

3 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 3 of 3)
(Returnable October 12, 2023)**

October 2, 2023

BENNETT JONES LLP
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Toronto, ON M5X 1A4
Fax: (416) 863-1716

Sean Zweig (LSO# 57307I)
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Milan Singh-Cheema (LSO# 88258Q)
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4. **CMLS Covenants**

Upon the Borrower Conditions Precedent being satisfied, CMLS shall take the following steps (the “**CMLS Covenants**”):

- i. execute the Amended Commitment Letter for Loan 50715 dated April 26, 2023, attached as Schedule “E” to this Agreement;
- ii. execute the Amended Commitment Letter for Loan 50716 dated April 26, 2023, attached as Schedule “F” to this Agreement;
- iii. advance the total amount of the increase of no more than \$5 million in the Loans to SR Law, (the “**Phases 2-3 CMLS Loan Funds**”), with these funds to be allocated as follows:
 - a. to the Registered Lien Claimants in respect of Phase 2 and Phase 3, provided that in connection therewith the Borrower shall obtain the discharge of any related claims for lien and certificates of action and release from any liens;
 - b. \$43,973 in respect of a commitment fee in the amount of \$7,500 relating to the Westmount Deposit Funds and the Westmount Agreement, and unpaid bond costs of \$36,473 relating to insuring deposits paid by purchasers of units in Phases 2 and 3 of the Project;
 - c. \$300,000 to CorFinancial on account of a Guarantee Fee payable to CorFinancial Corp. in connection with the CorFinancial Mortgage and legal fees of the Borrower and CorFinancial to the date of this Agreement paid by CorFinancial Corp. and legal fees of CorFinancial to be incurred in respect of finalizing the CorFinancial Mortgage and related documents, provided CorFinancial shall provide to CMLS and SR Law a statement of account detailing the foregoing expenses; and
 - d. \$50,000 to Loopstra Nixon LLP in trust, as a retainer for the Borrower’s reasonable legal costs in respect of, related to or connected to the Borrower’s operations under the terms of this Agreement, any issues related thereto and any potential refinancing of the Indebtedness, provided that the Borrower shall provide a retainer agreement and retainer invoice from Loopstra Nixon LPP and such funds shall be applied to legal costs only in accordance with the terms of such retainer agreement,

provided, for greater certainty, that the foregoing funds shall not be released by SR Law until all conditions to the release of such funds under subsection (a) above have satisfied.

- iv. consent to CorFinancial Corp. registering a third mortgage over the Property in the principal amount of \$3.5 million (the “**CorFinancial Mortgage**”);
- v. release to SR Law the Unfunded Advances, to be paid to satisfy the Registered Lien Claimants in respect of construction undertaken in respect of Phase 1 (the “**Phase 1 Registered Lien Claims**”), and the Unregistered Lien Claimants in respect of construction undertaken in respect of Phase 1 (the “**Phase 1 Unregistered Lien**

Claimants”) provided (i) each of the same is supported by an approval from Altus, including confirmation that the services or materials to be paid for was solely in respect of Phase 1, a CCDC 9B – 2018 Statutory Declaration of Progress Payment Distribution by Subcontractor, and a current WSIB clearance certificate, and (ii) all funds comprising the Unfunded Advances shall be applied, immediately and in no circumstances more than twenty-four (24) hours after receipt of the same, to amounts owing to the Phase 1 Registered Lien Claims and the Phase 1 Unregistered Lien Claimants, provided further that in connection therewith the Borrower shall obtain the discharge of any claim for lien registered on title to the Property. The balance of the Unfunded Advances, if any following payment of the Phase 1 Unregistered Lien Claimants, shall be paid by SR Law to the Borrower upon direction from the Lender;

- vi. continue to provide funding to the Borrower under the Financing Commitments, by way of Altus-approved Advances, provided (i) each of the same is supported by an approval from Altus, including a confirmation that the services or materials to be paid for was solely in respect of Phase 1, a CCDC 9B – 2018 Statutory Declaration of Progress Payment Distribution by Subcontractor, and a current WSIB clearance certificate, and (ii) all funds comprising the Advances shall be applied, immediately and in no circumstances more than twenty-four (24) hours after receipt of the same, to amounts owing to Gillam and to the Trade Contractors approved by Altus, provided further that in connection therewith the Borrower shall obtain the discharge of any claim for lien registered on title to the Property. The balance of the Advances, if any following payment of Gillam and the Trade Contractors, shall be paid by SR Law to the Borrower upon direction from the Lender.

Without limiting the foregoing in any way, it is an express term of this Agreement that if all of the Lien Settlements cannot be implemented for whatever reason by May 15, 2023, including but not limited to the registration of a new claim for lien not referenced in Schedule “C” (subject to the cure provision set out in Term 16 below), and/or the total of the Phase 2 and 3 Lien Settlements being greater than \$6,890,729.91, such will constitute a Forbearance Default. In that case, the Westmount Deposit Funds and the Promissory Note will be returned to Westmount and to CorFinancial Corp., respectively, and the Phases 2-3 CMLS Loan Funds will be returned to the Lender.

5. **Interest Reserve**

The Interest Reserve will continue to operate and be applied as provided for in the Commitment Letters..

6. **Lender’s Default Notice and NITES, and Borrower and Guarantors’ Consents**

- (i) Each of the Borrower and Guarantors acknowledges and accepts receipt from the Lender of the Demands and the NITES, a copy of which is attached at **Schedule “J”** hereto, and hereby waives the right to the ten (10) day notice period under section 244(2) of the *Bankruptcy and Insolvency Act* (Canada) and consents to immediate enforcement of the Security by the

Lender. Each of the Borrower and Guarantors acknowledges and agrees that, subject to section 2 above, the Lender is entitled to immediately enforce on the Security.

- (ii) Each of the Borrower and Guarantors acknowledges and agree that the Demands and NITES were validly delivered by the Lender and shall remain in full force and effect throughout the Forbearance Period and that the Lender is not, and will not be deemed to have waived, varied, altered or withdrawn same by virtue of entering into this Agreement or otherwise. Each of the Borrower and Guarantors further acknowledges, consents, and confirms that the Lender may continue to rely on the Demands and NITES, and the Lender shall be entitled to act on same in respect of all of the Indebtedness and all of the Security without the need to issue any further, refreshed or new demand or notice of intention to enforce security.

7. Documents

Beginning immediately upon execution of this Agreement, and on the first business day of each subsequent month thereafter starting May 1, 2023 until and including the maturity date under the Loans, the Borrower will provide CMLS with monthly reporting as required by the Commitment Letters.

The Borrower and the Guarantors agree that CMLS shall be entitled to:

- (a) monitor the financial affairs of the Borrower, through access to the Borrower's books and records, financial records and bank accounts, and through "read only" electronic access being granted to the Borrower's banking systems;
- (b) review and approve the disbursement of funds by the Borrower out of any monies advanced to the Borrower under this Agreement and/or the Commitment Letters, so as to confirm the same complies with the Borrower's ongoing obligations under this Agreement and/or the Commitment Letters;
- (c) monitor the progress of construction of the Project, by way of site visits and interviews with any person, including but not limited to Mr. Leuschner, at such intervals as CMLS deems appropriate;
- (d) receive information on the financial status of the Borrower (including but not limited to an update on all receivables, WIP, payables, debts, accounts, priority payables and any projections) and the construction status of the Project; and,
- (e) make such inquiries of the Borrower or any person, and examine such documents or records as it may obtain.

8. Remittance Statutory Declaration

The Borrower will provide CMLS with the executed version of the Agreement, the sworn Remittance Statutory Declaration attached hereto as **Schedule "K"**. This

Agreement is conditional on the remittances set out in the Remittance Statutory Declaration being current and in good standing.

9. **Construction**

From and after the date hereof, pending payout in full of the Loans, there shall be no physical construction of Phase 2 Phase 3, or Phase 4 of the Project, without the prior written consent of CMLS.

For greater certainty, the only construction activity permitted in respect of Phase 2, Phase 3 or Phase 4 shall be in respect of “soft costs”, being those costs required for the planning and development of these three future phases, and any steps that are reasonably necessary to preserve, protect and maintain the status quo of the state of Phase 2, Phase 3, and Phase 4 construction and development for the period from April 1, 2023 to April 30, 2024, being being monthly site monitoring (to be performed by Gillam) and monthly shoring monitoring (to be performed by RWH), and, when required, the supply and installation of tarping to winterize shoring (to be supplied and installed by Gillam, collectively, the “**Phase 2/3 Maintenance Work**”), at a total estimated cost of \$157,312.50, inclusive of tax and insurance expenses (the “**Phase 2/3 Maintenance Cost**”).

10. **Use of Funds and Notice of Claims**

With respect to any monies advanced following execution of this Agreement in respect of Advances to be made pursuant to Commitment Letters (other than the in respect of Registered Liens or Unregistered Liens to be paid under the Lien Settlement or from the Unfunded Advances), the Borrower may not use such funds until such time as Altus has confirmed that the proposed use of the same is in accordance with the related Draw Request and that the use accords with the covenants and restrictions of the Borrower hereunder.

