect; (c) has delivered to the Chargee complete copies of each Permit existing as of the date of the Loan advance; (d) shall not terminate, amend or waive any of its rights and privileges under any Permits without the Chargee's prior written consent in its sole discretion; (e) is not in default under any Permits and is not aware of any proposed changes to any Permits (including pending cancellation, termination or expiry thereof); and (f) will engage in business of the same general type as now conducted by it and carry on and conduct its business and operations in a proper, efficient, lawful and businesslike manner, in accordance with good business practice. No action, proceeding, notice, judgment, order or claim has been given or received by or on behalf of the Chargor alleging or relating to any such default, proposed changes or other dispute in respect of any Permit and the Chargor shall promptly deliver to the Chargee any such action, proceeding, notice, order, judgment or claim given or received by the Chargor at any time in the future.

**29. Estoppel Certificates**

Within 10 Business Days following a request by the Chargee from time to time, the Chargor shall, at the Chargor's expense, provide the Chargee with a statement certifying (a) the original and outstanding Principal Amount, (b) the Interest Rate, (c) the date of the last payment of principal and interest, (d) that no offsets or defences to the payment of the Indebtedness exist, or if any are alleged, the particulars thereof, (e) that the Loan and Security Documents have not been amended, or if amended, the particulars thereof, and (f) that, to its knowledge, there is no existing Default or Event of Default, or if any such Default or Event of Default exists, the particulars thereof and any action being taken to remedy such Default or Event of Default.

**30. Further Assurances**

The Chargor covenants that it will execute such documents and further assurances of the Mortgaged Property and take such action, all at its own expense, as may be requisite to carry out the intention of this Mortgage or any other Loan and Security Document.

**31. No Act to Encumber**

The Chargor covenants that neither it nor any other Obligor has done any act to encumber the Mortgaged Property, except as the records of the appropriate land registry office disclose; the Chargor shall not, without the Chargee's prior written approval, which approval shall be in the Chargee's sole discretion, charge, encumber or otherwise create any Lien in respect of the Mortgaged Property or any part thereof or interest therein or permit any Lien thereon, in each case other than Permitted Encumbrances. If the Chargee grants written approval, in its sole discretion, to an encumbrance of the Mortgaged Property that is not a Permitted Encumbrance, then, at the further sole discretion of the Chargee, as a condition of such approval, the Chargee may require the holder of such encumbrance to enter into a full and complete subordination and standstill agreement in Chargee's standard form. All Costs of the Chargee in considering, processing and documenting such approval (whether or not the approval is granted) as herein contemplated, shall be payable by the Chargor in advance of the Chargee considering any such encumbrance for approval.

**32. Compliance and No Adverse Change**

The Chargor is not aware of any action, proceedings, notices, judgments, orders or claims by any Person alleging or relating to any non-compliance by the Mortgaged Property with any Applicable Laws, Permitted Encumbrances, material agreements or any permits, licenses or approvals and the Chargor shall promptly deliver to the Chargee copies of any such actions, proceedings, notices, judgments, orders or claims received by the Chargor after the Loan advance. The Chargor covenants and agrees to forthwith provide written notice to the Chargee and to the Servicer of any circumstances, events, actions, claims or changes which have or may have an adverse effect on the Chargor's financial position or the financial position of any Guarantor.

**33. Hazardous Substances**

- (a) The Chargor warrants and represents that, except as disclosed in any environmental assessment report in regard to the Mortgaged Property delivered by the Chargor to the Chargee prior to the first advance of the Loan:
  - (i) no Hazardous Substances have been or will be used, stored, processed, manufactured, handled or discharged in, on, under or from the Mortgaged Property (except in accordance with all Requirements of Environmental Law);
  - (ii) to the best of the Chargor's belief, neither the Mortgaged Property nor any adjacent lands have ever been used as or for a waste disposal site or coal gasification site, and there are not now, nor were there ever, any underground storage tanks on the Mortgaged Property;
  - (iii) all permits, licences, certificates, approvals, authorizations, registrations or the like required by the Requirements of Environmental Law for the operation of the Chargor's business on the Mortgaged Property have been obtained and are valid, in full force and effect and in good standing;
  - (iv) no environmental damage has ever occurred on, or will result from the Chargor's use of, the Mortgaged Property; and
  - (v) there are no convictions (or prosecutions settled prior to conviction) or outstanding or threatened investigations, claims, work orders, notices, directives or other similar remedial actions against the Mortgaged Property or the Chargor in relation to any Requirements of Environmental Law.
- (b) The Chargor covenants that it will:
  - (i) remedy forthwith, at its own expense, any environmental damage that may occur or be discovered on the Mortgaged Property in the future,
  - (ii) comply with and monitor, on a regular basis, its compliance with all Requirements of Environmental Law,

- (iii) notify the Chargee promptly of any event or occurrence that will, or is likely to, give rise to a report, inquiry or investigation relating to a matter that may have an adverse effect on the financial position of the Chargor or the Mortgaged Property or any action, suit or proceeding against the Chargor or others having an interest in the Mortgaged Property relating to, or a violation of, the Requirements of Environmental Law,
  - (iv) not lease or consent to any sub-lease of any part of the Mortgaged Property to a tenant or sub-tenant who may engage in a business involving the storing, handling, processing, manufacturing or disposing of Hazardous Substances (except in the ordinary course of such tenant's or sub-tenant's business and in compliance with all Requirements of Environmental Law) in, on, under or from the Mortgaged Property or the generation of environmental contamination,
  - (v) remove, in accordance with all Requirements of Environmental Law, any Hazardous Substances from the Mortgaged Property forthwith upon their discovery and advise the Chargee forthwith in writing of the procedures taken, and
  - (vi) provide to the Chargee upon request such information, certificates, or statutory declarations as to compliance with the provisions hereof and all Requirements of Environmental Law and conduct such environmental audits or site assessments as may be reasonably necessary to ensure compliance with the Requirements of Environmental Law, all at the Chargor's expense.
- (c) The Chargor will indemnify and hold harmless the Chargee, each of its directors, officers, employees, affiliates and agents from and against all costs, losses, damages, expenses, judgments, suits, claims, awards, fines, sanctions and liabilities whatsoever (including, without limitation, legal fees and costs on a substantial indemnity basis incurred in the investigation, defence and settlement of any claim and any costs or expenses for preparing any necessary environmental assessment report or other such reports) relating to the release, deposit, discharge, disposal or presence of any Hazardous Substance on, from or under the Mortgaged Property, including, without limitation, the remedial actions (if any) taken by the Chargee, in respect of any such release, deposit, discharge or disposal. This indemnity will survive the repayment of the Loan and discharge of the Loan and Security Documents.

#### 34. Insurance

- (a) The Chargor shall insure the buildings, structures, chattels, fixtures and equipment, and improvements on the land forming part of the Mortgaged Property and keep them constantly insured against loss or damage by fire and against loss or damage by such other risks, hazards or perils as the Chargee may require to be protected by insurance, to the full extent of their insurable value on a stated amount replacement cost basis, both during the period of construction and thereafter. Without limiting the foregoing, this covenant shall include comprehensive broad form boiler insurance (including unfired pressure vessels and air conditioning equipment, if any, and including repair and replacement and use and occupancy coverage), rental and/or business interruption insurance for not less than a 18 month period and public liability insurance, all to be in amounts and with insurers satisfactory to the Chargee. Prior to the making of any advance by the Chargee, the Chargor shall deliver to the Chargee a policy or policies evidencing such insurance, and at least 30 days prior to the expiry of a policy or at least 15 days prior to the date fixed for cancellation of a policy, should notice of cancellation be given, the Chargor shall deliver to the Chargee evidence of renewal or replacement in a form satisfactory to the Chargee. Without limiting the generality of the foregoing, the Chargor shall comply with the insurance requirements contained in the Commitment Letter.
- (b) Every policy of insurance shall be acceptable to the Chargee as to form and content, shall be signed by the insurer and shall be placed with such insurer and through such agency as may be approved of by the Chargee and shall not contain a co-insurance clause but shall contain a by-law endorsement; the loss under each policy shall be made payable to the Chargee pursuant to an Insurers Advisory Organization or a Boiler and Machinery Insurance Association approved mortgage clause with preference in its favour over any claim of any other Person; and each policy shall be retained by the Chargee during the currency of this Mortgage. Should an insurer at any time cease to have the approval of the Chargee, or in the event of failure on the part of the Chargor to execute any obligation undertaken under

this Section, the Chargee may effect such insurance as it deems proper and the Chargor covenants to repay to the Chargee all premiums paid by it together with interest thereon at the Interest Rate and such premiums and interest shall be added to the Indebtedness and secured by this Mortgage.

- (c) In case of loss or damage, the Chargor shall immediately notify the Chargee and the Chargee shall have the right to receive the proceeds of each policy and to apply them wholly or in part in reduction either of the Indebtedness remaining unpaid notwithstanding that the Indebtedness or any part thereof may not otherwise be due and payable under this Mortgage at that time, and/or in repayment of any legal expenses and costs on a substantial indemnity basis incurred by the Chargee in connection with the disbursement or application of such insurance proceeds, and/or of any other sums owing to the Chargee and/or in meeting costs of repair or reconstruction, but unless the amount received by the Chargee is applied expressly by it in reduction of the Indebtedness, the receipt by the Chargee of such proceeds shall not operate as payment of the Indebtedness. The Chargor further agrees to furnish, at its own expense, all necessary proofs and do all things necessary to enable the Chargee to obtain payment of the insurance proceeds to the Chargee and the production of this Mortgage shall be sufficient authority for the insurer to pay such proceeds to the Chargee and the insurer is hereby directed to pay same to the Chargee. No damage may be repaired nor any reconstruction effected without the approval of the Chargee.

**35. Waste, Condition of Mortgaged Property, Repair and Inspection**

The Chargor covenants and agrees with the Chargee that the Chargor will not permit waste to be committed or suffered on the Mortgaged Property and the Chargor will not remove or attempt to remove from the Mortgaged Property any building, structure or improvement forming part of the Mortgaged Property and the Chargor shall refrain from doing anything or allowing anything to be done which would result in an impairment or diminution of the value of the Mortgaged Property. The Chargor will maintain such buildings, structures, or other improvements in good order and repair to the satisfaction of the Chargee. The Mortgaged Property are in good condition and repair. All heating, air conditioning, electrical, plumbing and other major building systems within the Mortgaged Property are in good working order and condition. The Mortgaged Property comply with all Applicable Laws, Permitted Encumbrances and all material agreements and the present use and location of the improvements on or forming part of the Mortgaged Property are legal conforming uses under all Applicable Laws. No improvements have been made or removed from the Mortgaged Property since the date of the survey of the Mortgaged Property delivered by the Chargor prior to the Loan advance and such survey accurately shows the location of all improvements. The Chargee may, whenever it deems necessary, enter upon and inspect the Mortgaged Property and review such records and information relating thereto and may require the Chargor, at its sole expense, to effect such repair or remediation of which the Chargor is notified by the Chargee, or the Chargee may effect such repairs or remediation as it deems necessary and the Chargor shall execute all consents, authorizations and directions that are required to permit any such inspection, review, repair or remediation, and the cost thereof and of such inspection, review, repair or remediation, together with interest thereon at the Interest Rate, shall be payable forthwith by the Chargor to the Chargee and shall be added to the Indebtedness and secured by this Mortgage.

**36. Alterations**

The Chargor covenants and agrees with the Chargee that the Chargor will not make or permit to be made any alterations or additions in or to the Mortgaged Property without the consent of the Chargee.

**37. Observance of Laws**

The Chargor covenants and agrees with the Chargee to promptly observe, perform, execute and comply with all Applicable Laws concerning the Mortgaged Property (including without limitation all Requirements of Environmental Law) as well as with all private covenants and restrictions affecting the Mortgaged Property and the Chargor further agrees at its own cost and expense to make any and all repairs, alterations and improvements ordinary or extraordinary, which may be required at any time hereafter by any such present or future law, rule, requirement, order, direction, ordinance, regulation, covenant or restriction.

**38. Financial Statements**

The Chargor covenants and agrees with the Chargee to maintain at all times proper records and books of account with respect to the Mortgaged Property and to furnish to the Chargee:

- (a) On an annual basis, a certified, unaudited financial report in respect of the Mortgaged Property which shall include, without limitation, a rent roll, including occupancy statistics and



Lease expiration dates for each Lease, a breakdown of fixed minimum rent payments, percentage rent calculations and temporary tenant income, monthly or quarterly, as the case may be, and year to date operating statements prepared for each calendar month or quarter and other information necessary and sufficient to fairly represent the financial position and results of operation of the Mortgaged Property, all in form satisfactory to the Chargee, and the actual capital expenditure at the Mortgaged Property with respect to the particular monthly or quarterly period; and

- (b) within 120 days after the end of each fiscal year for each Obligor, each Obligor shall provide to the Lender consolidated annual financial statements prepared in accordance with a "review engagement" retainer in accordance with the generally accepted accounting principles and shall include a balance sheet and statement of change in financial position, statement of earnings and retained earnings, together with all applicable notes to reader which may be reasonably required by the Lender. Such statements shall be prepared by a firm of independent chartered accountants of recognized standing acceptable to the Lender, acting reasonably. Such statements shall clearly identify the Mortgaged Property both by municipal address and by the Chargee's mortgage reference number.

The Chargor further covenants and agrees to provide to the Chargee such further financial information as required by the Chargee. The Chargee may, either by its officers or authorized agents at any time during normal business hours, inspect and examine the records and books of account of the Chargor relating to the Mortgaged Property and the business of the Chargor pertaining thereto and make copies or extracts from them and generally conduct such examination of the records and books of account and other records of the Chargor as the Chargee may deem necessary and the Chargor will, immediately upon the request of the Chargee, advise where the records and books of account are maintained and will render such assistance in connection with such examination as the Chargee deems necessary.

#### **39. Security Interest in Personal Property**

The Chargor covenants and agrees to execute and deliver to the Chargee, on demand, a security interest in all chattels, furnishings, equipment, appliances and all other personal property owned now or in the future by the Chargor and situate in or about the Mortgaged Property. The form and content of such security interest shall be acceptable to the Chargee. The Chargor agrees to pay all legal and other expenses incurred by the Chargee in connection with the preparation and registration of the security interest and any renewals thereof forthwith upon demand and such fees and expenses, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage.

#### **40. Construction Act**

- (a) At the time of each advance there shall have been full and complete compliance with all requirements of the *Construction Act* R.S.O. 1990, c.C.30, as amended and/or restated from time to time, and the Chargor shall submit to the Chargee, in form and content satisfactory to the Chargee, evidence of such compliance. The Chargor agrees that the Chargee shall be entitled to withhold from any advance, or pay into court as an advance, such amounts as the Chargee, in its sole discretion, considers advisable to protect its interests from subordination under the provisions of the said act, and to secure the priority of this Mortgage over any actual or potential construction liens. Nothing in this Section shall be construed to make the Chargee an "owner" or "payer" as defined by the said act, nor shall there be, or be deemed to be, any obligation by the Chargee to retain any holdback or otherwise or to maintain on the Chargor's behalf any holdback which may be required to be made by the owner or payer. Any such obligation shall remain solely the Chargor's obligation. The Chargor hereby covenants and agrees to comply in all respects with the provisions of the said act.
- (b) The Chargor covenants and agrees to provide to the Chargee, prior to each advance, statutory declarations sworn by an officer of the Chargor and outlining the particulars of all contracts entered into by the Chargor in respect of the supply of services or materials to any improvements on the Mortgaged Property. Such statutory declarations shall be acceptable to the Chargee as to form and content. In addition, the Chargor covenants and agrees to produce such contracts for examination by the Chargee if and whenever the Chargee shall so require.
- (c) The Chargor covenants and agrees that all improvements to the Mortgaged Property shall comply in all respects with the provisions of the said act and if a construction lien is filed against all or part of the Mortgaged Property, then within ten days after receipt of notice thereof, the Chargor shall have the lien vacated or discharged. If the Chargor fails to do so,

then in addition to its other rights provided herein, the Chargee shall be entitled to pay into court a sum sufficient to obtain an order vacating such lien or to purchase a financial guarantee bond in the form prescribed under the said act. All costs, charges and expenses incurred by the Chargee in connection with such payment into court or in connection with the purchase of a financial guarantee bond or in connection with any legal proceedings described below, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage and shall be payable forthwith by the Chargor to the Chargee. If any person that performs work, labour or services or that provides materials to or for the Mortgaged Property names the Chargee as a party to any legal proceedings which it takes to enforce a construction lien or trust claim, then the Chargor agrees to reimburse the Chargee for any and all legal expenses (on a substantial indemnity basis) incurred by the Chargee in such legal proceedings.

**41. Farm Debt Mediation Act**

- (a) The Chargor warrants and represents that it is not a "farmer" as defined in the *Farm Debt Mediation Act*, S.C. 1997, c.21, as amended and/or restated from time to time.
- (b) The Chargor covenants that it will promptly notify the Chargee in writing if the Chargor becomes a "farmer" as defined by the said act.

**42. Fixtures**

It is the intention of the parties hereto that the building or buildings forming part of the Mortgaged Property form part of the security for the full amount of the monies secured by this Mortgage. It is hereby mutually covenanted and agreed by and between the parties hereto that all erections, buildings, improvements, machinery, plant, furnaces, boilers, oil burners, stokers, electric light fixtures, plumbing and heating equipment, refrigeration equipment, air conditioning and cooling equipment, screen doors and windows, gas and electric stoves and water heaters, floor coverings, window coverings, and all apparatus and equipment appurtenant thereto, which are now or which shall hereafter be placed or installed upon the Mortgaged Property, are or shall thereafter be deemed to be fixtures and an accession to the freehold and a part of the Mortgaged Property as between the parties hereto, their heirs, executors, administrators, successors, legal representatives and assigns, and all persons claiming by, through or under them, and shall be subject to this Mortgage.

**43. Prior Encumbrances etc.**

It is hereby agreed that the Chargee may pay the amount of any Lien now or hereafter existing, arising or claimed upon or against the Mortgaged Property having priority, or purporting to have priority, over this Mortgage, including any Taxes, and may pay all Costs, whether or not any action or any other proceeding is taken, which may be incurred in taking, recovering, protecting and keeping possession of the Mortgaged Property and/or collecting all or any portion of the Indebtedness payable by the Chargor under this Mortgage, and all such amounts, Costs, charges and expenses so paid shall, together with interest thereon at the Interest Rate, be added to the Indebtedness and secured by this Mortgage, and shall be payable forthwith by the Chargor to the Chargee. If the Chargee pays the amount of any such Lien, Costs or Taxes, either out of the monies advanced under this Mortgage or otherwise, the Chargee shall be entitled and subrogated to all of the rights, equities and securities of the Person so paid, without the necessity of a formal assignment, and the Chargee is hereby authorized to retain any discharge thereof, without registration, if it thinks proper to do so.

**44. Transfers**

- (a) If a Transfer occurs and if:
  - (i) the Chargor, or any subsequent owner of the Mortgaged Property, fails to apply for the approval of the Chargee as to the Transferee and the terms and conditions of the Transfer,
  - (ii) the Chargee does not approve the Transferee (which approval may be withheld by the Chargee in its sole discretion),
  - (iii) the Chargee does not approve the terms and conditions of the Transfer (which approval may be withheld by the Chargee in its sole discretion),
  - (iv) the Transferee fails to enter into an assumption agreement agreeing to assume this Mortgage and any amendments hereto, and any collateral agreements and to pay

the Indebtedness at the times and in the manner set out in this Mortgage and to observe, perform, keep and be liable under and be bound by all Obligations contained in this Mortgage and any amendments hereto and any collateral agreements to be performed by the Chargor thereunder (including this obligation) at the time and in the manner and in all respects as therein contained and to be bound by each and all of the terms, covenants, conditions and Obligations of this Mortgage and any amendments hereto and any collateral agreements as though the same had originally been made, executed and delivered by such Transferee as Chargor, and

- (v) the Chargor fails to satisfy such other conditions as the Chargee or any applicable rating agency may require,

then, and in any such case, there shall be a default hereunder and the outstanding Indebtedness shall, at the option of the Chargee, immediately become due and payable.

- (b) A Change in Control of the Chargor or any beneficial owner of the Mortgaged Property, or any other change in the ownership of the Chargor or any beneficial owner of the Mortgaged Property, shall be deemed to be a Transfer within the meaning of this Mortgage and the Transferee shall be deemed to be the Person or Persons who acquired the shares, units or other interests in the Chargor or beneficial owner and the provisions hereof in respect of any Transfer and any Transferee (except for the requirement for the Transferee to enter into an assumption agreement) shall apply with all necessary changes thereto. The Chargor shall make available to the Chargee or the Chargee's representatives, all of the corporate books and records of the Chargor or any beneficial owner of the Mortgaged Property for inspection and provide such other information required by the Chargee in order to ascertain whether a Change in Control has occurred.
- (c) The Chargee shall be entitled to charge a fee equal to one (1%) per cent of the Principal Amount outstanding at the time of the Transfer in consideration for granting approval to a Transfer as well as all Costs of the Chargee in processing and documenting such approval (whether or not the approval is granted) as herein contemplated, which fee shall be payable by the Chargor in advance of the Chargee considering the Transfer for approval.

#### **45. Releases**

It is hereby agreed that the Chargee may at all times at its discretion and subject to the provisions of the *Planning Act*, R.S.O. 1990, as amended and/or restated from time to time, release any part or parts of the Mortgaged Property from the security of this Mortgage or any other security for the Indebtedness either with or without any consideration therefor, without thereby releasing any Person from this Mortgage or from any of the covenants herein contained, and no such release shall diminish or prejudice this Mortgage or such other security as against the portion of the Mortgaged Property remaining unreleased.

#### **46. No Change in Chargor Liability**

It is hereby agreed that no sale or other dealing by the Chargor with the Mortgaged Property or any part thereof, whether with the consent or approval of the Chargee or not, shall in any way change the liability of the Chargor or any Guarantor or in any way alter the rights of the Chargee as against the Chargor, any Guarantor or any other Person liable for payment of the Indebtedness.

#### **47. Extension of Time**

No extension of time given by the Chargee to the Chargor, or anyone claiming under the Chargor, or any other dealing by the Chargee with the owner of the Mortgaged Property, 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 Indebtedness.

#### **48. Statements**

Upon written request of the Chargor, the Chargee will provide to the Chargor, once per year, without charge, an annual mortgage statement in the Chargee's standard form. In addition, upon request, the Chargee will provide the Chargor, without charge, one additional mortgage statement per calendar year, in the Chargee's standard form. If the Chargor requests additional statements or quotations, it shall pay to the Chargee in advance such processing fee as the Chargee may require.

#### **49. Discharge**

The Chargee shall have a reasonable time after payment of the Indebtedness within which to prepare and execute a discharge of this Mortgage, and interest as aforesaid shall continue to run and accrue until actual payment in full of the Indebtedness has been received by the Chargee, and all legal and other expenses for the preparation and execution of such discharge, including the Chargee's then current standard discharge fee, shall be paid by the Chargor.

**50. Expropriation**

It is hereby agreed that if the Mortgaged Property or any material part thereof shall be expropriated by any Governmental Authority, body or corporation having powers of expropriation, the Indebtedness, at the Chargee's option, shall become forthwith due and payable, together with interest thereon at the Interest Rate to the date of payment and together with an additional amount equal to the greater of: (x) 3 months interest on such Indebtedness at the Interest Rate or (y) an amount equal to, as of the date of prepayment, the sum by which the present value of the remaining future installments of principal and interest due during the remaining term of the Loan, plus the present value of the prepaid portion of principal which would have been due on the date of maturity, exceeds the prepaid portion of principal as of the date of prepayment. For the purpose of calculating the amount payable pursuant to (y), the present value of the remaining future installments of principal and interest with respect to the remaining term of the Loan plus the present value of the prepaid portion of principal which would have been due on the date of maturity will be determined by using a discount rate equal to the yield, as of the Business Day preceding the date of prepayment, on a non-callable Government of Canada bond selected by the Chargee and having a term most closely approximating the then remaining unexpired term of the Loan.

**51. Waiver**

It is understood and agreed that a waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof or of the Obligations secured by this Mortgage shall apply to the particular instance or instances and at the particular time or times only. And no such waiver shall be deemed a continuing waiver, but all of the terms, covenants, conditions and other provisions of this Mortgage and of the Obligations secured thereby shall survive and continue to remain in full force and effect.

**52. Priority of Extension Agreements**

- (a) It is understood and agreed that any agreement for the extension of the time of payment of the Indebtedness or any part thereof and any renewal of the term of this Mortgage made at, before or after maturity, and prior to the execution of a discharge of this Mortgage, altering the term, Interest Rate (whether increased or decreased), the amount of the payments of principal, interest or other monies owing and secured by this Mortgage or any other provision, covenant or condition hereof, whether made with the Chargor named herein or a subsequent owner of the Mortgaged Property (and whether or not consented to by the Chargor named herein or any successor in title if made with a subsequent owner), need not be registered in any land registry office but shall be effectual and binding upon the Chargor and upon every subsequent mortgagee, encumbrancer or other person claiming an interest in the Mortgaged Property or any part thereof.
- (b) The Chargor shall, forthwith on request therefor by the Chargee, provide or cause to be provided to the Chargee, at the Chargor's expense, all such postponements and other assurances as the Chargee may require to ensure or confirm the effect and priority of any such agreement. All extensions and renewals (if any) shall be done at the Chargor's expense (including, without limitation, payment of the Chargee's legal expenses on a substantial indemnity basis). No such extension or renewal, even if made by a successor in title to the Chargor named herein, shall in any way release or abrogate or render unenforceable the covenants or Obligations of the Chargor named herein, or any subsequent owner, which shall continue notwithstanding such extension or renewal. Provided that nothing contained in this provision shall confer any right of renewal or extension upon the Chargor.

**53. Notice**

Notice, if required, may be served upon the Chargor:

- (a) by sending it through the post by a prepaid registered letter addressed to the party at the Mortgaged Property or its last known address or in the case of a company to its head office, and any notice so served shall be deemed to have been served at the expiration of the third Business Day after posting; or

- (b) by delivering it addressed to the party at the Mortgaged Property or its last known address or in the case of a company to its head office, and any notice so served shall be deemed to have been served on the expiration of one Business Day after delivery; or
- (c) by sending notice by facsimile to the Chargor at the facsimile number given by the Chargor to the Chargee prior to the registration of the Mortgage, or such other facsimile as the Chargor may from time to time advise Chargee is the facsimile number for the business of the Chargor; or
- (d) by any means whereby actual notice is given to the Chargor;

but nothing in this Section shall require the Chargee to give notice to the Chargor or Guarantor.

#### **DEFAULT**

##### **54. Acceleration**

In addition to the Chargee's other rights under this Mortgage, at law, in equity, or otherwise (including the right to require payment of the Obligations or any part thereof), the Obligations shall, at the option of the Chargee, become immediately due and payable upon the occurrence of an Event of Default.

##### **55. Power of Sale, etc.**

- (a) If an Event of Default has occurred and continued for the minimum period provided by Applicable Law, the Chargee, on giving the minimum notice required by Applicable Law, may enter on, lease or sell the Mortgaged Property or any part thereof; and it is agreed that such notices shall be given in such manner and to such Persons as may be lawfully required at the time when such notices are given and in the absence of any such requirement and/or to the extent that such requirements shall not be applicable, such notices may be effectually given either by leaving the same with an adult person on the Mortgaged Property, if occupied, or by placing it thereon if unoccupied, or at the option of the Chargee by mailing the same in a registered letter addressed to the Chargor's last known address or by publishing the same once in a newspaper published in the municipality in which the Mortgaged Property is situate and shall be sufficient though not addressed to any person or persons by name or designation and notwithstanding any person or persons to be affected thereby may be unborn, unascertained or under disability.
- (b) The Chargee may sell the Mortgaged Property or any part thereof by public auction or private contract, or partly one or partly the other; and the proceeds of any sale hereunder may be applied in payment of any costs, charges and expenses incurred about taking, recovering or keeping possession of the Mortgaged Property or by reason of non-payment or procuring payment of the Obligations or otherwise, including a reasonable allowance for the time and effort of the Chargee's employees; and the Chargee may sell any part of the Mortgaged Property on such terms as to credit and otherwise as shall appear to it most advantageous and for such prices as can reasonably be obtained 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 Mortgaged Property and resell without being answerable for loss occasioned thereby; and in the case of a sale on credit the Chargee shall be bound to account to subsequent encumbrancers and to the Chargor for only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of such purposes may make and execute all agreements and assurances as it shall think fit; and that any purchaser shall not be bound to see to the propriety or regularity of any sale or be affected by express notice that any sale is improper; and that no want of notice or publication when required hereby shall invalidate any sale hereunder.
- (c) The Chargee may sell as aforesaid without entering into possession of the Mortgaged Property, and when it desires to take possession it may break locks and bolts as it may in its discretion see fit.
- (d) Provided that the title of a purchaser upon a sale made in professed exercise of the above power shall not be liable to be impeached on the ground that no case 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.

**56. Distress**

Provided that the Chargee may distrain for arrears of interest and for arrears of principal and for any other monies lawfully charged against the Mortgaged Property in the same manner as if the same were arrears of interest.

**57. No Merger on Judgment**

It is hereby agreed that the taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Chargee's right to interest at the rate and times herein provided; and further that said judgment shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until the said judgment shall have been fully paid and satisfied.

**58. Possession**

The Chargor covenants and agrees with the Chargee that upon default by the Chargor in the payment of the Indebtedness or in the performance or observance of any covenant, proviso or condition contained in this Mortgage, the Chargee may at its sole option and at such time or times as it may deem necessary and without the concurrence of any Person, enter into possession of the Mortgaged Property and may complete the construction thereof, repair any buildings, structures or improvements forming part of the Mortgaged Property, inspect, take care of, and lease the Mortgaged Property for such term and subject to such provisions as it may deem advisable or expedient (including providing any leasehold improvements the Chargee deems necessary, in its sole discretion, to lease the Mortgaged Property), collect the rents of, and manage the Mortgaged Property as it may deem expedient, and all costs, charges and expenses incurred by the Chargee in connection with the exercise of any such rights (including allowances for the time, service and effort of any officer of the Chargee or other person appointed for the above purposes) shall, together with interest thereon at the Interest Rate, be added to the Indebtedness and secured by this Mortgage and shall be forthwith payable by the Chargor to the Chargee. Any lease made by the Chargee while in possession of the Mortgaged Property shall continue for the full term and any permitted renewals thereof notwithstanding the termination of the Chargee's possession.

**59. Receiver**

It is hereby agreed that at any time and from time to time following the occurrence and during the continuance of an Event of Default, the Chargee may, with or without entry into possession of the Mortgaged Property or any part thereof, and whether before or after such entry into possession, appoint a receiver or manager, or receiver and manager (herein called the "Receiver") of the Mortgaged Property or any part thereof and of the rents and profits thereof or of only the rents and profits thereof, and with or without security, and may from time to time by similar writing remove any Receiver with or without appointing another in his 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. Upon the appointment of any Receiver or Receivers from time to time, the following provisions shall apply:

- (a) a statutory declaration of an officer of the Chargee as to default under this Mortgage shall be conclusive evidence thereof for the purposes of the appointment of a Receiver;
- (b) every Receiver shall be the agent or attorney of the Chargor (whose appointment as such shall be revocable only by the Chargee) for the collection of all rents and profits falling due and becoming payable in respect of the Mortgaged Property or any part thereof whether in respect of any tenancies created in priority to this Mortgage or subsequent thereto, or otherwise;
- (c) every Receiver may, in the discretion of the Chargee, be vested with all or any of the powers and discretions of the Chargee;
- (d) the rights and powers conferred herein in respect of the Receiver are supplemental to and not in substitution of any other rights and powers which the Chargee may have;
- (e) the Chargee may from time to time fix the remuneration for every Receiver, who shall be entitled to deduct the same out of revenue or sale proceeds of the Mortgaged Property;

- (f) every Receiver shall so far as concerns responsibility for its acts or omissions, be deemed the agent or attorney of the Chargor and in no event the agent of the Chargee;
- (g) the appointment of every Receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the Receiver or to the Chargor or to any other Person in any respect, and such appointment or anything which may be done by any Receiver or the removal of any Receiver or the termination of any receivership shall not have the effect of constituting the Chargee a mortgagee-in-possession in respect of the Mortgaged Property or any part thereof;
- (h) every such Receiver shall from time to time have the power to lease any portion of the Mortgaged Property which may become vacant, for such term and subject to such provisions as it may deem advisable or expedient, subject to the restrictions on leasing contained in any existing leases or agreements to lease affecting any of the Mortgaged Property, and in so doing, every Receiver shall act as the attorney or agent of the Chargor and shall have authority to execute under seal any lease of any such premises in the name of and on behalf of the Chargor, and the Chargor agrees to ratify and confirm whatever any Receiver may do in the Mortgaged Property;
- (i) every Receiver may make such arrangements, at such time or times as it may deem necessary without the concurrence of any other persons, for the repairing, finishing, adding to, or putting in order of the Mortgaged Property, including without restricting the generality of the foregoing, completing the construction of any building or buildings, structures, services or improvements on the Mortgaged Property left in an unfinished state, and constructing or providing for leasehold improvements notwithstanding that the resulting cost may exceed the Principal Amount, and the Receiver shall have the right to register plans of subdivision and condominium declarations and descriptions in respect of the Mortgaged Property as well as the right to take possession of and use or permit others to use all or any part of the Chargor's materials, supplies, plans, tools, equipment (including appliances on this Charged Premises) and property of every kind and description;
- (j) every Receiver shall have full power to manage, operate, amend, repair or alter the Mortgaged Property and the buildings and improvements thereon or any part thereof in the name of the Chargor for the purpose of obtaining rental and other income from the Mortgaged Property or any part thereof;
- (k) no Receiver shall be liable to the Chargor to account for monies other than monies actually received by it in respect of the Mortgaged Property and out of such monies so received from time to time every Receiver shall, in the following order, pay:
  - (i) its remuneration as aforesaid,
  - (ii) all obligations, costs and expenses made or incurred by it, including but not limited to, any expenditures in connection with the management, operation, amendment, repair, construction or alteration of the Mortgaged Property or any part thereof,
  - (iii) interest, principal and other monies which may, from time to time, be or become charged upon the Mortgaged Property in priority to this Mortgage, including all Taxes,
  - (iv) to the Chargee, all Indebtedness, to be applied in such order as the Chargee in its discretion shall determine, and
  - (v) subject to subparagraph (iv) above, at the discretion of the Receiver, interest, principal and other monies which may from time to time constitute a charge or encumbrance on the Mortgaged Property subsequent in priority or subordinate to the interest of the Chargee under this Mortgage,and every Receiver may in its discretion retain reasonable reserves to meet accruing amounts and anticipated payments in connection with any of the foregoing and further any surplus remaining in the hands of every Receiver, after payments made and such reasonable reserves retained as aforesaid, shall be payable to the Chargor;
- (l) the Chargee may at any time and from time to time terminate any receivership by notice in writing to the Chargor and to any Receiver; and

- (m) save as to monies payable to the Chargor pursuant to subparagraph (k) of this Section, the Chargor hereby releases and discharges the Chargee and every Receiver from every claim of every nature, whether sounding in damages for negligence or trespass or otherwise, which may arise or be caused to the Chargor or any Person claiming through or under it by reason of or as a result of anything done by the Chargee or any Receiver under the provisions of this Section, unless such claim be the direct and proximate result of bad faith or gross neglect.

**60. Cumulative Remedies**

All remedies contained in this Mortgage are cumulative and the Chargee shall also have all other remedies provided at law and in equity or in any of the other Loan and Security Documents. Such remedies may be pursued separately, successively or concurrently at the sole subjective direction of the Chargee and may be exercised in any order and as often as occasion thereof shall arise. No act of the Chargee shall be construed as an election to proceed under any particular provisions of this Mortgage to the exclusion of any other provision of this Mortgage or as an election of remedies to the exclusion of any other remedy which may then or thereafter be available to the Chargee. No delay or failure by the Chargee to exercise any right or remedy under this Mortgage shall be construed to be a waiver of that right or remedy or of any default hereunder. The Chargee may exercise one or more of its rights and remedies at its option without regard to the adequacy of its security.

**61. Maximum Rate of Return**

Notwithstanding any provision of any of the Loan and Security Documents to the contrary, in no event will the aggregate "interest" (as defined in Section 347 of the *Criminal Code* (Canada)) payable under the Loan exceed the effective annual rate of interest on the Principal Amount lawfully permitted under that Section and, if any payment, collection or demand pursuant to the Loan in respect of "interest" (as defined in that Section) is determined to be contrary to the provisions of that Section, such payment, collection or demand will be deemed to have been made by mutual mistake of the Chargor and Chargee and the amount of such payment or collection shall either be applied to the Principal Amount (whether or not due and payable), and not to the payment of interest (as defined in Section 347 of the said *Criminal Code*), or be refunded to the Chargor at the option of the Chargee. For purposes of each Loan and Security Document, the effective annual rate of interest will be determined in accordance with generally accepted actuarial practices and principles over the term of the Loan on the basis of annual compounding of the lawfully permitted rate of interest. In the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Chargee will be conclusive for the purposes of such determination.