If the Borrower seeks to pay a Project cost or expense greater than \$100,000 that has not been certified by Altus using funds other than monies advanced following execution of this Agreement in respect of Advances to be made pursuant to Commitment Letters, the Borrower shall first give notice to the Lender of the Borrower’s intention to pay, including the quantum of the proposed payment, the nature of the cost or expense to be paid, and the Borrower’s source of funds for the proposed payment.

In the event the Borrower receives written notice of a claim, including but not limited to a demand for payment or an issued Statement of Claim, in respect of a debt allegedly owing by the Borrower greater than \$50,000, the Borrower shall forthwith, and in any event no more than 24 hours after receiving such notice, provide the Lender with notice of the claim, including but not limited to a copy of the demand for payment or issued Statement of Claim.

11. **Additional Mortgages**

During the Forbearance Period, the Borrower will not grant or allow any further charge(s), mortgage(s), lien(s) or other form of encumbrance(s) over the Property, save and except for the CorFinancial Mortgage.

12. **Defaults**

Any misrepresentations by the Borrower and/or the Guarantors under this Agreement, defaults under the Loans, the Commitment Letters and/or the Security Documents, or unauthorized physical construction of Phase 2, Phase 3 or Phase 4 shall constitute a default under this Agreement and the Indebtedness in full shall be immediately due and payable to the Lender by the Borrower, subject to the cure provision set out in Term 16 below.

13. **Interest and Costs**

The Borrower and Guarantors acknowledge and confirm that interest on the Indebtedness continues to accrue as currently set out in the Loans and the Commitment Letters and that interest, as well as the Lender's costs, fees and other monies expended by Lender in any way related to this Agreement or the Loans (including the Commitment Letters and the Security Documents), such as the professional fees paid by CMLS to any third party it wishes to engage, as well as interest on any protective disbursements made by CMLS to pay incurred costs and fees, are added to and are deemed to be a part of the Indebtedness. The Borrowers shall continue to make all payments required under the Loans.

14. **Continuation of the Loan documents**

All of the terms and conditions of the Commitment Letters, the Loans and the Security Documents are hereby confirmed and continue in full force and effect, except to the extent modified by specific provisions of this Agreement. In the event of any conflict between the provisions of the Commitment Letters/the Security Documents and this Agreement, the provisions of this Agreement will prevail.

15. **Appraisals of Property During the Forbearance Period**

Upon execution of this Agreement, the Lender may retain an appraiser of its choice to appraise the Property as often as required in the Lender's sole discretion acting reasonably (the "**Appraisals**"). The costs of the Appraisals will be at the Borrower's expense and will be added to the Indebtedness. The Borrower shall provide the appraisers retained by the Lender with access to the Property forthwith upon request for the purposes of carrying out the Appraisal, as well as access to all financial books and records requested by the appraiser.

16. **Remedies on Default and Consent to Appointing a Receiver**

Upon the occurrence of a Forbearance Termination Event (i.e. a Forbearance Default or the Forbearance Termination Date), or any other termination of this Agreement, at the Lender's election, the Indebtedness shall be due and payable to the Lender by the Borrower on demand following notice of such default if such default is not remedied within ten (10) business days of such demand in the

Lender's sole and absolute discretion acting reasonably as to whether or not the default has been cured.

Without limiting the generality of the foregoing, in the event a construction lien is registered against the Property or a written notice of lien is given to the Lender and/or the Borrower following execution of this Agreement, the Borrower shall, at its own expense, within ten (10) business days, ensure that any and such construction lien(s) and related certificate(s) of action are discharged, released, or vacated by the posting of security, or in the case of a written notice of lien, ensure that such notice is withdrawn in writing, or vacated by the posting of security. The Lender may, in sole discretion, extend the time to address any liens under this paragraph. Finally, in the event a construction lien is registered against the Property or a written notice of lien is given to the Lender and/or the Borrower and the legitimacy or validity of such lien and claim for lien is challenged by Borrower - and the Lender, in its sole discretion agrees that such lien and claim for lien is challengeable - the Lender may, in its sole discretion, provide the funding to post security to vacate the lien. If the Lender, in its sole discretion, decides not to provide the funding to post security to vacate the lien, the Borrower shall deal with the lien and any related certificate, or the written notice of lien, as provided for in this paragraph.

If the Borrower fails to adhere to any of the provisions herein or any of the provisions in the Loans, the Commitment Letters and/or the Security Documents (to the extent that they do not conflict with the terms of this Agreement), it shall be considered a Forbearance Default under this Agreement. In the event of such Forbearance Default, the Lender will be entitled to, at its election, resort to any and all remedies under this Agreement, the Commitment Letters, and/or the Security Documents, in the Lender's sole and absolute discretion.

In the event of a Forbearance Default, or following the termination or expiry of the Forbearance Period, the Borrower and Guarantors agree they will not oppose, and hereby consent to, any appointment, or any application by the Lender seeking the appointment, of a receiver, receiver-manager and/or a construction lien trustee (a "**Receiver**") over the Borrower or all or any part of the property, assets and undertaking of the Borrower, including the Property. Each of the Borrower and Guarantors agrees to fully cooperate with and assist the Lender in the Lender's enforcement of its rights and remedies and consents to any party, including any current or former financial advisor that the Lender may seek to appoint in its sole discretion being appointed as Receiver and that the Lender may rely upon this consent to the appointment of the Receiver and same can be pleaded in any application to appoint a Receiver, as the Lender may initiate.

Each of the Borrower and Guarantors acknowledges and confirms that the Lender shall be unaffected in all respects by any attempt by them, or any of them, to seek protection from creditors, whether pursuant to the *BIA*, the *Companies' Creditors Arrangement Act* (Canada) or any other legislation allowing a debtor to seek creditor protection. The Lender shall be allowed to rely upon the provisions hereof

as evidence that any stay imposed on the Lender shall be lifted and the Lender can plead the provisions hereof as evidence of such consent.

17. **Expiration of the Forbearance Period**

Upon the expiry of the Forbearance Period, if the Indebtedness has not been paid out in full, it will be immediately due and payable in full by the Borrower and any and all of the rights and remedies of the Lender against the Borrower pursuant to the Commitment Letters and the Security Documents shall become immediately enforceable by CMLS, in its sole and absolute discretion.

18. **Borrower's Obligations During the Forbearance Period**

During the Forbearance Period:

- (a) the Borrower will remain in possession of the Property complying with all applicable laws, rules, regulations and orders applicable thereto. CMLS is not deemed to have been or be in possession of the Property prior to or during the Forbearance Period; and
- (b) the Borrower will ensure that there is no material deterioration to the Property and any buildings thereon.

19. **Waiver and Release by Borrower and Guarantors**

The Borrower and Guarantors acknowledge that the actions of CMLS in the administration of the Loans, the Commitment Letters, the Agreement, and the Security Documents, and in entering into this Agreement, have been fair and reasonable and confirm that they have no adverse claim whatsoever against CMLS, its employees or agents. The Borrower and Guarantors agree to waive and agree not to assert or cause to be asserted on its behalf any defences, rights or claims with respect to the foregoing.

In consideration of the agreements of CMLS contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and Guarantors, on their behalf and on behalf of their predecessors, successors, affiliates, related companies, subsidiaries, directors, officers, employees, assigns, privies, and other legal representatives as the case may be, hereby absolutely, unconditionally and irrevocably release, remise and forever discharge CMLS and its predecessors, successors, affiliates, related companies, subsidiaries, directors, officers, employees, assigns, privies, lawyers, advisors and other legal representatives (and all such other persons being hereinafter referred to collectively as the "**Releasees**" and individually as a "**Releasee**"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defences, rights of set-off, demands and liabilities whatsoever (individually, a "**Claim**" and collectively, "**Claims**") of every name and nature, known or unknown, suspected or unsuspected, both arising

at law and in equity, which the Borrower and/or Guarantors or any of them, or any of their successors, assigns or other legal representatives may now own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which has arisen, or arises, and is known or unknown to the Borrower and/or Guarantors as of the date of the Agreement, including but not limited to any actions or omissions relating to the Loans the Commitment Letters, the Security Documents and this Agreement.

In that regard, the Borrower and Guarantors will execute the Waiver, Indemnity and Release attached hereto as **Schedule "L"** upon execution of the Agreement.

Further, in executing and delivering this Agreement, the Borrower and Guarantors confirm that they understand the effect of this Agreement, have obtained independent legal advice with respect thereto, and are acting freely and without duress. [emphasis added]

20. **Further Assurance**

The Borrower and Guarantors will sign or execute all such other documents and such other things as reasonably may be necessary or desirable for more completely and effectively carrying out the terms and intentions of this Agreement.

21. **Notice of Proceedings**

The Borrower will give CMLS immediate written notice of any litigation, arbitration or administrative proceedings, or dispute affecting the Loans and/or the Security, as well as any and of all material changes which might adversely affect the Lender's security position.

22. **Confidentiality Provision**

The fact and terms of this Agreement and the forbearance underlying it will be held in confidence by the Lender, Borrower and Guarantors and will receive no publication either oral or in writing, directly or indirectly, by the Lender, Borrower and/or Guarantors who will not make any public statements about the Agreement and the forbearance underlying it. The exceptions are publication if deemed essential on auditors' or accountants' written advice for financial statement or income tax purposes, or reference in any documentation that forms part of the Court record in a judicial proceeding, or in a hearing in such a proceeding.

23. **Information and Documents**

The Borrower and Guarantors, as applicable, will provide CMLS promptly with such information and documentation as CMLS may request from time to time in accordance with the Commitment Letters and Security Documents, in its sole discretion, acting reasonably.

24. **Priority of Security**

The Borrower will not take any action(s) or make any omission(s) to affect the ranking of the Loans or the Security.

25. **Insurance**

The Borrower will continue to insure and keep the Property fully insured, to designate the Lender as loss payee, and provide CMLS with evidence of insurance upon request.

26. **Representations and Warranties**

The Borrower and Guarantors represent, warrant and acknowledge to CMLS that CMLS is relying on such representations and warranties in entering into this Agreement, as follows:

(a) the Borrower and Guarantors have the power and authority to enter into and perform their obligations under this Agreement, and the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions by the Borrower and Guarantors; and

(b) this Agreement does not conflict with or result in the breach or violation of or constitute a default under the Borrower's constituting documents or by-laws of either of them, or any judgment, commitment, agreement or any other instruments to which either of them are bound, nor do they require the consent or approval of any other party.

The representations and warranties of the Borrower and Guarantors set forth in this Agreement shall survive the execution and delivery of this Agreement and shall continue in full force and effect until repayment of the Indebtedness and any other amounts outstanding or which may become outstanding to the Lender.

27. **Entire Agreement**

This Agreement constitutes the entire Agreement between CMLS and the Borrowers and the Guarantors, and other than its incorporation by reference of the Commitment Letters and Security Documents (subject to paragraph 14 above) supersedes all prior agreements or discussions between the Lender and the Borrower and the Guarantors, whether written or oral.

28. **Severability**

If any provision hereof is held to be illegal, invalid, or unenforceable in any jurisdiction, such provision will be deemed to be severed from the remainder of this Agreement with respect only to such jurisdiction and the remaining provisions of

this Agreement will not be affected thereby and will continue in full force and effect.

29. **No Waiver or Novation**

None of the covenants and agreements of CMLS in this Agreement, nor the performance thereof at any time, will constitute, or be deemed or implied to be, a waiver by CMLS of any default, either hereunder or under any other agreement with the Borrower that has occurred to the date hereof or any other subsequent default by the Borrower. CMLS may waive in writing any such default in its sole discretion but no such waiver shall constitute a waiver of any other or subsequent default.

This agreement will not discharge or constitute novation of any debt, obligation, covenant or agreement under the Loans, the Commitment Letters and the Security Documents which shall remain in full force and effect save to the extent amended by this Agreement.

30. **Notice**

Any notice required or permitted to be given hereunder or any tender or delivery of documents shall be given in writing by facsimile transmission and email to the parties at the following addresses:

to the Borrower at: **1776411 ONTARIO LTD. as General Partner on behalf of 1333 WEBER STREET KITCHENER LP**

Attention: Werner Leuschner
Tel: 519 746 9984
Fax: 519 746 0725
email: Leuschner.werner@hotmail.com

to the Guarantors at: **1639993 Ontario Ltd.**

Attention: Werner Leuschner
Tel: 519 746 9984
Fax: 519 746 0725
email: Leuschner.werner@hotmail.com

Werner Leuschner
Tel: 519 746 0725
Fax: 519 746 0725
Email: Leuschner.werner@hotmail.com

Jaykam Developers Limited
Tel: 519 721 2755
Fax: n/a

Email: hojokitchener@yahoo.com

Kamal Patel

Tel: 519 721 2755

Fax: n/a

Email: hojokitchener@yahoo.com

and with a copy to:

Loopstra Nixon
Barristers and Solicitors

Attention: Graham Phoenix

Tel: 416-748-4776

Fax: 416-746-8319

Email: gphoenix@loonix.com

to the Lender at:

CMLS Financial Ltd.

Attention: Andrea Cali

Tel: 647-729-8436

Fax: 416-646-1009

email: Andrea.Cali@cmls.ca

and with a copy to:

Blaney McMurtry LLP
Barristers and Solicitors
2 Queen Street East
Suite 1500
Toronto, ON M5C 3G5

Attention: Eric Golden

Tel: 416-593-3927

Fax: 416-593-5437

Email: egolden@blaney.com

The date of receipt of such notice or delivery shall be the date of actual transmission to the fax number and to the e-mail addresses, unless such date is not a business day, in which event the date of receipt shall be the next business day immediately following the date of such transmission.

31. **Successors and Assigns**

This Agreement shall not be assigned without the prior written consent of the Borrower, the Guarantors and CMLS, and this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and permitted assigns.

32. **Governing Law**

This Agreement, the Loans, the Commitment Letters, and the Security Documents shall be governed by the laws of the Province of Ontario, and the parties hereto submit to the jurisdiction of the Courts of the Province of Ontario in respect to any dispute that may arise in respect to this Agreement, the Loans, the Commitment Letters and/or the Security Documents.

33. **Counterparts**

This Agreement may be executed by fax or .pdf and in one or more counterparts, each of which will constitute an original and binding agreement as and when so executed.

34. **Receipt of Copy**

The Borrower and the Guarantors hereby acknowledge having received a signed copy of this Agreement.


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

**1776411 ONTARIO LTD. As General Partner on
behalf of 1333 WEBER STREET KITCHENER
LP**

Per:

Name:

Title



Werner Leuschner
President

I have authority to bind the Company.

CMLS FINANCIAL LTD.

Per:

Name:

Title:

I have authority to bind the Company.

JAYKAM DEVELOPERS LIMITED



Per:

Name: Kamal Patel

Title: President

I have authority to bind the Company.

163993 ONTARIO LTD.

Per:



Name:

Title:

Werner Lenschner
President

I have authority to bind the Company.

A.C. Leuschner
WITNESS

Name:

A.C. LEUSCHNER

Werner Leuschner
WERNER LEUSCHNER, in his personal capacity

Abhishek Patel
WITNESS

Name: Abhishek Patel

K Patel
KAMAL PATEL, in his personal capacity

[End of executions pages.]

SCHEDULE "A"

Municipal address: 1333 Webber Street East, Kitchener, Ontario

Legal description:

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

SCHEDULE "B"

CANADA

PROVINCE OF ONTARIO

To Wit:


) **IN THE MATTER OF** the condominium project
) known as "Elevate Condominiums" (the "Project")
) presently being developed by 1333 Weber Street
) Kitchener LP, under direction of its general partner,
) 1776411 Ontario Ltd. (collectively, the "Developer")
) on the property municipally known as 1333 Weber St.
) Kitchener, Ontario (the "Lands")
)
) **AND IN THE MATTER OF** the supply of materials
) and services in furtherance of the Project (the
) "Materials & Services") by parties under contract with
) the Developer (the "Contractors")

I, WERNER LEUSCHNER, of the City of Kitchener, in the Province/State of Ontario, on behalf of the Developer, DO SOLEMNLY DECLARE that:

1. I am the President of 177641 Ontario Ltd. and the manager of 1333 Weber Street Kitchener LP. In such capacities, I oversee and have signing authority in respect of all elements of Developer's operations in respect of the Project and, accordingly, have knowledge of the matters herein deposed to.
2. I attached as Exhibit "A" hereto a detailed listing of all Contractors who have supplied Materials & Services to Developer as of the date hereof and who have registered a lien against the Lands in respect of such supply, which exhibit also lists for each Contractor the respective last date on which Materials & Services were supplied.
3. This statutory declaration (the "**Lien Declaration**") is being sworn simultaneously with another statutory declaration that sets out all Contractors who have supplied Materials & Services to a Developer as of the date hereof, but have not registered a lien against the Lands in respect of such supply (the "**Non-Lien Declaration**"). All contractors, subcontractors, workmen and suppliers who supplied Materials & Services have either (i) been paid in accordance with the terms of their contracts and there are no outstanding claims for which a construction lien could be registered based on any work done or materials supplied by or at the request of the Developer in connection with the Project; or, (ii) been included in either or both of the Lien Declaration and/or the Non-Lien Declaration.
4. There are no liens (registered or non-registered), encumbrances or other charges outstanding against the Lands or the Developer's interest in the Lands, as a result of the Contractors' supply of Materials & Services, other than those set out in the Lien Declaration and the Non-Lien Declaration.