**62. Covenants with respect to Indebtedness; Operations and Fundamental Changes of Chargor**

The Chargor represents, warrants and covenants as of the date hereof and until such time as the Indebtedness secured hereby is paid in full, that the Chargor:

- (a) will not enter into any contract or agreement with any general partner, principal, member or affiliate of the Chargor or any affiliate of any such general partner, principal, or member of the Chargor, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with third parties other than an affiliate;
- (b) without the Prior written consent of the Chargee, will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the Indebtedness, and (ii) trade payables or accrued expenses incurred in the ordinary course of business of operating the Mortgaged Property; no debt whatsoever may be secured (senior, subordinate or *pari passu*) by the Chargor and/or Mortgaged Property without the Prior written consent of the Chargee;
- (c) has not made and will not make any loans or advances to any third party (including any general partner, principal, member or affiliate of the Chargor, or any Guarantor);
- (d) is and will be solvent and pay its debts from its assets as the same shall become due;
- (e) has done or caused to be done and will do all things necessary to preserve its existence and corporate, limited liability company and partnership formalities (as applicable), and will not, nor will any partner, limited or general, or member or shareholder thereof, amend, modify or otherwise change its partnership certificate, partnership agreement, certificate or articles of



incorporation or organization, or by-laws or operating agreement or regulations, in a manner which adversely affects the Chargor's or any such partner's, member's or shareholder's existence as a single-purpose, single-asset "bankruptcy remote" entity;

- (f) will conduct and operate its business as presently conducted and operated;
- (g) The Chargor shall retain professional property management acceptable to the Chargee for the operation of the Mortgaged Property. The Chargor shall obtain Chargee's approval for any changes in property management throughout the term of the Loan. Notwithstanding the foregoing, the Chargee acknowledges that property management by the Chargor or an affiliate is acceptable. Satisfactory management through the term of the Loan includes but is not limited to the following:
  - (i) that the Property not be abandoned for a period exceeding fifteen (15) consecutive days;
  - (ii) that the Property not be physically altered without the Chargee's written consent; and
  - (iii) that the Property be reasonably maintained;
- (h) will maintain books and records and bank accounts separate from those of its affiliates, including its general partners, principals and members;
- (i) will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any general partner, principal, member or affiliate);
- (j) will file its own tax returns;
- (k) will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;
- (l) will not, nor will any shareholder, partner, member or affiliate, seek the dissolution or winding up, in whole or in part, of the Chargor;
- (m) will not enter into any transaction of merger or consolidation, or acquire by purchase or otherwise all or substantially all of the business or assets of, or any stock or beneficial ownership of any entity;
- (n) will not commingle the funds and other assets of the Chargor with those of any general partner, principal, member or affiliate, or any other person;
- (o) has and will maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate or any other person;
- (p) has, and any general partner or operating member of the Chargor has, at all times since its formation, observed all legal and customary formalities regarding its formation and will continue to observe all legal and customary formalities; and
- (q) does not and will not hold itself out to be responsible for the debts or obligations of any other person.

#### **MULTIFAMILY/CONDOMINIUM**

##### **63. Additional Definitions**

If the Mortgaged Property are registered under the *Condominium Act, 1998*, (Ontario), as amended and/or restated from time to time (the "*Condominium Act*") or are proposed to be registered under the *Condominium Act*, the following definitions and provisions shall apply to this Mortgage:

"**Declaration**" means the declaration which, together with the description, was registered under the *Condominium Act* and subjected the Mortgaged Property to the provisions of the *Condominium Act*, and all amendments to such declaration.

"**Condominium Corporation**" means the corporation created by the registration of the Declaration and the description relating thereto.

"Common Expenses" means the expenses of the performance of the objects and duties of the Condominium Corporation and any expenses specified as common expenses in the Declaration.

"Insurance Trustee" means the insurance trustee appointed pursuant to the Declaration.

#### 64. Condominium Provisions

If all or any part of the Mortgaged Property is a condominium unit or units and its or their appurtenant common interest then:

- (a) If and only to the extent that the Condominium Corporation maintains any insurance that the Chargor would otherwise be responsible to obtain and maintain under this Mortgage, the Chargor shall be relieved from such responsibility,

The Chargor shall insure all improvements which at any time the Chargor or any previous owner makes or made to the Mortgaged Property and the Chargor's common or other interest in buildings which are part of the condominium property, against such risks as the Chargee may require. If the Condominium Corporation fails to obtain and maintain the insurance required by the Condominium Act, the Declaration, the by-laws or rules of the Condominium Corporation or otherwise with respect to all or any part of the Mortgaged Property, the condominium property or the assets of the Condominium Corporation, the Chargor shall do so. If the Chargor fails to so insure, the Chargee may (but shall not be obligated to) do so and all amounts so paid by the Chargee, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage and shall be forthwith payable by the Chargor to the Chargee. All policies of insurance required to be effected pursuant to this subsection upon or in respect of the buildings on the Mortgaged Property shall provide for any loss to be payable to the Chargee or an Insurance Trustee pursuant to an insurance trust agreement approved by the Chargee, the terms of which shall not be altered without the Chargee's prior written consent.

In the event of loss or damage, the Chargor or the Condominium Corporation or both of them shall notify the Chargee, and the Chargor and the Condominium Corporation shall forthwith upon such event comply fully with the terms of the policy or policies of insurance, and without limiting the application of any provision in this Mortgage or the obligation of the Chargor to observe and perform all of the duties and obligations imposed by the Condominium Act, the Declaration and/or the by-laws of the Condominium Corporation, the Chargor and the Condominium Corporation shall comply with the insurance provisions of the Declaration. The Chargor shall furnish at his own expense all necessary proofs and do all necessary acts to enable the Chargee or the Insurance Trustee to obtain payment of the insurance proceeds.

In the event of loss or damage, the Chargee shall have the right to apply the insurance proceeds in whole or in partial reduction of the Indebtedness, notwithstanding that the Indebtedness may not otherwise be due and payable under the terms of this Mortgage and/or in meeting costs of repair or reconstruction and/or the Chargee may pay such proceeds in whole or in part to the Chargor or to the assigns of the Chargor.

- (b) The Chargor agrees to comply with all of the terms imposed by the *Condominium Act*, the Declaration, the by-laws and rules of the Condominium Corporation, all as amended from time to time. Any contravention of those terms will constitute a contravention and default under this Mortgage;
- (c) The Chargor agrees to pay Common Expenses as they fall due and in default of so doing, the Chargee may at its option pay these contributions and the amounts so paid, together with interest thereon at the Interest Rate, shall be added to the Indebtedness and secured by this Mortgage and shall be immediately due and payable by the Chargor to the Chargee;
- (d) The Chargor authorizes and empowers the Chargee to exercise its right as an owner of the Mortgaged Property to vote or to consent in all matters relating to the affairs of the Condominium Corporation and will forthwith deliver to the Chargee all notices of meetings of the Condominium Corporation which the Chargor receives provided that until the Chargee gives notice in writing to the Chargor and to the Condominium Corporation, the Chargor may exercise the right to vote and to consent. The Chargee is not under any obligation to vote or consent or protect the Chargor's interest and the exercise by the Chargee of the right to vote

or consent will not constitute the Chargee a mortgage in possession of the Mortgaged Property;

- (e) The Chargor covenants with the Chargee to deliver to the Chargee in person or by prepaid registered mail, a copy of the following:
  - (i) every request or claim for the consent of the Chargor affecting the unit or common elements of the condominium which copy is to be received by the Chargee within five days from the date such request or claim is received or made by the Chargor, and
  - (ii) any information known to the Chargor concerning the termination of any management agreement or insurance trust agreement in respect of the condominium, such information to be delivered immediately upon the Chargor learning of such information.
- (f) the Chargor hereby assigns to the Chargee the proceeds of all insurance that may be otherwise payable to the Chargor by the Insurance Trustee.

**Properties**

**PIN** 22590 - 0549 LT  
**Description** 1STLY: LOTS 29 TO 34, 45 TO 50, 91 PLAN 322, TWP OF WATERLOO; LOT 127 STREETS & LANES KITCHENER (CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 12 TO 17, 43, 44, 86, 87, 89, 90 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 141 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4445, INST. 210008); PT. LOT 173 STREETS & LANES KITCHENER (BEING PT. OF SUNNYSIDE AVE., CLOSED BY BYLAW NO. 5094, INST. 270276) PT. 1 ON 58R-1868; EXCEPT PT. 1 ON 58R-3067 & PT. 34 ON 58R-11552 & PT. 7 ON 58R-12048 AND PART 1 ON 58R21025; 2NDLY: PT. LOTS 12 TO 17 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368), PT. 7 ON 58R-12048;; SUBJECT TO AN EASEMENT IN GROSS OVER PART OF LOTS 16 AND 17, PLAN 322, BEING PART 1 ON PLAN 58R11736 AS IN WR1306081; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 2 AND 3 ON 58R21025 AS IN WR1324371; SUBJECT TO AN EASEMENT AS IN WR1326075; SUBJECT TO AN EASEMENT AS IN 687124; CITY OF KITCHENER  
**Address** 1333 WEBER STREET EAST  
 KITCHENER

**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** 1776411 ONTARIO LTD.  
 Acting as a company  
**Address for Service** 258 Edgewater Crescent, Suite 8  
 Kitchener, Ontario N2A 4M2

I, Werner Leuschner (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** CMLS FINANCIAL LTD.  
 Acting as a company  
**Address for Service** Suite 2110 - 1066 West Hastings Street  
 Vancouver, BC V6E 3X2

**Name** COMPUTERSHARE TRUST COMPANY OF CANADA  
 Acting as a company  
**Address for Service** 100 University Avenue, 8th Floor, South Tower  
 Toronto, Ontario M5J 2Y1

**Name** GENESIS MORTGAGE INVESTMENT CORP.  
 Acting as a company  
**Address for Service** #805-8400 West Road  
 North Tower, International Trade Centre  
 Richmond, BC, V6X 0S7

**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, CHARGE 1 to which this notice relates is deleted Schedule:

**File Number**

Party To Client File Number :

42896 DM/

## GENERAL ASSIGNMENT OF RENTS AND LEASES

This Assignment made as of the \_\_\_ day of August, 2021.

**F R O M :**

**1776411 Ontario Ltd.**

(hereinafter referred to as the "Chargor")

**T O :**

**Computershare Trust Company of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp.**

(hereinafter collectively referred to as the "Lender")

**WHEREAS** the Chargor is the owner of the Property subject to the Mortgage and has agreed to enter into this Assignment with the Lender as collateral security for the due payment of the Mortgage.

**NOW THEREFORE**, it is hereby covenanted, agreed and declared as follows:

1. In this Assignment, unless there is something in the subject matter or context inconsistent therewith,
  - (a) "**Leases**" includes without limitation:
    - (i) every existing and future lease of and agreement to lease the whole or any portion of the Property and any and all extensions and renewals thereof;
    - (ii) 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 any and all extensions and renewals thereof;
    - (iii) every existing and future indemnity or 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
    - (iv) every existing and future assignment and agreement to assume the obligations of tenants of the whole or any portion of the Property;
  - (b) "**Mortgage**" means a charge/mortgage of the Property from the Chargor to the Lender, securing the principal sum of \$82,000,000.00 and interest thereon; and
  - (c) "**Property**" means the lands and premises described in Schedule "A" attached to this Assignment;
  - (d) "**Rents**" means all rents and other monies now due and payable or hereafter to become due and payable and the benefit of all covenants of tenants, users, occupiers, licensees, indemnitors and guarantors, under or in respect of the Leases.

2. The Chargor hereby assigns to the Lender, its successors and assigns (as security for the principal, interest, and other amounts secured by the Mortgage and until the monies due under and by virtue of the Mortgage have been fully paid and satisfied) the interest of the Chargor in and to the Leases and Rents, with full power and authority to demand, collect, sue for, recover, receive and give receipts for the Rents and to enforce payment of the Rents and performance of the obligations of the tenants, users, occupiers, licensees, indemnitors and guarantors under the Leases in the name of the Chargor or the owner from time to time of the Property.
3. The Chargor hereby covenants and agrees that:
  - (a) none of the Rents has been or will be paid more than one month in advance (except, if so provided in the lease or agreement, for payment of rent for the last month of the term);
  - (b) 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;
  - (c) the Chargor will observe and perform all of the Chargor's obligations under each of the Leases; and
  - (d) the Chargor shall not surrender or materially modify, alter or amend the Leases or any of the benefit or advantage to be derived therefrom, without first obtaining the consent in writing of the Lender.
4. Subject to the provisions of Subsection 3(a) above, the Chargor 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 Mortgage being in default, the Lender shall give notice to the tenant, user, occupier, licensee, indemnitor or guarantor thereunder requiring payment to the Lender.
5. Nothing contained herein or in any statute shall have the effect of making the Lender, its successors or assigns, responsible for the collection of Rents or any of them or for the performance of the covenants, obligations or conditions under or in respect of the Leases or any of them to be observed or performed by the Chargor, and the Lender shall not, by virtue of this Assignment or its receipt of the Rents or any of them, become or be deemed a mortgagee in possession of the Property or the charged premises and the Lender 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 Lender shall be liable to account only for such monies as shall actually come into its hands, less all costs and expenses and other proper deductions.
6. The Chargor hereby agrees to execute such further assurances as may be reasonably required by the Lender from time to time to perfect this Assignment and whenever in the future any lease, agreement, licence, indemnity or guarantee with respect to the Property is made, the Chargor will forthwith advise the Lender of the terms thereof and, if requested by the Lender, give the Lender a specific assignment of the Rents thereunder in form satisfactory to the Lender.
7. The Chargor further agrees that the Chargor will not lease or agree to lease any part of the Property except at a rent, on terms and conditions, and to tenants which are not less favourable or desirable than those which a prudent landlord would expect to receive for the premises to be leased.

8. It is understood and agreed that this Assignment is being taken as collateral security only for the due payment of any sum due under the Mortgage; and that none of the rights or remedies of the Lender under the Mortgage shall be delayed or in any way prejudiced by these presents; and that following registration of a discharge of the Mortgage this Assignment shall be of no further force or effect.
9. Any demand, notice or other communication to be given in connection with this Assignment must be given in writing and may be given by delivery or by facsimile, addressed to the recipient as follows:

**To the Chargor:**

1776411 Ontario Ltd.  
258 Edgewater Crescent, Suite 8  
Kitchener, Ontario N2A 4M2

Facsimile No.:

Attention:     Werner Leuschner (President)

**To the Lender:**

CMLS Financial Ltd.  
Suite 2110 - 1066 West Hastings Street  
Vancouver, BC V6E 3X2

Facsimile:

Attention:

Computershare Trust Company of Canada  
100 University Avenue, 8th Floor, South Tower  
Toronto, Ontario M5J 2Y1

Facsimile:

Attention:

Genesis Mortgage Investment Corp.  
#805-8400 West Road  
North Tower, International Trade Centre  
Richmond, BC, V6X 0S7

Facsimile:

Attention:

10. This Assignment and everything herein contained shall extend to, bind and enure to the benefit of the respective successors and assigns of each of the parties hereto.

The Chargor has executed this Assignment by properly authorized officers as of the date first above written.

*[signing page follows]*

[General Assignment of Rents and Leases]

Dated this 13 day of August, 2021.

DEBTOR:

1776411 ONTARIO LTD.

Per:

Name: Werner Leuschner

Title: President

I have the authority to bind the corporation

THE TERMS SET FORTH ABOVE ARE ACKNOWLEDGED AND AGREED TO BY THE UNDERSIGNED

1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333 WEBER  
STREET KITCHENER LP

Per:

Name: Werner Leuschner

Title: President

I have the authority to bind the corporation




**SCHEDULE A**

**LEGAL DESCRIPTION OF THE PROPERTY**

1STLY: LOTS 29 TO 34, 45 TO 50, 91 PLAN 322, TWP OF WATERLOO; LOT 127 STREETS & LANES KITCHENER ( CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 12 TO 17, 43, 44, 86, 87, 89, 90 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 141 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4445, INST. 210008); PT. LOT 173 STREEST & LANES KITCHENER (BEING PT. OF SUNNYSIDE AVE., CLOSED BY BYLAW NO. 5094, INST. 270276) PT. 1 ON 58R-1868; EXCEPT PT. 1 ON 58R-3067 & PT. 34 ON 58R-11552 & PT. 7 ON 58R-12048 AND PART 1 ON 58R21025; 2NDLY: PT. LOTS 12 TO 17 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES, KITCHENER (BEING HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368), PT. 7 ON 58R-12048;; SUBJECT TO AN EASEMENT IN GROSS OVER PART OF LOTS 16 AND 17, PLAN 322, BEING PART 1 ON PLAN 58R11736 AS IN WR1306081; CITY OF KITCHENER.

PIN No. 22590-0549(LT)

**THIS IS EXHIBIT "I" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**

A handwritten signature in blue ink, appearing to read "Michael Yeung Sworn", is centered on the page. The signature is written in a cursive style.

---

**A Commissioner for taking affidavits, etc.**

## AMENDED AND RESTATED PRIORITY AGREEMENT

THIS PRIORITY AGREEMENT dated the 8<sup>th</sup> day of May, 2023.

**BETWEEN:**

**WESTMOUNT GUARANTEE SERVICES INC. as Administrative Agent for the surety and/or sureties**  
(hereinafter called "**Westmount**")

**AND:**

**COMPUTERSHARE TRUST COMPANY OF CANADA, CMLS FINANCIAL LTD. and GENESIS MORTGAGE INVESTMENT CORP.**

(hereinafter collectively called the "**Construction Lender**")

**WHEREAS:**

1. This Agreement is made as of the date first written above for the purpose of amending and restating the Amended and Restated Priority Agreement, dated the 29<sup>th</sup> day of April, 2022 between Westmount and the Construction Lender.
2. 1333 Weber Street Kitchener LP, by its general partner 1776411 Ontario Ltd. (hereinafter called the "**Principal**") has entered into two (2) commitment letters issued to the Principal by CMLS Financial Ltd. (on behalf of the Construction Lender), each dated June 28, 2021, as they may be amended from time to time, pursuant to which it has executed and delivered certain security to the Construction Lender, including, without limitation, a Charge/Mortgage of land dated August 17, 2021, in the principal amount of Eighty-Two Million Dollars (\$82,000,000.00) (the "**Charge**"), and certain other security (all present and future security granted by the Principal to the Construction Lender, collectively referred to herein as the "**Construction Lender Security**").
3. The Construction Lender Security secures (a) senior loan facilities in the maximum amount of \$57,500,000.00 plus fees, interest and other costs and charges thereunder and secured thereby and all additional advances for construction cost overruns (collectively the "**Senior Facilities**") and (b) subordinate loan facilities in the maximum amount of \$19,000,000.00 plus fees, interest and other costs and charges thereunder and secured thereby and all additional advances for construction cost overruns (collectively the "**Subordinate Facilities**").
4. The Charge was registered in the Land Registry Office for the Land Titles Division of Waterloo (No. 58) on the 17<sup>th</sup> day of August, 2021, as Instrument No. WR1367209 against the lands described in Appendix "A" hereto (the "**Property**").
5. The Principal has requested Westmount arrange to have issued a Bond to Tarion Warranty Corporation and/or condominium deposit insurance policies pursuant to a Commitment Letter dated January 6, 2020 (the "**Tower A Commitment Letter**") in connection with the Principal's proposed development of a condominium project of approximately 165 units (the "**Tower A Project**") on the Property.
6. The Principal has entered into a deposit trust agreement dated as of the 6<sup>th</sup> day of January, 2020 (the "**Tower A Deposit Trust Agreement**") with Westmount and McCarter Grespan Beynon Weir PC in connection with deposit monies received from time to time from purchasers of dwelling units in the Tower A Project and accrued interest thereon (the "**Tower A Deposit Monies**").

7. The Principal has granted to Westmount, pursuant to the provisions of the Tower A Deposit Trust Agreement, security interests in certain of its personal property including the Tower A Deposit Monies, which have been registered under the *Personal Property Security Act* (Ontario), as amended from time to time (the “**Act**”), as Reference File No. 759403656 and Registration No. 20200117 1608 1862 6795 (the “**PPSA Registration**”).
8. The Principal has requested Westmount arrange to have issued a Bond to Tarion Warranty Corporation and/or condominium deposit insurance policies pursuant to a Commitment Letter dated October 22, 2020 (the “**Tower B Commitment Letter**”) in connection with the Principal’s proposed development of a condominium project of approximately 193 units (the “**Tower B Project**”) on the Property.
9. The Principal has entered into a deposit trust agreement dated as of the 22<sup>nd</sup> day of October, 2020 (the “**Tower B Deposit Trust Agreement**”) with Westmount and McCarter Grespan Beynon Weir PC in connection with deposit monies received from time to time from purchasers of dwelling units in the Tower B Project and accrued interest thereon (the “**Tower B Deposit Monies**”).
10. The Principal has granted to Westmount, pursuant to the provisions of the Tower B Deposit Trust Agreement, security interests in certain of its personal property including the Tower B Deposit Monies, which have been registered under the Act, as Reference File No. 767768931 and Registration No. 20201117 1423 1862 5152.
11. The Principal requested amendments to the Tower A Commitment Letter on and subject to the terms and conditions contained in a Commitment Letter dated November 4, 2020 (the “**First Amended Tower A Commitment Letter**”), which, amongst other matters, provided for the Tower A Project to contain approximately 177 units and required the Principal to grant a collateral mortgage on the Property in favour of Westmount, which was registered as Instrument No. WR1299640 on November 24, 2020 (the “**Original Surety Mortgage**”) to secure payment of the sum of Twenty-Million Dollars (\$20,000,000.00) and interest as set out in the Original Surety Mortgage.
12. The Principal requested further amendments to the Tower A Commitment Letter, as amended by the First Amended Tower A Commitment Letter, on and subject to the terms and conditions contained in a Commitment Letter dated January 6, 2021 (the “**Second Amended Tower A Commitment Letter**”).
13. The Principal requested amendments to the Tower B Commitment Letter on and subject to the terms and conditions contained in a Commitment Letter dated January 11, 2023 (the “**First Amended Tower B Commitment Letter**”), which, amongst other matters, required the Principal to amend the Original Surety Mortgage to increase the principal secured thereunder to Fifty Million Dollars (\$50,000,000.00) in favour of Westmount with respect to the Tower B Project (the “**Surety Mortgage Amendment**”, and together with the Original Surety Mortgage are hereinafter collectively the “**Surety Mortgage**”), which Surety Mortgage Amendment was registered as Instrument No. WR1507433 on May 8, 2023.
14. The Principal may request Westmount to arrange to have issued a Bond to Tarion Warranty Corporation and/or condominium deposit insurance policies in connection with the Principal’s proposed development of one or more condominium projects in addition to the Tower A Project and the Tower B Project on the Property (the “**Future Projects**”, and together with the Tower A Project and the Tower B Project, the “**Projects**”) which Future Projects may be collaterally secured by the Surety Mortgage amongst such other security as Westmount may reasonably require.
15. The Principal may enter into one or more deposit trust agreements (the “**Future Project Deposit Trust Agreements**”, and together with the Tower A Deposit Trust Agreement and the Tower B Deposit Trust Agreement, the “**Deposit Trust Agreements**”) with Westmount and McCarter Grespan Beynon Weir PC in connection with deposit monies received from time to time from purchasers of dwelling units in the Future Projects and accrued interest thereon (the “**Future Project Deposit Monies**”, and together with the Tower A Deposit Monies and the Tower B Deposit Monies, the “**Deposit Monies**”).

16. The Principal may grant to Westmount, pursuant to the provisions of the Future Project Deposit Trust Agreements, security interests in certain of its personal property, including the Future Project Deposit Monies, which may be registered under the Act (all present and future security granted by the Principal to Westmount, including the Surety Mortgage and such security pursuant to the Deposit Trust Agreements, hereinafter referred to as the “**Surety Security**”).
17. The Surety Security secures (a) a cash collateral requirement from the Principal in the amount of Seven-Hundred and Fifty Thousand Dollars (\$750,000.00) (the “**Required Cash Collateral**”) and (b) all other amounts secured by the Surety Security (the “**Subordinate Surety Facilities**”).
18. The parties hereto wish to record their agreement as to the priorities of the Construction Lender Security and the Surety Security.

**NOW THEREFORE** for good and valuable consideration (the receipt and sufficiency of which are acknowledged) Westmount and the Construction Lender agree as follows:

- a) The Construction Lender Security and all amounts secured thereby including all costs, charges and fees and expenses incurred by the Construction Lender, or any agent, receiver or receiver and manager appointed by the Construction Lender, in connection therewith but including advances made thereunder only to the extent of the Senior Facilities shall be an encumbrance and first charge upon the Property prior to the Required Cash Collateral, the Subordinate Facilities and the Subordinate Surety Facilities, and Westmount hereby postpones and subordinates all of its rights and interests under the Surety Security to the Construction Lender Security to the extent of the Senior Facilities, and to all amounts secured thereby (including all costs, charges, fees and expenses incurred by the Construction Lender, or any agent, receiver or receiver and manager appointed by the Construction Lender, in connection therewith) and all advances made thereunder to the extent noted herein and to all interest accruing thereunder and secured thereby.
- b) The Surety Security, to the extent of the Required Cash Collateral, shall be an encumbrance and second charge upon the Property prior to the Subordinate Facilities secured by the Construction Lender Security, and the Construction Lender hereby postpones and subordinates all of its rights and interests under the Subordinate Facilities to the Surety Security to the extent of the Required Cash Collateral.
- c) The Construction Lender Security and all amounts secured thereby including all costs, charges and fees and expenses incurred by the Construction Lender, or any agent, receiver or receiver and manager appointed by the Construction Lender, in connection therewith but including advances made thereunder only to the extent of the Subordinate Facilities shall be an encumbrance and third charge upon the Property prior to the Subordinate Surety Facilities, and other than set forth in paragraph (b) above, Westmount hereby postpones and subordinates all of its rights and interests under the Surety Security to the Construction Lender Security to the extent of the Subordinate Facilities, and to all amounts secured thereby (including all costs, charges, fees and expenses incurred by the Construction Lender, or any agent, receiver or receiver and manager appointed by the Construction Lender, in connection therewith) and all advances made thereunder to the extent noted herein and to all interest accruing thereunder and secured thereby.
- d) The Surety Security, to the extent of the Subordinate Surety Facilities, shall be an encumbrance and fourth charge upon the Property.
- e) Additionally, notwithstanding the provisions of paragraphs (a) to (d) above, the Construction Lender Security shall at all times be postponed to and rank subordinate to the Surety Security in respect of the Deposit Monies, in respect of which the Surety Security shall have a first charge and priority over the Construction Lender Security for only so long as, and to the extent that, such Deposit Monies shall remain in trust pursuant to the provisions of the Deposit Trust Agreement and in respect of which the Construction Lender Security shall constitute a second charge and security interest in the Deposit Monies.

- f) The above postponements and subordinations shall apply notwithstanding the respective dates of execution and registration of any of the Lender Security or the Surety Security, the date of attachment or perfection of any security interest granted thereby, the date of any advance, the date of any default, or any other matter. Each of the parties hereto agrees that it shall not claim against the other the benefit of any charge, mortgage, security interest, trust or other claim which would affect the priorities set out therein.
- g) Westmount hereby confirms that notwithstanding any provision to the contrary in any of the Surety Security, the security provided by the Surety Security over the Property and other assets of the Principal in any way related to the Project (including without limitation, the Deposit Monies) shall not secure any indebtedness, liability or obligation of the Principal except in respect of the Project, while any amounts under the Lender Security remains unpaid.
- h) Westmount and the Lender consent to the granting of the security by the Principal referred to herein, and shall at all times and from time to time execute and deliver to the other all such further documents, agreements or other assurances as may be necessary to give effect to this agreement and to carry out the intent hereof.
- i) Westmount will authorize the release of the Deposit Monies in accordance with the Tower A Commitment Letter, the First Amended Tower A Commitment Letter, the Second Amended Tower A Commitment Letter and the Tower B Commitment Letter.
- j) Westmount covenants and agrees that from and after the date hereof, to and until the date of repayment of the entire outstanding indebtedness secured under the Construction Lender Security, and the complete discharge thereof, it shall not take, direct, initiate, pursue or otherwise participate in (either directly or indirectly) any collection, realization or enforcement proceedings or remedies against (or otherwise affecting) the Principal or the declarant of the Project (collectively the "**Parties**"), in relation to the Project or the assets of the Parties relating or pertaining thereto (nor against any party or parties who may be entitled to claim contribution or indemnity against the Parties in relation to the Project or the assets of the Parties relating or pertaining thereto), nor against the Property (or any portion thereof) nor against any chattels, fixtures, rents, leases and/or other personal property situate upon, within, or affixed to, or otherwise relating to the Property (or any portion thereof), as a result of any breach, default or non-compliance with any covenants, conditions, representations, warranties, terms and/or provisions of the Westmount Security (or any portion thereof) and/or any subsequent mortgage, nor shall the Parties, in relation to the Project or the assets of the Parties relating or pertaining thereto, be obliged to make any payments under the Westmount Security until the Construction Lender Security is fully repaid and the Construction Lender Security has been fully discharged and/or cash securitized (the "**Standstill Period**"), save and except for the payment of all reasonable legal fees and disbursements incurred by Westmount in connection with this Agreement.
- k) Westmount hereby expressly acknowledges and confirms that the Construction Lender is relying upon such forbearance on the part of Westmount during the Standstill Period in order to be assured that in the event that the Construction Lender Security is hereafter in default (and the Construction Lender thereupon purports to complete the development and registration of the Project, and the closing of the unit sale transactions on its own, either directly or through a receiver and manager, or nominee or assignee), then no actions, steps or proceedings shall or will be taken by or on behalf of Westmount during the Standstill period [whether culminating in any document or instrument hereafter registered against or otherwise affecting the Property (or any portion thereof), or otherwise] which might negatively or detrimentally impact upon the Construction Lender's ability to expeditiously complete the development and registration of the Project, and/or which might restrict, inhibit, hinder or delay the sale and closing of the individual unit sale transactions in respect of the Project.
- l) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed that:

- (1) the covenant of Westmount to forbear and stand still during and throughout the Standstill Period shall only be binding and enforceable against Westmount so long as one-hundred and eighty (180) consecutive days have not passed at any time after default of the Principal under the Construction Lender Security and prior to completion of the Project without:
    - a. the Construction Lender making advances in order to fund the development, construction and completion of the Project; and
    - b. in the event of the enforcement of the Construction Lender Security as a result of default of the Principal, the Construction Lender continuing to take all reasonable steps to complete the Project in substantial conformity with the approved plans and specifications by the Construction Lender and Westmount, and to thereafter honour the existing agreements of purchase and sale with (and correspondingly transferring title to) the respective unit purchasers for whom Westmount has insured their Deposit Monies (or to whomsoever such unit purchasers may direct in writing), but excluding those unit purchasers whose agreements have been terminated because of a fundamental breach of contract committed by them; and
  - (2) nothing contained herein shall prevent Westmount from filing a proof of claim in (or otherwise participating in) any bankruptcy or insolvency proceedings initiated by the Principal or any other creditor against the Principal or any successor of the Principal.
- m) The Construction Lender hereby confirms that notwithstanding that the general collateral description for the PPSA Registration may reference 165 units for the Tower A Project in accordance with the Tower A Commitment Letter, such registration shall secure the Tower A Deposit Monies in respect of all units for the Tower A Project in accordance with the Tower A Commitment Letter as amended by the First Amended Tower A Commitment Letter and the Second Amended Tower A Commitment Letter, without the necessity of registering a financing change statement pursuant to the Act. However, the foregoing confirmation shall only benefit Westmount and no other party claiming an interest in the Deposit Monies and it is acknowledged that the Construction Lender claims a priority interest in the Deposit Monies over any other party claiming an interest in such Deposit Monies.
- n) The parties hereto confirm that to the extent the number of units to be constructed for any of the Projects shall be amended or changed after the date of registration of a financing statement pursuant to the Act in connection with the Surety Security, such registration shall be deemed to be amended accordingly as between the parties hereto without the necessity for any further registrations pursuant to the Act. However, the foregoing confirmation shall only benefit Westmount and no other party claiming an interest in the Deposit Monies and it is acknowledged that the Construction Lender claims a priority interest in the Deposit Monies over any other party claiming an interest in such Deposit Monies.
- o) Nothing herein shall affect the rights of Westmount, and the Lender respectively against the Principal. The provisions of this agreement shall enure to the benefit of and be binding upon the Lender, Westmount, the Surety and/or Sureties and their respective successors and assigns, and shall be interpreted and construed according to the laws of the Province of Ontario.
- p) Westmount hereby covenants, agrees and undertakes to and with the Lender to:
  - i. execute and deliver any usual documentation required in connection with the development and registration of the Property as a Condominium; and
  - ii. deliver without payment therefore partial discharges of units comprising the Surety Security in respect of condominium units (and their appurtenant common interests) which have been sold.
- q) This Priority Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together shall constitute one and the same instrument.

- r) This Priority Agreement may be executed and transmitted by facsimile and/or email and shall in such event be effective and binding on the undersigned and their successors and assigns as if originally executed.

[signature page follows]





IN WITNESS WHEREOF the parties have duly executed this agreement as of the date first above written.

**WESTMOUNT GUARANTEE SERVICES INC.**

Per: \_\_\_\_\_  
Name:  
Title:  
Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

**COMPUTERSHARE TRUST COMPANY OF CANADA**

Per: DL \_\_\_\_\_  
Name: Daniel Lee  
Title: Professional, MBS  
Per: \_\_\_\_\_ Zhi Min Jian  
Name: Zhi Min Jian  
Title: Administrator, MBS

I/We have authority to bind the Corporation

**CMLS FINANCIAL LTD.**

Per: \_\_\_\_\_ Neil Xue  
Name: Neil Xue  
Title: Director, Commercial Servicing  
Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

**GENESIS MORTGAGE INVESTMENT CORP.**

Per: \_\_\_\_\_  
Name:  
Title:  
Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

IN WITNESS WHEREOF the parties have duly executed this agreement as of the date first above written.

**WESTMOUNT GUARANTEE SERVICES INC.**

Per: \_\_\_\_\_  
Name:  
Title:  
Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

**COMPUTERSHARE TRUST COMPANY OF CANADA**

Per: \_\_\_\_\_  
Name:  
Title:  
Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

**CMLS FINANCIAL LTD.**

Per: \_\_\_\_\_  
Name:  
Title:  
Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

**GENESIS MORTGAGE INVESTMENT CORP.**

Per: \_\_\_\_\_  
Name: *Michael Yeung*  
Title: *Executive Vice President, Lending*  
Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

## **APPENDIX "A"**

### **Legal description of the Lands**

PIN 22590-0550 (LT):

LOTS 29, 30, 31, 32, 33, 34, 45, 46, 47, 48, 49, 50 AND 91 AND PART LOTS 12, 13, 14, 15, 16, 17, 43, 44, 86, 87, 89 AND 90, PLAN 322, AND LOT 127 STREETS AND LANES, (BEING A LANE, PLAN 322, CLOSED BY BY-LAW AS IN 175368) AND PART LOT 126 STREETS AND LANES, (BEING PART OF HERMAN AVENUE, PLAN 322, CLOSED BY BY-LAW AS IN 175368) AND PART LOT 141 STREETS AND LANES, (BEING PART OF HERMAN AVENUE, PLAN 322, CLOSED BY BY-LAW AS IN 210008) AND PART LOT 173 STREETS AND LANES, (BEING PART OF WEBER STREET, PLAN 322 (RENAMED SUNNYSIDE AVENUE) CLOSED BY BY-LAW AS IN 270276), ALL BEING PARTS 1, 2 AND 3, PLAN 58R-21405; SUBJECT TO AN EASEMENT AS IN 687124; SUBJECT TO AN EASEMENT IN GROSS OVER PART 3, PLAN 58R-21405 AS IN WR1306081; SUBJECT TO AN EASEMENT IN GROSS OVER PART 2, PLAN 58R-21405 AS IN WR1324371; SUBJECT TO AN EASEMENT AS IN WR1326075; CITY OF KITCHENER

**THIS IS EXHIBIT "J" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**

A handwritten signature in blue ink, reading "Mila Singh-Cherina". The signature is written in a cursive style.

---

**A Commissioner for taking affidavits, etc.**

## GENERAL SECURITY AGREEMENT

This Agreement is made as of the 13<sup>th</sup> day of August, 2021.

### FROM :

1776411 Ontario Ltd. as general partner on behalf of 1333 Weber Street Kitchener LP  
(hereinafter collectively referred to as the "Borrower")

### TO :

Computershare Trust Company of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp.  
(hereinafter collectively referred to as the "Lender")

**WHEREAS** the Borrower has agreed to grant a security interest and assignment, mortgage and charge in the Collateral as a further assurance of the personal property security interest created under the Mortgage and in order to secure the performance of the Obligations to the Lender under the Mortgage.

**NOW THEREFORE**, it is hereby covenanted, agreed and declared as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Interpretation

In this Agreement, unless something in the subject matter or context is inconsistent therewith,

**"Agreement"** means this agreement and all amendments made hereto by written agreement between the Lender and the Borrower.

**"Business Day"** means a day other than Saturday, Sunday, or any day which is a statutory or municipal holiday in the Province of Ontario.

**"Collateral"** has the meaning set out in Section 2.1.

**"Commitment Letter"** means collectively two (2) commitment letters each dated June 28, 2021 issued by CMLS Financial Ltd. in favour of the Borrower.

**"Event of Default"** means any default of the Borrower under this Agreement or under any other Loan and Security Documents (as defined in the Mortgage), including, without limitation, an Event of Default as defined in the Mortgage.

**"Mortgage"** means the charge/mortgage of the Property in the original principal amount of \$82,000,000.00, given by 1776411 Ontario Ltd. to the Lender, as the same may be amended or modified from time to time.

**"Obligations"** means all obligations and liabilities of any kind whatsoever of the Borrower to the Lender in connection with or relating to the Mortgage.

**“Permitted Encumbrances”** means any and all liens, charges, mortgages, security interests, hypothecs and other encumbrances which affect all or any portion of the Collateral and which have been permitted or consented to in writing by the Lender, including any such liens, charges, mortgages, security interests and encumbrances the particulars of which are listed in Schedule “A” hereto.

**“Property”** means the lands and premises known municipally as 1333 Weber Street East, Kitchener, Ontario and legally described as 1STLY: LOTS 29 TO 34, 45 TO 50, 91 PLAN 322, TWP OF WATERLOO; LOT 127 STREETS & LANES KITCHENER ( CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 12 TO 17, 43, 44, 86, 87, 89, 90 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 141 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4445, INST. 210008); PT. LOT 173 STREEST & LANES KITCHENER (BEING PT. OF SUNNYSIDE AVE., CLOSED BY BYLAW NO. 5094, INST. 270276) PT. 1 ON 58R-1868; EXCEPT PT. 1 ON 58R-3067 & PT. 34 ON 58R-11552 & PT. 7 ON 58R-12048 AND PART 1 ON 58R21025; 2NDLY: PT. LOTS 12 TO 17 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES, KITCHENER (BEING HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368), PT. 7 ON 58R-12048;; SUBJECT TO AN EASEMENT IN GROSS OVER PART OF LOTS 16 AND 17, PLAN 322, BEING PART 1 ON PLAN 58R11736 AS IN WR1306081; CITY OF KITCHENER.

The terms “accessions”, “accounts”, “chattel paper”, “documents of title”, “goods”, “instruments”, “intangibles”, “inventory”, “money”, “proceeds”, “securities” and “investment property” whenever used herein have the meanings given to those terms in the *Personal Property Security Act* (Ontario) (the “PPSA”), as now enacted or as the same may from time to time be amended, re-enacted or replaced, except as the context may otherwise require.