[execution on next page]

AND I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

DECLARED remotely by }
Werner Leuschner at the City of Kitchener. }
in the Province of Ontario, before me }
at the City of Toronto, in the Province of }
Ontario this 26 day of April 2023 }
in accordance with O. Reg 431/20, }
Administering Oath or Declaration }
Remotely }
 }

A COMMISSIONER, ETC. }



Werner Leuschner

EXHIBIT "A"

PHASE 1 LIENS

| Lien Claimant Name | Lawyer (and Firm) | Date Lien Registered (and Reg #) | Date Cert Registered (and Reg #) | Lien Amount (incl Tax) | Settlement Amount | Contract Date | Date Last Supply | Total Contract Amount | Total Value Supplied | Total Payments Made | Current Holdback |
|-------------------------------|----------------------------------------------|----------------------------------|----------------------------------|------------------------|-------------------|---------------|------------------|-----------------------|----------------------|---------------------|------------------|
| Elidon Forming Ltd | Maria Roberto (Pallet Volo) | 2023-02-21 (WR14935602) | | \$ 960,679.67 | \$960,679.67 | 18-Jan-21 | 2023-01-21 | \$ 8,115,444.97 | \$ 8,167,602.09 | \$ 8,157,189.02 | - |
| O Connor Electric Ltd. | Catherine Duvernois (Pallet Volo) | 2023-08-17 (WR14938228) | | \$ 966,105.81 | \$166,105.81 | 18-Jan-21 | 2023-01-07 | \$ 2,813,700.00 | \$ 1,980,885.51 | \$ 898,518.50 | \$ 153,558.75 |
| O Connor Electric Ltd. | Catherine Duvernois (Pallet Volo) | 2023-02-13 (WR14937255) | | \$ 153,538.75 | \$153,538.75 | 18-Jan-21 | 2023-08-13 | \$ 2,813,700.00 | | | |
| Oxford Builders Supplies Inc. | Maria Roberto (Pallet Volo) | 2023-02-21 (WR14935596) | | \$ 44,968.84 | \$44,968.84 | 16-Mar-22 | 2023-02-15 | \$ 204,812.50 | \$ 44,374.84 | \$ - | \$ - |
| Oxford Builders Supplies Inc. | Maria Roberto (Pallet Volo) | 2023-02-21 (WR14935594) | | \$ 49,148.70 | \$99,148.70 | 16-Mar-22 | 2023-01-27 | \$ 772,118.65 | \$ 551,824.25 | \$ 391,348.55 | \$ - |
| C.A. Masonry Inc. | Hans Sario (Elsmore, Schumacher, McCann LLP) | 2023-03-02 (WR15002098) | | \$ 436,850.00 | \$436,850.00 | 21-Jan-21 | 2023-01-24 | \$ 621,105.15 | \$ 411,173.10 | \$ 142,335.00 | \$ 43,685.90 |
| Schouen Excavating | Chris Atkinson (Steiber Berke) | 2023-04-21 (WR15048444) | | \$ 309,377.83 | \$ 309,377.83 | 18-Jan-21 | 2023-02-24 | \$ 1,249,754.28 | \$ 1,249,754.28 | \$ 946,374.45 | \$ 107,639.82 |

PHASES 2/3 LIENS

| Lien Claimant Name | Lawyer (and Firm) | Date Lien Registered (and Reg #) | Date Cert Registered (and Reg #) | Lien Amount (incl Tax) | Settlement Amount | Contract Date | Date Last Supply | Total Contract Amount | Total Value Supplied | Total Payments Made | Current Holdback |
|---------------------------------|----------------------------------|----------------------------------|----------------------------------|------------------------|-------------------|---------------|------------------|-----------------------|----------------------|---------------------|------------------|
| Elidon Forming Ltd. | Maria Roberto (Pallet Volo) | 2023-02-21 (WR14935601) | | \$ 4,278,820.08 | \$4,281,512.93 | 14-Apr-22 | 2023-01-21 | \$ 6,863,344.69 | \$ 4,291,253.39 | \$ 551,128.50 | \$ 477,694.68 |
| Elidon Forming Ltd. | Maria Roberto (Pallet Volo) | 2023-02-21 (WR14935602) | | \$ 364,853.31 | \$364,853.31 | 14-Apr-22 | 2023-01-23 | \$ 6,130,512.72 | \$ 328,987.88 | \$ - | \$ 56,485.31 |
| HIC Mason Inc. | Anthony J. Gabriele (Pauly Law) | 2022-12-19 (WR14897025) | 2023-03-15 (WR14916419) | \$ 90,951.84 | \$90,959.94 | 21-Apr-22 | 2023-01-26 | \$ 312,183.80 | \$ 276,595.77 | \$ 152,026.57 | \$10,263.75 |
| Hic Mason Inc. | Anthony J. Gabriele (Pauly Law) | 2022-12-19 (WR14897030) | 2023-03-15 (WR14916408) | \$ 448,020.57 | \$448,020.57 | 21-Apr-22 | 2023-01-26 | \$ 886,163.59 | \$ 781,381.13 | \$ 100,000.00 | \$86,831.27 |
| Kiewit/BC Excavating Inc. | Jonathan Mahoney (Harrison Park) | 2022-12-08 (WR14880244) | 2023-01-20 (WR14915403) | \$ 688,054.90 | \$688,054.90 | 21-Apr-22 | 2022-10-26 | \$ 1,959,594.13 | \$ 1,058,834.70 | \$ 364,833.13 | \$66,135.28 |
| Lehigh Hanson Materials Limited | Stephanie Dodd (MISC Law) | 2022-12-14 (WR1489910) | 2023-03-02 (WR14915738) | \$ 197,302.14 | \$197,302.14 | 16-Mar-22 | 2022-10-25 | \$ 351,022.14 | | \$ - | \$ - |
| Oxford Builders Supplies Inc. | Maria Roberto (Pallet Volo) | 2023-02-21 (WR14935595) | | \$ 320,320.00 | \$320,320.00 | 16-Mar-22 | 2023-02-01 | \$ 823,662.17 | \$ 463,977.19 | \$ 211,193.10 | \$ - |

NOTE: Lehigh lien (cell E22) is part of the second (Elidon Phase 2) lien (cell E18), which is reduced accordingly.

SCHEDULE "C"

CANADA

PROVINCE OF ONTARIO

To Wit:

) **IN THE MATTER OF** the condominium project
) known as "Elevate Condominiums" (the "Project")
) presently being developed by 1333 Weber Street
) Kitchener LP, under direction of its general partner,
) 1776411 Ontario Ltd. (collectively, the "Developer")
) on the property municipally known as 1333 Weber St.
) Kitchener, Ontario (the "Lands")
)
) **AND IN THE MATTER OF** the supply of materials
) and services in furtherance of the Project (the
) "Materials & Services") by parties under contract with
) the Developer (the "Contractors")

I, WERNER LEUSCHNER, of the City of Kitchener, in the Province/State of Ontario, on behalf of the Developer, DO SOLEMNLY DECLARE that:


1. I am the President of 177641 Ontario Ltd. and the manager of 1333 Weber Street Kitchener LP. In such capacities, I oversee and have signing authority in respect of all elements of Developer's operations in respect of the Project and, accordingly, have knowledge of the matters herein deposed to.
2. I attached as Exhibit "A" hereto a detailed listing of all Contractors who have supplied Materials & Services to Developer as of the date hereof, but who have not registered a lien against the Lands in respect of such supply, which exhibit also lists for each Contractor the respective last date on which Materials & Services were supplied.
3. This statutory declaration (the "**Non-Lien Declaration**") is being sworn simultaneously with another statutory declaration that sets out all Contractors who have supplied Materials & Services to a Developer as of the date hereof and have registered a lien against the Lands in respect of such supply (the "**Lien Declaration**"). All contractors, subcontractors, workmen and suppliers who supplied Materials & Services have either (i) been paid in accordance with the terms of their contracts and there are no outstanding claims for which a construction lien could be registered based on any work done or materials supplied by or at the request of the Developer in connection with the Project; or, (ii) been included in either or both of the Lien Declaration and/or the Non-Lien Declaration.
4. There are no liens (registered or non-registered), encumbrances or other charges outstanding against the Lands or the Developer's interest in the Lands, as a result of the Contractors' supply of Materials & Services, other than those set out in the Lien Declaration and the Non-Lien Declaration.