## **1.2 Sections and Headings**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, reference herein to Articles and Sections are to Articles and Sections of this Agreement.

## **1.3 Extended Meanings**

In this Agreement words importing the singular number include the plural and *vice versa*, words importing any gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.

# **ARTICLE 2**

## **GRANT OF SECURITY INTEREST**

### **2.1 Security Interest**

As general and continuing security for the payment and performance of all Obligations of the Borrower to the Lender, the Borrower hereby grants to the Lender a security interest in, assigns to the Lender and mortgages and charges as and by way of a fixed and specific mortgage and charge to the Lender, all right, title and interest that the Borrower now has or may hereafter have, be possessed of, be entitled to, or acquire, by way of amalgamation or otherwise, now or hereafter or may hereafter have in the following personal property

which arises from, pertains to, is located on, or is used in the operation and maintenance of, the Property and any proceeds therefrom (collectively, the "Collateral"):

- (a) Receivables: all debts, accounts, claims and choses in action for monetary amounts which are now or which may hereafter become due, owing or accruing due to the Borrower (collectively, the "Receivables");
- (b) Inventory: all inventory of whatever kind and wherever situated including, without limiting the generality of the foregoing, all goods held for sale or lease or furnished or to be furnished under contracts for service or used or consumed in the business of the Borrower (collectively, the "Inventory");
- (c) Equipment: all machinery, equipment, fixtures, furniture, plant, vehicles and other tangible personal property which are not Inventory (collectively, the "Equipment");
- (d) Chattel Paper: all chattel paper;
- (e) Documents of Title: all warehouse receipts, bills of lading and other documents of title, whether negotiable or not;
- (f) Investment Property and Instruments: all shares, stock, warrants, bonds, debentures, debenture stock and other securities, investment property and all instruments (collectively, the "Investment Property");
- (g) Intangibles: all intangibles not otherwise described in this Section 2.1 including, without limiting the generality of the foregoing, all goodwill, patents, trademarks, copyrights and other industrial property;
- (h) Money: all coins or bills or other medium of exchange adopted for use as part of the currency of Canada or of any foreign government;
- (i) Books, Records, Etc.: all books, papers, accounts, invoices, documents and other records in any form evidencing or relating to any of the property described in this Section 2.1 and all contracts, securities, investment property, instruments and other rights and benefits in respect thereof;
- (j) Substitutions, Etc.: all replacements of, substitutions for and increases, additions and accessions to any of the property described in this Section 2.1; and
- (k) Proceeds: all proceeds of any Collateral in any form derived directly or indirectly from any dealing with the Collateral or that indemnifies or compensates for the loss of or damage to the Collateral;

provided that the said assignment and mortgage and charge will not (i) extend or apply to the last day of the term of any lease or any agreement therefor now held or hereafter acquired by the Borrower, but should the Lender enforce the said assignment or mortgage and charge, the Borrower will thereafter stand possessed of such last day and must hold it in trust to assign the same to any person acquiring such term in the course of the enforcement of the said assignment and mortgage and charge, or (ii) render the Lender liable to observe or perform any term, covenant or condition of any agreement, document or instrument to which the Borrower is a party or by which it is bound.



## **2.2 Attachment of Security Interest**

The Borrower acknowledges that value has been given and agrees that the security interest granted hereby will attach when the Borrower signs this Agreement and the Borrower has any rights in the Collateral.

## **2.3 Exception for Contractual Rights**

The security interest granted hereby does not and will not extend to, and Collateral will not include any agreement, right, franchise, licence or permit (the "contractual rights") to which the Borrower is a party or of which the Borrower has the benefit, to the extent that the creation of the security interest herein would constitute a breach of the terms of or permit any person to terminate the contractual rights, but the Borrower must hold its interest therein in trust for the Lender and will assign such contractual rights to the Lender forthwith upon obtaining the consent of the other party thereto. The Borrower agrees that it will, upon the request of the Lender, use all commercially reasonable efforts to obtain any consent required to permit any contractual rights to be subjected to the security interest.

### **ARTICLE 3 REPRESENTATIONS, WARRANTIES, COVENANTS OF THE DEBTOR**

#### **3.1 Representations and Warranties of the Borrower**

The Borrower hereby represents and warrants to the Lender as follows:

- (a) except for the Security Interest and any Permitted Encumbrances, all of the Collateral is the sole property of the Borrower free from any liens, charges, security interests, encumbrances or any rights of others which rank prior to or *pari passu* with the security interest, assignment and mortgage and charge granted hereby;
- (b) the address of the Borrower's chief executive office and the office where it keeps its records respecting the Receivables, is that given in Part I of Schedule "B" of this Agreement; and
- (c) the Borrower does not keep tangible Collateral at any location(s) except:
  - (i) the location listed in Part I of Schedule "B" hereto; and
  - (ii) any location(s) listed in Part II of Schedule "B" hereto,other than tangible Collateral in transit to or from such locations.

#### **3.2 Covenants**

The Borrower covenants with the Lender that the Borrower will:

- (a) ensure that the representations and warranties set forth in Section 3.1 will be true and correct at all times;
- (b) maintain, use and operate the Collateral and carry on and conduct its business in a lawful and business-like manner;

- (c) defend the Collateral against all claims and demands respecting the Collateral made by all persons at any time and, except as otherwise provided herein, will keep the Collateral free and clear of all security interests, mortgages, charges, liens and other encumbrances or interests except for the Security Interest and Permitted Encumbrances;
- (d) not change its chief executive office and the location of the office where it keeps its records respecting the Receivables, or move any of the Inventory, Investment Property or Equipment without the prior written consent of the Lender;
- (e) pay all rents, taxes, levies, assessments and government fees or dues lawfully levied, assessed or imposed in respect of the Collateral or any part thereof as and when the same become due and payable, and will exhibit to the Lender, when required, the receipts and vouchers establishing such payment;
- (f) keep proper books of account in accordance with sound accounting practice, will furnish to the Lender such financial information and statements and such information and statements relating to the Collateral as the Lender may from time to time require, and the Borrower will permit the Lender or its authorized agents at any time at the expense of the Borrower to examine the books of account and other financial records and reports relating to the Collateral and to make copies thereof and take extracts therefrom;
- (g) from time to time forthwith at the request of the Lender furnish to the Lender in writing all information requested relating to the Collateral, and the Lender will be entitled from time to time at any reasonable time to inspect the Collateral and make copies of all information relating to the Collateral and for such purposes the Lender will have access to all premises occupied by the Borrower or where the Collateral may be found;
- (h) from time to time forthwith at the request of the Lender execute and deliver all such financing statements, schedules, assignments and documents, and do all such further acts and things as may be reasonably required by the Lender to effectively carry out the full intent and meaning of this Agreement or to better evidence and perfect the security interest, assignment and mortgage and charge granted hereby, and the Borrower hereby irrevocably constitutes and appoints the Lender, or any Receiver appointed by the court or the Lender, the true and lawful attorney of the Borrower, with full power of substitution, to do any of the foregoing in the name of the Borrower whenever and wherever the Lender or any such Receiver may consider it to be necessary or expedient;
- (i) not change its name or, if the Borrower is a corporation, will not amalgamate with any other corporation without first giving notice to the Lender of its new name and the names of all amalgamating corporations and the date when such new name or amalgamation is to become effective; and
- (j) pay to the Lender forthwith upon demand all reasonable costs and expenses (including, without limiting the generality of the foregoing, all legal (on solicitor and client basis), Receiver's and accounting fees and expenses) incurred by or on behalf of the Lender in connection with the preparation, execution and perfection of this Agreement and the carrying out of any of the provisions of this Agreement including, without limiting the generality of the foregoing, protecting and preserving the security interest, assignment and mortgage and charge granted hereby and enforcing by legal process or otherwise the remedies provided

herein; and all such costs and expenses will be added to and form part of the Obligations secured hereunder.

#### **ARTICLE 4** **INSURANCE**

##### **4.1 Insurance**

The Borrower shall obtain and maintain, at its own expense, insurance against loss or damage to the Collateral including, without limiting the generality of the foregoing, loss by fire (including so-called extended coverage), theft, collision and such other risks of loss as are customarily insured against on this type of Collateral, in an amount not less than the full replacement value thereof, in such form and with such insurers as are reasonably satisfactory to the Lender. If any such policies of insurance contain a co-insurance clause, the Borrower will either cause any such co-insurance clause to be waived or maintain at all times a sufficient amount of insurance to meet the requirements of any such co-insurance clause so as to prevent the Borrower from becoming a co-insurer under the terms of any such policy. All such policies must name the Lender as an additional insured and loss payee thereof, as the Lender's interests may appear, and must provide that the insurer will give the Lender at least 30 days written notice of intended cancellation. At the Lender's request, the Borrower must furnish the Lender with a copy of any policy of insurance and certificate of insurance or other evidence satisfactory to the Lender that such insurance coverage is in effect. The Borrower must give the Lender notice of any damage to, or loss of, the Collateral forthwith upon the occurrence of any such damage or loss. Should the Borrower fail to make any payment or perform any other obligation provided in this Section, the Lender will have the right, but not the obligation, without notice or demand upon the Borrower and without releasing the Borrower from any obligation hereunder or waiving any rights to enforce this Agreement, to perform any or all of such obligations. The amount of all such payments made and all costs, fees and expenses incurred by the Lender in performing such obligations will be immediately due and payable by the Borrower.

#### **ARTICLE 5** **DEALING WITH COLLATERAL**

##### **5.1 Dealing with Collateral by the Borrower**

The Borrower must not sell, lease or otherwise dispose of any of the Collateral without the prior written consent of the Lender, except that, notwithstanding the foregoing and Section 3.2(c), the Borrower may, until an Event of Default occurs, deal with its money or sell items of Inventory or Equipment in the ordinary course of its business so that the purchaser thereof takes title thereto free and clear of the security interest, assignment and mortgage and charge granted hereby, but all proceeds of any such sale will continue to be subject to the security interest, assignment and mortgage and charge granted hereby.

##### **5.2 Rights and Duties of the Lender**

- (a) If the Borrower fails to perform or comply with any covenant or other obligation of the Borrower under this Agreement, the Lender may, but need not, perform or otherwise cause the performance or compliance of such covenant or other obligation, provided that any performance or compliance undertaken by the Lender will not constitute a waiver, remedy or satisfaction of such failure. The costs and expenses of the Lender incurred in connection with any such performance or compliance shall be payable by the Borrower to the Lender on

demand, form part of the Obligations, bear interest at the highest rate applicable to the Obligations and be secured by the Security Interest.

- (b) The Borrower grants to the Lender the right to set off against the Obligations (or any portion thereof) any amount owed by the Lender to the Borrower, including the amount of any and all accounts, credits or balances maintained by the Borrower with the Lender.

### **5.3 Registration of Securities**

The Lender may have any Securities registered in its name and will be entitled but not bound or required to exercise any of the rights that any holder of such Securities may at any time have, provided that until an Event of Default has occurred and is continuing, the Borrower will be entitled to exercise, in a manner not prejudicial to the interests of the Lender or which would violate or be inconsistent with this Agreement, all voting power from time to time exercisable in respect of the Securities. The Lender will not be responsible for any loss occasioned by its exercise of any of such rights or by failure to exercise the same within the time limited for the exercise thereof. The Borrower must from time to time forthwith upon the request of the Lender deliver to the Lender those Securities requested by the Lender duly endorsed for transfer to the Lender to be held by the Lender subject to the terms of this Agreement.

### **5.4 Notification of Account Borrowers**

Before an Event of Default occurs, the Lender may give notice of this Agreement and the security interest and assignment granted hereby to any account debtors of the Borrower or to any other person liable to the Borrower. After the occurrence of an Event of Default, the Lender may give notice to any such account debtors or other person to make all further payments to the Lender, and any payment or other proceeds of Collateral received by the Borrower from account debtors or from any other person liable to the Borrower whether before or after any notice is given by the Lender must be held by the Borrower in trust for the Lender and paid over to the Lender on request.

### **5.5 Application of Funds**

Except where the Borrower, when not in default hereunder, so directs in writing at the time of payment, all money collected or received by the Lender in respect of the Collateral may be applied on account of such parts of the Obligations as the Lender in its sole discretion determines, or may be held unappropriated in a collateral account, or in the discretion of the Lender may be released to the Borrower, all without prejudice to the Lender's rights against the Borrower.

## **ARTICLE 6 REMEDIES**

### **6.1 Remedies**

On or after the occurrence of any Event of Default, (i) any or all of the Obligations will at the option of the Lender become immediately due and payable or be subject to immediate performance, as the case may be, without presentment, protest or notice of dishonour, all of which are expressly waived; (ii) the obligation, if any, of the Lender to extend further credit to the Borrower will cease; (iii) any or all security granted hereby will, at the option of the Lender, become immediately enforceable; and (iv) in addition to any right or remedy provided by law, the Lender will have the rights and remedies of a secured party under the PPSA and as set out below, all of which rights and remedies will be enforceable successively, concurrently or both:

- (a) the Lender may by appointment in writing appoint a receiver or receiver and manager (each herein referred to as the "Receiver") of the Collateral (which term when used in this Section 6.1 will include the whole or any part of the Collateral) and may remove or replace such Receiver from time to time or may institute proceedings in any court of competent jurisdiction for the appointment of a Receiver of the Collateral; and the term "Lender" when used in this Section 6.1 will include any Receiver so appointed and the agents, officers and employees of such Receiver; and the Lender will not be in any way responsible for any misconduct or negligence of any such Receiver;
- (b) the Lender may take possession of the Collateral and require the Borrower to assemble the Collateral and deliver or make the Collateral available to the Lender at such place or places as may be specified by the Lender;
- (c) the Lender may take such steps as it considers desirable to maintain, preserve or protect the Collateral;
- (d) the Lender may carry on or concur in the carrying on of all or any part of the business of the Borrower;
- (e) the Lender may enforce any rights of the Borrower in respect of the Collateral by any manner permitted by law;
- (f) the Lender may sell, lease or otherwise dispose of the Collateral at public auction, by private tender, by private sale or otherwise either for cash or upon credit upon such terms and conditions as the Lender may determine and without notice to the Borrower unless required by law;
- (g) the Lender may accept the Collateral in satisfaction of the Obligations upon notice to the Borrower of its intention to do so in the manner required by law;
- (h) the Lender may, for any purpose specified herein, borrow money on the security of the Collateral in priority to the security interest, assignment and mortgage and charge granted by this Agreement;
- (i) the Lender may enter upon, occupy and use all or any of the premises, buildings and plant occupied by the Borrower and use all or any of the Equipment and other personal property of the Borrower for such time as the Lender requires to facilitate the realization of the Collateral, free of charge, and the Lender will not be liable to the Borrower for any neglect in so doing or in respect of any rent, charges, depreciation or damages in connection with such actions;
- (j) the Lender may charge on its own behalf and pay to others all reasonable amounts for expenses incurred and for services rendered in connection with the exercise of the rights and remedies of the Lender hereunder, including, without limiting the generality of the foregoing, reasonable legal, Receiver and accounting fees and expenses, and in every such case the amounts so paid together with all costs, charges and expenses incurred in connection therewith, including interest thereon at such rate as the Lender deems reasonable, will be added to and form part of the Obligations hereby secured; and
- (k) the Lender may discharge any claim, lien, mortgage, charge, security interest, encumbrance or any rights of others that may exist or be threatened against the Collateral, and in every

such case the amounts so paid together with costs, charges and expenses incurred in connection therewith will be added to the Obligations hereby secured.

The Lender may (i) grant extensions of time, (ii) take and perfect or abstain from taking and perfecting security, (iii) give up securities, (iv) accept compositions or compromises, (v) grant releases and discharges, and (vi) release any part of the Collateral or otherwise deal with the Borrower, debtors of the Borrower, sureties and others and with the Collateral and other security as the Lender sees fit without prejudice to the liability of the Borrower to the Lender or the Lender's rights hereunder. The Lender will not be liable or responsible for any failure to seize, collect, realize, or obtain payment with respect to the Collateral and is not bound to institute proceedings or to take other steps for the purpose of seizing, collecting, realizing or obtaining possession or payment with respect to the Collateral or for the purpose of preserving any rights of the Lender, the Borrower or any other person, in respect of the Collateral. The Lender may apply any proceeds of realization of the Collateral to payment of expenses in connection with the preservation and realization of the Collateral as above described and the Lender may apply any balance of such proceeds to payment of the Obligations in such order as the Lender sees fit. If there is any surplus remaining, the Lender may pay it to any person having a claim thereto in priority to the Borrower of whom the Lender has knowledge and any balance remaining must be paid to the Borrower. If the disposition of the Collateral fails to satisfy the Obligations secured by this Agreement and the aforesaid expenses, the Borrower will be liable to pay any deficiency to the Lender forthwith on demand.

## **ARTICLE 7**

### **GENERAL**

#### **7.1 Benefit of the Agreement**

This Agreement will enure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto. If more than one the debtor executes this Agreement, the obligations of such debtors hereunder shall be joint and several.

#### **7.2 Entire Agreement**

This Agreement has been entered into pursuant to the provisions of the Commitment Letter and is subject to all the terms and conditions thereof and, if there is any conflict or inconsistency between the provisions of this Agreement and the provisions of the Commitment Letter, the rights and obligations of the parties will be governed by the provisions of the Commitment Letter.

#### **7.3 Amendments and Waivers**

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by all of the parties hereto. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided in the written waiver, will be limited to the specific breach waived.

#### **7.4 Assignment**

The rights of the Lender under this Agreement may be assigned by the Lender without the prior consent of the Borrower. The Borrower may not assign its obligations under this Agreement.

## 7.5 Severability

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof will continue in full force and effect.

## 7.6 Notices

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and may be given by delivery or by facsimile, addressed to the recipient as follows:

To the Borrower:

1776411 Ontario Ltd. as general partner  
on behalf of 1333 Weber Street Kitchener LP  
258 Edgewater Crescent, Suite 8  
Kitchener, Ontario N2A 4M2  
Facsimile No.:  
Attention: Werner Leuschner (President)

To the Lender:

CMLS Financial Ltd.  
Suite 2110 - 1066 West Hastings Street  
Vancouver, BC V6E 3X2  
Facsimile No:  
Attention:

Computershare Trust Company of Canada  
100 University Avenue, 8th Floor, South Tower  
Toronto, Ontario M5J 2Y1  
Facsimile No:  
Attention:

Genesis Mortgage Investment Corp.  
#805-8400 West Road  
North Tower, International Trade Centre  
Richmond, BC, V6X 0S7  
Facsimile No:  
Attention:

or such other address, individual or facsimile number as may be designated by notice given by any party to the other. Any demand, notice or other communication given by delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by facsimile, on the day of transmittal thereof if given on a Business Day or on the next Business Day if given by facsimile on a day that is not a Business Day.

## 7.7 Additional Continuing Security

This Agreement and the security interest, assignment and mortgage and charge granted hereby are in addition to and not in substitution for any other security now or hereafter held by the Lender and this

Agreement is a continuing agreement and security that will remain in full force and effect until discharged by the Lender.

**7.8 Further Assurances**

The Borrower shall at its expense from time to time do, execute and deliver, or cause to be done, executed and delivered, all such financing statements, further assignments, documents, acts, matters and things as may be reasonably requested by the Lender for the purpose of giving effect to this Agreement or for the purpose of establishing compliance with the representations, warranties and covenants herein contained.

**7.9 Power of Attorney**

The Borrower hereby irrevocably constitutes and appoints any officer for the time being of the Lender the true and lawful attorney of the Borrower, with full power of substitution, upon the occurrence of an Event of Default that is continuing, to do, make and execute all such statements, assignments, documents, acts, matters or things with the right to use the name of the Borrower whenever and wherever the officer may deem necessary or expedient and from time to time to exercise all rights and powers and to perform all acts of ownership in respect to the Collateral in accordance with this Agreement.

**7.10 Discharge**

The Borrower will not be discharged from any of the Obligations or from this Agreement except by a release or discharge signed in writing by the Lender.

**7.11 Governing Law**

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**7.12 Executed Copy**

The Borrower acknowledges receipt of a fully executed copy of this Agreement.

The Borrower has executed this Agreement by properly authorized officers.

*[signing page follows]*




[General Security Agreement]


Dated this 13<sup>th</sup> day of August, 2021.

DEBTOR:

1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333 WEBER  
STREET KITCHENER LP

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

1776411 ONTARIO LTD.

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

## SCHEDULE "A"

### Permitted Encumbrances

1. statutory liens which secure payment of amounts not then overdue;
2. statutory liens which secure payment of amounts which are then overdue but the validity of which is being contested in good faith and in respect of which reserves satisfactory to the Lender in its sole discretion have been established;
3. security given to a public utility, municipality, government or statutory or public authority to secure obligations incurred to such utility, municipality, government or other authority in the ordinary course of business and not then overdue;
4. liens and privileges arising out of judgments or awards in respect of which an appeal or proceeding for review has been commenced, provided a stay of execution pending such appeal or proceedings for review has been obtained and provided reserves satisfactory to the Lender in its sole discretion have been established;
5. purchase-money security interests in the Borrower's equipment;
6. liens or rights of distress reserved in or exercisable under any lease of real property for rent not then overdue or for compliance with the provisions of such lease not then in default;
7. security deposits given under leases of real property not in excess of an amount equivalent to six months' rent;
8. liens securing obligations or duties affecting real property due to any public utility, municipality, government, or statutory or public authority with respect to any franchise, grant, licence or permit in good standing and any minor irregularities in title to any real property, provided such obligations, duties and minor title irregularities do not materially impair the use, value or marketability of such real property;
9. liens incurred or deposits made in connection with contracts, bids or tenders made in the ordinary course of business or in connection with expropriation proceedings, surety or appeal bonds or costs of litigation to the extent required by law;
10. liens (including construction liens) arising in connection with the construction or improvement of any real property or arising out of the furnishing of materials or supplies therefor, provided that such liens secure payment of amounts not then overdue (or if overdue, the validity of which is being contested in good faith and in respect of which reserves satisfactory to the Lender in its sole discretion have been established) and provided notice of such lien has not been given to the Lender and such lien has not been registered against title to such real property;
11. zoning and building by-laws affecting real property provided they are complied with;
12. storers' and repairers' liens securing amounts not then overdue;
13. encumbrances in favour of the Lender; and

14. the following specifically permitted encumbrances:

- (a) Security interest in deposit monies of purchasers of units in the Project (as defined in the Commitment Letter) in favour of Westmount Guarantee Services Inc. as detailed in a priority agreement between the Lender and Westmount Guarantee Services Inc.

**SCHEDULE "B"**

**Part I – Location of the Borrower's Chief Executive Office**

258 Edgewater Crescent, Suite 8, Kitchener, Ontario N2A 4M2

**Part II – Other Location(s) of the Borrower's Tangible Collateral**

1333 Weber Street East, Kitchener, Ontario N2A 1C2

**THIS IS EXHIBIT "K" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**



*Michael Yeung Sworn*

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**A Commissioner for taking affidavits, etc.**

**Properties**

*PIN* 22590 - 0549 LT

*Description* 1STLY: LOTS 29 TO 34, 45 TO 50, 91 PLAN 322, TWP OF WATERLOO; LOT 127 STREETS & LANES KITCHENER ( CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 12 TO 17, 43, 44, 86, 87, 89, 90 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 141 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4445, INST. 210008); PT. LOT 173 STREEST & LANES KITCHENER (BEING PT. OF SUNNYSIDE AVE., CLOSED BY BYLAW NO. 5094, INST. 270276) PT. 1 ON 58R-1868; EXCEPT PT. 1 ON 58R-3067 & PT. 34 ON 58R-11552 & PT. 7 ON 58R-12048 AND PART 1 ON 58R21025; 2NDLY: PT. LOTS 12 TO 17 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368), PT. 7 ON 58R-12048;; SUBJECT TO AN EASEMENT IN GROSS OVER PART OF LOTS 16 AND 17, PLAN 322, BEING PART 1 ON PLAN 58R11736 AS IN WR1306081; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 2 AND 3 ON 58R21025 AS IN WR1324371; SUBJECT TO AN EASEMENT AS IN WR1326075; SUBJECT TO AN EASEMENT AS IN 687124; CITY OF KITCHENER

*Address* 1333 WEBER STREET EAST  
KITCHENER

**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* 1776411 ONTARIO LTD.

*Address for Service* 258 Edgewater Crescent, Suite 8  
Kitchener, Ontario N2A 4M2

I, Werner Leuschner (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* CMLS FINANCIAL LTD.

*Address for Service* Suite 2110 - 1066 West Hastings Street  
Vancouver, BC V6E 3X2

*Name* COMPUTERSHARE TRUST COMPANY OF CANADA

*Address for Service* 100 University Avenue, 8th Floor, South Tower  
Toronto, Ontario M5J 2Y1

*Name* GENESIS MORTGAGE INVESTMENT CORP.

*Address for Service* #805-8400 West Road  
North Tower, International Trade Centre  
Richmond, BC, V6X 0S7

**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, WR1367209 registered on 2021/08/17 to which this notice relates is deleted

Schedule: See Schedules

**Signed By**

David Mathew Markowitz 1000-120 Adelaide St. W. acting for Signed 2021 08 17  
Toronto Applicant(s)  
M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

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

David Mathew Markowitz 1000-120 Adelaide St. W. acting for Signed 2021 08 17  
Toronto Party To(s)  
M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

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

**Submitted By**

Schneider Ruggiero Spencer Milburn LLP

1000-120 Adelaide St. W.  
Toronto  
M5H 3V1

2021 08 17

Tel 416-363-2211

Fax 416-363-0645

**Fees/Taxes/Payment**

Statutory Registration Fee \$65.30

Total Paid \$65.30

**File Number**

Party To Client File Number : 42896 DM/

## GENERAL ASSIGNMENT OF RENTS AND LEASES

This Assignment made as of the 17<sup>th</sup> day of August, 2021.

**F R O M :**

**1776411 Ontario Ltd.**

(hereinafter referred to as the "Chargor")

**T O :**

**Computershare Trust Company of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp.**

(hereinafter collectively referred to as the "Lender")

**WHEREAS** the Chargor is the owner of the Property subject to the Mortgage and has agreed to enter into this Assignment with the Lender as collateral security for the due payment of the Mortgage.

**NOW THEREFORE**, it is hereby covenanted, agreed and declared as follows:

1. In this Assignment, unless there is something in the subject matter or context inconsistent therewith,
  - (a) "**Leases**" includes without limitation:
    - (i) every existing and future lease of and agreement to lease the whole or any portion of the Property and any and all extensions and renewals thereof;
    - (ii) 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 any and all extensions and renewals thereof;
    - (iii) every existing and future indemnity or 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
    - (iv) every existing and future assignment and agreement to assume the obligations of tenants of the whole or any portion of the Property;
  - (b) "**Mortgage**" means a charge/mortgage of the Property from the Chargor to the Lender, securing the principal sum of \$82,000,000.00 and interest thereon; and
  - (c) "**Property**" means the lands and premises described in Schedule "A" attached to this Assignment;
  - (d) "**Rents**" means all rents and other monies now due and payable or hereafter to become due and payable and the benefit of all covenants of tenants, users, occupiers, licensees, indemnitors and guarantors, under or in respect of the Leases.



2. The Chargor hereby assigns to the Lender, its successors and assigns (as security for the principal, interest, and other amounts secured by the Mortgage and until the monies due under and by virtue of the Mortgage have been fully paid and satisfied) the interest of the Chargor in and to the Leases and Rents, with full power and authority to demand, collect, sue for, recover, receive and give receipts for the Rents and to enforce payment of the Rents and performance of the obligations of the tenants, users, occupiers, licensees, indemnitors and guarantors under the Leases in the name of the Chargor or the owner from time to time of the Property.
3. The Chargor hereby covenants and agrees that:
  - (a) none of the Rents has been or will be paid more than one month in advance (except, if so provided in the lease or agreement, for payment of rent for the last month of the term);
  - (b) 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;
  - (c) the Chargor will observe and perform all of the Chargor's obligations under each of the Leases; and
  - (d) the Chargor shall not surrender or materially modify, alter or amend the Leases or any of the benefit or advantage to be derived therefrom, without first obtaining the consent in writing of the Lender.
4. Subject to the provisions of Subsection 3(a) above, the Chargor 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 Mortgage being in default, the Lender shall give notice to the tenant, user, occupier, licensee, indemnitor or guarantor thereunder requiring payment to the Lender.
5. Nothing contained herein or in any statute shall have the effect of making the Lender, its successors or assigns, responsible for the collection of Rents or any of them or for the performance of the covenants, obligations or conditions under or in respect of the Leases or any of them to be observed or performed by the Chargor, and the Lender shall not, by virtue of this Assignment or its receipt of the Rents or any of them, become or be deemed a mortgagee in possession of the Property or the charged premises and the Lender 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 Lender shall be liable to account only for such monies as shall actually come into its hands, less all costs and expenses and other proper deductions.
6. The Chargor hereby agrees to execute such further assurances as may be reasonably required by the Lender from time to time to perfect this Assignment and whenever in the future any lease, agreement, licence, indemnity or guarantee with respect to the Property is made, the Chargor will forthwith advise the Lender of the terms thereof and, if requested by the Lender, give the Lender a specific assignment of the Rents thereunder in form satisfactory to the Lender.
7. The Chargor further agrees that the Chargor will not lease or agree to lease any part of the Property except at a rent, on terms and conditions, and to tenants which are not less favourable or desirable than those which a prudent landlord would expect to receive for the premises to be leased.

8. It is understood and agreed that this Assignment is being taken as collateral security only for the due payment of any sum due under the Mortgage; and that none of the rights or remedies of the Lender under the Mortgage shall be delayed or in any way prejudiced by these presents; and that following registration of a discharge of the Mortgage this Assignment shall be of no further force or effect.
9. Any demand, notice or other communication to be given in connection with this Assignment must be given in writing and may be given by delivery or by facsimile, addressed to the recipient as follows:

**To the Chargor:**

1776411 Ontario Ltd.  
258 Edgewater Crescent, Suite 8  
Kitchener, Ontario N2A 4M2

Facsimile No.:

Attention:        Werner Leuschner (President)

**To the Lender:**

CMLS Financial Ltd.  
Suite 2110 - 1066 West Hastings Street  
Vancouver, BC V6E 3X2

Facsimile:

Attention:

Computershare Trust Company of Canada  
100 University Avenue, 8th Floor, South Tower  
Toronto, Ontario M5J 2Y1

Facsimile:

Attention:

Genesis Mortgage Investment Corp.  
#805-8400 West Road  
North Tower, International Trade Centre  
Richmond, BC, V6X 0S7

Facsimile:

Attention:

10. This Assignment and everything herein contained shall extend to, bind and enure to the benefit of the respective successors and assigns of each of the parties hereto.

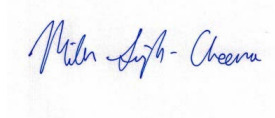
**SCHEDULE A**

**LEGAL DESCRIPTION OF THE PROPERTY**

1STLY: LOTS 29 TO 34, 45 TO 50, 91 PLAN 322, TWP OF WATERLOO; LOT 127 STREETS & LANES KITCHENER ( CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 12 TO 17, 43, 44, 86, 87, 89, 90 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 141 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4445, INST. 210008); PT. LOT 173 STREEST & LANES KITCHENER (BEING PT. OF SUNNYSIDE AVE., CLOSED BY BYLAW NO. 5094, INST. 270276) PT. 1 ON 58R-1868; EXCEPT PT. 1 ON 58R-3067 & PT. 34 ON 58R-11552 & PT. 7 ON 58R-12048 AND PART 1 ON 58R21025; 2NDLY: PT. LOTS 12 TO 17 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES, KITCHENER (BEING HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368), PT. 7 ON 58R-12048;; SUBJECT TO AN EASEMENT IN GROSS OVER PART OF LOTS 16 AND 17, PLAN 322, BEING PART 1 ON PLAN 58R11736 AS IN WR1306081; CITY OF KITCHENER.

PIN No. 22590-0549(LT)

**THIS IS EXHIBIT "L" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**

A handwritten signature in blue ink, appearing to read "Michael Yeung Sworn". The signature is written in a cursive style and is centered below the text above.

---

**A Commissioner for taking affidavits, etc.**

TO: Computershare Trust Company of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp. (collectively the "Assignee")

RE: Assignee first mortgage loan to 1776411 Ontario Ltd. as general partner on behalf of 1333 Weber Street Kitchener LP on the security of 1333 Weber Street East, Kitchener Ontario and as guaranteed by 1639993 Ontario Ltd., Jaykam Developers Limited, Werner Leuschner and Kamal Patel  
Loan Nos. 50715 and 50716

---

### TRANSFER AND ASSIGNMENT OF INSURANCE

In consideration of payment of two dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the undersigned, the undersigned hereby transfers and assigns to the Assignee all sums of money which may now or hereafter become payable to the undersigned by virtue of any and all insurance policies now or hereafter maintained by or for the undersigned including without limitation the policy or policies referred to in Schedule A hereto, and the undersigned hereby authorizes the Assignee to receive such amounts and give effectual receipts and discharges therefor.


And the undersigned hereby notifies each applicable insurer of the foregoing transfer, assignment and authorization.

*[signing page follows]*


[Assignment of Insurance]

DATED THIS 13<sup>th</sup> day of August, 2021.

**1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333  
WEBER STREET KITCHENER LP**

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**1776411 ONTARIO LTD.**

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**SCHEDULE A**

**INSURANCE POLICY(S)**

ASSIGNMENT AND AGREEMENT OF INTEREST RESERVE

THIS AGREEMENT is made (this 13<sup>th</sup> day of August, 2021 |

TO:

CMLS Financial Ltd.  
Suite 2110 - 1066 West Hastings Street  
Vancouver, BC V6E 3X2

Computershare Trust Company of Canada  
100 University Avenue, 8th Floor, South Tower  
Toronto, ON M5J 2Y1

Genesis Mortgage Investment Corp.  
#805-8400 West Road  
North Tower, International Trade Centre  
Richmond, BC V6X 0S7

(hereinafter collectively called the 'Lender')

OF THE FIRST PART,

FROM:

1776411 Ontario Ltd. as general partner on behalf of 1333 Weber Street Kitchener LP  
258 Edgewater Crescent, Suite 8  
Kitchener, Ontario N2A 4M2

(hereinafter called the 'Borrower')

OF THE SECOND PART.

**WHEREAS** the Borrower has agreed to become indebted to the Lender for a loan (the "Loan") made pursuant to two (2) facility letters issued by CMLS Financial Ltd., each dated June 28, 2021, as amended, supplemented, replaced or restated from time to time (collectively, the "Commitment") and secured by, inter alia, a first mortgage and charge of certain lands and premises comprising 1333 Weber Street East, Kitchener, Ontario;

**AND WHEREAS**, as a condition of the Loan and in accordance with the Commitment, the Lender has required that the Borrower establish and make payments to the Lender as herein provided, on account of certain reserves to be held as security for and applied on account of due payment and performance by the Borrower of its obligations under the Loan as hereinafter more particularly described and provided.

**NOW THEREFORE, THIS AGREEMENT WITNESSES THAT**, in consideration of the Lender making the Loan available to the Borrower, the initial advance of funds under the Loan, the covenants of the Borrower to pay and perform its obligations under the Loan and other good and valuable consideration now paid or given by each party to the other (the receipt and sufficiency of which are hereby acknowledged), the Borrower hereby covenants and agrees 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) **“Loan Documents”** means, collectively, all documents, instruments, agreements and opinions now or hereafter creating, evidencing, securing, guaranteeing and/or relating to the Loan and the monies secured by the Loan or any part thereof, including, without limitation, the Commitment and this Agreement;
- (b) **“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 at any time and from time to time, whether or not then due, at the rate provided by any Loan Document; (iii) all costs of every nature and kind incurred by or on behalf of the Lender with respect to the Loan, including all “Costs” as defined in any Loan Document; (iv) if applicable, any yield maintenance charge and other amount or amounts payable pursuant to and in accordance with any Loan Documents in connection with any prepayment of the Loan or any part thereof; (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 the Borrower and any guarantor, indemnitor or other person under or in respect of the Loan and Loan Documents; and
- (c) **“Property”** means, collectively, (i) all legal and beneficial right, title, estate and interest in and to the lands and premises described above, (ii) all buildings, structures, fixtures, and improvements of any nature or kind now or hereafter located on such lands, (iii) all machinery, equipment, appliances, furniture, furnishings, chattels, fixtures (including all heating, air conditioning, ventilating, waste disposal, sprinkler and fire and theft protection equipment, plumbing, lighting, communications and elevator fixtures) and other similar property of every kind and nature whatsoever now or hereafter located upon or used in connection with such lands or appurtenant thereto, (iv) all present and future leases, offers to lease, subleases, concessions, licenses and other contracts and agreements affecting the use, enjoyment or occupancy of such lands or any portion thereof (including, if a hotel, all guest rooms, meeting rooms, restaurants and other food and beverage facilities), together with all related credits, rights, options, claims, causes of action, guarantees, indemnities, security deposits and other security, (v) 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 such lands, including, if a hotel, all guest rooms, meeting rooms, restaurants and other food and beverage facilities, vending machines, telephone and television systems, guest laundry and the provision or sale of any goods or services, and (vi) all other appurtenances to such lands.

2. **CREATION OF INTEREST RESERVE**

The Borrower hereby irrevocably authorizes and directs the Lender to deduct an amount representing three (3) months’ interest payments from each advance, as required by the Lender, and deposited into an account controlled by the Lender without the benefit of interest to the Borrower, and agrees that the same shall be held, invested and applied as provided by this Agreement.

3. **INVESTMENT OF INTEREST RESERVE**

The amounts referred to in paragraph 2 hereof shall be held by the Lender in the proportions thereof as stipulated by the Commitment or, if not so stipulated, in such proportions as directed by the Lender in its sole discretion (the “Interest Reserve”).

4. **DEEMED ADVANCE**

The Borrower acknowledges and agrees that, notwithstanding that the Interest Reserve is being retained and held by the Lender in accordance with the provisions set out herein, the original principal amount of the Interest Reserve shall be deemed to have been fully advanced by the Lender to the Borrower and interest at the rate and upon the terms set out in the Loan Documents shall be payable on such original principal amount of the Interest Reserve from and after the date of each loan advance or such other date as specified by the Loan Documents.

5. **PLEDGE OF INTEREST RESERVE**

The Borrower hereby transfers, assigns, pledges, grants a security interest in and otherwise encumbers to and in favour of the Lender the Interest Reserve and any and all certificates, receipts, accounts or other documents evidencing same or to which same may have been converted from time to time, as security for the due payment and performance by the Borrower of its obligations under the Loan including, without limitation, payment of the Loan Indebtedness as and when due, payment of any unpaid realty taxes and penalties, utilities, insurance premiums and other costs any nature or kind in respect of the Property or any part thereof, payment of any amount due under any mortgage, charge, lien or other encumbrance of any nature or kind having priority or subordinate to any Loan Document, and payment of all costs of every nature and kind incurred by or on behalf of the Lender with respect to the Loan.

6. **DISBURSEMENT OF INTEREST RESERVE**

The Borrower hereby irrevocably authorizes and directs the Lender to apply the Interest Reserve or so much thereof as is necessary and available so as to pay to the Lender the regular monthly instalments of interest due and coming due under the Loan at any time and from time to time, and otherwise in accordance with the "Interest Reserve" provisions of the Commitment and, at the Lender's option, subject to all customary title sub- searches and other due diligence required by the Lender in connection with each such advance. Except as provided in this paragraph, nothing herein shall obligate the Lender to utilize or apply the Interest Reserve for payment of any amount owing in connection with the Loan, the Loan Documents, the Property or any other mortgage, charge, lien or encumbrance thereof.

7. **DEFAULT**

Upon the occurrence of any default under the Loan or any Loan Documents and for so long as any such default exists, the Lender shall be entitled, at the sole discretion of the Lender, to apply all or any part of the Interest Reserve in any manner whatsoever toward the payment and/or performance of the Borrower's obligations under the Loan and the Loan Documents including, without limitation, payment of any or all of those items enumerated in paragraph 6 hereof; and any such payment may be made for such purpose and in such order of priority, either for the Lender's benefit or for the benefit of the Property or any other encumbrance thereof, as the Lender may determine in its sole discretion; and no such payment shall in any way lessen or prejudice the obligation of the Borrower to repay the Loan Indebtedness in accordance with the Loan Documents; and if, other than for the payments contemplated by paragraph 6 hereof, any part of the Interest Reserve is applied as aforesaid, the Borrower shall replenish and repay the full amount so applied to the Lender, as the case may be, forthwith upon demand therefor by the Lender.

8. **REFUND**

Upon full repayment of the Loan Indebtedness, it is understood and agreed that the Lender will refund to the Borrower the balance of the Interest Reserve, if any, and if applicable will instruct the Lender's solicitors to do so.

9. **INCONSISTENCIES**

Notwithstanding anything to the contrary set out in any other Loan Document, in the event of any inconsistency between the terms of the Commitment and the terms of this Agreement, the terms of the Commitment shall prevail, provided that the inclusion of any term in this Agreement that is not set out in the Commitment shall not be an inconsistency.

10. **GENERAL CONTRACT PROVISIONS**

Any and all Schedules to this Agreement form a part hereof. No amendment, waiver, discharge or release of this Agreement shall be binding or enforceable unless made in writing signed by all of the parties hereto. Time is and shall remain of the essence under and pursuant to this Agreement; provided that the time for performing or completing any matter under or pursuant to this Agreement may be extended or abridged by an agreement in writing by the parties or their respective solicitors. Failure by any party to strictly enforce any provisions hereof shall not

operate as a waiver or limitation of such party's rights hereunder in respect of any subsequent default. If any provision of this Agreement or the application thereof to any person or circumstance is to any extent held or rendered invalid, unenforceable or illegal, same shall be considered separate and severable herefrom and all other provisions of this Agreement shall remain in full force and effect and be binding upon the parties hereof. The headings set forth in this Agreement 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. Wherever in this Agreement any subject matter is described as including specifically described persons, things, events or other items, unless expressly stated to the contrary, the word "including" or any other derivation or variation of that word means, as the case may be, "including, without limitation," or "including, without limiting the generality of the foregoing," or such derivation or variation thereof as required by the context. This Agreement 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, and the covenants and agreements of each party shall be deemed to be joint and several where such party is more than one person, firm or corporation. With respect to each party which is a partnership, each person who is presently a partner of such partnership and each person who becomes a partner of such partnership shall be and continue to be jointly and severally liable for all covenants and agreements of such party notwithstanding that any such person subsequently ceases to be a partner of such partnership, subject to and only to the extent of the limited liability of any such person that is a limited partner of such partnership.

11. **GOVERNING LAW**

This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract. Each party hereto irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.

12. **AGREEMENT BINDING UPON SUCCESSORS**

This Agreement and all rights and obligations arising from same shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective heirs, legal personal representatives, successors and assigns, except as limited by the provisions of any other Loan Documents.

**IN WITNESS WHEREOF** this Agreement has been signed and delivered on the date set out above.

*[signing page follows]*

[Assignment and Agreement of Interest Reserve]

Dated this 13<sup>th</sup> day of August, 2021.

1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333 WEBER  
STREET KITCHENER LP

Per: \_\_\_\_\_



Name: Werner Leuschner

Title: President

I have the authority to bind the corporation

**ASSIGNMENT  
OF  
VOTING RIGHTS**

TO: COMPUTERSHARE TRUST COMPANY OF CANADA, CMLS FINANCIAL LTD.  
AND GENESIS MORTGAGE INVESTMENT CORP.

RE: Computershare Trust Company of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp. (collectively the "**Lender**") loan facilities to 1776411 Ontario Ltd. as general partner on behalf of 1333 Weber Street Kitchener LP (collectively the "**Borrower**"), first mortgage from 1776411 Ontario Ltd. (the "**Chargor**"), guaranteed by 1639993 Ontario Ltd., Jaykam Developers Limited, Werner Leuschner and Kamal Patel (the "**Guarantors**"), pursuant to two (2) facility letters issued by CMLS Financial Ltd., each dated June 28, 2021, as they may be amended from time to time (collectively the "**Facility Letter**"), relating to the property municipally known as 1333 Weber Street East, Kitchener, Ontario and legally described in PIN 22590-0549(LT) (the "**Property**")

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In consideration of the Lender giving the loan to the Borrower pursuant to the terms of the Facility Letter and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Borrower, as continuing and additional security for loan, hereby assigns and sets over to the Lender all its voting rights in accordance with the provisions hereinafter set out.

In addition to the terms and provisions set out in the Facility Letter, and the Charge/Mortgage given by the Borrower to the Lender to secure its commitments thereunder (the "**Charge**"), the Borrower covenants and agrees as follows:

1. The capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the *Condominium Act*, 1998, Chapter 19, S.O. 1998, as amended (the "**Act**"). Any reference to "**Condominium Corporation**", "**Condominium**" or "**Condominium Plan**", shall refer to the condominium corporations or condominium plans in respect of the project to be completed on the Property by the Borrower.
2. The Lender is hereby authorized and empowered, with respect to the Property, to exercise the rights of the Borrower, as owner of each Unit, to vote or to consent in all matters relating to the affairs of the Condominium Corporation, whether or not the Borrower is in default or in breach of any of the covenants or provisions contained in the Charge, in accordance with the terms and provisions of the Act, provided that:
  - (a) the Borrower shall be entitled to exercise such right to vote or consent unless and until the Lender gives notice of the Lender's intention to exercise such rights in accordance with the provisions of Section 48(1) of the Act. Any such notice may apply to an indeterminate period of time or to a limited period of time or to a specific meeting or matter;
  - (b) the Lender shall not, by virtue of the foregoing provisions, be under any obligation to vote, consent, or protect the interests of the Borrower, and the Lender shall not be responsible to the Borrower in connection with any exercise of the right to vote or consent, or for any failure to exercise such right; and
  - (c) the exercise by the Lender of the right to vote or to consent shall not render the Lender a mortgagee or lender in possession.
3. To observe and perform all duties and obligations imposed on the Borrower by the Act, as amended, and by the declaration, by-laws, and rules of the Condominium Corporation (hereinafter collectively referred to as the "**Condominium Documents**") as are in effect from time to time. Any breach of the said duties and obligations shall constitute a default under the Charge, and shall thereupon entitle the Lender to exercise all the rights, powers and remedies provided by the Charge in the event of a default hereunder, and without limiting the generality of the foregoing, the outstanding balance of the principal and interest monies secured by the Charge shall, at the Lender's sole option, immediately become due and payable.
4. To promptly pay, as and when due, any contributions to common expenses or other payments required to be made by the Borrower as owner of a Unit. The Borrower

further covenants and agrees to transmit to the Lender, forthwith upon the demand of the Lender, satisfactory proof that all common expenses assessed against each Unit have been paid as and when due.


5. The Lender may, at its own option, pay the amount of any common expenses or other payments owing by the Borrower to the Condominium Corporation, and the Lender may, at its option, pay the amount of any other encumbrance, lien or charge having or claiming priority over the Charge, including any realty taxes or other charges assessed against a Unit or the common elements of the Condominium Corporation, and the Lender may, at its option, pay all costs, charges and expenses which may be incurred in recovering and keeping possession of a Unit, and all solicitor's charges (as between a solicitor and his own client) in respect of the collection of overdue payments or any other monies payable by the Borrower, whether any action to enforce payment has been taken or not; and any amount so paid by the Lender shall be added to the principal indebtedness secured hereunder and shall be forthwith payable by the Borrower to the Lender and shall bear interest at the rate set out in the Charge; and in the event of the Lender paying the amount of such encumbrance, lien or charge, realty taxes or any other payments owing by the Borrower to the Condominium Corporation, then the Lender shall be entitled to all the rights, equities, remedies and securities of all persons so paid (including, without limitation, the Condominium Corporation).
6. To deliver to the Lender, by prepaid registered mail, a copy of each and every:
  - (a) notice of any breach by the Borrower of any of the provisions of the Act, and/or the Condominium Documents, within five (5) days of the date upon which such notice is received by the Borrower;
  - (b) request or demand for the vote or consent of the Borrower in respect of any matter affecting a Unit or the Property, within five (5) days of the date upon which such request or demand is received by the Borrower;
  - (c) notice of any meeting of the unit owners of the Condominium Corporation within five (5) days of the date upon which notice of such meeting is received by the Borrower; and
  - (d) notice of any special assessment being levied or any extraordinary expenditure intended or contemplated to be made by the Condominium Corporation, within five (5) days of the date upon which the Borrower receives notice of same.
7. The Borrower shall transmit to the Lender evidence satisfactory to the Lender that each Unit, and the balance of the building or buildings on the Property which constitute the common elements appurtenant to each Unit, are insured against fire, major perils and such other perils as may be required by the declaration of the Condominium Corporation, but in no event for less than their full insurable value.
8. The Borrower shall, forthwith on the happening of any loss or damage to a Unit and/or the common elements of the Condominium Corporation, comply fully with the terms of all applicable policies of insurance, and without limiting the generality of any provision in the Charge, shall comply with the insurance provisions contained in the declaration and in any applicable insurance trust agreement. Notwithstanding any provision of the Charge to the contrary, the obligations of the Borrower to insure each Unit and its appurtenant common interests may be performed by the Condominium Corporation rather than the Borrower. The Borrower, as a member of the Condominium Corporation, shall endeavour to seek full compliance by the Condominium Corporation with any of the obligations or covenants contained herein pertaining to insurance, and the Borrower shall seek full compliance by the Condominium Corporation with the provisions of the Act, and of the Condominium Documents, which pertain to insurance, and with the provisions of any insurance trust agreement to which the Condominium Corporation is a party.

[signing page follows]


[Assignment of Condo Voting Rights]

Dated this 15<sup>th</sup> day of August, 2021.

1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333  
WEBER STREET KITCHENER LP

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

1776411 ONTARIO LTD.

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

## ASSIGNMENT OF CONSTRUCTION CONTRACTS

FROM:

1776411 ONTARIO LTD. and  
1333 WEBER STREET KITCHENER LP  
(hereinafter both collectively and individually called the "**Assignor**")

OF THE FIRST PART

TO:

COMPUTERSHARE TRUST COMPANY OF CANADA  
CMLS FINANCIAL LTD. and  
GENESIS MORTGAGE INVESTMENT CORP.  
(hereinafter collectively called the "**Assignee**")

OF THE SECOND PART

**WHEREAS** the Assignor and others, and the Assignee have entered into two (2) facility letters issued by CMLS Financial Ltd., each dated June 28, 2021, as they may be amended from time to time (collectively the "**Facility Letter**") with respect to the lands legally described in Schedule "A" and municipally known as 1333 Weber Street East, Kitchener, Ontario (which lands and all buildings, improvements and fixtures at any time situate thereon during the existence of the Charge are hereinafter referred to as the "**Property**");

**AND WHEREAS** the Assignee is advancing and/or may in the future advance funds (the "**Advance**") to the Assignor upon the security of a charge (the "**Charge**") registered pursuant to the Facility Letter in the Land Registry Office for the Land Titles Division of the Regional Municipality of Waterloo (No. 58), made by 1776411 Ontario Ltd. in favour of the Assignee and covering the Assignor's interest in the Property;

**AND WHEREAS** as a condition precedent to the making of the Advance, the Assignor agreed to assign to the Assignee by way of additional security to the Charge the benefit of all construction contracts, both present and future, in respect of the Property.

**NOW THEREFORE**, in consideration of the Advance, the Assignor agrees as follows:

1. The Assignor hereby assigns to the Assignee, as security for all indebtedness secured by the Charge, and until the indebtedness secured by the Charge has been fully paid and satisfied, the full benefit of all construction contracts in respect of the Property (the "**Construction Contracts**").
2. The Assignor represents and warrants that, with respect to the Construction Contracts:
  - (a) they have been authorized and executed by the Assignor and are in good standing;
  - (b) there are no existing breaches of any of the covenants, terms and conditions contained therein;
  - (c) the Assignor has not assigned or encumbered the Construction Contracts other than to the Assignee;
  - (d) there has been no release of any of the obligations under the Construction Contracts including as a result of or in connection with this Assignment; and
  - (e) the Construction Contracts as provided to the Assignee have not been amended.
3. The Assignor also covenants and agrees that the Assignor will not, without the prior written consent of the Assignee:
  - (a) Amend in any material respect or terminate the Construction Contracts;
  - (b) Consent to the assignment of the Construction Contracts; and
  - (c) Assign, pledge or hypothecate the Construction Contracts or revenues due or to become due thereunder, or any part thereof, other than to the Assignee.



Any of the above acts, if done without the prior written consent of the Assignee, shall constitute a default under this Assignment and the Charge, at the Assignee's option.


4. The Assignee shall have full power and authority to demand, collect, sue for, recover, receive and give receipts for revenues and to enforce payment thereof in the name of the Assignor or the owner from time to time of the Property.
5. The Assignee shall not be responsible for the performance of any of the obligations of the Assignor contained in the Construction Contracts, and the Assignee shall not by virtue of this Assignment or the enforcement thereof be deemed a chargee or mortgagee in possession of the Property. The Assignor hereby covenants with the Assignee that the Assignor has, prior to the date hereof, observed and performed the Assignor's covenants, conditions and agreements respectively reserved and contained in the Construction Contracts and shall indemnify and save harmless the Assignee of and from all claims, actions, suits, costs, losses, charges, damages and expenses arising out of or in relation to any breach, non-performance or non-observance of the foregoing covenant and agreement or under the said Construction Contracts.
6. All payments pursuant to the Construction Contracts may continue to be made to the Assignor until such time as the Assignee gives notice in writing to the manager that default has occurred under the Charge and requires the manager to pay any revenues to the Assignee. The Assignor hereby irrevocably authorizes and directs the manager to do so.
7. This Assignment shall in no way lessen, prejudice or hinder the rights or remedies of the Assignee under the Charge or any other security held by the Assignee.
8. The Assignor shall cause the manager to execute such further assurances as the Assignee may reasonably require to give full effect to the Assignment.
9. This Assignment shall be valid, effective and binding upon the parties hereto whether or not the Acknowledgment of General Contractor is executed.
10. A discharge of the Charge shall operate as a reassignment of the Construction Contracts back to the Assignor.
11. Whenever the singular or neuter gender are used in this Assignment, the same shall be construed as meaning the plural, masculine or feminine gender when the context so requires. If there are two or more Assignors, all covenants contained herein shall be joint and several. Time shall be of the essence of this Assignment.
12. In this instrument, the word "includes" or "including" shall mean "includes without limitation" or "including without limitation", respectively.
13. Each agreement and obligation of any of the parties hereto in this instrument, even if not expressed as a covenant, is considered for all purposes to be a covenant.
14. The headings preceding the text of the sections and subsections hereof as well as the section numbers and references themselves are inserted solely for convenience of reference, and shall not constitute a part of this instrument, nor shall they affect its meaning, construction or effect. Unless something in the subject matter is inconsistent therewith, the references herein to articles and sections are to articles and sections of this instrument.
15. The rights or remedies given to the Assignee hereunder shall be cumulative of and not substituted for any rights or remedies to which the Assignee may be entitled under the Charge or at law, and the taking of this additional security shall in no way lessen, hinder or prejudice such rights or remedies.
16. This Assignment shall be binding upon and enure to the benefit of the respective heirs, executors, administrators, successors and assigns of the parties hereto, as the case may be, and shall be in full force and effect upon execution and delivery by the Assignor to the Assignee.

17. This Assignment may be executed in counterparts and delivered by facsimile or other electronic transmission and a copy of this document shall be deemed to be an original and shall be fully enforceable against any signatory hereto, notwithstanding that the copy of this document executed by such signatory has not been executed by any other signatory.

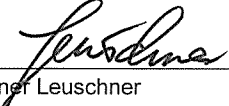
*[signing page follows]*

Dated this 13<sup>th</sup> day of August, 2021.

**1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333  
WEBER STREET KITCHENER LP**

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**1776411 ONTARIO LTD.**

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**ACKNOWLEDGMENT OF GENERAL CONTRACTOR**

The undersigned, being the General Contractor pursuant to a contract entered into with the Assignor dated January 8, 2021 as it may be amended from time to time (the "**Contract**") in consideration of the receipt of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, hereby acknowledges the acceptance of the Contract in favour of the Assignee and agrees to be bound to the Assignee under the Contract should the Assignee elect to assume the obligations of the Assignor under the Contract.

**GILLAM URBAN CONSTRUCTORS INC.**

Per: \_\_\_\_\_  
Name:  
Title:

I have authority to bind the corporation.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333  
WEBER STREET KITCHENER LP**

Per: \_\_\_\_\_  
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**1776411 ONTARIO LTD.**

Per: \_\_\_\_\_  
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**ACKNOWLEDGMENT OF GENERAL CONTRACTOR**

The undersigned, being the General Contractor pursuant to a contract entered into with the Assignor dated January 8, 2021 as it may be amended from time to time (the "**Contract**") in consideration of the receipt of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, hereby acknowledges the acceptance of the Contract in favour of the Assignee and agrees to be bound to the Assignee under the Contract should the Assignee elect to assume the obligations of the Assignor under the Contract.

**GILLAM URBAN CONSTRUCTORS INC.**

Per:   
Name: Marcus Gillam  
Title: President

I have authority to bind the corporation.

**SCHEDULE "A"**

**(Legal Description)**

1STLY: LOTS 29 TO 34, 45 TO 50, 91 PLAN 322, TWP OF WATERLOO; LOT 127 STREETS & LANES KITCHENER ( CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 12 TO 17, 43, 44, 86, 87, 89, 90 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368); PT. LOT 141 STREETS & LANES KITCHENER (BEING PT. OF HERMAN AVE., CLOSED BY BYLAW NO. 4445, INST. 210008); PT. LOT 173 STREEST & LANES KITCHENER (BEING PT. OF SUNNYSIDE AVE., CLOSED BY BYLAW NO. 5094, INST. 270276) PT. 1 ON 58R-1868; EXCEPT PT. 1 ON 58R-3067 & PT. 34 ON 58R-11552 & PT. 7 ON 58R-12048 AND PART 1 ON 58R21025; 2NDLY: PT. LOTS 12 TO 17 PLAN 322 TWP OF WATERLOO; PT. LOT 126 STREETS & LANES, KITCHENER (BEING HERMAN AVE., CLOSED BY BYLAW NO. 4061, INST. 175368), PT. 7 ON 58R-12048;; SUBJECT TO AN EASEMENT IN GROSS OVER PART OF LOTS 16 AND 17, PLAN 322, BEING PART 1 ON PLAN 58R11736 AS IN WR1306081; CITY OF KITCHENER.

PIN 22590-0549(LT)

**ASSIGNMENT  
OF  
AGREEMENTS OF PURCHASE AND SALE**

TO: COMPUTERSHARE TRUST COMPANY OF CANADA, CMLS FINANCIAL LTD. AND GENESIS MORTGAGE INVESTMENT CORP.

RE: Computershare Trust Company of Canada, CMLS Financial Ltd. and Genesis Mortgage Investment Corp. (collectively the "**Lender**") loan facilities to 1776411 Ontario Ltd. as general partner on behalf of 1333 Weber Street Kitchener LP (collectively the "**Borrower**"), first mortgage from 1776411 Ontario Ltd. (the "**Chargor**"), guaranteed by 1639993 Ontario Ltd., Jaykam Developers Limited, Werner Leuschner and Kamal Patel (the "**Guarantors**"), pursuant to two (2) facility letters issued by CMLS Financial Ltd., each dated June 28, 2021, as they may be amended from time to time (collectively the "**Facility Letter**"), relating to the property municipally known as 1333 Weber Street East, Kitchener, Ontario and legally described in PIN 22590-0549(LT) (the "**Property**")

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**WHEREAS** the Borrower (the "**Assignor**") will construct, or cause to be constructed Phase 1 of a four Phase development consisting of a 15-storey, 177 unit residential condominium tower on lands located at the Property (the "**Project**");

**AND WHEREAS** the Assignor has or intends to enter into Agreements of Purchase and Sale with third party purchasers (the "**Purchasers**") with respect to the Project (the "**Agreements**");

**AND WHEREAS** the Assignor will obtain deposits from the Purchasers in connection with the Agreements (the "**Deposits**");

**AND WHEREAS** with respect to the Project, the Assignor has or may, as required, pay to the municipality and/or public utility companies, regional development charges, GO Transit development charges/levies, educational and/or health/hospital development charges/levies/monetary obligations and all other financial obligations in the nature of impost charges, levies and capital contributions including the obligation for payment in cash in lieu of parkland conveyance (collectively the "**Prepaid Levies**");

**AND WHEREAS** the Lender requires, among other security, an assignment of the Agreements, Deposits and Prepaid Levies.

**NOW THEREFORE** in consideration of the advance of funds, the Assignor hereby transfers, assigns and sets over unto the Lender all its rights, title and interest whatsoever in the Agreements, including the benefit of all covenants, stipulations and provisions contained therein; provided that until default shall have been made in the payment of any instalments of principal and/or interest or any other monies due under the Facility Letter and/or mortgage given in respect thereof or until the breach of covenants contained in the Facility Letter and/or mortgage, the Assignor shall be entitled and is obligated to continue to perform all of the obligations on its part contained in the Agreements but immediately upon default under the said Facility Letter and/or mortgage, the Lender, upon two (2) days prior written notice to the Borrower shall, at its option, assume the position of the Assignor in the Agreements; provided that nothing herein contained shall be deemed to be a consent on the part of the Lender to any alteration of the terms of the Agreements without the consent of the Lender whether default has occurred under the Facility Letter and/or mortgage or not.

The Assignor further assigns, sets over and transfers unto the Lender all of its right, title and interest whatsoever in the Deposits and Prepaid Levies and in any letters of credit or deposits with the Assignor under the Agreements with respect to such deposits, or such similar surety, if applicable, and hereby irrevocably directs the holder of such letters of credit or deposits or similar security to pay same to the Lender as soon as same becomes available to the Assignor.

The Assignor covenants and agrees to provide the Lender with executed copies of the Agreements immediately upon receipt.

This assignment will not take effect until default shall have been made in the payment of any instalments of interest and/or principal or any other monies due under the Facility Letter and/or mortgage given in respect thereof.

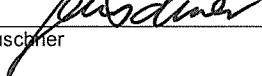
In the event of conflict between the Facility Letter and the terms hereinbefore set forth, the provisions herein shall prevail; provided that any provision hereinbefore contained that is not contained in the Facility Letter and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

*[signing page follows]*

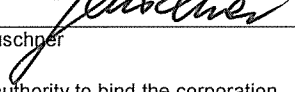
[Assignment of Agreements of Purchase and Sale]

Dated this 13<sup>th</sup> day of August, 2021.

1776411 ONTARIO LTD., IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333 WEBER  
STREET KITCHENER LP

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

1776411 ONTARIO LTD.

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**ASSIGNMENT OF MATERIAL DOCUMENTS**

THIS ASSIGNMENT made as of the 3<sup>rd</sup> day of August, 2021.

**FROM:**

1776411 ONTARIO LTD. as general partner on  
behalf of 1333 WEBER STREET KITCHENER LP  
(hereinafter called the "Assignor")

**TO:**

COMPUTERSHARE TRUST COMPANY OF CANADA  
CMLS FINANCIAL LTD. and  
GENESIS MORTGAGE INVESTMENT CORP.  
(hereinafter collectively called the "Assignee")

**WHEREAS:**

1. the Assignor and the Assignee are parties to two (2) commitment letters issued by CMLS Financial Ltd. each dated June 28, 2021 (such commitment letters as they may be supplemented, amended or restated from time to time being hereinafter referred to collectively as the "Commitment Letter"); and
2. as a condition to the Assignee extending credit to the Assignor under the Commitment Letter, the Assignor has agreed to assign to the Assignee all the Assignor's present and future rights and interests in and to the Material Agreements.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Assignor) the Assignor agrees as follows:

**1. Definitions**

In this Assignment, unless there is something in the subject matter or text inconsistent therewith or unless the context otherwise specifies or requires, capitalized terms not otherwise defined in this Assignment shall have the meanings ascribed to such terms in the Commitment Letter, and

"Event of Default" means a continuing default under the Mortgage Documents or any of them;

"Material Agreements" means any agreements or contracts of a material nature relating to the Project or the ownership, management or operation thereof, and all amendments, supplements, replacements thereto, including but not limited to all construction contracts, development, servicing, site plan and other similar agreements with any governmental authority or public utility, management agreements, reciprocal easement or operating agreements and major service contracts, architectural, engineering and other consultant service agreements and all plans, drawings and specifications necessary for the development of or related to the Project;



"Material Third Party Contractors" means those Persons who are parties to a Material Agreement or Permits other than the Assignor and the Assignee;

"Mortgage" means the mortgage made by the Assignee to the Assignor in the Mortgage Amount in accordance with the Mortgage Documents;

"Mortgage Amount" means the original principal sum of the Mortgage specified in the Mortgage;

"Mortgage Documents" means, collectively, all documents, instruments and agreements given by any person now or hereafter evidencing, securing, guaranteeing and/or relating to the Mortgage and the Mortgage Indebtedness, or any part thereof, as the same may be amended, modified, extended, renewed, restated, supplemented or replaced from time to time, in accordance with the agreement of all parties thereto, including without limitation, the Commitment Letter;

"Mortgage Indebtedness" means all Mortgage indebtedness and other obligations owing by the Assignor to the Assignee pursuant to the Mortgage and the Mortgage Documents, including but not limited to (i) the Mortgage Amount, (ii) all interest and compound interest at the interest rate as provided in the Mortgage Documents; and any other amounts, cost, charge, expense, or interest otherwise due and payable to the Assignee under the Mortgage Documents or which is secured by the Security;

"Permits" means all permits, consents, waivers, applications, authorizations, licences, certificates, approvals, registrations, franchises, rights, privileges and exemptions or the like (including any amendments, modifications or supplements thereto and substitutions or replacements thereof) issued by or granted by any governmental authority, any building or development permits or permits issued under or pursuant to environmental laws, and all licences of occupation, use permits or other real property rights related to the Property;

"Persons" means and includes any individual, sole proprietorship, corporation, partnership, bank, joint venture, trust, unincorporated association, association, institution, entity, party or government (whether national, federal, provincial, state, municipal, city, county or otherwise and including an instrumentality, division, agency, body or department thereof);

"Property" or "Project" means the lands charged by the Mortgage hereto and any buildings and improvements situate thereon from time to time; and

"Security" means, collectively, the security interests granted or created or intended to be granted or created by each of the Mortgage Documents.

2. **Interpretation Not Affected By Headings Etc.**

Grammatical variations of any terms defined in this Assignment shall have similar meanings; words importing the singular number shall include the plural and vice versa; words importing gender shall include all genders. The division of this Assignment into separate Sections, subsections, paragraphs and subparagraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Assignment.

3. **Severability**

If any term or provision contained in this Assignment or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Assignment, and the application of such term or provision to persons and circumstances other than those in respect of which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

4. **Governing Law**

This Assignment shall be governed by, and interpreted and enforced in accordance with, the laws in force in the Province of Ontario and the laws of Canada applicable therein (excluding any conflict of laws, rule or principle which might have the effect of referring matters relating to the interpretation and enforcement of this Assignment to the laws of another jurisdiction). The Assignor irrevocably attorns to, and submits to the non-exclusive jurisdiction of, the courts of Ontario with respect to any matter arising hereunder or related hereto.

5. **Binding On Successors, Etc.**

This Assignment and everything contained in this Assignment shall enure to the benefit of the Assignee and their respective successors and assigns and shall be binding upon the Assignor and its successors and assigns. The Assignor may not assign any of its rights or obligations under this Assignment without the prior written consent of the Assignee.

6. **Assignment**

Subject to the provisions of this Assignment, the Assignor hereby unconditionally and irrevocably assigns, transfers and sets over to and in favour of the Assignee for the benefit of the Assignee as and by way of a fixed and specific assignment, and grants to the Assignee a continuing security interest in, all the Assignor's present and future rights and interests in, to, under and in respect of:

- (a) each present and future Material Agreement and Permits, and all rights, entitlements, privileges, benefits, powers, licences and advantages of the Assignor to be derived from each such Material Agreement and Permit;
- (b) all covenants, obligations and agreements of the Material Third Party Contractors under, in connection with or in respect of each such Material Agreement and otherwise to exercise and enforce the rights, entitlements, privileges, benefits, powers, licences and advantages of the Assignor under, in connection with or in respect of each such Material Agreement;
- (c) all indemnities (contractual, statutory or otherwise) of the Material Third Party Contractors under, in connection with or in respect of each present and future Material Agreement and all rights, entitlements, privileges, benefits, powers, licences and advantages of the Assignor to be derived from all such indemnities and all covenants, obligations and agreements of the Material Third Party Contractors with respect to all such indemnities and otherwise to exercise and enforce the rights, entitlements, privileges, benefits, powers, licences and advantages of the Assignor in respect of all such indemnities;

- (d) all revenues and other moneys now due and payable, or which may in the future become due and payable, to the Assignor under or in connection with each present and future Material Agreement, or which are now, or may in the future become, receivable by the Assignor pursuant to or in connection with each such Material Agreement; and
- (e) all rights of the Assignor to perform and exercise all of its rights, entitlements, privileges, benefits, powers, licences and advantages under, in connection with or with respect to, and all remedies in connection with, each present and future Material Agreement, and all rights of the Assignor to damages arising out of, or for, breach or default in respect of each such Material Agreement;

(collectively, the "Collateral")

to be held by the Assignee as general and continuing security for the due payment and performance of all present and future debts, liabilities and obligations of the Assignor to the Assignee (whether as principal debtor, guarantor, surety or otherwise) of any and every nature whatsoever and however incurred under the Commitment Letter or the Mortgage and Security and any ultimate unpaid balance thereof (collectively, the "Obligations").

**7. Non-Assignability**

Nothing contained in this Assignment shall be construed as an assigning of, or an attempt to assign, any Material Agreement, Permits or covenant, obligation or agreement of Material Third Party Contractors which, as a matter of law or by its terms, is (i) not assignable; or (ii) not assignable without first obtaining approval or consent (collectively, the "Non-Assignable Rights"), and the Assignor shall hold all such Non-Assignable Rights in trust for the Assignee as security for the performance of the Obligations and shall enforce its rights under such Non-Assignable Rights at the request of the Assignee given pursuant to Section 11(a) of this Assignment.

**8. No Liability**

Nothing contained in this Assignment shall render the Assignee, or any of their agents, employees or any other persons for whom the Assignee is in law responsible, liable to any person for the fulfillment or non-fulfillment of the obligations, covenants and agreements (including, but not limited to, the payment of any monies under or in respect of any Material Agreement) of the Assignor under any Material Agreement. The Assignor hereby indemnifies and agrees to save and hold harmless the Assignee from and against any and all claims, demands, actions, causes of action, losses, suits, damages and costs whatsoever of any person arising directly or indirectly from or out of the Material Agreements other than by reason of gross negligence or wilful misconduct of the Assignee.

**9. Attorney of the Assignor**

The Assignee, as attorney or agent of the Assignor and in its name, may, at any time and from time to time after the occurrence and during the continuance of an Event of Default, exercise any of the rights, entitlements, privileges, powers, benefits, licences, advantages, authorities and discretions which under the terms of the Collateral could be exercised by the Assignor with respect to the Collateral.

**10. Performance Until Default**

Until an Event of Default shall occur, the Assignor, subject to any other agreement between the Assignee and the Assignor, shall, in a manner which would not cause a default or an Event of Default and which is not inconsistent with the terms and provisions of any Mortgage Documents, be entitled to deal with the Collateral and to enforce all of the benefits, advantages and powers under the Material Agreements as though the security interest created by this Assignment had not been made. In the event that an Event of Default shall occur, the Assignee may, but shall not be obligated to, exercise all rights, powers, benefits, advantages, authority and discretions of the Assignor in respect of the Collateral and to exercise the rights granted to the Assignee under this Assignment in respect of the Collateral in the place and stead of the Assignor, all of which is hereby consented to by the Assignor.

11. **Default**

(a) **Rights of Assignee Upon an Event of Default**

Whenever an Event of Default has occurred and is continuing, without limiting the rights of the Assignee under or pursuant to this Assignment, any other security or agreement provided by the Assignor to the Assignee or any other person pursuant to or in connection with any of the Obligations or otherwise provided by law, the Assignee shall be entitled to enter into possession of the Project and any other premises of the Assignor or any part or parts thereof and appoint its agents to manage any such premises and the business and operations of the Assignor and pay such agents' charges for their services and charge the same to the account of the Assignor (all of which shall be added to, and be deemed to form part of, the Obligations), and the Assignee and any agents so appointed by the Assignee shall have the authority:

- (i) to enforce, realize, sell, assign, transfer, require continued performance under or otherwise deal with the Collateral, upon such terms and conditions and at such time or times as may seem to it advisable, and to charge on its own behalf and pay to others reasonable sums for expenses incurred and for services rendered (expressly including legal advice and services) in connection with so collecting, realizing, or obtaining performance of the Collateral, and to add the amount of such sums to the Obligations;
- (ii) to renew, amend or otherwise deal with the Collateral (including, without limitation, the authority to demand, sue for, recover, receive and give receipts for all work, services and goods to be provided under the Collateral and to give consents or waivers with respect to, or otherwise enter into agreements, understandings or arrangements respecting, the Collateral), or make other agreements in respect of the business and operations of the Assignor or any part or parts or parts thereof for such consideration and on such terms as it may deem appropriate;
- (iii) to perform at the Assignor's expense any and all obligations or covenants of the Assignor under the Collateral or in respect thereof and to enforce performance by the Material Third Party Contractors of their obligations, covenants and agreements thereunder;

- (iv) to manage generally the business and operations of the Assignor and deal with the Collateral to the same extent as the Assignor could do; and
- (v) by instrument in writing appoint any person to be a receiver (which term shall include a manager and a receiver and manager) of the business and operations of the Assignor or any part thereof and may remove any receiver so appointed and appoint another in his stead; and any receiver so appointed shall have the authority to do any of the acts specified in this Section and further to take possession of and collect the revenues and other moneys of all kinds payable to the Assignor in respect of the Collateral and pay therefrom all reasonable expenses of completing, maintaining, preserving, protecting and operating the Project and the business and operations of the Assignor, the payment of which may be necessary or desirable to complete, preserve and protect the Project and to preserve and protect the business and operations of the Assignor and the Collateral;

the whole without any liability or responsibility of any kind on the part of the Assignee or its agents or receiver (other than by reason of the gross negligence or wilful misconduct of such persons).

(b) **No Obligation to Enforce Collateral**

The Assignee shall not be liable or accountable for any future failure to enforce or otherwise deal with the Collateral and the Assignee shall not be bound to institute proceedings for the purpose of enforcing or otherwise dealing with the Collateral or for the purpose of preserving any rights of the Assignee, the Assignor, or any other person in respect of the same. No failure to exercise or any delay on the part of the Assignee in exercising any right, power or remedy provided in this Assignment or by law shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any further or other exercise of the same right, power or remedy or the exercise of any other such right, power or remedy.

(c) **Exercise of Powers**

Where any discretionary powers under this Assignment are vested in the Assignee or its agents or receiver, such powers may be exercised by an officer or manager of the Assignee or its appointed agents or receiver, as the case may be.

(d) **Application of Collateral**

All monies or other amounts collected or received by the Assignee in respect to the Collateral may be applied on account of such part of the Obligations as to the Assignee seems best, or held by the Assignee in a collateral account maintained by it for such time as to the Assignee seems best and then applied on such part of the Obligations as to the Assignee seems best.

12. **No Release**

This Assignment shall remain in full force and effect without regard to, and the obligations of the Assignor hereunder shall not be affected or impaired by:

- (a) any amendment, modification, replacement of or addition or supplement to any Mortgage Documents, Security, or any other agreement or security provided to the Assignee or any other person with respect to any Obligations;
- (b) any exercise or non-exercise of any right, remedy, power or privilege in respect of any Mortgage Documents, Security, the Obligations or any other agreement or security provided to the Assignee;
- (c) any waiver, consent, extension, indulgence or other action, inaction or omission under or in respect of any Mortgage Documents, Security, or any other agreement or security provided to the Assignee with respect to any Obligations;
- (d) any default by the Assignor under, or any invalidity or unenforceability of, or (subject to Section 13) any limitation of the liability of the Assignor or on the method or terms of payment under, or any irregularity or other defect in, any Mortgage Documents or Security;
- (e) any merger, consolidation or amalgamation of the Assignor or any partners of the Assignor into or with any other person or any change in the persons who are from time to time partners of the Assignor; or
- (f) any insolvency, bankruptcy, liquidation, reorganization, arrangement, composition, winding-up, dissolution or similar proceeding involving or affecting the Assignor or any partners of the Assignor.