[execution on next page]

AND I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

DECLARED remotely by }
Werner Leuschner at the City of Kitchener. }
in the Province of Ontario, before me }
at the City of Toronto, in the Province of }
Ontario this 26 day of April 2023 }
in accordance with O. Reg 431/20, }
Administering Oath or Declaration }
Remotely }
 }

A COMMISSIONER, ETC. }



Werner Leuschner

EXHIBIT "A"

PHASE 1 CLAIMS

| Claimant Name | Lawyer (and Firm) | Claim Amount (incl Tax) | Settlement Amount | Contract Date | Date of Last Supply | Total Contract Amount | Total Value Supplied | Total Payments Made | Current Holdback | |
|-------------------------------|-------------------|-------------------------|-------------------|---------------|---------------------|-----------------------|----------------------|---------------------|------------------|---------------|
| ABA Architects | | \$ 4,251.42 | \$29,028.75 | 2019-02-22 | | 2023-03-17 | \$7,483,740.00 | \$1,993,245.93 | \$1,964,217.18 | \$ - |
| Alldoor Supply | | \$ 94,130.20 | \$111,818.92 | 2021-05-17 | | 2022-11-18 | \$ 1,086,721.00 | \$34,710.42 | \$4,710.42 | \$ 3,413.02 |
| Altus Group | | \$ 10,166.54 | \$16,359.80 | 2020-03-05 | | 2023-03-24 | On Hourly basis | \$165,084.99 | \$148,725.09 | \$ - |
| Aluminum Window Designs | | \$ 171,031.50 | \$607,701.92 | 2021-05-19 | | 2023-03-24 | \$ 2,596,740.00 | \$ 1,329,203.24 | \$ 180,812.43 | \$ 130,698.45 |
| Chung & Vander Doelen | | \$ 887.00 | \$2,765.11 | 2021-01-20 | | 2023-01-26 | \$ 30,305.00 | \$ 59,661.86 | \$4,258.16 | \$ - |
| Conestoga Roofing | | \$ 8,192.50 | \$8,331.78 | 2021-04-30 | | 2022-12-31 | \$ 924,340.00 | \$ 296,307.14 | \$ 294,217.21 | \$ 29,135.41 |
| Dean Lane Contracting | | \$ 834,900.00 | \$1,623,426.30 | 2021-01-18 | | 2023-03-24 | \$ 6,064,710.00 | \$ 3,657,588.63 | \$ 2,970,751.58 | \$439,224.11 |
| Delta Elevator | | \$ 24,300.00 | \$133,227.00 | 2021-02-05 | | 2023-01-17 | \$ 548,050.00 | \$ 133,227.00 | \$ 24,713.10 | \$ 13,100.00 |
| Devland Consulting | | \$ 13,000.00 | \$5,850.00 | N/A | | 2023-03-31 | On Hourly basis | \$175,278.83 | \$169,628.83 | \$ - |
| Gillam Urban Contractors Inc. | | \$ 1,320,445.21 | \$1,204,000.50 | 2021-01-08 | | 2023-03-17 | \$ 8,624,322.87 | \$ 6,244,749.50 | \$4,924,300.29 | \$ - |
| Gold Star Drywall | | \$ 295,853.53 | \$574,800.15 | 2021-04-01 | | 2023-03-24 | \$ 3,699,281.00 | \$ 992,058.57 | \$ 413,106.49 | \$ 97,547.58 |
| Green Tech Sealants | | \$ 100,381.43 | \$154,322.33 | 2022-04-21 | | 2023-03-23 | \$ 465,323.54 | \$ 248,183.68 | \$ 110,657.92 | \$ 24,403.51 |
| GSP Group | | \$ 8,127.54 | \$4,762.95 | 2019-02-11 | | 2023-03-06 | On Hourly basis | \$239,632.61 | \$234,869.69 | \$ - |
| Kingsguard Security | | \$ 11,613.27 | \$31,327.00 | 2022-07-01 | | 2003-03-25 | On Hourly basis | \$ 78,111.17 | \$ 43,055.14 | \$ - |
| Pearson Metal | | \$ 75,540.36 | \$201,713.36 | 2021-10-05 | | 2023-03-25 | \$ 870,103.39 | \$ 65,879.00 | \$ 60,681.00 | \$ - |
| Stubbe's Precast | | \$ 1,488,013.00 | \$1,505,897.32 | 2021-02-14 | | 2023-02-21 | \$ 10,901,110.00 | \$ 9,140,426.51 | \$ 7,635,317.99 | \$ 898,763.67 |
| SDI Supplies | | \$ 10,025.40 | \$11,328.70 | 2022-03-08 | | 2023-09-30 | \$ 11,328.70 | \$ 11,328.70 | \$ - | \$ - |
| Swan Dust Contro | | \$ 167.67 | \$0.00 | N/A | N/A | | On Hourly basis | N/A | N/A | \$ - |
| Troy Life & Fire | | \$ 168,810.75 | \$274,378.04 | 2021-03-16 | | 2023-03-17 | \$ 868,851.35 | \$ 468,923.81 | \$ 208,298.74 | \$ 46,108.54 |
| Williams Scotsman | | \$ 956.00 | \$0.00 | 2021-02-01 | | 2023-02-28 | \$ - | \$ 17,674.33 | \$ 17,674.33 | \$ - |
| Strong Foam Insulation Inc. | | \$28,206.50 | \$28,206.50 | 2021-01-18 | | 2023-12-30 | \$214,587.00 | \$28,206.50 | \$ - | \$ 2,773.50 |

PHASE 2 CLAIMS

| Claimant Name | Lawyer (and Firm) | Claim Amount (incl Tax) | Settlement Amount | Contract Date | Date of Last Supply | Total Contract Amount | Total Value Supplied | Total Payments Made | Current Holdback | |
|-------------------------------|-------------------|-------------------------|-------------------|---------------|---------------------|-----------------------|--------------------------|---------------------|------------------|-------------|
| Dean Lane Contracting | | \$ 550,000.00 | \$550,000.00 | 2022-06-14 | | 2023-02-20 | \$7,675,240.44 | \$611,111.11 | \$ - | \$61,111.11 |
| HGL Electrical | | \$ 92,170.00 | \$92,170.00 | 2022-06-14 | | 2022-10-25 | \$3,588,122.90 | \$102,411.11 | \$ - | \$10,241.11 |
| United Aluminum | | \$ 60,000.00 | \$66,000.00 | 2022-06-16 | | 2022-06-26 | \$3,147,067.82 | \$66,000.00 | \$ - | \$6,000.00 |
| Gillam Urban Contractors Inc. | | \$ 2,676,547.94 | \$2,676,547.94 | 2021-11-22 | | 2023-03-17 | \$9,324,745.40 | \$3,156,476.26 | \$ 138,420.00 | \$0.00 |
| RWH Engineering Inc. | | \$11,492.10 | \$11,492.10 | N/A | | 2023-03-30 | Flat Rate per inspection | N/A | N/A | \$ - |



SCHEDULE "D"

Loan Amortization Schedule

| | | | |
|-----------------------------|----------------------|------------------------|------------|
| Borrower: | 1776411 Ontario Ltd. | Loan Number: | 50715.11 |
| Original Principal Balance: | \$9,962,924.00 | Current Interest Rate: | 8.900000 % |
| Amortization Term (months): | 0 | Compounding Periods: | MONTHLY |
| Loan Term (months): | 16 | Maturity Date: | 03-01-2024 |