13. **Termination of this Assignment**

Upon payment and performance in full of all of the Obligations and fulfillment by the Assignor of all of its obligations to the Assignee with respect to the Obligations, this Assignment shall be and become fully ended and terminated and all right, title, estate and interest in and with respect to the Collateral assigned, transferred and set over by the Assignor under this Assignment shall revert to the Assignor and all covenants and agreements of the Assignor hereunder shall be at an end and the Assignee shall, in such circumstances and upon the written request of the Assignor and at the expense of the Assignor, execute such discharges, re-assignments and other instruments and give such notifications or assurances as may be necessary to fully release, cancel and discharge this Assignment.

14. **No Partnership**

Nothing contained in this Assignment shall be deemed or construed as creating the relationship of principal and agent or of partnership or of joint venture between the Assignor and the Assignee; it being understood and agreed that none of the provisions contained in this Assignment or any acts of the Assignee or of the Assignor, shall be deemed to create any relationship between the Assignee and the Assignor other than the relationship of assignee and assignor.

15. **Rights and Remedies Cumulative**

The rights and remedies given to the Assignee under this Assignment shall be cumulative of and not substituted for any rights and remedies to which the Assignee may be entitled under any

other agreement or security provided to the Assignee with respect to any Obligations or under statute, at law or in equity, and may be exercised whether or not the Assignee has pursued or is then pursuing any other such rights and remedies. Further, nothing in this Assignment shall curtail or limit the remedies of the Assignee as permitted by law or in any statute to a creditor, all such remedies being in addition to and not in substitution for any other rights of the Assignee under this Assignment, or any other agreement or security provided to the Assignee with respect to any Obligations.

16. **Time of Essence**

Time shall be of the essence of this Assignment.

17. **Notices**

All notices and other communications given under or with respect to this Assignment will be in writing and may be effectively given by delivering the same, or sending the same by facsimile, to the Assignee at the address or facsimile number of the Assignee indicated below or to the Assignor at the address or facsimile number of the Assignor specified below. Any notice so delivered shall be deemed to have been received on the date delivered. Any facsimile notice shall be deemed to have been received on transmission if transmitted prior to 4:00 p.m. (local time at the place of receipt) on a business day and otherwise on the business day following transmission. Either party may from time to time notify the other party, in accordance with the provisions of this Section, of any change of its address or facsimile number which thereafter, until changed by like notice, will be the address or facsimile number, as the case may be, of such party for all purposes of this Assignment. The address and facsimile number of the parties for the purposes hereof shall be as follows:

If to the Assignee:

CMLS Financial Ltd.  
Suite 2110 - 1066 West Hastings Street  
Vancouver, BC V6E 3X2  
Attention:  
Facsimile:

Computershare Trust Company of Canada  
100 University Avenue, 8th Floor, South Tower  
Toronto, ON M5J 2Y1  
Attention:  
Facsimile:

Genesis Mortgage Investment Corp.  
#805-8400 West Road  
North Tower, International Trade Centre  
Richmond, BC V6X 0S7  
Attention:  
Facsimile:

If to the Assignor:

1776411 Ontario Ltd.  
as general partner on behalf of 1333 Weber Street Kitchener LP  
258 Edgewater Crescent, Suite 8  
Kitchener, Ontario N2A 4M2  
Attention: Werner Leuschner  
Facsimile:

18. **Waiver**

No consent or waiver, express or implied, by the Assignee to or of any breach or default by the Assignor in performance of its obligations under this Assignment shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by the Assignor under this Assignment. Failure on the part of the Assignee to complain of any act or failure to act of the Assignor or to declare the Assignor in default, irrespective of how long such failure continues, shall not, by itself, constitute a waiver by the Assignee of its rights under this Assignment.

19. **Amendments**

This Assignment may not be modified or amended except with the written consent of the Assignor and the Assignee.

20. **Continuing Security**

This Assignment and the rights and remedies it creates are a continuing agreement and security, and shall bind the parties until discharge of this Assignment as provided in Section 13 of this Assignment.

21. **Indemnity**

The Assignor shall be liable for, and shall indemnify and save the Assignee harmless of and from, all manner of actions, causes of action, demands, claims, losses, costs, damages and expenses of any and every nature whatsoever which the Assignee may sustain, pay or incur in respect of or in connection with (a) the Collateral, (b) any and all actions of the Assignor pursuant to the exercise by the Assignor of any of its rights, duties or obligations under or in respect of the Collateral, and (c) the lawful and proper exercise or performance by the Assignee of any of its rights and powers as authorized under this Assignment (other than by reason of the gross negligence or wilful misconduct of the Assignee).

22. **Expenses**

The Assignor shall pay to the Assignee on demand all reasonable out-of-pocket costs and expenses incurred by the Assignee in connection with the preparation, execution, delivery and administration of this Assignment and all related documentation and the amendment and enforcement of, and the preservation and protection of any of the Assignee's rights under, this Assignment and such related documentation (including the reasonable fees and out-of-pocket expenses of counsel for the Assignee for services provided in connection with the foregoing



matters and all sales, goods and services and other similar taxes payable under the laws of any applicable jurisdiction with respect thereto) and shall pay to the Assignee interest thereon, calculated from and including the due date thereof and payable on demand, at the highest per annum rate of interest from time to time applicable to the Obligations, all of which amounts shall be added to, and be deemed to form part of, the Obligations.

23. **Statutory Waivers**

To the fullest extent permitted by law, the Assignor waives all of the rights, benefits and protections given by the provisions of any existing or future statute or regulation which imposes limitations on the powers, rights or remedies of a secured party or on the methods of realization of security, including, without limitation, any seize or sue or anti-deficiency statute or any similar provision of any other statute.

24. **Receipt**

The Assignor acknowledges receipt of an executed copy of this Assignment.

25. **Paramountcy**

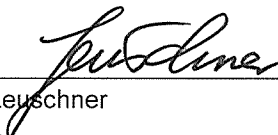
This Assignment has been entered into pursuant to the Commitment Letter and is subject to all of the terms and conditions thereof, and in the event of any conflicts or inconsistencies between the provisions of this Assignment and the Commitment Letter, the rights and obligations of the parties shall be deemed to be governed by the Commitment Letter, which shall be the paramount instrument.

IN WITNESS OF WHICH the Assignor has duly executed this Assignment as of the date indicated on the first page of this Assignment.

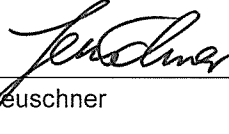
*[signing page follows]*

[Assignment of Material Documents]

**1776411 ONTARIO LTD. , IN ITS CAPACITY AS  
GENERAL PARTNER, ON BEHALF OF 1333 WEBER  
STREET KITCHENER LP**

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**1776411 ONTARIO LTD.**

Per:   
Name: Werner Leuschner  
Title: President  
I have the authority to bind the corporation

**THIS IS EXHIBIT "M" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**

A handwritten signature in blue ink, appearing to read "Michael Yeung Sworn", is centered on the page.

---

**A Commissioner for taking affidavits, etc.**

LAND  
REGISTRY  
OFFICE #58

22590-0550 (LT)

PAGE 1 OF 6  
PREPARED FOR Alexandra01  
ON 2023/09/21 AT 16:01:01

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

PROPERTY DESCRIPTION: LOTS 29, 30, 31, 32, 33, 34, 45, 46, 47, 48, 49, 50 AND 91 AND PART LOTS 12, 13, 14, 15, 16, 17, 43, 44, 86, 87, 89 AND 90, PLAN 322, AND LOT 127 STREETS AND LANES, (BEING A LANE, PLAN 322, CLOSED BY BY-LAW AS IN 175368) AND PART LOT 126 STREETS AND LANES, (BEING PART OF HERMAN AVENUE, PLAN 322, CLOSED BY BY-LAW AS IN 175368) AND PART LOT 141 STREETS AND LANES, (BEING PART OF HERMAN AVENUE, PLAN 322, CLOSED BY BY-LAW AS IN 210008) AND PART LOT 173 STREETS AND LANES, (BEING PART OF WEBER STREET, PLAN 322 (RENAMED SUNNYSIDE AVENUE) CLOSED BY BY-LAW AS IN 270276), ALL BEING PARTS 1, 2 AND 3, PLAN 58R-21405; SUBJECT TO AN EASEMENT AS IN 687124; SUBJECT TO AN EASEMENT IN GROSS OVER PART 3, PLAN 58R-21405 AS IN WR1306081; SUBJECT TO AN EASEMENT IN GROSS OVER PART 2, PLAN 58R-21405 AS IN WR1324371; SUBJECT TO AN EASEMENT AS IN WR1326075; CITY OF KITCHENER

PROPERTY REMARKS: FOR THE PURPOSE OF THE QUALIFIER, THE DATE OF REGISTRATION WITH AN ABSOLUTE TITLE IS APRIL 21ST, 2022.

ESTATE/QUALIFIER: FEE SIMPLE  
LT ABSOLUTE PLUS

RECENTLY: RE-ENTRY FROM 22590-0549

PIN CREATION DATE:  
2022/04/21

OWNERS' NAMES 1776411 ONTARIO LTD.

CAPACITY SHARE  
ROWN

| REG. NUM.   | DATE       | INSTRUMENT TYPE   | AMOUNT       | PARTIES FROM  | PARTIES TO                                    | CERT/CHKD |
|---|------------|-------------------|--------------|---|---|-----------|
| ** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2022/04/21 **   |            |                   |              |   |   |           |
| **SUBJECT TO SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPHS 3 AND 14 AND *  |            |                   |              |   |   |           |
| ** PROVINCIAL SUCCESSION DUTIES AND EXCEPT PARAGRAPH 11 AND ESCHEATS OR FORFEITURE **   |            |                   |              |   |   |           |
| ** TO THE CROWN UP TO THE DATE OF REGISTRATION WITH AN ABSOLUTE TITLE. **   |            |                   |              |   |   |           |
| 687124  | 1980/08/20 | TRANSFER EASEMENT |              |   | HYDRO-ELECTRIC COMMISSION OF KITCHENER-WILMOT | C         |
| WR459096  | 2009/05/04 | NOTICE            |              | HER MAJESTY THE QUEEN IN RIGHT OF CANADA  |   | C         |
| REMARKS: AIRPORT ZONING REGULATIONS CORRECTIONS: PARTY FROM NAME:HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO DELETED ON 2022/09/10 AT 10:48 BY GRIFFIN, WANDA. PARTY FROM NAME:HER MAJESTY THE QUEEN IN RIGHT OF CANADA ADDED ON 2022/09/10 AT 10:48 BY GRIFFIN, WANDA. |            |                   |              |   |   |           |
| WR508428  | 2009/12/07 | NO CHNG ADDR INST |              | GENERAL ELECTRIC CANADA REAL ESTATE FINANCE INC.<br>GE CANADA REAL ESTATE FINANCING BUSINESS PROPERTY COMPANY |   | C         |
| REMARKS: DELETED FROM PIN 22712-0543 OCT. 8,2014/ WR297120  |            |                   |              |   |   |           |
| WR1259771   | 2020/05/22 | TRANSFER          | \$2          | PAMATA HOSPITALITY INC.   | 1776411 ONTARIO LTD.                          | C         |
| REMARKS: PLANNING ACT STATEMENTS.   |            |                   |              |   |   |           |
| WR1299640   | 2020/11/24 | CHARGE            | \$20,000,000 | 1776411 ONTARIO LTD.  | WESTMOUNT GUARANTEE SERVICES INC.             | C         |
| WR1306081   | 2020/12/17 | TRANSFER EASEMENT | \$2          | 1776411 ONTARIO LTD.  | THE CORPORATION OF THE CITY OF KITCHENER      | C         |
| WR1306083   | 2020/12/17 | POSTPONEMENT      |              | WESTMOUNT GUARANTEE SERVICES INC.   | THE CORPORATION OF THE CITY OF KITCHENER      | C         |
| REMARKS: WR1299640 TO WR1306081 AFFECT PART 1 ON PLAN 58R11736  |            |                   |              |   |   |           |
| WR1318720   | 2021/02/17 | NOTICE            | \$5          | THE CORPORATION OF THE CITY OF KITCHENER  |   | C         |

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| REG. NUM.            | DATE                            | INSTRUMENT TYPE              | AMOUNT       | PARTIES FROM  | PARTIES TO  | CERT/CHKD |
|----------------------|---------------------------------|------------------------------|--------------|---|---|-----------|
| WR1324371            | 2021/03/12                      | TRANSFER EASEMENT            | \$2          | 1776411 ONTARIO LTD.  | THE REGIONAL MUNICIPALITY OF WATERLOO   | C         |
| WR1324372            | 2021/03/12                      | POSTPONEMENT                 |              | WESTMOUNT GUARANTEE SERVICES INC.   | THE REGIONAL MUNICIPALITY OF WATERLOO   | C         |
|                      | REMARKS: WR1299640 TO WR1324371 |                              |              |   |   |           |
| WR1326075            | 2021/03/19                      | TRANSFER EASEMENT            | \$2          | 1776411 ONTARIO LTD.  | ROGERS COMMUNICATIONS INC.  | C         |
| WR1367209            | 2021/08/17                      | CHARGE                       | \$82,000,000 | 1776411 ONTARIO LTD.  | CMLS FINANCIAL LTD.<br>COMPUTERSHARE TRUST COMPANY OF CANADA<br>GENESIS MORTGAGE INVESTMENT CORP. | C         |
| WR1367210            | 2021/08/17                      | NO ASSGN RENT GEN            |              | 1776411 ONTARIO LTD.  | CMLS FINANCIAL LTD.<br>COMPUTERSHARE TRUST COMPANY OF CANADA<br>GENESIS MORTGAGE INVESTMENT CORP. | C         |
|                      | REMARKS: WR1367209              |                              |              |   |   |           |
| WR1367215            | 2021/08/17                      | POSTPONEMENT                 |              | WESTMOUNT GUARANTEE SERVICES INC.   | CMLS FINANCIAL LTD.<br>COMPUTERSHARE TRUST COMPANY OF CANADA<br>GENESIS MORTGAGE INVESTMENT CORP. | C         |
|                      | REMARKS: WR1299640 TO WR1367209 |                              |              |   |   |           |
| <del>WR1367622</del> | <del>2021/08/18</del>           | <del>CHARGE</del>            |              | <del>*** DELETED AGAINST THIS PROPERTY ***<br/>1776411 ONTARIO LTD.</del>   | <del>GENESIS MORTGAGE INVESTMENT CORP.</del>  |           |
| <del>WR1367628</del> | <del>2021/08/18</del>           | <del>NO ASSGN RENT GEN</del> |              | <del>*** DELETED AGAINST THIS PROPERTY ***<br/>1776411 ONTARIO LTD.</del>   | <del>GENESIS MORTGAGE INVESTMENT CORP.</del>  |           |
|                      | REMARKS: <del>WR1367622</del>   |                              |              |   |   |           |
| WR1368206            | 2021/08/20                      | NOTICE                       |              | THE CORPORATION OF THE CITY OF KITCHENER                                    |   | C         |
| WR1368207            | 2021/08/20                      | NOTICE                       |              | THE CORPORATION OF THE CITY OF KITCHENER                                    |   | C         |
| 58R21405             | 2022/04/21                      | PLAN REFERENCE               |              |   |   | C         |
| WR1429995            | 2022/04/21                      | APL ABSOLUTE TITLE           |              | 1776411 ONTARIO LTD.  | 1776411 ONTARIO LTD.  | C         |
|                      | REMARKS: WR1408862              |                              |              |   |   |           |
| WR1434025            | 2022/05/05                      | NOTICE                       | \$5          | THE CORPORATION OF THE CITY OF KITCHENER                                    |   | C         |
| WR1438527            | 2022/05/24                      | DISCH OF CHARGE              |              | <del>*** COMPLETELY DELETED ***<br/>GENESIS MORTGAGE INVESTMENT CORP.</del> |   |           |
|                      | REMARKS: <del>WR1367622.</del>  |                              |              |   |   |           |

| REG. NUM. | DATE               | INSTRUMENT TYPE   | AMOUNT | PARTIES FROM  | PARTIES TO | CERT/<br>CHKD |
|-----------|--------------------|-------------------|--------|---|------------|---------------|
| 58R21467  | 2022/06/30         | PLAN REFERENCE    |        |   |            | C             |
| WR1467608 | 2022/09/20         | NOTICE            |        | THE CORPORATION OF THE CITY OF KITCHENER                                  |            | C             |
|           | REMARKS: WR1368207 |                   |        |   |            |               |
| WR1485024 | 2022/12/08         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>KIESWETTER EXCAVATING INC.</del>      |            |               |
| WR1485910 | 2022/12/14         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>LEHIGH HANSON MATERIALS LIMITED</del> |            |               |
| WR1487025 | 2022/12/19         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>HC MATCON INC.</del>                  |            |               |
| WR1487026 | 2022/12/19         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>HC MATCON INC.</del>                  |            |               |
| WR1491403 | 2023/01/20         | CERTIFICATE       |        | <del>*** COMPLETELY DELETED ***<br/>KIESWETTER EXCAVATING INC.</del>      |            |               |
|           | REMARKS: WR1485024 |                   |        |   |            |               |
| WR1495594 | 2023/02/21         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>OXFORD BUILDERS SUPPLIES INC.</del>   |            |               |
| WR1495596 | 2023/02/21         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>OXFORD BUILDERS SUPPLIES INC.</del>   |            |               |
| WR1495598 | 2023/02/21         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>OXFORD BUILDERS SUPPLIES INC.</del>   |            |               |
| WR1495600 | 2023/02/21         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>ELLISDON FORMING LTD.</del>           |            |               |
| WR1495601 | 2023/02/21         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>ELLISDON FORMING LTD.</del>           |            |               |
| WR1495602 | 2023/02/21         | CONSTRUCTION LIEN |        | <del>*** COMPLETELY DELETED ***<br/>ELLISDON FORMING LTD.</del>           |            |               |
| WR1497578 | 2023/03/02         | CERTIFICATE       |        | <del>*** COMPLETELY DELETED ***<br/>LEHIGH HANSON MATERIALS LIMITED</del> |            |               |
|           | REMARKS: WR1485910 |                   |        |   |            |               |

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| REG. NUM. | DATE       | INSTRUMENT TYPE                          | AMOUNT | PARTIES FROM  | PARTIES TO                        | CERT/CHKD |
|-----------|------------|--|--------|---|-----------------------------------|-----------|
| WR1498228 | 2023/03/07 | CONSTRUCTION LIEN                        |        | <del>*** COMPLETELY DELETED ***<br/>O'CONNOR ELECTRIC LTD.</del>          |                                   |           |
| WR1499105 | 2023/03/14 | CONSTRUCTION LIEN                        |        | <del>*** COMPLETELY DELETED ***<br/>O'CONNOR ELECTRIC LTD.</del>          |                                   |           |
| WR1499459 | 2023/03/15 | CERTIFICATE                              |        | <del>*** COMPLETELY DELETED ***<br/>HC MATCON INC.</del>                  |                                   |           |
|           |            | <del>REMARKS: WR1487025</del>            |        |   |                                   |           |
| WR1499460 | 2023/03/15 | CERTIFICATE                              |        | <del>*** COMPLETELY DELETED ***<br/>HC MATCON INC.</del>                  |                                   |           |
|           |            | <del>REMARKS: WR1487026</del>            |        |   |                                   |           |
| WR1500298 | 2023/03/22 | CONSTRUCTION LIEN                        |        | <del>*** COMPLETELY DELETED ***<br/>GA MASONRY INC.</del>                 |                                   |           |
| WR1504944 | 2023/04/21 | CONSTRUCTION LIEN                        |        | <del>*** COMPLETELY DELETED ***<br/>SCHOUTEN EXCAVATING INC.</del>        |                                   |           |
| WR1507433 | 2023/05/08 | NOTICE                                   | \$2    | 1776411 ONTARIO LTD.  | WESTMOUNT GUARANTEE SERVICES INC. | C         |
|           |            | <del>REMARKS: WR1299640</del>            |        |   |                                   |           |
| WR1507434 | 2023/05/08 | APL DEL CONST LIEN                       |        | <del>*** COMPLETELY DELETED ***<br/>KIESWETTER EXCAVATING INC.</del>      |                                   |           |
|           |            | <del>REMARKS: WR1485024, WR1491403</del> |        |   |                                   |           |
| WR1507435 | 2023/05/08 | APL DEL CONST LIEN                       |        | <del>*** COMPLETELY DELETED ***<br/>LEHIGH HANSON MATERIALS LIMITED</del> |                                   |           |
|           |            | <del>REMARKS: WR1485910, WR1497578</del> |        |   |                                   |           |
| WR1507436 | 2023/05/08 | APL DEL CONST LIEN                       |        | <del>*** COMPLETELY DELETED ***<br/>HC MATCON INC.</del>                  |                                   |           |
|           |            | <del>REMARKS: WR1487025, WR1499459</del> |        |   |                                   |           |
| WR1507437 | 2023/05/08 | APL DEL CONST LIEN                       |        | <del>*** COMPLETELY DELETED ***<br/>HC MATCON INC.</del>                  |                                   |           |
|           |            | <del>REMARKS: WR1487026, WR1499460</del> |        |   |                                   |           |
| WR1507438 | 2023/05/08 | APL DEL CONST LIEN                       |        | <del>*** COMPLETELY DELETED ***<br/>OXFORD BUILDERS SUPPLIES INC.</del>   |                                   |           |
|           |            | <del>REMARKS: WR1495594.</del>           |        |   |                                   |           |

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| REG. NUM. | DATE       | INSTRUMENT TYPE                | AMOUNT      | PARTIES FROM  | PARTIES TO         | CERT/CHKD |
|-----------|------------|--------------------------------|-------------|---|--------------------|-----------|
| WR1507439 | 2023/05/08 | APL DEL CONST LIEN             |             | <del>*** COMPLETELY DELETED ***<br/>OXFORD BUILDERS SUPPLIES INC.</del> |                    |           |
|           |            | <del>REMARKS: WR1495596.</del> |             |   |                    |           |
| WR1507440 | 2023/05/08 | APL DEL CONST LIEN             |             | <del>*** COMPLETELY DELETED ***<br/>OXFORD BUILDERS SUPPLIES INC.</del> |                    |           |
|           |            | <del>REMARKS: WR1495598.</del> |             |   |                    |           |
| WR1507441 | 2023/05/08 | APL DEL CONST LIEN             |             | <del>*** COMPLETELY DELETED ***<br/>ELLISDON FORMING LTD.</del>         |                    |           |
|           |            | <del>REMARKS: WR1495600.</del> |             |   |                    |           |
| WR1507442 | 2023/05/08 | APL DEL CONST LIEN             |             | <del>*** COMPLETELY DELETED ***<br/>ELLISDON FORMING LTD.</del>         |                    |           |
|           |            | <del>REMARKS: WR1495601.</del> |             |   |                    |           |
| WR1507443 | 2023/05/08 | APL DEL CONST LIEN             |             | <del>*** COMPLETELY DELETED ***<br/>ELLISDON FORMING LTD.</del>         |                    |           |
|           |            | <del>REMARKS: WR1495602.</del> |             |   |                    |           |
| WR1507444 | 2023/05/08 | APL DEL CONST LIEN             |             | <del>*** COMPLETELY DELETED ***<br/>O'CONNOR ELECTRIC LTD.</del>        |                    |           |
|           |            | <del>REMARKS: WR1498228.</del> |             |   |                    |           |
| WR1507445 | 2023/05/08 | APL DEL CONST LIEN             |             | <del>*** COMPLETELY DELETED ***<br/>O'CONNOR ELECTRIC LTD.</del>        |                    |           |
|           |            | <del>REMARKS: WR1499105.</del> |             |   |                    |           |
| WR1507446 | 2023/05/08 | APL DEL CONST LIEN             |             | <del>*** COMPLETELY DELETED ***<br/>GA MASONRY INC.</del>               |                    |           |
|           |            | <del>REMARKS: WR1500298.</del> |             |   |                    |           |
| WR1507447 | 2023/05/08 | APL DEL CONST LIEN             |             | <del>*** COMPLETELY DELETED ***<br/>SCHOUTEN EXCAVATING INC.</del>      |                    |           |
|           |            | <del>REMARKS: WR1504944.</del> |             |   |                    |           |
| WR1507448 | 2023/05/08 | CHARGE                         | \$3,500,000 | 1776411 ONTARIO LTD.  | CORFINANCIAL CORP. | C         |
| WR1518428 | 2023/07/06 | CONSTRUCTION LIEN              | \$787,259   | GOLD STAR DRYWALL SERVICES INC.   |                    | C         |
| WR1518912 | 2023/07/07 | CONSTRUCTION LIEN              | \$2,157,415 | DEAN-LANE CONTRACTORS INC.  |                    | C         |
| WR1519072 | 2023/07/10 | CONSTRUCTION LIEN              | \$311,562   | CONESTOGA ROOFING & SHEET METAL LTD.                                    |                    | C         |

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| REG. NUM. | DATE               | INSTRUMENT TYPE   | AMOUNT      | PARTIES FROM  | PARTIES TO           | CERT/<br>CHKD |
|-----------|--------------------|-------------------|-------------|---|----------------------|---------------|
| WR1521083 | 2023/07/19         | CONSTRUCTION LIEN | \$1,662,600 | ALUMINUM WINDOW DESIGNS LTD.                              |                      | C             |
| WR1521506 | 2023/07/20         | CONSTRUCTION LIEN | \$220,190   | GREENTECH SEALANTS INC.                                   |                      | C             |
| WR1521825 | 2023/07/21         | CONSTRUCTION LIEN | \$591,923   | CLASSIC TILE CONTRACTORS LIMITED                          |                      | C             |
| WR1522293 | 2023/07/25         | CONSTRUCTION LIEN | \$1,374,127 | STUBBE'S PRECAST COMMERCIAL LTD.<br>STUBBE'S PRECAST INC. |                      | C             |
| WR1522297 | 2023/07/25         | CONSTRUCTION LIEN | \$344,955   | O'CONNOR ELECTRIC LTD.                                    |                      | C             |
| WR1525011 | 2023/08/03         | CONSTRUCTION LIEN | \$135,600   | OXFORD BUILDERS SUPPLIES INC.                             |                      | C             |
| WR1525014 | 2023/08/03         | CONSTRUCTION LIEN | \$66,912    | OXFORD BUILDERS SUPPLIES INC.                             |                      | C             |
| WR1525022 | 2023/08/03         | CONSTRUCTION LIEN | \$364,425   | OXFORD BUILDERS SUPPLIES INC.                             |                      | C             |
| WR1525872 | 2023/08/09         | CONSTRUCTION LIEN | \$647,217   | PEARSON METAL INC.  |                      | C             |
| WR1525921 | 2023/08/09         | CONSTRUCTION LIEN | \$3,123,088 | HGL ELECTRICAL  |                      | C             |
| WR1527801 | 2023/08/17         | CONSTRUCTION LIEN | \$85,018    | MATTHEWS EQUIPMENT LIMITED                                |                      | C             |
| WR1530052 | 2023/08/29         | CONSTRUCTION LIEN | \$432,315   | ABA ARCHITECTS INC.                                       |                      | C             |
| WR1530175 | 2023/08/29         | CONSTRUCTION LIEN | \$45,878    | OXFORD BUILDERS SUPPLIES INC.                             |                      | C             |
| WR1530179 | 2023/08/29         | CONSTRUCTION LIEN | \$143,133   | OXFORD BUILDERS SUPPLIES INC.                             |                      | C             |
| WR1532157 | 2023/09/06         | CONSTRUCTION LIEN | \$1,748,531 | GILLAM URBAN CONSTRUCTORS INC.                            |                      | C             |
| WR1532406 | 2023/09/07         | CERTIFICATE       |             | STUBBE'S PRECAST COMMERCIAL LTD.<br>STUBBE'S PRECAST INC. |                      | C             |
|           | REMARKS: WR1522293 |                   |             |   |                      |               |
| WR1533262 | 2023/09/12         | CONSTRUCTION LIEN | \$12,555    | O'CONNOR ELECTRIC LTD.                                    |                      | C             |
| WR1534716 | 2023/09/20         | CERTIFICATE       |             | PEARSON METAL INC.  | 1776411 ONTARIO LTD. |               |

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**THIS IS EXHIBIT "N" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**

A handwritten signature in blue ink, appearing to read "Michael Yeung Sworn".

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**A Commissioner for taking affidavits, etc.**



Bennett Jones

# Bennett Jones LLP

## *PERSONAL PROPERTY SECURITY ACT (ONTARIO)*

### **SEARCH SUMMARY WITH RESPECT TO: 1333 WEBER STREET KITCHENER LP**

Summary By: Olivia D'Innocenzo  
File Currency: September 20, 2023

#### DISCLAIMER:

This report was produced by a compilation of data retrieved from the Personal Property Registration System, Ministry of Government Services, Government of Ontario. Dye & Durham Corporation is not responsible for the accuracy, reliability or currency of the information provided by this external source. The purchaser of this report has agreed with consideration at the time of purchase to assume all liability and further indemnify Dye & Durham Corporation for any and all damages and costs resulting from any matter related to the content of this report. Users wishing to rely upon this information should consult directly with the source of the information. No liability is undertaken by Dye & Durham Corporation regarding the completeness, correctness or the interpretation or use which may be made of this report.

| Secured Party   | Debtor(s)  | Collateral Class.  |   |   |   |   |    | File No.                 | Reg. No.   | Comments |
|---|--|--|---|---|---|---|----|--------------------------|--|----------|
|   |  | CG   | I | E | A | O | MV |                          |  |          |
| CORFINANCIAL CORP.  | 1776411 ONTARIO LTD, AS GENERAL PARTNER OF 1333 WEBER STREET KITCHENER LP      |  | X | X | X | X | X  | 792681201<br><b>PPSA</b> | 20230425 1806 1590 0557<br>Reg. 7 year(s)<br>Expires 04/25/2030  |          |
|   |  |  | X | X | X | X | X  | 792681201<br><b>PPSA</b> | 20230504 1520 1590 2193<br>A AMNDMNT                             |          |
|   | 1776411 ONTARIO LTD.<br>1333 WEBER STREET KITCHENER LP                         |  |   |   |   |   |    |                          |  |          |
|   |  | Reason for Amendment:<br>TO CORRECT DEBTORS NAMES AND ADDRESSES  |   |   |   |   |    |                          |  |          |
| Secured Party   | Debtor(s)  | Collateral Class.  |   |   |   |   |    | File No.                 | Reg. No.   | Comments |
|   |  | CG   | I | E | A | O | MV |                          |  |          |
| CMLS FINANCIAL LTD.<br>COMPUTERSHARE TRUST COMPANY OF CANADA<br>GENESIS MORTGAGE INVESTMENT CORP. | 1776411 ONTARIO LTD.<br>(Corp. No.: 1776411)<br>1333 WEBER STREET KITCHENER LP |  | X | X | X | X | X  | 775432296<br><b>PPSA</b> | 20210816 0948 1590 0689<br>Reg. 10 year(s)<br>Expires 08/16/2031 |          |
|   |  | General Collateral Description:<br>GENERAL SECURITY AGREEMENT, GENERAL ASSIGNMENT OF RENTS, ASSIGNMENT OF PLANS, PERMITS AND CONTRACTS AND OTHER SECURITY DOCUMENTS RELATING TO THE PROPERTY MUNICIPALLY KNOWN AS 1333 WEBER STREET EAST, KITCHENER, ONTARIO AND LEGALLY DESCRIBED IN PIN 22590-0549(LT) |   |   |   |   |    |                          |  |          |

| Secured Party                     | Debtor(s)                      | Collateral Class.   |   |   |   |   |    | File No.                 | Reg. No.  | Comments |
|-----------------------------------|--------------------------------|---|---|---|---|---|----|--------------------------|---|----------|
|                                   |                                | CG  | I | E | A | O | MV |                          |   |          |
| GENESIS MORTGAGE INVESTMENT CORP. | 1333 WEBER STREET KITCHENER LP |   | X | X | X | X | X  | 775321965<br><b>PPSA</b> | 20210811 1347 1590 0260<br>Reg. 5 year(s)<br>Expires 08/11/2026 |          |
|                                   | 1333 WEBER STREET KITCHENER LP |   |   |   |   |   |    | 775321965                | 20210817 1033 1590 0895<br>J OTHER                              |          |
|                                   |                                | <p>SUBORDINATION</p> <p>Reason for Amendment:<br/>GENESIS MORTGAGE INVESTMENT CORP. HEREBY POSTPONES AND SUBORDINATES ITS SECURITY INTEREST PERFECTED BY REFERENCE FILE NO. 775321965, TO AND IN FAVOUR OF THE SECURITY INTEREST OF COMPUTERSHARE TRUST COMPANY OF CANADA, CMLS FINANCIAL LTD. AND GENESIS MORTGAGE INVESTMENT CORP. PERFECTED BY REFERENCE FILE NO. 775432296.</p> |   |   |   |   |    |                          |   |          |

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE  
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT  
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

RESPONSE CONTAINS: APPROXIMATELY 3 FAMILIES and 13 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS  
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME  
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE  
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT  
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY  
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER  
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS  
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE  
INTERPRETATION AND USE THAT ARE MADE OF IT.

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 3 ENQUIRY PAGE : 1 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP

00 FILE NUMBER : 775321965 EXPIRY DATE : 11AUG 2026 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20210811 1347 1590 0260 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: 1333 WEBER STREET KITCHENER LP  
OCN :  
04 ADDRESS : 258 EDGEWATER CRESCENT, SUITE 8  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
GENESIS MORTGAGE INVESTMENT CORP.  
09 ADDRESS : 3600 NO. 3 ROAD, SUITE 200  
CITY : RICHMOND PROV: BC POSTAL CODE: V6X 2C1  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

16 AGENT: DEVRY SMITH & FRANK LLP (CM)  
17 ADDRESS : 100-95 BARBER GREENE RD.  
CITY : TORONTO PROV: ON POSTAL CODE: M3C 3E9

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 1 OF 3 ENQUIRY PAGE : 2 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP  
FILE NUMBER 775321965

PAGE TOT REGISTRATION NUM REG TYPE  
01 CAUTION : 001 OF 2 MV SCHED: 20210817 1033 1590 0895  
21 REFERENCE FILE NUMBER : 775321965  
22 AMEND PAGE: NO PAGE: CHANGE: J OTHER REN YEARS: CORR PER:  
23 REFERENCE DEBTOR/ IND NAME:  
24 TRANSFEROR: BUS NAME: 1333 WEBER STREET KITCHENER LP

25 OTHER CHANGE: SUBORDINATION

26 REASON: GENESIS MORTGAGE INVESTMENT CORP. HEREBY POSTPONES AND SUBORDINATES  
27 /DESCR: ITS SECURITY INTEREST PERFECTED BY REFERENCE FILE NO. 775321965, TO  
28 : AND IN FAVOUR OF THE SECURITY INTEREST OF COMPUTERSHARE TRUST

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :  
CONS. MV DATE OF NO FIXED  
GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

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16 NAME : SCHNEIDER RUGGIERO SPENCER MILBURN LLP (42896 DM/SZ)

17 ADDRESS : 1000-120 ADELAIDE STREET WEST

CITY : TORONTO PROV : ON POSTAL CODE : M5H 3V1

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*



MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 1 OF 3 ENQUIRY PAGE : 3 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP  
FILE NUMBER 775321965

| PAGE                       | TOT       | REGISTRATION NUM   | REG TYPE             |
|----------------------------|-----------|--------------------|----------------------|
| 01 CAUTION :               | 002 OF 2  | MV SCHED: 20210817 | 1033 1590 0895       |
| 21 REFERENCE FILE NUMBER : | 775321965 |                    |                      |
| 22 AMEND PAGE:             | NO PAGE:  | CHANGE:            | REN YEARS: CORR PER: |
| 23 REFERENCE DEBTOR/       | IND NAME: |                    |                      |
| 24 TRANSFEROR:             | BUS NAME: |                    |                      |

25 OTHER CHANGE:

26 REASON: COMPANY OF CANADA, CMLS FINANCIAL LTD. AND GENESIS MORTGAGE

27 /DESCR: INVESTMENT CORP. PERFECTED BY REFERENCE FILE NO. 775432296.

28 :

02/05 IND/TRANSFeree:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

| CITY : | PROV : | POSTAL CODE : |          |       |      |        |             |          |
|--------|--------|---------------|----------|-------|------|--------|-------------|----------|
| CONS.  | MV     | DATE OF       | NO FIXED |       |      |        |             |          |
| GOODS  | INVTRY | EQUIP         | ACCTS    | OTHER | INCL | AMOUNT | MATURITY OR | MAT DATE |

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16 NAME :

17 ADDRESS :

CITY : PROV : POSTAL CODE :

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 3 ENQUIRY PAGE : 4 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: P PPSA REG PERIOD: 10  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD.  
OCN : 1776411  
04 ADDRESS : 258 EDGEWATER CRESCENT, SUITE 8  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2  
05 IND DOB : IND NAME:  
06 BUS NAME: 1333 WEBER STREET KITCHENER LP  
OCN :  
07 ADDRESS : 258 EDGEWATER CRESCENT, SUITE 8  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2

08 SECURED PARTY/LIEN CLAIMANT :

CMLS FINANCIAL LTD.

09 ADDRESS : SUITE 2110 - 1066 WEST HASTINGS STREET

CITY : VANCOUVER PROV: BC POSTAL CODE: V6E 3X2

CONS. MV DATE OF OR NO FIXED

GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

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YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

13 GENERAL SECURITY AGREEMENT, GENERAL ASSIGNMENT OF RENTS, ASSIGNMENT

14 OF PLANS, PERMITS AND CONTRACTS AND OTHER SECURITY DOCUMENTS RELATING

15 TO THE PROPERTY MUNICIPALLY KNOWN AS 1333 WEBER STREET EAST,

16 AGENT: SCHNEIDER RUGGIERO SPENCER MILBURN LLP (42896 DM/SZ)

17 ADDRESS : 1000-120 ADELAIDE STREET WEST

CITY : TORONTO PROV: ON POSTAL CODE: M5H 3V1

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\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 3 ENQUIRY PAGE : 5 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
COMPUTERSHARE TRUST COMPANY OF CANADA  
09 ADDRESS : 100 UNIVERSITY AVENUE, 8TH FLOOR,  
CITY : TORONTO PROV: ON POSTAL CODE: M5J 2Y1  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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YEAR MAKE MODEL V.I.N.  
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GENERAL COLLATERAL DESCRIPTION

13 KITCHENER, ONTARIO AND LEGALLY DESCRIBED IN PIN 22590-0549 (LT)

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16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 3 ENQUIRY PAGE : 6 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 003 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS : SOUTH TOWER  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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YEAR MAKE MODEL V.I.N.  
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GENERAL COLLATERAL DESCRIPTION  
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16 AGENT:  
17 ADDRESS :  
CITY : PROV: POSTAL CODE:

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 3 ENQUIRY PAGE : 7 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 004 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
GENESIS MORTGAGE INVESTMENT CORP.  
09 ADDRESS : #805-8400 WEST ROAD,  
CITY : RICHMOND PROV: BC POSTAL CODE: V6X 0S7  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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YEAR MAKE MODEL V.I.N.  
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GENERAL COLLATERAL DESCRIPTION

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16 AGENT:  
17 ADDRESS :  
CITY : PROV: POSTAL CODE:

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 3 ENQUIRY PAGE : 8 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 005 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS : NORTH TOWER, INTERNATIONAL TRADE CENTRE  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 3 OF 3 ENQUIRY PAGE : 9 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP

00 FILE NUMBER : 792681201 EXPIRY DATE : 25APR 2030 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20230425 1806 1590 0557 REG TYP: P PPSA REG PERIOD: 7  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD, AS GENERAL PARTNER OF 1333 WEBER STREET KITCH  
ENER LP OCN :  
04 ADDRESS : 1333 WEBER STREET, EAST  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 1C2  
05 IND DOB : IND NAME:  
06 BUS NAME: 1776411 ONTARIO LTD, AS GENERAL PARTNER OF 1333 WEBER STREET KITCH  
ENER LP OCN :  
07 ADDRESS : 8-258 EDGEWATER CRESCENT  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2

08 SECURED PARTY/LIEN CLAIMANT :  
CORFINANCIAL CORP.  
09 ADDRESS : 5000 YONGE STREET, SUITE 1901  
CITY : NORTH YORK PROV: ON POSTAL CODE: M2N 7E9  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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GENERAL COLLATERAL DESCRIPTION

16 AGENT: WEIRFOULDS LLP (D. THOMSON)  
17 ADDRESS : 66 WELLINGTON STREET WEST, SUITE 4100  
CITY : TORONTO PROV: ON POSTAL CODE: M5K 1B7

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 3 OF 3 ENQUIRY PAGE : 10 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP  
FILE NUMBER 792681201

PAGE TOT REGISTRATION NUM REG TYPE  
01 CAUTION : 001 OF 4 MV SCHED: 20230504 1520 1590 2193 P PPSA  
21 REFERENCE FILE NUMBER : 792681201  
22 AMEND PAGE: NO PAGE: X CHANGE: A AMNDMNT REN YEARS: CORR PER:  
23 REFERENCE DEBTOR/ IND NAME:  
24 TRANSFEROR: BUS NAME: 1776411 ONTARIO LTD. AS GENERAL PARTNER OF 13  
25 OTHER CHANGE:  
26 REASON: TO CORRECT DEBTORS NAMES AND ADDRESSES  
27 /DESCR:  
28 :  
02/05 IND/TRANSFEE:  
03/06 BUS NAME/TRFEE: 1776411 ONTARIO LTD.  
OCN:  
04/07 ADDRESS: 1333 WEBER STREET EAST  
CITY: KITCHENER PROV: ON POSTAL CODE: N2A 1C2

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

| CITY : | PROV : | POSTAL CODE : |          |       |      |        |             |          |
|--------|--------|---------------|----------|-------|------|--------|-------------|----------|
| CONS.  | MV     | DATE OF       | NO FIXED |       |      |        |             |          |
| GOODS  | INVTRY | EQUIP         | ACCTS    | OTHER | INCL | AMOUNT | MATURITY OR | MAT DATE |
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16 NAME : WEIRFOULDS LLP (D. THOMSON)

17 ADDRESS : 4100-66 WELLINGTON STREET WEST

CITY : TORONTO PROV : ON POSTAL CODE : M5K 1B7

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*



MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 3 OF 3 ENQUIRY PAGE : 11 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP  
FILE NUMBER 792681201

| PAGE | TOT                               | REGISTRATION NUM | REG TYPE                          |
|------|-----------------------------------|------------------|-----------------------------------|
| 01   | CAUTION :                         | 002 OF 4         | MV SCHED: 20230504 1520 1590 2193 |
| 21   | REFERENCE FILE NUMBER : 792681201 |                  |                                   |
| 22   | AMEND PAGE:                       | NO PAGE:         | CHANGE: REN YEARS: CORR PER:      |
| 23   | REFERENCE DEBTOR/ IND NAME:       |                  |                                   |
| 24   | TRANSFEROR: BUS NAME:             |                  |                                   |

25 OTHER CHANGE:

26 REASON:

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE: 1776411 ONTARIO LTD.

OCN:

04/07 ADDRESS: 8-258 EDGEWATER CRESCENT

CITY: KITCHENER PROV: ON POSTAL CODE: N2A 4M2

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

| CITY : | PROV : | POSTAL CODE : |          |       |      |        |             |          |
|--------|--------|---------------|----------|-------|------|--------|-------------|----------|
| CONS.  | MV     | DATE OF       | NO FIXED |       |      |        |             |          |
| GOODS  | INVTRY | EQUIP         | ACCTS    | OTHER | INCL | AMOUNT | MATURITY OR | MAT DATE |

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16 NAME :

17 ADDRESS :

CITY : PROV : POSTAL CODE :

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 3 OF 3 ENQUIRY PAGE : 12 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP  
FILE NUMBER 792681201

| PAGE | TOT                     | REGISTRATION NUM | REG TYPE                          |
|------|-------------------------|------------------|-----------------------------------|
| 01   | CAUTION :               | 003 OF 4         | MV SCHED: 20230504 1520 1590 2193 |
| 21   | REFERENCE FILE NUMBER : | 792681201        |                                   |
| 22   | AMEND PAGE:             | NO PAGE:         | CHANGE: REN YEARS: CORR PER:      |
| 23   | REFERENCE DEBTOR/       | IND NAME:        |                                   |
| 24   | TRANSFEROR:             | BUS NAME:        |                                   |

25 OTHER CHANGE:

26 REASON:

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE: 1333 WEBER STREET KITCHENER LP

OCN:

04/07 ADDRESS: 1333 WEBER STREET EAST

CITY: KITCHENER PROV: ON POSTAL CODE: N2A 1C2

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

| CITY : | PROV : | POSTAL CODE : |          |       |      |        |             |          |
|--------|--------|---------------|----------|-------|------|--------|-------------|----------|
| CONS.  | MV     | DATE OF       | NO FIXED |       |      |        |             |          |
| GOODS  | INVTRY | EQUIP         | ACCTS    | OTHER | INCL | AMOUNT | MATURITY OR | MAT DATE |

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16 NAME :

17 ADDRESS :

CITY : PROV : POSTAL CODE :

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1333 WEBER STREET KITCHENER LP

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 3 OF 3 ENQUIRY PAGE : 13 OF 13

SEARCH : BD : 1333 WEBER STREET KITCHENER LP

FILE NUMBER 792681201

PAGE TOT REGISTRATION NUM REG TYPE  
01 CAUTION : 004 OF 4 MV SCHED: 20230504 1520 1590 2193

21 REFERENCE FILE NUMBER : 792681201

22 AMEND PAGE: NO PAGE: CHANGE: REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME:

25 OTHER CHANGE:

26 REASON:

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE: 1333 WEBER STREET KITCHENER LP

OCN:

04/07 ADDRESS: 8-258 EDGEWATER CRESCENT

CITY: KITCHENER PROV: ON POSTAL CODE: N2A 4M2

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

10

11

12

13

14

15

16 NAME :

17 ADDRESS :

CITY : PROV : POSTAL CODE :

LAST SCREEN

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*



Bennett Jones

# Bennett Jones LLP

## *PERSONAL PROPERTY SECURITY ACT (ONTARIO)*

### **SEARCH SUMMARY WITH RESPECT TO: 1776411 ONTARIO LTD.**

Summary By: Olivia D'Innocenzo  
File Currency: September 20, 2023

#### DISCLAIMER:

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| Secured Party   | Debtor(s)  | Collateral Class.   |   |   |   |   |    | File No.                 | Reg. No.  | Comments |
|---|--|---|---|---|---|---|----|--------------------------|---|----------|
|   |  | CG  | I | E | A | O | MV |                          |   |          |
| CORFINANCIAL CORP.  | 1776411 ONTARIO LTD, AS GENERAL PARTNER OF 1333 WEBER STREET KITCHENER LP  |   | X | X | X | X | X  | 792681201<br><b>PPSA</b> | 20230425 1806 1590 0557<br>Reg. 7 year(s)<br>Expires 04/25/2030 |          |
|   | 1776411 ONTARIO LTD. AS GENERAL PARTNER OF 13 33 WEBER STREET KITCHENER LP<br><br>1776411 ONTARIO LTD.<br><br>1333 WEBER STREET KITCHENER LP |   | X | X | X | X | X  | 792681201<br><b>PPSA</b> | 20230504 1520 1590 2193<br><br>A AMNDMNT                        |          |
|   |  | Reason for Amendment:<br>TO CORRECT DEBTORS NAMES AND ADDRESSES |   |   |   |   |    |                          |   |          |
| Secured Party   | Debtor(s)  | Collateral Class.   |   |   |   |   |    | File No.                 | Reg. No.  | Comments |
|   |  | CG  | I | E | A | O | MV |                          |   |          |
| CORFINANCIAL CORP.  | 1776411 ONTARIO LTD.   |   | X | X | X | X | X  | 792681066<br><b>PPSA</b> | 20230425 1805 1590 0555<br>Reg. 7 year(s)<br>Expires 04/25/2030 |          |
| Secured Party   | Debtor(s)  | Collateral Class.   |   |   |   |   |    | File No.                 | Reg. No.  | Comments |
|   |  | CG  | I | E | A | O | MV |                          |   |          |
| LITHIA CANADA LEASING, LP<br><br>LITHIA CANADA LEASING GP, INC. | 1776411 ONTARIO LTD.<br><br>WERNER LEUSCHNER (DOB: 01MAY1963)  |   |   |   |   | X | X  | 784206063<br><b>PPSA</b> | 20220622 0916 1793 1809<br>Reg. 4 year(s)<br>Expires 06/22/2026 |          |

|   |   | Amount Secured:<br>\$74366<br><br>Maturity Date:<br>June 13, 2026<br><br>2017 MERCEDES-BENZ S63 AMG (VIN: WDDXK7JB9HA020986)  |   |   |   |   |    |                          |  |          |
|---|---|---|---|---|---|---|----|--------------------------|--|----------|
| Secured Party   | Debtor(s)   | Collateral Class.   |   |   |   |   |    | File No.                 | Reg. No.   | Comments |
|   |   | CG  | I | E | A | O | MV |                          |  |          |
| WESTMOUNT GUARANTEE SERVICES INC.   | 1776411 ONTARIO LTD.  |   |   |   | X | X |    | 780291612<br><i>PPSA</i> | 20220209 1302 1590 7460<br>Reg. 10 year(s)<br>Expires 02/09/2032 |          |
|   |   | General Collateral Description:<br>PURSUANT TO A DEPOSIT TRUST AGREEMENT DATED FEBRUARY 3, 2022, DEBTORS OWNERSHIP OF (OR BENEFICIAL INTEREST IN) ALL DEPOSITS RECEIVED, TOGETHER WITH ALL INTEREST EARNED OR ACCRUED THEREON, PLUS ANY EXCESS CLOSING PROCEEDS LESS ANY FUNDS RELEASED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 4 THEREOF, RECEIVED BY OR ON BEHALF OF THE DEBTOR FROM PURCHASERS OF THE UNITS IN TOWER C (PHASE 2) OF THE DEBTORS CONDOMINIUM DEVELOPMENT AT 1333 WEBER STREET EAST, KITCHENER, ONTARIO |   |   |   |   |    |                          |  |          |
| Secured Party   | Debtor(s)   | Collateral Class.   |   |   |   |   |    | File No.                 | Reg. No.   | Comments |
|   |   | CG  | I | E | A | O | MV |                          |  |          |
| CMLS FINANCIAL LTD.<br>COMPUTERSHARE TRUST COMPANY OF CANADA<br>GENESIS MORTGAGE INVESTMENT CORP. | 1776411 ONTARIO LTD.<br>(Corp. No.: 1776411)<br>1333 WEBER STREET<br>KITCHENER LP |   | X | X | X | X | X  | 775432296<br><i>PPSA</i> | 20210816 0948 1590 0689<br>Reg. 10 year(s)<br>Expires 08/16/2031 |          |
|   |   | General Collateral Description:<br>GENERAL SECURITY AGREEMENT, GENERAL ASSIGNMENT OF RENTS, ASSIGNMENT OF PLANS, PERMITS AND CONTRACTS AND OTHER SECURITY DOCUMENTS RELATING TO THE PROPERTY MUNICIPALLY KNOWN AS 1333 WEBER STREET EAST, KITCHENER, ONTARIO AND LEGALLY DESCRIBED IN PIN 22590-0549(LT)  |   |   |   |   |    |                          |  |          |

| Secured Party   | Debtor(s)            | Collateral Class.  |   |   |   |   |    | File No.                 | Reg. No.   | Comments |
|---|----------------------|--|---|---|---|---|----|--------------------------|--|----------|
|   |                      | CG   | I | E | A | O | MV |                          |  |          |
| GENESIS MORTGAGE INVESTMENT CORP.   | 1776411 ONTARIO LTD. |  |   |   | X | X |    | 775321614<br><b>PPSA</b> | 20210811 1331 1590 0249<br>Reg. 5 year(s)<br>Expires 08/11/2026  |          |
|   | 1776411 ONTARIO LTD. |  |   |   |   |   |    | 775321614                | 20210817 1033 1590 0896<br><br>J OTHER                           |          |
|   |                      | SUBORDINATION<br>Reason for Amendment:<br>GENESIS MORTGAGE INVESTMENT CORP. HEREBY POSTPONES AND SUBORDINATES ITS SECURITY INTEREST PERFECTED BY REFERENCE FILE NO. 775321614, TO AND IN FAVOUR OF THE SECURITY INTEREST OF COMPUTERSHARE TRUST COMPANY OF CANADA, CMLS FINANCIAL LTD. AND GENESIS MORTGAGE INVESTMENT CORP. PERFECTED BY REFERENCE FILE NO. 775432296.  |   |   |   |   |    |                          |  |          |
| Secured Party   | Debtor(s)            | Collateral Class.  |   |   |   |   |    | File No.                 | Reg. No.   | Comments |
|   |                      | CG   | I | E | A | O | MV |                          |  |          |
| WESTMOUNT GUARANTEE SERVICES INC.   | 1776411 ONTARIO LTD. |  |   |   | X | X |    | 767768931<br><b>PPSA</b> | 20201117 1423 1862 5152<br>Reg. 10 year(s)<br>Expires 11/17/2030 |          |
|   |                      | General Collateral Description:<br>PURSUANT TO A DEPOSIT TRUST AGREEMENT DATED OCTOBER 22, 2020, DEBTOR'S OWNERSHIP OF (OR BENEFICIAL INTEREST IN) ALL DEPOSITS RECEIVED, TOGETHER WITH ALL INTEREST EARNED OR ACCRUED THEREON, PLUS ANY EXCESS CLOSING PROCEEDS LESS ANY FUNDS RELEASED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 4 THEREOF, RECEIVED BY OR ON BEHALF OF THE DEBTOR FROM PURCHASERS OF THE UNITS IN TOWER B (PHASE 1) OF THE DEBTOR'S CONDOMINIUM DEVELOPMENT AT 1333 WEBER STREET EAST, KITCHENER, ONTARIO. |   |   |   |   |    |                          |  |          |
| Secured Party   | Debtor(s)            | Collateral Class.  |   |   |   |   |    | File No.                 | Reg. No.   | Comments |
|   |                      | CG   | I | E | A | O | MV |                          |  |          |
| WESTMOUNT GUARANTEE SERVICES INC. AS ADMINISTRATIVE AGENCY FOR AVIVA IN SURANCE COMPANY OF CANADA, INTACT INSURANCE COMPANY, AND LIBERTY MUTUAL INSURANCE | 1776411 ONTARIO LTD. |  |   |   | X | X |    | 759403656<br><b>PPSA</b> | 20200117 1608 1862 6795<br>Reg. 10 year(s)<br>Expires 01/17/2030 |          |

|   |  |   |  |  |  |  |  |  |  |  |  |
|---|--|---|--|--|--|--|--|--|--|--|--|
| COMPANY<br><br>SURANCE COMPANY OF CANADA, INTACT INSURANCE COMPANY, AND LIBERTY MUTUAL INSURANCE COMPANY<br><br>INSURANCE COMPANY |  |   |  |  |  |  |  |  |  |  |  |
|   |  | <p>General Collateral Description:<br/>         PURSUANT TO A DEPOSIT TRUST AGREEMENT DATED JANUARY 6, 2020, DEBTOR'S OWNERSHIP OF (OR BENEFICIAL INTEREST IN) ALL DEPOSITS RECEIVED, TOGETHER WITH ALL INTEREST EARNED OR ACCRUED THEREON, PLUS ANY EXCESS CLOSING PROCEEDS LESS ANY FUNDS RELEASED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 4 THEREOF, RECEIVED BY OR ON BEHALF OF THE DEBTOR FROM PURCHASERS OF THE 165 UNITS OF THE DEBTOR'S CONDOMINIUM DEVELOPMENT AT 1333 WEBER STREET EAST, KITCHENER, ONTARIO.</p> |  |  |  |  |  |  |  |  |  |



MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE  
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT  
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

RESPONSE CONTAINS: APPROXIMATELY 8 FAMILIES and 25 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS  
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME  
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE  
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT  
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY  
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER  
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS  
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE  
INTERPRETATION AND USE THAT ARE MADE OF IT.

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 8 ENQUIRY PAGE : 1 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 759403656 EXPIRY DATE : 17JAN 2030 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 003 MV SCHEDULE ATTACHED :  
REG NUM : 20200117 1608 1862 6795 REG TYP: P PPSA REG PERIOD: 10  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD.  
OCN :  
04 ADDRESS : 2-258 EDGEWATER CRESCENT  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
WESTMOUNT GUARANTEE SERVICES INC. AS ADMINISTRATIVE AGENCY FOR AVIVA IN  
09 ADDRESS : 600 COCHRANE DRIVE, SUITE 205  
CITY : MARKHAM PROV: ON POSTAL CODE: L3R 5K3  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X X  
YEAR MAKE MODEL V.I.N.  
11  
12

GENERAL COLLATERAL DESCRIPTION

13 PURSUANT TO A DEPOSIT TRUST AGREEMENT DATED JANUARY 6, 2020, DEBTOR'S  
14 OWNERSHIP OF (OR BENEFICIAL INTEREST IN) ALL DEPOSITS RECEIVED,  
15 TOGETHER WITH ALL INTEREST EARNED OR ACCRUED THEREON, PLUS ANY EXCESS  
16 AGENT: MCCARTER GRESPLAN BEYNON WEIR PC (MW, JW, VL 34943)  
17 ADDRESS : 675 RIVERBEND DRIVE  
CITY : KITCHENER PROV: ON POSTAL CODE: N2K 3S3

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 8 ENQUIRY PAGE : 2 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 759403656 EXPIRY DATE : 17JAN 2030 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 003 MV SCHEDULE ATTACHED :  
REG NUM : 20200117 1608 1862 6795 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
SURANCE COMPANY OF CANADA, INTACT INSURANCE COMPANY, AND LIBERTY MUTUAL  
09 ADDRESS :  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.  
11  
12

GENERAL COLLATERAL DESCRIPTION

13 CLOSING PROCEEDS LESS ANY FUNDS RELEASED IN ACCORDANCE WITH THE  
14 PROVISIONS OF SECTION 4 THEREOF, RECEIVED BY OR ON BEHALF OF THE  
15 DEBTOR FROM PURCHASERS OF THE 165 UNITS OF THE DEBTOR'S CONDOMINIUM  
16 AGENT:  
17 ADDRESS :  
CITY : PROV: POSTAL CODE:

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 8 ENQUIRY PAGE : 3 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 759403656 EXPIRY DATE : 17JAN 2030 STATUS :  
01 CAUTION FILING : PAGE : 003 OF 003 MV SCHEDULE ATTACHED :  
REG NUM : 20200117 1608 1862 6795 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
INSURANCE COMPANY

09 ADDRESS :  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.

11  
12

GENERAL COLLATERAL DESCRIPTION

13 DEVELOPMENT AT 1333 WEBER STREET EAST, KITCHENER, ONTARIO.

14  
15

16 AGENT:

17 ADDRESS :  
CITY : PROV: POSTAL CODE:

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 8 ENQUIRY PAGE : 4 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 767768931 EXPIRY DATE : 17NOV 2030 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 003 MV SCHEDULE ATTACHED :  
REG NUM : 20201117 1423 1862 5152 REG TYP: P PPSA REG PERIOD: 10  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD.  
OCN :  
04 ADDRESS : 8-258 EDGEWATER CRESCENT  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
WESTMOUNT GUARANTEE SERVICES INC.  
09 ADDRESS : 600 COCHRANE DRIVE, SUITE 205  
CITY : MARKHAM PROV: ON POSTAL CODE: L3R 5K3  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X X  
YEAR MAKE MODEL V.I.N.  
11  
12

GENERAL COLLATERAL DESCRIPTION

13 PURSUANT TO A DEPOSIT TRUST AGREEMENT DATED OCTOBER 22, 2020,  
14 DEBTOR'S OWNERSHIP OF (OR BENEFICIAL INTEREST IN) ALL DEPOSITS  
15 RECEIVED, TOGETHER WITH ALL INTEREST EARNED OR ACCRUED THEREON, PLUS  
16 AGENT: MCCARTER GRESPLAN BEYNON WEIR PC(34943/CH/MWO)  
17 ADDRESS : 675 RIVERBEND DRIVE  
CITY : KITCHENER PROV: ON POSTAL CODE: N2K 3S3

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 8 ENQUIRY PAGE : 5 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 767768931 EXPIRY DATE : 17NOV 2030 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 003 MV SCHEDULE ATTACHED :  
REG NUM : 20201117 1423 1862 5152 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.  
11  
12

GENERAL COLLATERAL DESCRIPTION

13 ANY EXCESS CLOSING PROCEEDS LESS ANY FUNDS RELEASED IN ACCORDANCE  
14 WITH THE PROVISIONS OF SECTION 4 THEREOF, RECEIVED BY OR ON BEHALF OF  
15 THE DEBTOR FROM PURCHASERS OF THE UNITS IN TOWER B (PHASE 1) OF THE  
16 AGENT:

17 ADDRESS :  
CITY : PROV: POSTAL CODE:

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 8 ENQUIRY PAGE : 6 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 767768931 EXPIRY DATE : 17NOV 2030 STATUS :  
01 CAUTION FILING : PAGE : 003 OF 003 MV SCHEDULE ATTACHED :  
REG NUM : 20201117 1423 1862 5152 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.  
11  
12

GENERAL COLLATERAL DESCRIPTION

13 DEBTOR'S CONDOMINIUM DEVELOPMENT AT 1333 WEBER STREET EAST,  
14 KITCHENER, ONTARIO.

15

16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 3 OF 8 ENQUIRY PAGE : 7 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 775321614 EXPIRY DATE : 11AUG 2026 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20210811 1331 1590 0249 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD.  
OCN :  
04 ADDRESS : 29 IDLE RIDGE COURT  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 3W3  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
GENESIS MORTGAGE INVESTMENT CORP.  
09 ADDRESS : 3600 NO. 3 ROAD SUITE 200  
CITY : RICHMOND PROV: BC POSTAL CODE: V6X 2C1  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X X  
YEAR MAKE MODEL V.I.N.

11  
12  
13  
14  
15

GENERAL COLLATERAL DESCRIPTION

16 AGENT: DEVRY, SMITH & FRANK LLP  
17 ADDRESS : 100-95 BARBER GREENE ROAD  
CITY : TORONTO PROV: ON POSTAL CODE: M3C 3E9

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*



MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 3 OF 8 ENQUIRY PAGE : 8 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

FILE NUMBER 775321614

PAGE TOT REGISTRATION NUM REG TYPE  
01 CAUTION : 001 OF 2 MV SCHED: 20210817 1033 1590 0896

21 REFERENCE FILE NUMBER : 775321614

22 AMEND PAGE: NO PAGE: CHANGE: J OTHER REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME: 1776411 ONTARIO LTD.

25 OTHER CHANGE: SUBORDINATION

26 REASON: GENESIS MORTGAGE INVESTMENT CORP. HEREBY POSTPONES AND SUBORDINATES

27 /DESCR: ITS SECURITY INTEREST PERFECTED BY REFERENCE FILE NO. 775321614, TO

28 : AND IN FAVOUR OF THE SECURITY INTEREST OF COMPUTERSHARE TRUST

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

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16 NAME : SCHNEIDER RUGGIERO SPENCER MILBURN LLP (42896 DM/SZ)

17 ADDRESS : 1000-120 ADELAIDE STREET WEST

CITY : TORONTO PROV : ON POSTAL CODE : M5H 3V1

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 3 OF 8 ENQUIRY PAGE : 9 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

FILE NUMBER 775321614

PAGE TOT REGISTRATION NUM REG TYPE  
01 CAUTION : 002 OF 2 MV SCHED: 20210817 1033 1590 0896

21 REFERENCE FILE NUMBER : 775321614

22 AMEND PAGE: NO PAGE: CHANGE: REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME:

25 OTHER CHANGE:

26 REASON: COMPANY OF CANADA, CMLS FINANCIAL LTD. AND GENESIS MORTGAGE

27 /DESCR: INVESTMENT CORP. PERFECTED BY REFERENCE FILE NO. 775432296.

28 :

02/05 IND/TRANSFeree:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

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16 NAME :

17 ADDRESS :

CITY : PROV : POSTAL CODE :

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 4 OF 8 ENQUIRY PAGE : 10 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: P PPSA REG PERIOD: 10  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD.  
OCN : 1776411  
04 ADDRESS : 258 EDGEWATER CRESCENT, SUITE 8  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2  
05 IND DOB : IND NAME:  
06 BUS NAME: 1333 WEBER STREET KITCHENER LP  
OCN :  
07 ADDRESS : 258 EDGEWATER CRESCENT, SUITE 8  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2

08 SECURED PARTY/LIEN CLAIMANT :

CMLS FINANCIAL LTD.

09 ADDRESS : SUITE 2110 - 1066 WEST HASTINGS STREET

CITY : VANCOUVER PROV: BC POSTAL CODE: V6E 3X2

CONS. MV DATE OF OR NO FIXED

GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

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YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

13 GENERAL SECURITY AGREEMENT, GENERAL ASSIGNMENT OF RENTS, ASSIGNMENT

14 OF PLANS, PERMITS AND CONTRACTS AND OTHER SECURITY DOCUMENTS RELATING

15 TO THE PROPERTY MUNICIPALLY KNOWN AS 1333 WEBER STREET EAST,

16 AGENT: SCHNEIDER RUGGIERO SPENCER MILBURN LLP (42896 DM/SZ)

17 ADDRESS : 1000-120 ADELAIDE STREET WEST

CITY : TORONTO PROV: ON POSTAL CODE: M5H 3V1

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 4 OF 8 ENQUIRY PAGE : 11 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
COMPUTERSHARE TRUST COMPANY OF CANADA  
09 ADDRESS : 100 UNIVERSITY AVENUE, 8TH FLOOR,  
CITY : TORONTO PROV: ON POSTAL CODE: M5J 2Y1  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.  
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GENERAL COLLATERAL DESCRIPTION  
13 KITCHENER, ONTARIO AND LEGALLY DESCRIBED IN PIN 22590-0549 (LT)  
14  
15  
16 AGENT:  
17 ADDRESS :  
CITY : PROV: POSTAL CODE:

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 4 OF 8 ENQUIRY PAGE : 12 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 003 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS : SOUTH TOWER  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.  
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12  
GENERAL COLLATERAL DESCRIPTION  
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15  
16 AGENT:  
17 ADDRESS :  
CITY : PROV: POSTAL CODE:

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 4 OF 8 ENQUIRY PAGE : 13 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 004 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
GENESIS MORTGAGE INVESTMENT CORP.  
09 ADDRESS : #805-8400 WEST ROAD,  
CITY : RICHMOND PROV: BC POSTAL CODE: V6X 0S7  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.  
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GENERAL COLLATERAL DESCRIPTION

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16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 4 OF 8 ENQUIRY PAGE : 14 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 775432296 EXPIRY DATE : 16AUG 2031 STATUS :  
01 CAUTION FILING : PAGE : 005 OF 5 MV SCHEDULE ATTACHED :  
REG NUM : 20210816 0948 1590 0689 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS : NORTH TOWER, INTERNATIONAL TRADE CENTRE  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION  
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16 AGENT:  
17 ADDRESS :  
CITY : PROV: POSTAL CODE:

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 5 OF 8 ENQUIRY PAGE : 15 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 780291612 EXPIRY DATE : 09FEB 2032 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 3 MV SCHEDULE ATTACHED :  
REG NUM : 20220209 1302 1590 7460 REG TYP: P PPSA REG PERIOD: 10  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD.  
OCN :  
04 ADDRESS : 258 EDGEWATER CRESCENT, UNIT 8  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
WESTMOUNT GUARANTEE SERVICES INC.  
09 ADDRESS : 600 COCHRANE DRIVE, SUITE 205  
CITY : MARKHAM PROV: ON POSTAL CODE: L3R 5K3  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X X  
YEAR MAKE MODEL V.I.N.  
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GENERAL COLLATERAL DESCRIPTION

13 PURSUANT TO A DEPOSIT TRUST AGREEMENT DATED FEBRUARY 3, 2022, DEBTORS  
14 OWNERSHIP OF (OR BENEFICIAL INTEREST IN) ALL DEPOSITS RECEIVED,  
15 TOGETHER WITH ALL INTEREST EARNED OR ACCRUED THEREON, PLUS ANY EXCESS  
16 AGENT: MCCARTER GRESPLAN BEYNON WEIR PC (MWO/VIS)  
17 ADDRESS : 675 RIVERBEND DRIVE  
CITY : KITCHENER PROV: ON POSTAL CODE: N2K 3S3

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*



MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 5 OF 8 ENQUIRY PAGE : 16 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 780291612 EXPIRY DATE : 09FEB 2032 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 3 MV SCHEDULE ATTACHED :  
REG NUM : 20220209 1302 1590 7460 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.  
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GENERAL COLLATERAL DESCRIPTION

13 CLOSING PROCEEDS LESS ANY FUNDS RELEASED IN ACCORDANCE WITH THE  
14 PROVISIONS OF SECTION 4 THEREOF, RECEIVED BY OR ON BEHALF OF THE  
15 DEBTOR FROM PURCHASERS OF THE UNITS IN TOWER C (PHASE 2) OF THE  
16 AGENT:

17 ADDRESS :  
CITY : PROV: POSTAL CODE:

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 5 OF 8 ENQUIRY PAGE : 17 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 780291612 EXPIRY DATE : 09FEB 2032 STATUS :  
01 CAUTION FILING : PAGE : 003 OF 3 MV SCHEDULE ATTACHED :  
REG NUM : 20220209 1302 1590 7460 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.  
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GENERAL COLLATERAL DESCRIPTION

13 DEBTORS CONDOMINIUM DEVELOPMENT AT 1333 WEBER STREET EAST, KITCHENER,  
14 ONTARIO

15

16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 6 OF 8 ENQUIRY PAGE : 18 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 784206063 EXPIRY DATE : 22JUN 2026 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 2 MV SCHEDULE ATTACHED :  
REG NUM : 20220622 0916 1793 1809 REG TYP: P PPSA REG PERIOD: 4  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD.  
OCN :  
04 ADDRESS : 258 EDGEWATER CRES UN8  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A4M2  
05 IND DOB : 01MAY1963 IND NAME: WERNER LEUSCHNER  
06 BUS NAME:  
OCN :  
07 ADDRESS : 258 EDGEWATER CRES UN8  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A4M2

08 SECURED PARTY/LIEN CLAIMANT :  
LITHIA CANADA LEASING, LP  
09 ADDRESS : 101 AUTO PARK CIRCLE  
CITY : WOODBRIDGE PROV: ON POSTAL CODE: L4L8R1  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X X 74366 13JUN2026  
YEAR MAKE MODEL V.I.N.  
11 2017 MERCEDES-BENZ S63 AMG WDDXK7JB9HA020986  
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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: LITHIA CANADA LEASING, LP DBA PFAFF LEASING

17 ADDRESS : 101 AUTO PARK CIRCLE

CITY : WOODBRIDGE PROV: ON POSTAL CODE: L4L8R1

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 6 OF 8 ENQUIRY PAGE : 19 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 784206063 EXPIRY DATE : 22JUN 2026 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 2 MV SCHEDULE ATTACHED :  
REG NUM : 20220622 0916 1793 1809 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:  
OCN :  
04 ADDRESS :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:  
OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
LITHIA CANADA LEASING GP, INC.  
09 ADDRESS : 101 AUTO PARK CIRCLE  
CITY : WOODBRIDGE PROV: ON POSTAL CODE: L4L8R1  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10  
YEAR MAKE MODEL V.I.N.  
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GENERAL COLLATERAL DESCRIPTION

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16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 7 OF 8 ENQUIRY PAGE : 20 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 792681066 EXPIRY DATE : 25APR 2030 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20230425 1805 1590 0555 REG TYP: P PPSA REG PERIOD: 7  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD.  
OCN :  
04 ADDRESS : 1333 WEBER STREET, EAST  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 1C2  
05 IND DOB : IND NAME:  
06 BUS NAME: 1776411 ONTARIO LTD.  
OCN :  
07 ADDRESS : 8-258 EDGEWATER CRESCENT  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2

08 SECURED PARTY/LIEN CLAIMANT :  
CORFINANCIAL CORP.  
09 ADDRESS : 5000 YONGE STREET, SUITE 1901  
CITY : NORTH YORK PROV: ON POSTAL CODE: M2N 7E9  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X X X X X  
YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: WEIRFOULDS LLP (D. THOMSON)

17 ADDRESS : 66 WELLINGTON STREET WEST, SUITE 4100

CITY : TORONTO PROV: ON POSTAL CODE: M5K 1B7

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 8 OF 8 ENQUIRY PAGE : 21 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

00 FILE NUMBER : 792681201 EXPIRY DATE : 25APR 2030 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20230425 1806 1590 0557 REG TYP: P PPSA REG PERIOD: 7  
02 IND DOB : IND NAME:  
03 BUS NAME: 1776411 ONTARIO LTD, AS GENERAL PARTNER OF 1333 WEBER STREET KITCH  
ENER LP OCN :  
04 ADDRESS : 1333 WEBER STREET, EAST  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 1C2  
05 IND DOB : IND NAME:  
06 BUS NAME: 1776411 ONTARIO LTD, AS GENERAL PARTNER OF 1333 WEBER STREET KITCH  
ENER LP OCN :  
07 ADDRESS : 8-258 EDGEWATER CRESCENT  
CITY : KITCHENER PROV: ON POSTAL CODE: N2A 4M2

08 SECURED PARTY/LIEN CLAIMANT :  
CORFINANCIAL CORP.  
09 ADDRESS : 5000 YONGE STREET, SUITE 1901  
CITY : NORTH YORK PROV: ON POSTAL CODE: M2N 7E9  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X X X X X  
YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: WEIRFOULDS LLP (D. THOMSON)

17 ADDRESS : 66 WELLINGTON STREET WEST, SUITE 4100

CITY : TORONTO PROV: ON POSTAL CODE: M5K 1B7

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 8 OF 8 ENQUIRY PAGE : 22 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

FILE NUMBER 792681201

PAGE TOT REGISTRATION NUM REG TYPE  
01 CAUTION : 001 OF 4 MV SCHED: 20230504 1520 1590 2193 P PPSA  
21 REFERENCE FILE NUMBER : 792681201  
22 AMEND PAGE: NO PAGE: X CHANGE: A AMNDMNT REN YEARS: CORR PER:  
23 REFERENCE DEBTOR/ IND NAME:  
24 TRANSFEROR: BUS NAME: 1776411 ONTARIO LTD. AS GENERAL PARTNER OF 13  
25 OTHER CHANGE:  
26 REASON: TO CORRECT DEBTORS NAMES AND ADDRESSES  
27 /DESCR:  
28 :  
02/05 IND/TRANSFEE:  
03/06 BUS NAME/TRFEE: 1776411 ONTARIO LTD.  
OCN:  
04/07 ADDRESS: 1333 WEBER STREET EAST  
CITY: KITCHENER PROV: ON POSTAL CODE: N2A 1C2

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

| CITY : | PROV : | POSTAL CODE : |          |       |      |        |             |          |
|--------|--------|---------------|----------|-------|------|--------|-------------|----------|
| CONS.  | MV     | DATE OF       | NO FIXED |       |      |        |             |          |
| GOODS  | INVTRY | EQUIP         | ACCTS    | OTHER | INCL | AMOUNT | MATURITY OR | MAT DATE |
| 10     | X      | X             | X        | X     | X    |        |             |          |

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16 NAME : WEIRFOULDS LLP (D. THOMSON)

17 ADDRESS : 4100-66 WELLINGTON STREET WEST

CITY : TORONTO PROV : ON POSTAL CODE : M5K 1B7

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 8 OF 8 ENQUIRY PAGE : 23 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

FILE NUMBER 792681201

PAGE TOT REGISTRATION NUM REG TYPE  
01 CAUTION : 002 OF 4 MV SCHED: 20230504 1520 1590 2193

21 REFERENCE FILE NUMBER : 792681201

22 AMEND PAGE: NO PAGE: CHANGE: REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME:

25 OTHER CHANGE:

26 REASON:

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE: 1776411 ONTARIO LTD.

OCN:

04/07 ADDRESS: 8-258 EDGEWATER CRESCENT

CITY: KITCHENER PROV: ON POSTAL CODE: N2A 4M2

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

10

11

12

13

14

15

16 NAME :

17 ADDRESS :

CITY : PROV : POSTAL CODE :

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*



MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 8 OF 8 ENQUIRY PAGE : 24 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

FILE NUMBER 792681201

PAGE TOT REGISTRATION NUM REG TYPE  
01 CAUTION : 003 OF 4 MV SCHED: 20230504 1520 1590 2193

21 REFERENCE FILE NUMBER : 792681201

22 AMEND PAGE: NO PAGE: CHANGE: REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME:

25 OTHER CHANGE:

26 REASON:

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE: 1333 WEBER STREET KITCHENER LP

OCN:

04/07 ADDRESS: 1333 WEBER STREET EAST

CITY: KITCHENER PROV: ON POSTAL CODE: N2A 1C2

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

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16 NAME :

17 ADDRESS :

CITY : PROV : POSTAL CODE :

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 1776411 ONTARIO LTD.