| Record Number | Payment Date | Payment Amount | Principal | Interest | Ending Balance | Principal Paid | Interest Paid |
|---------------|--------------|------------------|------------------|--------------|-----------------|----------------|---------------|
| 1 | 08-19-2021 | (\$9,962,924.00) | (\$9,962,924.00) | \$0.00 | \$9,962,924.00 | \$0.00 | \$0.00 |
| 2 | 08-30-2021 | (\$1,498,001.00) | (\$1,498,001.00) | \$0.00 | \$11,460,925.00 | \$0.00 | \$0.00 |
| 3 | 09-01-2021 | \$16,881.92 | \$0.00 | \$16,881.92 | \$11,460,925.00 | \$0.00 | \$16,881.92 |
| 4 | 10-01-2021 | \$43,802.71 | \$0.00 | \$43,802.71 | \$11,460,925.00 | \$0.00 | \$43,802.71 |
| 5 | 11-01-2021 | \$45,262.80 | \$0.00 | \$45,262.80 | \$11,460,925.00 | \$0.00 | \$45,262.80 |
| 6 | 12-01-2021 | \$43,802.71 | \$0.00 | \$43,802.71 | \$11,460,925.00 | \$0.00 | \$43,802.71 |
| 7 | 01-01-2022 | \$45,262.80 | \$0.00 | \$45,262.80 | \$11,460,925.00 | \$0.00 | \$45,262.80 |
| 8 | 02-01-2022 | \$45,262.80 | \$0.00 | \$45,262.80 | \$11,460,925.00 | \$0.00 | \$45,262.80 |
| 9 | 02-28-2022 | (\$174,184.00) | (\$174,184.00) | \$0.00 | \$11,635,109.00 | \$0.00 | \$0.00 |
| 10 | 03-01-2022 | \$40,904.72 | \$0.00 | \$40,904.72 | \$11,635,109.00 | \$0.00 | \$40,904.72 |
| 11 | 03-28-2022 | (\$1,484,786.00) | (\$1,484,786.00) | \$0.00 | \$13,119,895.00 | \$0.00 | \$0.00 |
| 12 | 04-01-2022 | \$49,059.10 | \$0.00 | \$49,059.10 | \$13,119,895.00 | \$0.00 | \$49,059.10 |
| 13 | 04-28-2022 | (\$1,125,319.00) | (\$1,125,319.00) | \$0.00 | \$14,245,214.00 | \$0.00 | \$0.00 |
| 14 | 05-01-2022 | \$56,393.80 | \$0.00 | \$56,393.80 | \$14,245,214.00 | \$0.00 | \$56,393.80 |
| 15 | 05-30-2022 | (\$2,448,340.00) | (\$2,448,340.00) | \$0.00 | \$16,693,554.00 | \$0.00 | \$0.00 |
| 16 | 06-01-2022 | \$66,057.28 | \$0.00 | \$66,057.28 | \$16,693,554.00 | \$0.00 | \$66,057.28 |
| 17 | 06-23-2022 | (\$1,768,072.00) | (\$1,768,072.00) | \$0.00 | \$18,461,626.00 | \$0.00 | \$0.00 |
| 18 | 07-01-2022 | \$83,010.00 | \$0.00 | \$83,010.00 | \$18,461,626.00 | \$0.00 | \$83,010.00 |
| 19 | 07-27-2022 | (\$2,013,465.00) | (\$2,013,465.00) | \$0.00 | \$20,475,091.00 | \$0.00 | \$0.00 |
| 20 | 08-01-2022 | \$103,517.95 | \$0.00 | \$103,517.95 | \$20,475,091.00 | \$0.00 | \$103,517.95 |
| 21 | 09-01-2022 | (\$1,050,549.36) | (\$1,170,539.00) | \$119,989.64 | \$21,645,630.00 | \$0.00 | \$119,989.64 |
| 22 | 09-27-2022 | (\$2,135,777.00) | (\$2,135,777.00) | \$0.00 | \$23,781,407.00 | \$0.00 | \$0.00 |
| 23 | 10-01-2022 | \$134,777.74 | \$0.00 | \$134,777.74 | \$23,781,407.00 | \$0.00 | \$134,777.74 |
| 24 | 11-01-2022 | (\$2,250,075.15) | (\$2,406,218.00) | \$156,142.85 | \$26,187,625.00 | \$0.00 | \$156,142.85 |
| 25 | 11-24-2022 | (\$2,952,430.00) | (\$2,952,430.00) | \$0.00 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 26 | 12-01-2022 | \$180,035.91 | \$0.00 | \$180,035.91 | \$29,140,055.00 | \$0.00 | \$180,035.91 |
| 27 | 01-01-2023 | \$211,285.36 | \$0.00 | \$211,285.36 | \$29,140,055.00 | \$0.00 | \$211,285.36 |
| 28 | 02-01-2023 | \$215,277.15 | \$0.00 | \$215,277.15 | \$29,140,055.00 | \$0.00 | \$215,277.15 |
| 29 | 03-01-2023 | \$198,950.73 | \$0.00 | \$198,950.73 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 30 | 04-01-2023 | \$220,266.88 | \$0.00 | \$220,266.88 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 31 | 05-01-2023 | \$213,161.50 | \$0.00 | \$213,161.50 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 32 | 06-01-2023 | \$220,266.88 | \$0.00 | \$220,266.88 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 33 | 07-01-2023 | \$213,161.50 | \$0.00 | \$213,161.50 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 34 | 08-01-2023 | \$220,266.88 | \$0.00 | \$220,266.88 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 35 | 09-01-2023 | \$220,266.88 | \$0.00 | \$220,266.88 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 36 | 10-01-2023 | \$213,161.50 | \$0.00 | \$213,161.50 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 37 | 11-01-2023 | \$220,266.88 | \$0.00 | \$220,266.88 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 38 | 12-01-2023 | \$213,161.50 | \$0.00 | \$213,161.50 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 39 | 01-01-2024 | \$220,266.88 | \$0.00 | \$220,266.88 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 40 | 02-01-2024 | \$219,665.06 | \$0.00 | \$219,665.06 | \$29,140,055.00 | \$0.00 | \$0.00 |
| 41 | 03-01-2024 | \$205,493.12 | \$0.00 | \$205,493.12 | \$29,140,055.00 | \$0.00 | \$0.00 |

Loan Amortization Schedule

| | |
|----------------------------------------------------|-------------------------------------------|
| Borrower: 1776411 Ontario Ltd. | Loan Number: 50716.4 |
| Original Principal Balance: \$13,000,000.00 | Current Interest Rate: 15.450000 % |
| Amortization Term (months): 0 | Compounding Periods: MONTHLY |
| Loan Term (months): 18 | Maturity Date: 03-01-2024 |

| Record Number | Payment Date | Payment Amount | Principal | Interest | Ending Balance | Principal Paid | Interest Paid |
|---------------|--------------|-------------------|-------------------|--------------|-----------------|----------------|---------------|
| 1 | 08-19-2021 | (\$13,000,000.00) | (\$13,000,000.00) | \$0.00 | \$13,000,000.00 | \$0.00 | \$0.00 |
| 2 | 09-01-2021 | \$51,857.53 | \$0.00 | \$51,857.53 | \$13,000,000.00 | \$0.00 | \$51,857.53 |
| 3 | 10-01-2021 | \$121,333.33 | \$0.00 | \$121,333.33 | \$13,000,000.00 | \$0.00 | \$121,333.33 |
| 4 | 11-01-2021 | \$121,333.33 | \$0.00 | \$121,333.33 | \$13,000,000.00 | \$0.00 | \$121,333.33 |
| 5 | 12-01-2021 | \$121,333.33 | \$0.00 | \$121,333.33 | \$13,000,000.00 | \$0.00 | \$121,333.33 |
| 6 | 01-01-2022 | \$121,333.33 | \$0.00 | \$121,333.33 | \$13,000,000.00 | \$0.00 | \$121,333.33 |
| 7 | 02-01-2022 | \$121,333.33 | \$0.00 | \$121,333.33 | \$13,000,000.00 | \$0.00 | \$121,333.33 |
| 8 | 03-01-2022 | \$121,333.33 | \$0.00 | \$121,333.33 | \$13,000,000.00 | \$0.00 | \$121,333.33 |
| 9 | 04-01-2022 | \$123,861.11 | \$0.00 | \$123,861.11 | \$13,000,000.00 | \$0.00 | \$123,861.11 |
| 10 | 05-01-2022 | \$127,111.11 | \$0.00 | \$127,111.11 | \$13,000,000.00 | \$0.00 | \$127,111.11 |
| 11 | 05-25-2022 | (\$302,175.69) | (\$302,175.69) | \$0.00 | \$13,302,175.69 | \$0.00 | \$0.00 |
| 12 | 06-01-2022 | \$130,060.17 | \$0.00 | \$130,060.17 | \$13,302,175.69 | \$0.00 | \$130,060.17 |
| 13 | 06-20-2022 | (\$375,565.80) | (\$375,565.80) | \$0.00 | \$13,677,741.49 | \$0.00 | \$0.00 |
| 14 | 07-01-2022 | \$139,254.03 | \$0.00 | \$139,254.03 | \$13,677,741.49 | \$0.00 | \$139,254.03 |
| 15 | 08-01-2022 | \$148,365.51 | \$0.00 | \$148,365.51 | \$13,677,741.49 | \$0.00 | \$148,365.51 |
| 16 | 08-19-2022 | (\$322,258.51) | (\$322,258.51) | \$0.00 | \$14,000,000.00 | \$0.00 | \$0.00 |
| 17 | 09-01-2022 | (\$845,250.52) | (\$1,000,000.00) | \$154,749.48 | \$15,000,000.00 | \$0.00 | \$154,749.48 |
| 18 | 10-01-2022 | \$175,312.50 | \$0.00 | \$175,312.50 | \$15,000,000.00 | \$0.00 | \$175,312.50 |
| 19 | 11-01-2022 | \$178,333.33 | \$0.00 | \$178,333.33 | \$15,000,000.00 | \$0.00 | \$178,333.33 |
| 20 | 12-01-2022 | \$183,750.00 | \$0.00 | \$183,750.00 | \$15,000,000.00 | \$0.00 | \$183,750.00 |
| 21 | 01-01-2023 | \$188,541.67 | \$0.00 | \$188,541.67 | \$15,000,000.00 | \$0.00 | \$188,541.67 |
| 22 | 02-01-2023 | \$190,520.83 | \$0.00 | \$190,520.83 | \$15,000,000.00 | \$0.00 | \$190,520.83 |
| 23 | 03-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 24 | 04-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 25 | 05-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 26 | 06-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 27 | 07-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 28 | 08-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 29 | 09-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 30 | 10-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 31 | 11-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 32 | 12-01-2023 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 33 | 01-01-2024 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 34 | 02-01-2024 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |
| 35 | 03-01-2024 | \$193,125.00 | \$0.00 | \$193,125.00 | \$15,000,000.00 | \$0.00 | \$0.00 |



SCHEDULE "E"

April 26, 2023

1776411 Ontario Ltd. as General Partner on behalf of 1333 Weber Street Kitchener LP

Attention: Werner Leuschener

Re: Property: 1333 Weber Street East, Kitchener ON N2A 1C2 (the "Property")
Loan No: 50715

Further to our Commitment Letter dated June 28, 2021, and Commitment Letter Amendment 1 dated July 21, 2021, and Commitment Letter Amendment 2 dated May 3rd, 2022 please find below our acknowledgement with respect to the following amendments:

1. Page 1, "Loan Type and Amount" as originally amended May 3rd, 2022 delete:

\$52,800,000 non-revolving floating rate loan (the "Construction Facility")

Insured purchasers' deposits in the amount of \$14,500,000 are included as a source of funds. Amounts funded in excess of \$14,500,000 shall reduce the Construction Loan on a dollar for dollar basis. Any shortfall in deposits will result in an equal requirement for additional equity until further deposits are available.