FILE CURRENCY: September 20, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 8 OF 8 ENQUIRY PAGE : 25 OF 25

SEARCH : BD : 1776411 ONTARIO LTD.

FILE NUMBER 792681201

PAGE TOT REGISTRATION NUM REG TYPE  
01 CAUTION : 004 OF 4 MV SCHED: 20230504 1520 1590 2193

21 REFERENCE FILE NUMBER : 792681201

22 AMEND PAGE: NO PAGE: CHANGE: REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME:

25 OTHER CHANGE:

26 REASON:

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE: 1333 WEBER STREET KITCHENER LP

OCN:

04/07 ADDRESS: 8-258 EDGEWATER CRESCENT

CITY: KITCHENER PROV: ON POSTAL CODE: N2A 4M2

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

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16 NAME :

17 ADDRESS :

CITY : PROV : POSTAL CODE :

LAST SCREEN

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

**THIS IS EXHIBIT "O" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**



*Miller Singh-Chhena*

---

**A Commissioner for taking affidavits, etc.**

## SUBORDINATION AND STANDSTILL AGREEMENT

THIS AGREEMENT made as of the 8<sup>th</sup> day of May, 2023.

BETWEEN:

**COMPUTERSHARE TRUST COMPANY OF CANADA, CMLS FINANCIAL LTD. and  
GENESIS MORTGAGE INVESTMENT CORP.**

(hereinafter collectively referred to as the "**Senior Lender**"),

and

**CORFINANCIAL CORP.**

(hereinafter referred to as the "**Subordinate Lender**"),

**WHEREAS** pursuant to a commitment letter dated June 28, 2021 and a commitment letter amendment dated May 3, 2022 (collectively the "**Senior Commitment Letter**"), from the Senior Lender to 1776411 Ontario Ltd. as general partner on behalf of 1333 Weber Street Kitchener LP (collectively the "**Borrower**"), the Senior Lender has agreed to make available to the Borrower a loan in the maximum principal amount of \$82,000,000 (the "**Senior Loan**") which Senior Loan is secured by, among other things, a mortgage of the lands and premises described in Schedule A attached hereto (the "**Property**") and all present and after-acquired personal property of the Borrower and of 1639993 Ontario Ltd., Jaykam Developers Limited, Werner Leuschner and Kamal Patel (collectively the "**Guarantors**" and together with the Borrower, the "**Covenantors**" and each a "**Covenantor**"). The Senior Loan and all existing and future indebtedness and other obligations and liabilities relating to or arising from the Property owing by the Covenantors to the Senior Lender pursuant to the Senior Commitment Letter, from time to time, shall be referred to as the "**Senior Indebtedness**", and the security in respect of the Property and/or the Proceeds (as hereinafter defined), including all amendments, replacements and additions thereto and substitutions therefor, shall be referred to as the "**Senior Security**".

**AND WHEREAS** pursuant to a commitment letter dated May 8, 2023 (the "**Subordinate Commitment Letter**") from the Subordinate Lender to the Borrower and the Guarantors, the Subordinate Lender has agreed to make available to the Borrower a loan in the maximum principal amount of \$3,500,000 (the "**Subordinate Loan**"), which Subordinate Loan is secured by, among other things, a mortgage of the Property and all present and after-acquired personal property of the Covenantors. The Subordinate Loan and all existing and future indebtedness and other obligations and liabilities relating to or arising from the Property owing by the Covenantors to the Subordinate Lender pursuant to the Subordinate Commitment Letter, from time to time, shall be referred to as the "**Subordinate Indebtedness**", and the security in respect of the Property and/or the Proceeds (as hereinafter defined), including all amendments, replacements and additions thereto and substitutions therefor, shall be referred to as the "**Subordinate Security**".

**AND WHEREAS** the Subordinate Lender has agreed to subordinate and postpone the Subordinate Indebtedness and the Subordinate Security to and in favour of the Senior Indebtedness and the Senior Security on the terms and subject to the conditions set out herein.

**AND WHEREAS** without limiting section 1 hereof, reference herein to the Senior Commitment Letter, the Senior Loan, the Senior Indebtedness, the Senior Security, the Subordinate Commitment Letter, the Subordinate Loan, the Subordinate Indebtedness and the Subordinate Security includes all renewals, extensions, amendments, modifications, and restatements thereof or thereto from time to time.

**NOW THEREFORE** for good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties hereto hereby confirm the veracity and accuracy of the foregoing recitals and agree as follows:

## 1. Subordination and Postponement

The Subordinate Lender hereby subordinates and postpones the Subordinate Indebtedness and the Subordinate Security to the Senior Indebtedness and the Senior Security and agrees with the Senior Lender that the Senior Security shall be a first priority mortgage, security interest, lien and charge against the Property and all present and after-acquired personal property charged by the Senior Security, and all of the right, title and interest of the Covenantors therein, for the full amount of the Senior Indebtedness in full priority to the Subordinate Indebtedness and the Subordinate Security. The foregoing subordination and postponement of the Subordinate Indebtedness and the Subordinate Security to the Senior Indebtedness and the Senior Security shall include the subordination and postponement of the Subordinate Indebtedness to the Senior Indebtedness only to the extent required to make the Senior Security a first priority mortgage, security interest, lien and charge against the Property and all present and after-acquired personal property charged by the Senior Security, and all of the right, title and interest of the Covenantors therein, for the entire amount of the Senior Indebtedness at all times that any of the Senior Indebtedness remains outstanding. No discharge, release or waiver by the Senior Lender of any of the Senior Security against or in respect of any part of the Property or any person shall require notice to or the consent of the Subordinate Lender or otherwise affect the subordination and postponement of the Subordinate Indebtedness and the Subordinate Security hereby granted by the Subordinate Lender other than with respect to the Property or person in respect of which or whom the Senior Security is so discharged, released or waived.

No amendment, renewal, extension, replacement, modification, supplement or restatement of any Senior Indebtedness and/or the Senior Security (each, a "**Modification**") shall require the consent of the Subordinate Lender or otherwise affect the subordination and postponement of the Subordinate Indebtedness and the Subordinate Security hereby granted by the Subordinate Lender.

No amendment, renewal, extension, replacement, modification, supplement or restatement of any Subordinate Indebtedness and/or the Subordinate Security (each, a "**Subordinate Modification**") shall require the consent of the Senior Lender or otherwise affect the subordination and postponement of the Subordinate Indebtedness and the Subordinate Security hereby granted by the Subordinate Lender, except for any Subordinate Modification which is intended to increase the amount of the Subordinate Indebtedness (either by increasing the principal amount of the Subordinate Indebtedness or a change in the interest rate or the method of calculating the interest rate applicable thereto which results in an increase in the amount of interest payable during the term of the Subordinate Loan or to accelerate the final repayment of the Subordinate Indebtedness by a time period greater than three (3) months, (each, a "**Material Subordinate Modification**") in which case, the prior written consent of the Senior Lender shall only be required with respect to, and only to the extent of, such Material Subordinate Modification. To the extent that any consent of the Senior Lender is required hereunder, the Senior Lender shall have five (5) Business Days to respond to the Subordinate Lender, failing which, it shall be deemed to have granted its consent.

The subordinations and postponements contained herein shall apply in all events and circumstances regardless of:

- (a) the date of execution, delivery, attachment, filing, registration, perfection or enforcement of any of the Senior Security or the Subordinate Security;
- (b) the date of any loan, advance, advances or other accommodation under the Senior Indebtedness or under the Subordinate Indebtedness;
- (c) the date of any default under or in respect of any of the Senior Indebtedness or the Senior Security or the Subordinate Indebtedness or the Subordinate Security, or the date of any crystallization of any floating charges constituted by the Senior Security or the Subordinate Security;
- (d) any priority granted by any applicable principle of law or statute;
- (e) the failure of the Senior Lender to register, maintain, renew or keep current any registration of or pertaining to the Senior Security ; or
- (f) any exercise or non-exercise of any right or remedy in respect of the Senior Security .

Any insurance proceeds received in respect of the Property or the collateral or assets, which are the subject of the Senior Security granted by the Covenantor in respect thereof, shall be dealt with in accordance with the preceding provisions as though such insurance proceeds were paid or payable as proceeds of realization of the collateral for which they compensate.

## 2. Subordinate Lender Purchase Option

The Senior Lender may deliver to the Subordinate Lender copies of (i) any notice (a "**Default Notice**") of an event of default under the Senior Commitment Letter or the Senior Security (an "**Event of Default**") pursuant to which the Senior Lender may accelerate and/or demand repayment of the Senior Indebtedness prior to the maturity of the Senior Loan concurrently with its delivery of such Default Notice to the Borrower; and (ii) any notice of acceleration or demand for payment (a "**Demand Notice**") delivered pursuant to an Event of Default which occurred prior to the giving of such Demand Notice where a copy of the Default Notice had not previously been delivered to the Subordinated Lender, concurrently with its delivery of such Demand Notice to the Borrower.

In the event that the Senior Lender does deliver a Default Notice relating to an Event of Default where the Senior Lender is accelerating or demanding repayment of the Senior Indebtedness, the Subordinate Lender shall have the right to request from the Senior Lender a notice (a "**Purchase Option Notice**") which sets out an amount (the "**Purchase Price**") being equal to the sum of: (i) the then-outstanding principal balance of the Senior Indebtedness plus (ii) all accrued and unpaid fees and interest owing to the Senior Lender then outstanding in respect of the Senior Indebtedness and fees (including for greater certainty any exit fees, prepayment fees, yield maintenance payments, liquidated damages amounts and legal fees and other costs reasonably incurred in respect of matters relating to the Senior Loan, but excluding any amounts charged in violation of applicable law). Upon receipt of a Purchase Option Notice, the Subordinate Lender shall have the option, exercisable by the Subordinate Lender by delivering a notice (the "**Exercise Notice**") to the Senior Lender within ten (10) Business Days after the receipt of such Purchase Option Notice, to purchase the Senior Indebtedness from the Senior Lender for the Purchase Price (the "**Purchase Option**"). If the Subordinate Lender fails to deliver the Exercise Notice to the Senior Lender within such ten (10) Business Day period, the Subordinate Lender shall be deemed to have elected not to exercise the Purchase Option with respect to the applicable Default Notice, provided that such election shall not prejudice the Subordinate Lender's right to exercise the Purchase Option in the event of the delivery of any subsequent Default Notices. The Senior Lender and the Subordinate Lender shall close the sale of the Senior Indebtedness as soon as practicable after and, in any event no later than thirty (30) days following, the delivery of the Exercise Notice unless they mutually agree to an extension of such thirty (30) day period. At the closing, the Senior Lender shall deliver to the Subordinate Lender original execution copies of the Senior Commitment Letter, the Senior Security and all other documents relating to the Senior Indebtedness and shall execute and deliver to the Subordinate Lender assignment documentation in form and substance acceptable to the Senior Lender and to the Subordinate Lender, acting reasonably, to effectuate the transfer of all of the Senior Lender's right, title and interest under, in and to the Senior Commitment Letter, the Senior Security and all related contracts, deeds, instruments and other documents.

In the event that the Senior Lender delivers Default Notice relating to an Event of Default where the Senior Lender is not accelerating or demanding repayment of the Senior Indebtedness, the provisions of this Section shall apply following receipt by the Subordinate Lender of such Default Notice.

## 3. Cost Overruns

In the event there are cost overruns in relation to the development of the Property, the Senior Lender shall require that the amount of any such overruns be paid by the Covenantors. In the event the Covenantors are not able or fail to pay such cost overruns, then, prior to the Senior Lender making any advances under the Senior Loan with regard to such overruns, the Senior Lender may give written notice to the Subordinate Lender of the requirement for the amount of such cost overruns to be advanced, and the Subordinate Lender shall have ten (10) business days from the date of receipt of such written notice to advise the Senior Lender that the Subordinate Lender wishes to increase the Subordinate Loan by the amount of such overruns, and advance such amount to the Borrower, failing which the Senior Lender shall be entitled, in its sole discretion, to advance the amount of such cost overruns. In the event the Subordinate Lender advances the amount of such cost overruns to the

Borrower, such amounts shall be secured under the Subordinate Security and form part of the Subordinate Indebtedness, and shall be subordinated and postponed to the Senior Security and the Senior Indebtedness to the full extent provided for in Section 1. In the event the Senior Lender advances the amount of such cost overruns to the Borrower (a "**Cost Overrun Advance**"), each such Cost Overrun Advance shall be secured under the Senior Security and form part of the Senior Indebtedness, and the Subordinate Lender agrees: (a) that the maximum principal amount of the Senior Indebtedness shall be automatically increased by the amount of each such Cost Overrun Advance; and (b) to execute such amendments to this Agreement and such registrable postponements of the Subordinate Security and other documents as the Senior Lender may require in connection with such Cost Overrun Advance.

#### 4. Payments

The Subordinate Lender agrees that forthwith upon its receipt of a Default Notice from the Senior Lender:

- (a) all rents, revenue, income, cash flow and other proceeds arising from or relating to the Property (the "**Proceeds**") shall not be applied to any payment on account of the Subordinate Indebtedness until the Senior Indebtedness is paid in full or the Event of Default has been cured in accordance with the terms of the Senior Commitment Letter and the Senior Security ; and
- (b) the Subordinate Lender shall not accept any payment on account of the Subordinate Indebtedness which the Subordinate Lender knows or reasonably ought to know is a payment made from the Proceeds, and if any such payments are received, the Subordinate Lender shall hold such payments in trust for the Senior Lender and immediately pay such amount to the Senior Lender without deduction. All insurance, expropriation and condemnation proceeds relating to the Property shall be dealt with and applied, whether before or after any Event of Default under or in respect of the Senior Indebtedness or the Subordinate Indebtedness, in accordance with the provisions of the Senior Commitment Letter and/or the Senior Security notwithstanding any provision to the contrary in the Subordinate Security.

The Senior Lender and the Subordinate Lender shall provide reasonable cooperation to each other following the giving of such Default Notice to ensure the provisions of this section are complied with.

#### 5. No Payments

The Subordinate Lender shall not receive or accept any money or other property from the Covenantors in payments of the Subordinate Indebtedness and Subordinate Security (save and except for fees and monthly payments of accrued interest of such indebtedness and liability) until the Senior Indebtedness has been repaid in full and the Senior Security has been released and discharged. So long as the Borrower is not in default under the Senior Security, the Subordinate Lender shall, subject to the prior written consent of the Senior Lender, be entitled to accept a prepayment of the Subordinate Indebtedness in accordance with the Subordinate Commitment Letter.

#### 6. Consent

The Senior Lender hereby irrevocably consents to the Subordinate Indebtedness and the Subordinate Security. The Subordinate Lender hereby irrevocably consents to the Senior Indebtedness and the Senior Security.

#### 7. Assignment

- (a) The Subordinate Lender agrees that it shall not sell, transfer, assign or otherwise dispose of any interest in the Subordinate Indebtedness or the Subordinate Security to any person or persons (the "**Assignee**"), and that no such sale, transfer, assignment or other disposition shall in any way be effective unless, in each such case:
  - (i) such Assignee executes and delivers to the Senior Lender an assumption agreement directly with the Senior Lender pursuant to which such Assignee

agrees to be bound by all of the terms and conditions hereof including without limitation all of the obligations of the Subordinate Lender hereunder and affirms all of the respective rights, remedies and priorities set forth herein (including, without limitation, an express covenant from such Assignee against any further sale, transfer, assignment or other disposition except in accordance with this section); and

- (ii) a corresponding transfer in favour of the Assignee of any registered notice of this Agreement has been registered against title to the Property in accordance with this Agreement. The Senior Lender shall be required to act reasonably and in good faith in entering into any such assumption agreement with the Assignee.
- (b) The Senior Lender agrees that it shall not sell, transfer, assign or otherwise dispose of any interest in the Senior Indebtedness or the Senior Security to any Assignee, and no such sale, transfer, assignment or other disposition shall in any way be effective unless, in each such case:
- (i) such Assignee executes and delivers to the Subordinate Lender an assumption agreement directly with the Subordinate Lender pursuant to which such Assignee agrees to be bound by all of the obligations of the Senior Lender hereunder and affirms all of the respective rights, remedies and priorities set forth herein (including, without limitation, an express covenant from such Assignee against any further sale, transfer, assignment or other disposition except in accordance with this section); and
  - (ii) corresponding transfers in favour of the Assignee of the registered postponement and any registered notice of this Agreement have been registered against title to the Property in accordance with this Agreement. The Subordinate Lender shall be required to act reasonably and in good faith in entering into any such assumption agreement with the Assignee.

#### **8. Standstill by Subordinate Lender**

As long as there is any Senior Indebtedness owing to the Senior Lender under the Senior Commitment Letter and/or the Senior Security, the Subordinate Lender shall not take any Enforcement Action (as hereinafter defined) under or in respect of the Subordinate Security or the Subordinate Indebtedness with respect to all or any part of the Property, or the right, title and interest of the Borrower therein, or against a Covenantor unless and until the Senior Lender has provided written consent, which consent may be given or withheld by the Senior Lender in its sole discretion. It is the express intention of the parties that the words "sole discretion" mean the exercise of the applicable right, determination, approval, consent or discretion in a manner that is completely and absolutely subjective in all respects and does not create or imply a duty or obligation of any kind on the part of the Senior Lender to act objectively or to apply any objective criteria or to conform to any other standard, it being the intention that the exercise of "sole discretion" by the Senior Lender will not be subject to any restriction, limitation, challenge or review of any kind whatsoever at any time by the Subordinate Lender, the Borrower or any court or any other person. The Subordinate Lender shall not 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 Security against any Covenantor or against all or any part of the Property and related personal property.

For greater certainty, the Subordinate Lender shall not challenge, contest or bring into question:

- (i) the validity, priority or perfection of the Senior Security ; or
- (ii) any Enforcement Action taken by the Senior Lender under or in respect of the Senior Security or Senior Indebtedness against the Covenantors or against all or any part of the Property, or the right, title and interest of a Covenantor therein, except for a challenge of an Enforcement Action (but for greater certainty not the validity, priority or perfection of the Senior Security ) in circumstances where non-compliance with laws or any provision of this Agreement applicable to such Enforcement Action is alleged



by the Subordinate Lender.

In this Agreement, "**Enforcement Action**" means the commencement of any realization (including seizure) proceedings, 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 (other than a notice to the Covenantors of the default) 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.

The Subordinate Lender shall deliver to the Senior Lender copies of any notice of an event of default under the Subordinate Commitment Letter or the Subordinate Security pursuant to which the Subordinate Lender may accelerate and/or demand repayment of the Subordinate Indebtedness prior to the maturity of the Subordinate Loan concurrently with its delivery of such notice to a Covenantor.

## 9. Condominium Provisions

- a) The Subordinate Lender acknowledges and confirms that the Senior Lender is relying upon the above-noted standstill on the part of the Subordinate Lender in order to be assured that in the event that the Senior Lender delivers copies of a Default Notice and a Demand Notice in connection with an Event of Default, which it delivered to the Borrower, and the Senior Lender thereupon exercises its rights under the Senior Security to complete the development and registration of the condominium project under enforcement remedies available to it under the Senior Security or at law, and the closing of the unit sale transactions on its own, either directly or through a receiver and manager, or nominee or assignee, then no actions, steps or proceedings shall or will be taken by or on behalf of the Subordinate Lender [whether culminating in any document or instrument hereafter registered against or otherwise affecting the Property (or any portion thereof), or otherwise] which might negatively or detrimentally impact upon the Senior Lender's ability to expeditiously complete the development and registration of the condominium project, and/or which might restrict, inhibit, hinder or delay the sale and closing of the individual unit sale transactions in respect of the condominium project.
- b) The Subordinate Lender acknowledges and agrees, whether or not the Subordinate Security is in default, without any conditions or impediments imposed on or claimed by the Subordinate Lender whatsoever and howsoever, and without payment of any additional monetary amount to the Subordinate Lender, that it will forthwith upon request by the Borrower (or by the Senior Lender as the case may be):
  - i. subject to the prior review and approval of counsel to the Senior Lender, provide its consent to the registration of a declaration or declarations pursuant to the Condominium Act, 1998 (Ontario), as amended (the "**Condo Legislation**"), with respect to the Property;
  - ii. subject to the prior review and approval of counsel to the Senior Lender, deliver to the Borrower's solicitors (or the Senior Lender's solicitors, as the case may be) prior to and concurrent with the registration of the condominium declaration, a duly executed acknowledgement and direction (the "**Acknowledgement and Direction**") authorizing the Senior Lender's solicitors and/or the Borrower's solicitors to register partial discharges of the Subordinate Security only in respect of all units (the "**Units**") created by the registration of the condominium declaration in accordance with the terms set out below. Until such time as the Senior Indebtedness is repaid in full to or on behalf of the Senior Lender, the authority to register partial discharges of the Units as provided in the Acknowledgement and Direction shall be held in escrow by the applicable solicitors, save and except that the Borrower's solicitors (and the Senior Lender's solicitors) shall be entitled pursuant to the authority provided in the Acknowledgement

and Direction, to register partial discharges in respect of the sale of the Units from time to time, the sole conditions of release with respect to any such partial discharge being completion of the closing of the sale of the Units associated therewith and confirmation of payment to the Senior Lender or as it may direct of net sale proceeds in respect of the sale of the Units as hereinbefore required in accordance with the partial discharge provisions set out in the Senior Security or as reasonably required by the Senior Lender. Once the Senior Indebtedness has been repaid in full, partial discharges of the Subordinate Security will only be authorized to be registered in accordance with the prepayment provisions of the Subordinate Security or as the Subordinate Lender may require; and

- iii. subject to the prior review and approval of counsel to the Senior Lender, execute all usual documentation required in connection with the development and servicing of the Property and in connection with the registration of the Property as a condominium including, without limitation, consents to the registration of the Property with a Land Titles absolute title, postponements to easements and to subdivision, development and utility agreements, and to the granting of partial discharges of its security with respect to any land to be conveyed to any governmental authority as may be required by the terms of any applicable subdivision and development agreements.
- c) Subject to the prior review and approval of counsel to the Senior Lender, the Subordinate Lender covenants and agrees with the Senior Lender to promptly execute any documents to be registered against the Property or under the Condo Legislation in order to give any further effect to the foregoing.

## **10. Further Assurances**

Upon the request of the other party, the Senior Lender and the Subordinate Lender shall each execute such further documents or instruments and take such further action as the requesting party reasonably requires from time to time to carry out the intent of this Agreement, including, without limitation, executing and delivering any short-form subordination and postponement agreement or instrument to register or record or file notice of the subordination and postponement of the Subordinate Security and the Subordinate Indebtedness on title to the Property and/or in any other office of public record and to give notice to third parties of the provisions of this Agreement. The Senior Lender shall not register a postponement against title to the Property in connection with this Agreement unless (i) such registered instrument is expressly subject to the terms and conditions of this Agreement and (ii) either a copy of this Agreement is attached to such registered instrument or a notice of this Agreement is registered separately against title to the Property.

## **11. Notice**

Any notice, demand or other communication which any party may desire or may be required to give to any other party shall be in writing and may be made or given by personal delivery, by registered mail or by facsimile transmission to the address for service of the recipient set forth below. Any demand, notice or communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof, and if given by registered mail, on the third Business Day following the deposit thereof in the mail, and if given by electronic transmission, on the first Business Day following the transmittal thereof. The address for service for each party is as follows:

- (i) if to the Senior Lender, to

Computershare Trust Company of Canada  
100 University Ave, 8th Floor  
Toronto ON, M5J 2Y1

Genesis Mortgage Investment Corp.  
#805-8400 West Road  
North Tower, International Trade Centre  
Richmond, BC, V6X 0S7

CMLS Financial Ltd.  
Suite 2110 - 1066 West Hastings Street  
Vancouver, BC V6E 3X2

(ii) if to the Subordinate Lender, to

CORFinancial Corp.  
77 Ingram Dr Suite 201  
Toronto, ON M6M 2L7

If any party giving any demand, notice or other communication knows or reasonably ought to know of any difficulties with the postal system that might affect delivery of mail, such demand, notice or other communication shall not be mailed, but shall be given by personal delivery or by electronic transmission. Any party hereto may change its address for service to which notices hereunder are required to be made or given by notice to other parties in accordance herewith.

## **12. Time**

Time shall be of the essence of this Agreement. If anything herein is to be done on a day, which is not a Business Day, the same shall be done on the next succeeding Business Day. Unless otherwise provided hereto, all references to time shall mean Toronto time. As used in this Agreement, "Business Day" means any day other than a Saturday, Sunday or a statutory holiday in Toronto.

## **13. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province in which the lands and premises described in Schedule A are located and the federal 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 such Province applying to this Agreement. Each party hereto consents to the jurisdiction of the courts of such Province and irrevocably agrees that all actions or proceedings arising out of or relating to this Agreement shall be litigated in such courts and each party hereto unconditionally accepts the non-exclusive jurisdiction of the said courts and waives any defence of forum non-conveniens, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement, provided nothing herein shall affect the right to serve process in any other manner permitted by law.

## **14. Conflict**

To the extent that there is any inconsistency or discrepancy between the provisions of this Agreement and the terms and conditions of any registered instrument or other document executed in connection with this Agreement, then the provisions of this Agreement shall govern to the extent of any such inconsistency or discrepancy.

If any term or provision contained in this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

## **15. Successors**

The acknowledgements and agreements contained in this Agreement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns.

## **16. Counterparts**

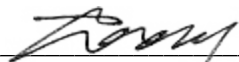
This Agreement may be executed by any of the undersigned parties electronically, in accordance with the provisions of the Electronic Commerce Act, 2000, S.O. 2000, as amended (including, without limitation, through the DocuSign electronic signing platform), and if and when any party executes this Agreement by or through an electronic signing platform, then such party shall be obliged to forthwith provide the other party or parties hereto with a copy of the certificate of completion produced by the electronic signing platform (if any) which confirms, verifies and/or validates the electronic signature of the party so executing same electronically, provided however that the failure to provide such certificate shall not negate the validity and/or enforceability of this Agreement. A photocopy or a scanned and e-mailed copy of this Agreement (whether signed in wet-ink or electronically) may be relied upon and/or enforced to the same extent as if they were original executed versions. In addition, this Agreement may be executed and delivered in counterparts, each of which, when so executed, shall be deemed to be originals and all of which taken together shall be deemed to constitute one and the same document and shall be fully enforceable against any signatory hereto, notwithstanding that the copy of this document executed by such signatory has not been executed by any other signatory.


**[signature page follows]**

[Subordination and Standstill Agreement]

**IN WITNESS WHEREOF** each of the parties have duly executed this Agreement as of the date first written above.


**COMPUTERSHARE TRUST COMPANY OF CANADA**

  
Name: Aaron Cao  
Title: Professional, MBS

  
Name: Allana Williams  
Title: Administrator, MBS

Name:  
Title:  
I/We have authority to bind the above.

**CMLS FINANCIAL LTD.**

  
Name: Neil Xue  
Title: Director, Commercial Servicing

Name:  
Title:  
I/We have authority to bind the above.

**GENESIS MORTGAGE INVESTMENT CORP.**

Name:  
Title:

Name:  
Title:  
I/We have authority to bind the above.

**CORFINANCIAL CORP.**

Name:  
Title:

Name:  
Title:  
I/We have authority to bind the above.

[Subordination and Standstill Agreement]

**IN WITNESS WHEREOF** each of the parties have duly executed this Agreement as of the date first written above.

**COMPUTERSHARE TRUST COMPANY OF CANADA**

\_\_\_\_\_  
Name:  
Title:

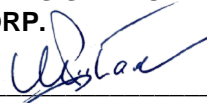
\_\_\_\_\_  
Name:  
Title:  
I/We have authority to bind the above.

**CMLS FINANCIAL LTD.**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:  
I/We have authority to bind the above.

**GENESIS MORTGAGE INVESTMENT CORP.**

  
\_\_\_\_\_  
Name:  
Title: Michael  
Yeung  
EVP, Lending

\_\_\_\_\_  
Name:  
Title:  
I/We have authority to bind the above.

**CORFINANCIAL CORP.**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:  
I/We have authority to bind the above.

[Subordination and Standstill Agreement]

**IN WITNESS WHEREOF** each of the parties have duly executed this Agreement as of the date first written above.

**COMPUTERSHARE TRUST COMPANY OF CANADA**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:  
I/We have authority to bind the above.

**CMLS FINANCIAL LTD.**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:  
I/We have authority to bind the above.

**GENESIS MORTGAGE INVESTMENT CORP.**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:  
I/We have authority to bind the above.

**CORFINANCIAL CORP.**



\_\_\_\_\_  
Name: Russel Inspektor  
Title: President

\_\_\_\_\_  
Name:  
Title:  
I/We have authority to bind the above.

## **SCHEDULE A**

Municipal Address:

1333 Weber Street East, Kitchener, Ontario

Legal Description:

LOTS 29, 30, 31, 32, 33, 34, 45, 46, 47, 48, 49, 50 AND 91 AND PART LOTS 12, 13, 14, 15, 16, 17, 43, 44, 86, 87, 89 AND 90, PLAN 322, AND LOT 127 STREETS AND LANES, (BEING A LANE, PLAN 322, CLOSED BY BY-LAW AS IN 175368) AND PART LOT 126 STREETS AND LANES, (BEING PART OF HERMAN AVENUE, PLAN 322, CLOSED BY BY-LAW AS IN 175368) AND PART LOT 141 STREETS AND LANES, (BEING PART OF HERMAN AVENUE, PLAN 322, CLOSED BY BY-LAW AS IN 210008) AND PART LOT 173 STREETS AND LANES, (BEING PART OF WEBER STREET, PLAN 322 (RENAMED SUNNYSIDE AVENUE) CLOSED BY BY-LAW AS IN 270276), ALL BEING PARTS 1, 2 AND 3, PLAN 58R-21405; SUBJECT TO AN EASEMENT AS IN 687124; SUBJECT TO AN EASEMENT IN GROSS OVER PART 3, PLAN 58R-21405 AS IN WR1306081; SUBJECT TO AN EASEMENT IN GROSS OVER PART 2, PLAN 58R-21405 AS IN WR1324371; SUBJECT TO AN EASEMENT AS IN WR1326075; CITY OF KITCHENER



**THIS IS EXHIBIT "P" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**



*Michael Yeung Sworn*

---

**A Commissioner for taking affidavits, etc.**



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**CORFINANCIAL CORP.**

**Plaintiff**

**and**

**CMLS FINANCIAL LTD., COMPUTERSHARE TRUST COMPANY OF CANADA, and  
GENESIS MORTGAGE INVESTMENT CORP.**

**Defendants**

**STATEMENT OF CLAIM**

**TO THE DEFENDANT(S)**

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.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$1,250.00 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 \$400.00 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 \_\_\_\_\_ Issued by \_\_\_\_\_  
Local Registrar

Address of 330 University Avenue  
court office: Toronto, Ontario, M5G 1R7

TO: CMLS Financial Ltd.  
700 West Georgia Street, Suite 2700  
Vancouver, British Columbia  
V7Y 1B8

Attn: Andrea Cali  
T: 647-729-8436  
F: 416-646-1009  
E: [andrea.cali@cmls.ca](mailto:andrea.cali@cmls.ca)

AND TO: Computershare Trust Company of Canada  
100 University Avenue, 11<sup>th</sup> Floor,  
Toronto, ON, M5J 2Y1

AND TO: Genesis Mortgage Investment Corp.  
885 West Georgia Street  
19<sup>th</sup> Floor  
Vancouver, British Columbia, V6C 3H4

## CLAIM

1. The Plaintiff CorFinancial Corp. (the “**Plaintiff**” or “**COR**”) claims against the Defendants CMLS Financial Ltd. (“**CMLS**”), Computershare Trust Company of Canada (“**Computershare**”), and Genesis Mortgage Investment Corp. (“**Gentai**”) jointly and severally for the following:
  - a. General damages in the amount of \$1,000,000.00;
  - b. Special and aggravated damages in the amount of \$100,000.00;
  - c. Pre-judgement and postjudgment interest pursuant to the *Courts of Justice Act* RSO 1990, c C.43, as amended;
  - d. the Plaintiff’s costs of this action on a substantial indemnity basis plus H.S.T.; and
  - e. such further and other relief as this Honourable Court deems just and the circumstances require.

### ***Background***

2. The Plaintiff COR is a corporation duly incorporated pursuant to the laws of the province of Ontario. At all material times, it carried on business as a provider of financial and restructuring consulting services to businesses located in Ontario.
3. The defendant CMLS is a corporation duly incorporated pursuant to the laws of British Columbia. At all material times, it carried on business as, *inter alia*, a mortgage lender, mortgage administrator and servicer, and a provider of mortgage syndication services in the province of Ontario.

4. At all material times, CMLS was a mortgagee under the Mortgage (as defined below) and held its interest in the Mortgage in trust for Concentra Bank, a Schedule I bank incorporated under the *Bank Act (Canada)*.
5. Furthermore, at all material times CMLS was retained jointly by the Defendants to act as their mortgage administrator and agent with respect to the Mortgage. CLMS especially acted in this capacity at all times when dealing with the Plaintiff.
6. The defendant Computershare is a trust company duly incorporated under the *Trust and Loan Companies Act (Canada)*. At all material times, it carried on business as, *inter alia*, a provider of mortgage servicing and related trust services in the province of Ontario.
7. At all material times, Computershare was a mortgagee under the Mortgage and held its interest in the Mortgage in trust for Equitable Bank, a Schedule I bank incorporated under the *Bank Act (Canada)*.
8. The defendant Gentai is a corporation duly incorporated pursuant to the laws of the province of British Columbia. At all material times, Gentai carried on business as, *inter alia*, an asset management and private lending company in the province of Ontario and was a mortgagee under the Mortgage.

#### ***The Mortgage and Forbearance Agreement***

9. This claim arises out of a forbearance agreement (the “**Forbearance Agreement**”) executed between CMLS, as mortgage administrator on behalf of the mortgagees; 1333 Weber Street Kitchener Limited Partnership and its general partner 1776411 Ontario Ltd as the mortgagor (collectively hereinafter the “**Borrower**”); and Werner Leuschner, Kamal Patel, Jaykam

Developers Limited, and 1639993 Ontario Ltd. as the guarantors of the Mortgage (collectively hereinafter the “**Guarantors**”).

10. On or about August 17, 2021, the Borrowers, as Chargors, and the Defendants, as Chargees, registered a first mortgage (the “**Mortgage**”) as instrument no WR1367209 in the Land Titles Division of Kitchener (No. 58) against the property municipally known as 1333 Weber Street, Kitchener, ON (the “**Property**”).
11. The Mortgage secured all amounts due under construction loan facility (the “**Facility**”) which the Defendants made available to the Borrowers. The purpose of the Facility was to finance the Borrower’s development and construction of a four-tower condominium complex (the “**Development**”) on the Property.
12. Financing was to be advanced to the Borrowers through draws requested by the Borrower from time to time, and on certain terms and conditions set out in the Mortgage.
13. From about August 17, 2021, until about November 2022, the Defendants advanced funds to the Borrowers under the Mortgage from time to time, and at the Borrower’s request.
14. In about November 2022, the Borrowers defaulted under the terms of the Mortgage and as a result, the Defendants refused to advance any further funds under the Facility.
15. The cessation of further advances caused the Borrower to default in its payments due to the construction trades (hereinafter the “**Trades**”) who had supplied labour and materials to the Development. As a result, the Trades stopped working and proceeded to register and enforce construction liens against the Property.

### *The Forbearance Agreement*

16. In about December 2022, the Borrower retained the Plaintiff to provide it with financial consulting services with respect to the Development and the Borrower's default under the Mortgage.
17. From about December 2022, until about May 2023, the Borrower and the Plaintiff negotiated terms of a forbearance agreement with CMLS. The purpose of the agreement was, among other things: i) to set out terms on which the Defendants would defer further enforcement of the Mortgage, and ii) to advance additional funds under the Facility on certain terms and conditions in order to pay all amounts owing to the Trades so that they would continue working on the Development.
18. During those negotiations, the Plaintiff used its relationships with the Trades to convince them to delay further enforcement of their lien claims to give the parties sufficient time to negotiate, sign, and close the Forbearance Agreement.
19. On or about May 8, 2023, the Borrowers, Guarantors, and CMLS on behalf of itself and the other Defendants, executed the forbearance agreement (the "**Forbearance Agreement**"). The material terms of the agreement included, *inter alia*, the following:
  - a. The Defendants agreed to forbear from any further enforcement of the Mortgage on certain terms and conditions.
  - b. On closing of the forbearance, the Defendants agreed to advance a one-time payment under the Mortgage (the "**Forbearance Payment**"). These funds would be used to

pay, among other things, all outstanding amounts owing to the Trades for their labour and materials supplied to the Development.

- c. The Borrower agreed to obtain from each Trade: i) a statutory declaration confirming the outstanding balance owing to them, and ii) a release in the Defendants' standard form whereby they released any lien claims on receiving payment of the balance owing to them.

***Forbearance Miscalculation and The Dean-Lane Accommodation***

20. On or about May 5, 2023, after the terms of the Forbearance Agreement were settled but before the agreement was signed, CMLS advised the Plaintiff that the Defendants had made a calculation error when calculating the amount of the Forbearance Payment. The net effect of this error was that the Forbearance Payment was \$714,979.27 less than the total obligations which the Defendants agreed to pay under the Forbearance Agreement (hereinafter referred to as the “**Shortfall**”).

21. Notwithstanding the fact that the Shortfall was caused by the Defendants' own error, CMLS advised the Plaintiff that the Forbearance Agreement could not close, and that the Forbearance Payment would not be advanced, until the mistake was corrected and CMLS obtained additional funds from the Defendants to cover the Shortfall.

22. CMLS further advised the Plaintiff that it would take approximately two weeks to reconcile their records and correct the mistake.