| Sources and Uses | | | | | |
|--------------------|--------------------|---------------|----------------------------|--------------------|---------------|
| | \$ | % | | \$ | % |
| Land Equity (Cash) | 7,280,510 | 7.2% | Land Cost | 22,280,510 | 21.9% |
| Cash Equity | 4,663,970 | 4.6% | Appraisal Surplus | 3,750,000 | 3.7% |
| Appraisal Surplus | 3,750,000 | 3.7% | Hard Costs | 50,217,868 | 49.4% |
| CMLS Loan #50715 | 52,800,000 | 52.0% | Soft Costs | 20,494,978 | 20.2% |
| CMLS Loan #50716 | 16,000,000 | 15.7% | Contingencies | 1,851,124 | 1.8% |
| Insured Deposits | 14,500,000 | 14.3% | Contingent to Cost Overrun | 2,000,000 | 2.0% |
| Deferred Costs | 2,600,000 | 2.6% | Development of Phase 2 | 1,000,000 | 1.0% |
| Total | 101,594,480 | 100.0% | Total | 101,594,480 | 100.0% |

And replace with:

Up to \$54,800,000 non-revolving floating rate loan (the "Construction Facility")

Insured purchasers' deposits in the amount of \$14,500,000 for Phase 1 and up to \$5,000,000 for Phase 2 are included as a source of funds. Amounts funded in excess of \$14,500,000 for Phase 1 and up to \$5,000,000 for Phase 2 shall reduce the Construction Loan on a dollar for dollar basis. Any shortfall in deposits will result in an equal requirement for additional equity until further deposits are available.

| Sources and Uses | | | | | |
|--------------------------|--------------------|----------------|----------------------------|--------------------|-------------|
| | \$ | % | | \$ | % |
| Land Equity (Cash) | 7,280,510 | 6.5% | Land Cost | 22,009,809 | 19.7% |
| Cash Equity | 4,663,970 | 4.2% | Appraisal Surplus | 3,750,000 | 3.4% |
| Appraisal Surplus | 3,750,000 | 3.4% | Hard Costs | 51,046,302 | 45.7% |
| CMLS Loan #50715 | 54,800,000 | 49.1% | Soft Costs | 22,389,758 | 20.1% |
| CMLS Loan #50716 | 19,000,000 | 17.0% | Contingencies | 398,611 | 0.4% |
| Insured Deposits Phase 1 | 14,500,000 | 13.0% | Contingent to Cost Overrun | 1,000,000 | 0.9% |
| Insured Deposits Phase 2 | 5,000,000 | 4.5% | Phase 2 Costs Paid | 1,000,000 | 0.9% |
| Deferred Costs | 2,600,000 | 2.3% | Max Phase 2 funds Required | 10,000,000 | 9.0% |
| Total | 111,594,480 | 100.00% | Total | 111,594,480 | 100% |

2. Page 2, "Purpose" delete:

To assist in financing the development and construction of Phase 1 of a four Phase development consisting of a 15-storey, 177 unit residential condominium tower (the "Project") on lands located at 1333 Weber Street East, Kitchener, Ontario, with such legal description to be confirmed (the "Lands" or "Property").

And replace with:

\$52,800,000 to assist in the financing of Phase 1 of a four Phase development consisting of a 15 storey, 177-unit residential condominium tower (the "Project") on lands located at 1333 Weber Street East, Kitchener, Ontario, with such legal description to be confirmed (the "Lands" or "Property"). \$2,000,000 to assist in paying unpaid payables for Phase 2.

3. Page 2, "Availability" delete:

Following satisfaction of the Conditions Precedent to First Advance of the Construction Facility, draws under the Construction Facility are available by the Borrower submitting a Progress Draw Request not more than once per month in the minimum amount of \$500,000 and in compliance with the Conditions of Advance – Construction Facility noted herein. The Lender may cancel or restrict availability of any undrawn portion of the Construction Facility at any time and from time to time without notice or demand.

And replace with:

Following satisfaction of the Conditions Precedent to First Advance of the Construction Facility, draws under the Construction Facility are available by the Borrower submitting a Progress Draw Request not more than once per month in the minimum amount of \$500,000 and in compliance with the Conditions of Advance – Construction Facility noted herein. The Lender may cancel or restrict availability of any undrawn portion of the Construction Facility at any time and from time to time without notice or demand.

\$2,000,000 to be disbursed into escrow with the Lender's solicitor subject to "Conditions of Advance – Additional \$2,000,000". Any funds not required to fully fund the program will be returned to the Lender.

4. Page 4, "4) Fees", add:

- v. Amendment Fee of \$85,000 applicable to both CMLS Loan #50715 and #50716

5. Page 4, "4) Security", add:

- s) Satisfactory Subordination and Standstill agreement executed with COR Financial;

6. Page 6, add "Conditions of Advance – Additional \$2,000,000" before "6) Conditions of Advance – Construction Facility":

Additional \$2,000,000 on the Loan shall not be advanced until the following conditions have been fulfilled:

- ~~a. Updated Q5 Report No. 21~~ *ln*
- b. Executed contracts from trades validating their claim on payables and fees and interest reserve top up is not more than \$10,000,000;
- c. Executed forbearance agreement;
- d. Proceeds to be held in trust with Lender's counsel and only advanced directly to pay trades;
- e. Review and approval of assignment of \$750,000 cash collateral held by Westmount to Genesis Mortgage Investment Corp;
- f. Executed Westmount commitment letter;
- g. COR Financial executed note payable and agreement with Borrower;
- h. Fully executed amendment letter;
- i. Amended syndication agreement between the investors;
- j. Satisfactory comfort by the Lender that no further material unforeseen costs are expected;
- k. Proof of payment of 2022 property taxes;
- l. All liens removed from title prior to funding.

All other terms and conditions of our Commitment Letter dated June 28, 2021, and Commitment Amendment Letter 1 dated July 21, 2021, and Amendment Letter 2 dated May 3rd, 2022 remain unaltered and in full force and effect.

Yours truly,

CMLS FINANCIAL LTD.



Andrea Cali
Director, Construction Finance

ACCEPTED by the Borrower this 27 day of April, 2023.

BORROWER:

1776411 Ontario Ltd. as General Partner on behalf of 1333 Weber Street Kitchener LP




I/We have the authority to bind the corporation
Print Name: Werner Leuschner

I/We have the authority to bind the corporation
Print Name:

GUARANTORS:

1639993 Ontario Ltd.



I/We have the authority to bind the corporation
Print Name: Werner Leuschner

I/We have the authority to bind the corporation
Print Name:

Jaykam Developers Limited



I/We have the authority to bind the corporation
Print Name: Kamal Patel

I/We have the authority to bind the corporation
Print Name:

Werner Leuschner



Kamal Patel





SCHEDULE "F"

April 26, 2023

1776411 Ontario Ltd. as General Partner on behalf of 1333 Weber Street Kitchener LP

Attention: Werner Leuschener

Re: Property: 1333 Weber Street East, Kitchener ON N2A 1C2 (the "Property")
Loan No: 50716

Further to our Commitment Letter dated June 28, 2021, and Commitment Letter Amendments No. 1 dated July 21, 2021 and No. 2 dated May 3rd 2022, please find below our acknowledgement with respect to the following amendments:

1. Page 1, "Loan Type and Amount", as originally amended May 3rd, 2022 delete:

\$16,000,000 non-revolving floating rate loan (the "Construction Facility"), to be subordinated via interlender agreement to CMLS Loan #50715.

Insured purchasers' deposits in the amount of \$14,500,000 are included as a source of funds. Amounts funded in excess of \$14,500,000 shall reduce the Construction Loan on a dollar for dollar basis. Any shortfall in deposits will result in an equal requirement for additional equity until further deposits are available.

| Sources and Uses | | | | | |
|--------------------|--------------------|---------------|----------------------------|--------------------|---------------|
| | \$ | % | | \$ | % |
| Land Equity (Cash) | 7,280,510 | 7.2% | Land Cost | 22,280,510 | 21.9% |
| Cash Equity | 4,663,970 | 4.6% | Appraisal Surplus | 3,750,000 | 3.7% |
| Appraisal Surplus | 3,750,000 | 3.7% | Hard Costs | 50,217,868 | 49.4% |
| CMLS Loan #50715 | 52,800,000 | 52.0% | Soft Costs | 20,494,978 | 20.2% |
| CMLS Loan #50716 | 16,000,000 | 15.7% | Contingencies | 1,851,124 | 1.8% |
| Insured Deposits | 14,500,000 | 14.3% | Contingent to Cost Overrun | 2,000,000 | 2.0% |
| Deferred Costs | 2,600,000 | 2.6% | Development of Phase 2 | 1,000,000 | 1.0% |
| Total | 101,594,480 | 100.0% | Total | 101,594,480 | 100.0% |

And replace with:

Up to \$19,000,000 non-revolving floating rate loan (the "Construction Facility"), to be subordinated via interlender agreement to CMLS Loan #50715.