23. In an effort to avoid any further delays in paying the Trades, the Plaintiff proposed, and CMLS on behalf of itself and the other Defendants agreed, to a separate side agreement with



the Plaintiff to remedy the Shortfall (the “**Shortfall Agreement**”). The terms of that agreement included, *inter alia*, the following:

- a. The Plaintiff would obtain an agreement from one of the Trades, Dean-Lane Contracting Inc. (hereinafter “**Dean-Lane**”), where Dean-Lane would allow CMLS to defer paying \$1,000,000.00 (the “**Deferred Amount**”) of the \$2,173,426.30 which it agreed to pay to Dean-Lane as part of the Forbearance Payment for its outstanding invoices;
- b. On receiving this concession from Dean-Lane, CMLS would proceed to close the Forbearance Agreement and pay Dean-Lane \$1,173,426.30 as part of the Forbearance Payment, being the portion of Dean-Lane’s outstanding invoices which were not being deferred;
- c. CMLS further agreed to pay Dean-Lane the Deferred Amount after the Forbearance Agreement closed, and at or around the same time that they paid the first draw under the Facility post-closing;
- d. In consideration of Dean-Lane allowing CMLS to defer payment of the Deferred Amount, the Plaintiff agreed to give Dean-Lane a written undertaking to pay them an accommodation fee \$50,000.00, and, at Dean-Lane’s sole option, to pay them the Deferred Amount and take an assignment of their remaining unpaid invoices should CMLS fail to pay them the Deferred Amount on or before May 28, 2023.

24. The Plaintiff gave this undertaking in reliance on CMLS' representations, agreements, and assurances to the Plaintiff and Dean-Lane that it would pay the Deferred Amount to Dean-Lane after closing of the Forbearance Agreement.
25. On or about May 5, 2023, Dean-Lane agreed to the terms proposed by the Plaintiff and the Plaintiff delivered a written undertaking to Dean-Lane on the terms set out above.
26. With Dean-Lane agreeing to defer payment of the Deferred Amount, CMLS was able to close the Forbearance Agreement on or about May 8, 2023, and pay all amounts which the Defendants were obligated to pay under the agreement, save and except for the Deferred Amount payable to Dean-Lane.
27. However, despite the Plaintiff's repeated demands, CMLS has failed or otherwise refused to pay the Deferred Amount to Dean-Lane as of the date of this claim.
28. By failing to pay the Deferred Amount to Dean-Lane, the Defendants have breached the terms of the Forbearance Agreement and the Shortfall Agreement.
29. In response to the Plaintiff's demands, CMLS advised the Plaintiff that it was not under an obligation to pay the Deferred Amount to Dean-Lane because it was not able to pay the first advance under the Facility.
30. However, the Plaintiff states that this is patently wrong. Rather, the Plaintiff states, and the fact is, that:
  - a. The Defendants' obligation to pay the Deferred Amount is part of their overarching obligation to pay all of the Trades' outstanding invoices under the Forbearance

Agreement as they originally agreed to pay the Deferred Amount as part of the Forbearance Payment on closing;

- b. This obligation is separate and distinct from any obligation which the Defendants have, or may have, to continue funding the Development or to pay further advances under the Facility, and this obligation is not governed by the same terms and conditions which govern the advances of draws under the Facility;
  - c. CMLS acknowledged and admitted in the Forbearance Agreement that Borrower owed Dean-Lane \$2,173,426.30 for materials and labour which Dean-Lane to the Development; and
  - d. The Shortfall Agreement did not relieve the Defendants from their obligation under the Forbearance Agreement to pay Dean-Lane's outstanding invoices, rather it only allowed them to defer paying \$1,000,000.00 of Dean-Lane's invoices (i.e. the Deferred Amount) to a later date.
31. As a result of the foregoing, even if the Defendants were not under an obligation to pay any further advances under the Facility, which is not admitted but rather expressly denied, they are still not relieved from their obligation to pay the Deferred Amount to Dean-Lane, and they are not entitled to rely on this fact as the basis to avoid their obligation to pay the Deferred Amount.
32. As a result of the Defendants' breach, the Plaintiff has incurred a liability to pay Dean-Lane the Deferred Amount, causing it to suffer damages.

33. Furthermore, the Plaintiff states that by failing to pay the Deferred Amount, CMLS has been unjustly enriched to the detriment of the Plaintiff.
34. By giving its undertaking to Dean-Lane, the Plaintiff obtained a deferral for CMLS of its strict contractual obligation set out in the Forbearance Agreement to pay Dean-Lane \$2,173,426.30 on closing of the forbearance, which it was not able to satisfy.
35. This deferral further benefited the Defendants, as it allowed them to close the forbearance when they otherwise would not have been able to do so because of their own calculation error.
36. Furthermore, in giving their undertaking to Dean-Lane, the Plaintiff has incurred a corresponding detriment in the form of a liability to pay Dean-Lane the Deferred Amount.
37. The Plaintiff states that there is no juristic reason for the Defendants to retain the benefits of the Plaintiff's undertaking.
38. The Plaintiff has incurred considerable time and expense as a result of the Defendants' failure to satisfy their obligations under the Forbearance Agreement and the Settlement Agreement. As a result, the Defendants have caused the Plaintiff to suffer special and aggravated damages which the Defendants are liable to pay.
39. The Plaintiff states that at all material times CMLS, as the Defendants' mortgage administrator and servicer, was acting as the Defendants' agent, both in fact and in law. As such, the Plaintiff states, and the fact is, that the Defendants are bound by the actions of CMLS, and particularly, are bound by the terms of the Forbearance Agreement and the Shortfall Agreement.

***Relief Sought***

40. As a result of the foregoing, the Plaintiff seeks judgment against the Defendants, jointly and severally, for general damages in the amount of \$1,000,000.00 for breach of contract and unjust enrichment.
41. The Plaintiff further seeks judgment against the Defendants jointly and severally for special and aggravated damages in the amount of \$100,000.00.
42. The Plaintiff further seeks prejudgment and postjudgment interest on any amounts awarded pursuant to the *Courts of Justice Act*.
43. The Plaintiff further seeks its costs of this action jointly and severally against the Defendants on a substantial indemnity basis.
44. The Plaintiff proposes that this action be tried in the City of Toronto.

DATE: September 27, 2023.

**BERNARD B. GASEE**  
Barrister & Solicitor  
90 Eglinton Avenue East, Suite 980  
Toronto, Ontario  
M4P 2Y3

**Derek Ketelaars (67154R)**  
T: (416) 363-8104  
F: (416) 363-0252  
E: [dketelaars@gcylaw.com](mailto:dketelaars@gcylaw.com)

Lawyers for the Plaintiff

CorFinancial Corp.  
Plaintiffs

— and —

CMLS Financial Ltd. et al.  
Defendants

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(Proceedings commenced in Toronto)

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**STATEMENT OF CLAIM**

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**BERNARD B. GASEE**  
Barrister & Solicitor  
90 Eglinton Avenue East  
Suite 980  
Toronto, Ontario  
M4P 2Y3

**Derek Ketelaars (67154R)**  
T: 416-363-3351  
F: 416-363-0252  
E: [dketelaars@gcylaw.com](mailto:dketelaars@gcylaw.com)  
Lawyers for the Plaintiff

**THIS IS EXHIBIT "Q" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**



*Mital Singh-Chowra*

---

**A Commissioner for taking affidavits, etc.**

Chad Kopach  
D: 416-593-2985 F: 416-594-5095  
ckopach@blaney.com

March 17, 2023

**BY EMAIL, REGULAR MAIL AND REGISTERED MAIL**

1776411 Ontario Ltd.  
258 Edgewater Crescent, Unit 8  
Kitchener, ON N2A 4M2

1333 Weber Street Kitchener LP  
258 Edgewater Crescent, Unit 8  
Kitchener, ON N2A 4M2

1776411 Ontario Ltd.,  
as general partner on behalf of 1333 Weber Street Kitchener LP  
258 Edgewater Crescent, Unit 8  
Kitchener, ON N2A 4M2

Dear Sirs/Mesdames:

**Re: CMLS Financial Ltd. and 1776411 Ontario Ltd. ("177 Ontario")  
1333 Weber Street Kitchener LP (the "Partnership")  
1333 Weber Street East, Kitchener, ON (the "Mortgaged Property")**

We are the lawyers for CMLS Financial Ltd. ("**CMLS**"), Computershare Trust Company of Canada ("**Computershare**") and Genesis Mortgage Investment Corp. ("**Gentai**").

We refer to the mortgage loan commitment letter dated June 28, 2021, bearing loan number 50715, as amended on July 21, 2021 (the "**Senior Commitment**"), between CMLS, 177 Ontario as general partner on behalf of the Partnership (collectively, the "**Borrower**") and others, in respect of loan facilities totaling a maximum of \$55,500,000 (the "**Senior Loan**"). The interest rate under the Senior Commitment is the greater of (a) the Royal Bank of Canada's Prime Rate of interest plus 220 basis points per annum (currently 8.9%), and (b) 4.65%.

We also refer to the mortgage loan commitment letter dated June 28, 2021 bearing loan number 50716, as amended on July 21, 2021 and May 3, 2022 (the "**Junior Commitment**"), also between CMLS, the Borrower and others, in respect of loan facilities totalling a maximum of \$16,000,000 (the "**Junior Loan**"). The interest rate under the Junior Commitment is the greater of (a) the Royal Bank of Canada's Prime Rate of interest plus 875 basis points per annum (currently 15.455%) and (b) 11.20%.

The term of the Loans is for 30 months such that the Loans mature on March 1, 2024, and until maturity the accrued interest under the Loans is payable monthly on the first day of each month beginning September 1, 2021.

Pursuant to the Senior Commitment and the Junior Commitment (collectively, the "**Commitment Letters**"), CMLS made the Senior Loan and Junior Loan, being construction mortgage loans, in the maximum amount of \$71,500,000 (collectively, the "**Loans**"), secured by a mortgage for \$82,000,000 that 177 Ontario granted over the Mortgaged Property, registered as Instrument No. WR1367209 on or about



August 17, 2021, in the Land Titles Division of Waterloo (No. 58) (the "**Mortgage**"), in favour of CMLS, Computershare and Gentai (collectively, the "**Mortgagees**"). The Loans are further secured by:

1. a General Assignment of Rents over the Mortgaged Property, registered on title on August 17, 2021, as Instrument No. WR1367209 in the Land Titles Division of Kitchener (No. 59) (the "**GAR**"); and
2. a first-ranking General Security Agreement from the Borrower dated August 13, 2021, in favour of the Mortgagees (the "**GSA**").

The purpose of the Loans is to finance construction (including hard costs and soft costs) of phase 1 ("**Phase 1**") of a phased four-tower residential condominium development known as "Elevate Condominiums" (the "**Project**"), under construction on the Mortgaged Property. A limited amount of the Loans (\$1,000,000) was made available to finance soft costs of phase 2 of the Project ("**Phase 2**").

On a date in 2022 that is known to the Borrower, but is not known to the Mortgagees, the Borrower retained trade contractors to commence physical construction of Phase 2 of the Project. The Borrower did so without approval or authorization from the Mortgagees, and without first securing a source of funding for this additional physical construction.

On December 8, 2022 a construction lien was registered against the Mortgaged Property in the amount of \$668,054 in respect of unpaid supply of services and materials to Phase 2 of the Project. As of March 13, 2023, eleven claims for lien totalling \$8,467,784 are registered on title to the Mortgaged Property (collectively, the "**Claims for Lien**").

The Borrower's actions in proceeding with physical construction of Phase 2 of the Project without first securing funding for same have exposed the Mortgaged Property to lien claims, including claims that the liens have priority, in full or in part, over the Mortgage (the "**Priority Claims**"). Most of the Claims for Lien have not yet been perfected. However, one Claim for Lien, registered by Lehigh Hanson Materials Limited on December 14, 2022 in the amount of \$191,302.14, was recently perfected by registering a certificate of action on March 2, 2023. The registered certificate names the Mortgagees as defendants to a lien action, which would only be the case if that lien claimant was making a Priority Claim against the Mortgage.

Among other things, the Claims for Lien are encumbrances that were registered without approval from the Mortgagees. They constitute events of default under the Commitment Letters, a breach of the Borrower's covenant in section 31 of the Mortgage, and a breach of the Borrower's representations and warranties in the GSA to keep the Mortgaged Property free from construction liens (collectively, the "**Lien Defaults**").

The circumstances giving rise to the Claims for Lien (unfunded physical construction of Phase 2), and exposing the Mortgage to the Priority Claims, constitute a material adverse change pursuant to the terms of the Commitment Letters and the Mortgage, which is also an event of default (collectively, the "**Adverse Change Defaults**").

The Borrower is also in default under the Loans as a result of arrears of property taxes in respect of the Mortgaged Property, which as of March 7, 2023 total of \$59,509.24 (the "**Property Tax Default**"), and is monetary default under the Loans as a result of the monthly interest payment under the Loans not having been made on March 1, 2023 (the "**Monetary Default**").

As of March 17, 2023, the amount owing for principal, interest, fees and charges under the Loans total \$44,645,055.11, plus legal costs and other third-party costs.

As a result of the Lien Defaults, Adverse Change Defaults, Property Tax Default and the Monetary Default, on behalf of our client, and in accordance with the terms of the Commitment Letters, the Mortgage and the GSA, we hereby make demand on you for payment to the Mortgagees of **\$44,781,797.81** by March 27, 2023, plus legal fees, disbursements and HST, and plus other third-party costs. The *per diem* is \$13,674.27.

If you fail to comply with this demand, we will take whatever steps we deem necessary to protect our client's interests without further notice. In this regard, we enclose a Notice pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act*.

Yours very truly,

**Blaney McMurtry LLP**



Chad Kopach  
CK/kv

Encl.

cc. Graham Phoenix

FORM 115

Notice of Intention to Enforce Security  
(Subsection 244(1) of the Bankruptcy and Insolvency Act)

1776411 Ontario Ltd.  
258 Edgewater Crescent, Unit 8  
Kitchener, ON N2A 4M2

1333 Weber Street Kitchener LLP  
258 Edgewater Crescent, Unit 8  
Kitchener, ON N2A 4M2

1776411 Ontario Ltd.,  
as general partner on behalf of 1333 Weber Street Kitchener LP  
258 Edgewater Crescent, Unit 8  
Kitchener, ON N2A 4M2

**TAKE NOTICE THAT:**

1. CMLS Financial Ltd., Computershare Trust Company of Canada and Genesis Mortgage Investment Corp., as secured creditors (collectively, the "**Mortgagees**"), intend to enforce their security on the property of the insolvent persons described below:

- (a) Municipal address: 1333 Weber Street East, Kitchener, ON N2A 1C2

Legal description:

LOTS 29, 30, 31, 32, 33, 34, 45, 46, 47, 48, 49, 50 AND 91 AND PART LOTS 12, 13, 14, 15, 16, 17, 43, 44, 86, 87, 89 AND 90, PLAN 322, AND LOT 127 STREETS AND LANES, (BEING A LANE, PLAN 322, CLOSED BY BY-LAW AS IN 175368) AND PART LOT 126 STREETS AND LANES, (BEING PART OF HERMAN AVENUE, PLAN 322, CLOSED BY BY-LAW AS IN 175368) AND PART LOT 141 STREETS AND LANES, (BEING PART OF HERMAN AVENUE, PLAN 322, CLOSED BY BY-LAW AS IN 210008) AND PART LOT 173 STREETS AND LANES, (BEING PART OF WEBER STREET, PLAN 322 (RENAMED SUNNYSIDE AVENUE) CLOSED BY BY-LAW AS IN 270276), ALL BEING PARTS 1, 2 AND 3, PLAN 58R-21405; SUBJECT TO AN EASEMENT AS IN 687124; SUBJECT TO AN EASEMENT IN GROSS OVER PART 3, PLAN 58R-21405 AS IN WR1306081; SUBJECT TO AN EASEMENT IN GROSS OVER PART 2, PLAN 58R-21405 AS IN WR1324371; SUBJECT TO AN EASEMENT AS IN WR1326075; CITY OF KITCHENER

PIN: 22590-0549 (LT) in LRO No. 58

- (b) intangibles, proceeds, accounts, books and records, equipment, inventory, real estate and other property.
2. The security that is to be enforced is in the form of the following:
  - (a) mortgage for \$82,000,000.00 over the Mortgaged Premises granted by 1776411 Ontario Ltd. ("**177**") to the Mortgagees and registered as Instrument No. WR1367209 on or about August 17, 2021, in the Land Titles Division of Waterloo (No. 58);
  - (b) General Assignment of Rents over the Mortgaged Premises registered as Instrument No. WR1367210 on or about August 17, 2021, in the Land Titles Division of Waterloo (No. 58); and
  - (c) General Security Agreement in favour of the Mortgagees over all of the debtor's assets and undertaking associated with the business and assets of 177 and 1333 Weber Street Kitchener LP situate at, relating to, or arising from the Mortgaged Premises.

3. The total amount of indebtedness secured by the security is \$44,645,055.11, plus interest from March 17, 2023, and plus legal costs and other third-party costs.
4. The secured creditors will not have the right to enforce the security until after the expiry of the 10-day period following the sending of this notice unless the insolvent person consents to an earlier enforcement.

**DATED** at Toronto on March 17, 2023


**CMLS Financial Ltd., Computershare Trust Company of Canada and  
Genesis Mortgage Investment Corp.**

by their Lawyers  
Blaney McMurtry LLP

Per: \_\_\_\_\_

  
Chad Kopach

**THIS IS EXHIBIT "R" REFERRED TO IN THE  
AFFIDAVIT OF MICHAEL YEUNG SWORN  
THE 2<sup>ND</sup> DAY OF OCTOBER, 2023**



*Michael Yeung Sworn*

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**A Commissioner for taking affidavits, etc.**

## FORBEARANCE AGREEMENT

THIS AGREEMENT made as of the 27<sup>th</sup> day of April, 2023

### AMONG:

**1776411 ONTARIO LTD. as General Partner on behalf of 1333 WEBER STREET KITCHENER LP**

(hereinafter collectively referred to as the "**Borrower**")

-and-

**WERNER LEUSCHNER, KAMAL PATEL, JAYKAM DEVELOPERS LIMITED and 1639993 ONTARIO LTD.**

(hereinafter collectively referred to as the "**Guarantors**")

-and -

**CMLS FINANCIAL LTD.**

(hereinafter referred to as "**CMLS**", or the "**Lender**"),

### WHEREAS:

1. 1776411 Ontario Ltd. ("**177 Ontario**") is incorporated pursuant to the laws of Ontario, with its registered head office located 258 Edgewater Crescent, Unit 8, in Kitchener, Ontario. Werner Leuschner ("**Leuschner**") is the sole officer and director of 177 Ontario.
2. 1333 Weber Street Kitchener LP (the "**Partnership**") is a limited partnership established under the *Limited Partnerships Act* in Ontario on November 12, 2019. 177 Ontario is the general partner of the Partnership. The Partnership's registered principal place of business is 258 Edgewater Crescent, Unit 8, in Kitchener, Ontario.
3. 1639993 Ontario Ltd. ("**163 Ontario**") is incorporated pursuant to the laws of Ontario, with its registered head office located at 258 Edgewater Crescent in Kitchener, Ontario. Leuschner is the sole officer and director of 163 Ontario.
4. Jaykam Developers Limited ("**Jaykam**") is a corporation incorporated pursuant to the laws of Ontario, with its registered head office located at 29 Idle Ridge Court in Kitchener, Ontario. Kamal Patel ("**Patel**") is the sole officer and director of Jaykam.
5. The Partnership has four unit holders. Two of the Partnership's unit holders are 177 Ontario and 163 Ontario (both 100% owned and controlled by Leuschner). Jaykam is the third unit holder, and is owned and controlled by Patel through a corporation called Jaykam Corporation. The fourth unit holder is a corporation called Parmata Hospitality Inc., which is owned 51% by Patel, and 49% by an individual named Ashvin Patel.

6. The Borrower is the developer of a phased four-tower residential condominium development known as “Elevate Condominiums” (the “**Project**”), under construction on the lands located in Kitchener, Ontario.
7. The Project is the Borrower’s main asset, located on the real property municipally known as 1333 Weber St. East, Kitchener (the “**Property**”), bearing the legal description which is set out in **Schedule “A”** hereto.
8. Phase 1 of the Project is a 15-storey, 177-unit residential development condominium tower (“**Phase 1**”).
9. The Borrower has retained Gillam Group Inc. (“**Gillam**”) to act as construction manager in respect of construction of Phase 1 pursuant to a contract in the CCDC 5A form dated January 8, 2021. The Borrower has retained trade contractors (the “**Trade Contractors**”) directly pursuant to a series of direct contracts.
10. Pursuant to a mortgage loan commitment dated June 28, 2021 bearing loan number 50715 (the “**Senior Commitment**”), as amended on July 21, 2021, CMLS made available to the Borrower (a) a construction financing facility in the principal amount of \$52,800,000 whose purpose was to finance Phase 1, subject to certain conditions, and (b) a letter of credit facility in the amount of \$2,700,000, whose purpose was to fund letters of credit to be provided to the municipality or region, subject to certain conditions.
11. The interest rate under the Senior Commitment is the greater of (a) the Royal Bank of Canada’s Prime Rate of interest plus 220 basis points per annum (currently 8.9%), and (b) 4.65%.
12. Pursuant to a second mortgage loan commitment dated June 28, 2021 bearing loan number 50716, as amended on July 21, 2021 and May 3, 2022, the “**Junior Commitment**”), CMLS made available to the Borrower a construction financing facility in the principal amount of \$16,000,000, of which \$15,000,000 was to finance Phase 1, and the remaining \$1 million to finance Phase 2 “soft costs” pursuant to a schedule of eligible Phase 2 costs to date to be provided by the Borrower and with draws for such costs to be funded as approved by the Lender, subject to certain conditions.
13. The interest rate under the Junior Commitment is the greater of (a) the Royal Bank of Canada’s Prime Rate of interest plus 875 basis points per annum (currently 15.455%) and (b) 11.20%.
14. The Senior Commitment and the Junior Commitment (collectively, the “**Commitment Letters**”) provided for construction loan facilities in the maximum amount of \$71,500,000.00 (the “**Loans**”).
15. The Loans are for a term of thirty (30) months that expire on March 1, 2024, with only interest payable monthly until maturity.

16. The advances under the Loans (the “**Advances**”) are on a cost-in-place and cost-to-complete basis, supported by draw requests and progress claim reports approved by the Lender’s approved quantity surveyor Altus Group Limited (“**Altus**”).
17. The monthly interest payments due under the Loans are paid on the (first) 1<sup>st</sup> of each month out of an escrow account held by CMLS. The escrow account is replenished as needed from the Advances by way of an interest reserve (the “**Interest Reserve**”).
18. The Interest Reserve represents three (3) months’ interest payments that may be deducted from each Advance as required by the Lender, and deposited into the escrow account controlled by the Lender without benefit of interest to the Borrower or Guarantors.
19. The Borrower, the Guarantors and the Lender have voluntarily agreed to enter into this Forbearance Agreement (the “**Agreement**”).
20. The Borrower and the Guarantors have retained and consulted with legal counsel in respect of this Agreement.
21. By way of an unlimited guarantee in favour of CMLS, Computershare Trust Company of Canada (“**Computershare**”) and Genesis Mortgage Investment Corp. (“**Gentai**”) (collectively, the “**Mortgagees**”) dated August 13, 2021 (the “**Guarantee**”), the Guarantors guaranteed the debts and liabilities of the Borrower under the Construction Mortgage, including the Loans.
22. The Loans are secured by way of:
  - (i) a first ranking mortgage in favour of the Mortgagees in the principal amount of \$82,000,000.00 over the Property registered on August 17, 2021, as Instrument No. WR1367209 in the Land Titles Division of Kitchener (No. 58) (the “**Construction Mortgage**”);
  - (ii) a General Assignment of Rents over the Property, registered on title on August 17, 2021, as Instrument No. WR1367209 in the Land Titles Division of Kitchener (No. 59) (the “**GAR**”), and
  - (iii) a General Security Agreement in favour of the Mortgagees granted by the Borrower dated August 13, 2021 (the “**GSA**”), in first ranking position over the assets and undertaking of the Borrower, subject only to a registration by Westmount Guarantee Service Inc. (“**Westmount**”) and any priorities agreement between and the Lender and/or remaining Mortgagees.
23. Equitable Bank, Concentra Bank and Gentai funded the Loans. CMLS is servicing the Loans for Equitable Bank, Concentra Bank and Gentai. CMLS holds title to the Mortgage for Concentra Bank. Computershare holds title to the Mortgage for Equitable Bank.
24. As of April 10, 2023, the amount required to pay out the Loans in full, excluding legal costs and any other third-party costs, was made up of the following amounts (collectively, the “**Current Indebtedness**”):



- a. Loan 50715: \$32,308,428.84; and
  - b. Loan 50716: \$15,357,748.87.
25. The Current Indebtedness continues to accrue interest at the rate of interest rate under the Loans.
26. The Advances to date are set out in the Loan histories attached as **Schedule "D"**, which also includes the Interest Reserve.
27. The GSA, the Mortgage and the GAR together form the "**Security**" and constitute the "**Security Documents**".
28. Without the Lender's knowledge or consent, and in breach of the Commitment Letters, in or about May 2022 the Borrower began incurring hard costs of construction on Phases 2 and 3 of the Project without having secured the requisite financing. The construction on Phases 2 and 3 of the Project in this regard constituted a default under the Loans (the "**Construction Default**").
29. On December 8, 2022 a construction lien was registered against the Property. The registration of this lien, and of subsequent liens set out in Schedule "B", were not only a bar to obtaining Advances under the Commitment Letters but are a breach of the Conditions of Credit thereunder (the "**Lien Defaults**").
30. As a result, of the Construction Default and the Lien Default, following the Advance made on November 24, 2022, CMLS suspended any further Advances in accordance with its right and remedies under the Commitment Letters.
31. To date, the unfunded requests for Advances under the Commitments Letters approved by Altus total approximately \$8,325,160, being unfunded November, 2022 draw (Report No. 18) totalling \$2,282,105, unfunded December, 2022 draw (Report No. 19) totalling \$2,763,487, and unfunded February, 2023 draw (Report No. 20) totalling \$3,279,568 (the "**Unfunded Advances**").
32. The inability to pay Trade Contractors as a result of having failed to secure the requisite financing for hard costs of the unauthorized construction of Phases 2 and 3, resulted in the claims for lien set out at **Schedule "B"** having been registered against the Property as of the date of this Agreement (the "**Registered Lien Claimants**").
33. The Borrower has provided the Statutory Declaration at **Schedule "C"** setting out all additional unpaid suppliers, including Gillam, Trade Contractors, subcontractors, sub-subcontractors, and suppliers, that are in a position to register a construction lien over the Project as of the date of the Agreement, over and above the registered claims for lien set out in Schedule "B" (the "**Unregistered Lien Claimants**").
34. The Borrower is also in default under the Loans as a result of arrears of municipal property taxes in respect of the Property, as a result of not making the municipal tax payment due March 1, 2023, in the amount of \$29,367.31 (the "**Property Tax Default**").

35. The Borrower is also in monetary default under the Loans, as a result of the interest payment under the Loans not having been made on March 1, 2023 (the “**Monetary Default**”), as set out in **Schedule “D”**.
36. As a result of the Construction Default, the Lien Defaults, the Property Tax Default and the Monetary Default (collectively, the “**Defaults**”), and pursuant to the terms of the Commitment Letters, the Security Agreements and the Guarantee, the Lender is entitled to demand repayment in full from the Borrower and Guarantors of the Current Indebtedness, and any additional amounts due to the Lender over and above that amount, and enforce all of its rights and remedies against the Borrower under the Loan Agreements and the Security Documents and against the Guarantors under the Guarantee.
37. As a result of the Defaults, CMLS, through its lawyers, Blaney McMurtry LLP, made demand for repayment of the Loans from the Borrower and the Guarantors under cover of letters dated March 17, 2023 (collectively, the “**Demands**”), and issued a notice pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* against the Borrower (the “**NITES**”). The deadlines for payment in CMLS’ Demands was March 27, 2023.
38. The Borrower and the Guarantors have requested that the Lender forbear from further enforcing the Loans, the Security Documents and the Guarantee, and the Lender has agreed to forbear during the Forbearance Period (as defined below) subject to the terms and conditions contained herein.

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto, the parties agree with each other as follows:

1. **Acknowledgments**

The Borrower and Guarantors acknowledge, confirm and agree as follows:

- (a) the recitals to this Agreement set out above are true and accurate, and that the Lender is relying on them to enter into this Agreement;
- (b) the Borrower is in default of its obligations under the Loans, the Commitment Letters, and the Security Documents, as a result of the Defaults;
- (c) as a result of the Defaults, the Lender is entitled to immediately enforce against the Borrower all of its rights and remedies under the Loans, the Commitment Letters, and the Security Documents;
- (d) the Borrower and Guarantors have requested that the Lender forbear from enforcing its rights and remedies pursuant to the Loans, Commitment Letters, the Security Documents, the *Mortgages Act* (Ontario), the *Personal Property Security Act* (Ontario) (“**PPSA**”), the *Bankruptcy and Insolvency Act* (“**BIA**”), the *Courts of Justice Act* (“**CJA**”), the

*Construction Act*, and other applicable laws;

- (e) the Borrower and Guarantors shall remain liable for all of the Current Indebtedness, and any and all future indebtedness and liability owing to the Lender pursuant to (as the case may be) the Commitment Letters, the Loans, the Security Documents and the Guarantee, including but not limited to interest and/or charges thereon including prepayment charges, and costs of the Lender, its counsel and/or its agents, without any right of set-off, counterclaim or other deduction or reduction of any kind whatsoever, whether at law or in equity (the “**Indebtedness**”);
- (f) the Borrower and Guarantors will continue to accept statements of the Indebtedness issued by the Lender to be accurate statements of the amount and the particulars of the Indebtedness as of the date of such statement, absent manifest or demonstrable error;
- (g) the Borrower and Guarantors shall reimburse the Lender for all expenses on a full-indemnity basis, including, without limitation, actual legal and other professional expenses, that the Lender has incurred or will incur arising out of its dealings with the Borrower and Guarantors and in the protection, preservation and enforcement of the Loans, Commitment Letters, the Security Documents and this Agreement, and such expenses, if not paid by the Borrower, will be added to the Indebtedness;
- (h) the Loans, the Commitment Letters and the Security Documents are in full force and effect, are legal, valid and binding obligations of the Borrower, in accordance with their terms, and the Security Documents constitute general continuing collateral security for any and all of the Indebtedness, as applicable;
- (i) the Guarantee is in full force and effect, and is a legal, valid and binding obligation of the Guarantors, in accordance with its terms, for any and all of the Indebtedness;
- (j) the Borrower and Guarantors acknowledge their obligation to pay for the actual legal and other costs associated with any enforcement under the Loans, the Commitment Letters and/or the Security Documents (including power of sale, foreclosure, receivership or bankruptcy proceeding involving the Borrower and/or the Guarantors), which are initiated or taken at the behest of the Lender, and the Borrower and Guarantors agree to indemnify the Lender and/or any such receiver or trustee in bankruptcy to the fullest extent required;
- (k) any default or breach by the Borrower or Guarantors of the terms and conditions of this Agreement shall constitute a default under the Loans,

the Commitment Letters and the Security Documents;

- (l) except as provided in this Agreement, as at the date of this Agreement, the Lender (either by itself or through its employees or agents) has made no promises, nor has it taken any action or omitted to take any action, that would constitute a waiver of its rights to enforce the Loans, the Commitment Letters and/or the Security Documents and pursue its remedies in respect thereof, or that would stop it from so doing;
- (m) any future accommodations or advance of credit by the Lender shall not be deemed to be a waiver of any of the rights of the Lender, nor impose any obligation on the part of the Lender to make any further advances or accommodations of credit whatsoever;
- (n) no further credit will be extended under the Loans during the Forbearance Period (as defined below), except as set out in this Agreement; and
- (o) except as otherwise provided in this Agreement, the Lender hereby reserves all of its rights and remedies under the Loans, the Commitment Letters the Security Documents, and any other documents, instruments or agreements executed and delivered in connection therewith (including the Guarantees), and any and all applicable law.

## 2. **Forbearance and Forbearance Period**

Subject to the terms and conditions of this Agreement, and in reliance upon the representations, warranties and covenants of the Borrower and the Guarantors contained in this Agreement, CMLS agrees to continue to forbear from exercising its rights and remedies under the Loans, the Commitment Letters and the Security Documents, including, without limitation under the *PPSA*, the *BIA*, the *CJA*, the *Construction Act*, and other applicable laws in respect of or arising out of the Defaults, until the earlier of (the "**Forbearance Period**"):

- (i) March 1, 2024 (the "**Forbearance Termination Date**"); and
- (ii) the occurrence of a further default under the Loans, the Commitment Letters, the Security Documents and/or this Agreement (a "**Forbearance Default**", and together with the Forbearance Termination Date a "**Forbearance Termination Event**").

For greater certainty, any breach of any of the covenants, terms or conditions set out in this Agreement, the Loans, the Commitment Letters and/or Security Documents subject to any curing period therein, shall forthwith terminate this Agreement and the forbearance called for herein.

This Agreement can only be extended at the sole option of CMLS. It does not renew

automatically.

### 3. **Consideration from the Borrower**

In consideration of CMLS entering into this Agreement, the Borrower will provide CMLS with the following (the “**Borrower Conditions Precedent**”) by March 29, 2023:

- i. the executed Agreement, and related executed Schedules;
- ii. Amended Commitment Letter for Loan 50715, dated April 26, 2023, attached as **Schedule “E”** to this Agreement, whereby the amount of Loan 50715 is to be increased by \$2,000,000 to assist in paying unpaid payables for Phase 2 and Phase 3, executed by the Borrower.
- iii. Amended Commitment Letters for Loan 50716 dated April 26, 2023, attached as **Schedule “F”** to this Agreement, whereby the amount of Loan 50716 is to be increased by \$3,059.045 to assist in paying unpaid payables for Phase 2 and Phase 3, executed by the Borrower.
- iv. the fully executed Commitment Letters for the CorFinancial Agreement and the Westmount Agreement referred to below, to be held in escrow by CMLS pending the completion of the CMLS Covenants (as defined below);
- v. confirmation in writing that counsel for the Lenders on the Loans, Schneider Ruggiero Spencer Milburn LLB (“**SR Law**”), is holding in trust a promissory note from CorFinancial Corp. in favour Gillam in the amount of \$2,921,807.97 (the “**Promissory Note**”), and the agreement between CorFinancial Corp. and Gillam regarding that Promissory Note (the “**CorFinancial Agreement**”), with the Promissory Note to be provided by SR Law to Gillam only upon written confirmation from CMLS to SR Law that the remaining Borrower Conditions Precedent and the CMLS Covenants (as defined below) have been satisfied;
- vi. the standstill agreement in favour of the Mortgagees attached as **Schedule “G”** to this Agreement, executed by CorFinancial Corp.;
- vii. a release from Gillam in favour of the Borrower and Lender, and an acknowledgment from COR, regarding lien rights under the *Construction Act* relating to any and all amounts owing to Gillam in respect of invoices relating to services provided in respect of Phase 2 and Phase 3 (the “**Gillam Phase 2/3 Invoices**”), including an acknowledgment from COR that any assignment from Gillam to COR in respect of the Gillam Phase 2/3 Invoices shall not be an assignment of Gillam’s lien rights in respect of those invoices pursuant to section 73 of the *Construction Act*, or otherwise, and a statutory declaration and undertaking from Gillam that, among other things, save and except for the Phase 2/3 Maintenance Work (defined below) more particularly described below under the heading “Construction”, Gillam will provide no lienable supply of services or materials in respect of Phase 2 or Phase 3 until the Loans are paid out. Gillam’s statutory declaration and undertaking will also include an undertaking to immediately advise the Borrower and CMLS, in writing, if it is expected that the Phase 2/3 Maintenance Cost will exceed \$157,312.50, inclusive of tax and insurance expenses. The Borrower will also provide CMLS with a statutory declaration and undertaking from RWH Engineering Inc. (“**RWH**”), including to provide no lienable supply of services or materials in

respect of Phase 2 or Phase 3, save and except for the Phase 2/3 Maintenance Work, until the Loans are paid out;

viii. confirmation in writing from Westmount as administrative agent of the deposit account for deposits received in connection with agreements of purchase and sale for condominium units in the Project, that Westmount has paid to SR Law, in trust, the sum of up to \$5 million of these purchaser deposits (the "**Westmount Deposit Funds**"), and that upon written confirmation from SR Law that the remaining Borrower Conditions Precedent and the CMLS Covenants (as defined below) have been satisfied or will be satisfied in accordance with the terms hereof, that the Westmount Deposit Funds can be allocated in accordance with the term of the Lien Settlement (as defined below) (the "**Westmount Agreement**"); and,

ix. settlement agreements between the Borrower and each Registered Lien Claimant, and between the Borrower and each Unregistered Lien Claimant (each a "**Lien Settlement**", and collectively the "**Lien Settlements**"), pursuant to which:

- a. each Registered Lien Claimant and Unregistered Lien Claimant (collectively, the "**Lien Claimants**") shall have executed and delivered a statutory declaration substantially in the form attached as **Schedule "H"**, and a release in respect of their respective lien claims substantially in the form attached as **Schedule "I"**, to be held in escrow and only as set out herein;
- b. the aggregate of the Lien Settlements in respect of Phase 2 and Phase 3 shall be no greater than \$6,890,729.91, which amount does not include the settlement in respect of Gillam and the Gillam Phase 2/3 Invoices;
- c. a term therein states that the funds payable under the Lien Settlement shall be held in escrow, and shall not be released or otherwise paid to any Lien Claimant until all registered claims for lien and any registered certificates of action relating to the Lien Settlements have been discharged or otherwise provided for under the *Construction Act*;
- d. a term therein states the settlement is conditional on all Lien Settlements in respect of the Registered Lien Claimants closing simultaneously, resulting in no remaining registered claims for lien or certificates of action on title to the Property;
- e. a term therein that states that in the event that a claim for lien or certificate of action remains registered on title as of the closing of the Lien Settlements (including but not limited to a Registered Lien Claimant refusing to discharge its claim for lien and/or certificate of action, or a new claim for lien being registered on title), then at CMLS' sole discretion it may direct that the none of Lien Settlements will proceed, in which case the statutory declarations and releases referred to above shall be destroyed, and the Settlement Funds shall be returned to counsel to CMLS.

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

**GENESIS MORTGAGE INVESTMENT                      and                      1776411 ONTARIO LTD. AND 1333 WEBER STREET KITCHENER LP  
CORP.**

Applicant

Respondents

Court File No.: CV-23-00706813-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceedings commenced in Toronto

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**APPLICATION RECORD  
(Returnable October 12, 2023)**

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**BENNETT JONES LLP**  
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P.O. Box 130  
Toronto, ON M5X 1A4

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Lawyers for the Applicant