Insured purchasers' deposits in the amount of \$14,500,000 for Phase 1 and up to \$5,000,000 for Phase 2 are included as a source of funds. Amounts funded in excess of \$14,500,000 for Phase 1 and up to \$5,000,000 for Phase 2 shall reduce the Construction Loan on a dollar for dollar basis. Any shortfall in deposits will result in an equal requirement for additional equity until further deposits are available.

| Sources and Uses | | | | | |
|--------------------------|--------------------|----------------|----------------------------|--------------------|-------------|
| | \$ | % | | \$ | % |
| Land Equity (Cash) | 7,280,510 | 6.5% | Land Cost | 22,009,809 | 19.7% |
| Cash Equity | 4,663,970 | 4.2% | Appraisal Surplus | 3,750,000 | 3.4% |
| Appraisal Surplus | 3,750,000 | 3.4% | Hard Costs | 51,046,302 | 45.7% |
| CMLS Loan #50715 | 54,800,000 | 49.1% | Soft Costs | 22,389,758 | 20.1% |
| CMLS Loan #50716 | 19,000,000 | 17.0% | Contingencies | 398,611 | 0.4% |
| Insured Deposits Phase 1 | 14,500,000 | 13.0% | Contingent to Cost Overrun | 1,000,000 | 0.9% |
| Insured Deposits Phase 2 | 5,000,000 | 4.5% | Phase 2 Costs Paid | 1,000,000 | 0.9% |
| Deferred Costs | 2,600,000 | 2.3% | Max Phase 2 funds Required | 10,000,000 | 9.0% |
| Total | 111,594,480 | 100.00% | Total | 111,594,480 | 100% |

2. Page 2, "Purpose" as originally amended May 3rd, 2022 delete:

To assist in financing the development and construction of Phase 1 of a four Phase development consisting of a 15-storey, 177 unit residential condominium tower (the "Project") on lands located at 1333 Weber Street East, Kitchener, Ontario, with such legal description to be confirmed (the "Lands" or "Property").

And replace with:

\$13,000,000 to assist in the financing of Phase 1 of a four Phase development consisting of a 15 storey, 177-unit residential condominium tower (the "Project"). \$2,000,000 allocated to fund any cost overruns that may occur at the option of the Lender (\$1,000,000 already disbursed). \$1,000,000 to be used towards costs of Phase 2 of the development and an additional \$3,000,000 to assist in paying unpaid payables for Phase 2.

3. Page 2, "Availability" as originally amended May 3rd, 2022 delete:

Following satisfaction of the Conditions Precedent to First Advance of the Construction Facility, draws under the Construction Facility are available by the Borrower submitting a Progress Draw Request not more than once per month in the minimum amount of \$500,000 and in compliance with the Conditions of Advance – Construction Facility noted herein. The Lender may cancel or restrict availability of any undrawn portion of the Construction Facility at any time and from time to time without notice or demand.

The \$2,000,000 cost overrun portion shall only be funded when eligible cost overruns occur. Draws shall be funded as approved by the Lender's quantity surveyor. Draw requests must be supported by a progress claim report and the borrower must be in compliance with the conditions precedent to advances of the overrun facility. The \$1,000,000 Phase 2 portion shall remain undisbursed, it is to be funded to cover Phase 2 soft costs. Draws shall be funded as approved by the Lender. A schedule of eligible Phase 2 costs to date must be provided.

The facility is conditional upon receipt of credit approval from a syndicate of institutional investors. CMLS is under no obligation to provide this credit facility should the investors' approval not be obtained.

And replace with:

Following satisfaction of the Conditions Precedent to First Advance of the Construction Facility, draws under the Construction Facility are available by the Borrower submitting a Progress Draw Request not more than once per month in the minimum amount of \$500,000 and in compliance with the Conditions of Advance – Construction Facility noted herein. The Lender may cancel or restrict availability of any undrawn portion of the Construction Facility at any time and from time to time without notice or demand.

The \$2,000,000 cost overrun portion shall only be funded when eligible cost overruns occur. Draws shall be funded as approved by the Lender's quantity surveyor. Draw requests must be supported by a progress claim report and the borrower must be in compliance with the conditions precedent to advances of the overrun facility. The \$1,000,000 Phase 2 portion has been funded to cover Phase 2 costs.

\$3,000,000 to be disbursed into escrow with the Lender's solicitor subject to "Conditions of Advance – Additional \$3,000,000". Any funds not required to fully fund the program will be returned to the Lender.

4. Page 3, "3) Fee", add:


v. Amendment Fee of \$85,000 applicable to both CMLS Loan #50715 and #50716

5. Page 4, "4) Security", add:

- s) Satisfactory Subordination and Standstill agreement executed with COR Financial;
- t) Assignment of \$750,000 cash collateral from Westmount to Genesis Mortgage Investment Corp;

6. Page 6, add "Conditions of Advance – Additional \$3,000,000" before "6) Conditions of Advance – Construction Facility":

Additional \$3,000,000 on the Loan shall not be advanced until the following conditions have been fulfilled:

- ~~a. Updated QS Report No. 21~~ 
- b. Executed contracts from trades validating their claim on payables and fees and interest reserve top up is not more than \$10,000,000;
- c. Executed forbearance agreement
- d. Proceeds to be held in trust with Lender's counsel and only advanced directly to pay trades;
- e. Assignment of \$750,000 cash collateral held by Westmount to Genesis Mortgage Investment Corp;
- f. Executed Westmount commitment letter;
- g. COR Financial executed note payable and agreement with Borrower;
- h. Fully executed amendment letter;
- i. Amended syndication agreement between the investors;
- j. Satisfactory comfort by the Lender that no further material unforeseen costs are expected;
- k. Proof of payment of 2022 property taxes;
- l. All liens removed from title prior to funding;

All other terms and conditions of our Commitment Letter dated June 28, 2021, Commitment Amendment Letter 1 dated July 21, 2021 and Commitment Amendment Letter 2 dated May 3rd, 2022, remain unaltered and in full force and effect.

Yours truly,

CMLS FINANCIAL LTD.




Andrea Cali
Director, Construction Finance

ACCEPTED by the Borrower this 27 day of April, 2023.

BORROWER:

1776411 Ontario Ltd. as General Partner on behalf of 1333 Weber Street Kitchener LP




I/We have the authority to bind the corporation
Print Name: Werner Leuschner

I/We have the authority to bind the corporation
Print Name:

GUARANTORS:

1639993 Ontario Ltd.



I/We have the authority to bind the corporation
Print Name: Werner Leuschner

I/We have the authority to bind the corporation
Print Name:

Jaykam Developers Limited




I/We have the authority to bind the corporation
Print Name: Kamal Patel

I/We have the authority to bind the corporation
Print Name:

Werner Leuschner



Kamal Patel



SCHEDULE "G"

SUBORDINATION AND STANDSTILL AGREEMENT

THIS AGREEMENT made as of the ____ day of _____, 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 _____, 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:
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:
Title:

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

SCHEDULE "H"

DECLARATION

CANADA)
PROVINCE OF ONTARIO) IN THE MATTER OF the property municipally known as 1333
) Weber Street East, Kitchener, Ontario and legally described in
) PIN 22590-0550(LT) (the "Property"), being a phased four-
) tower residential condominium development known as Elevate
TO WIT:) Condominiums (the "Project")
))
)) AND IN THE MATTER OF A LOAN from Computershare Trust
) Company of Canada, CMLS Financial Ltd. and Genesis Mortgage
) Investment Corp. (collectively the "Lender") to 1776411 Ontario
) Ltd. (the "Corporation") as general partner on behalf of 1333
) Weber Street Kitchener LP (collectively with the Corporation, the
) "Borrower" or the "Developer"), in connection with, *inter alia*, a
) Charge/Mortgage registered as Instrument No. WR1367209

I, _____, of the Province of Ontario,

DO SOLEMNLY DECLARE THAT:

1. I am an authorized signing officer of _____ (the "Contractor") and, as such, have knowledge of the matters hereinafter deposed.
2. The Contractor is/was retained pursuant to a contract dated _____ (the "Contract"), by the Corporation and/or the Developer (or the party listed below, if applicable) to provide the following services and/or materials:
 - _____ (services/ materials).
 - _____ (contracting party, if not the Corporation/Developer).
3. The Contract is in respect of Phase _____ of the Project.
4. If the Contractor has been retained to supply services or materials in respect of any other phase of the Project, and is owed funds in respect of work, services or materials provided or supplied in that regard, the Contractor has provided a separate statutory declaration in respect of that retainer and the Contractor's claim for funds owing.
5. The last day that the Contractor and/or any of its sub-trades provided or supplied services and/or materials to the Property pursuant to the Contract was _____.
6. The current balance of funds outstanding to the Contractor and/or any of its sub-trades for services and/or materials provided or supplied to the Property pursuant to the Contract is \$ _____ (the "Balance Owing").
7. Upon receipt of the Balance Owing, the Contractor and/or its sub-trades and suppliers will be paid in full for all work, services and/or materials provided or supplied to the Property by the Contractor and/or any of its sub-trades and suppliers, save and except for any holdbacks properly retained by the Developer in accordance with the *Construction Act* in the amount of \$ _____, and the Contractor does hereby waive, release, remise and relinquish the right to file a lien against the Property or any part thereof.
8. I have made or caused to be made inquiries of such third parties and made such examinations and investigations that were necessary to enable me to make the statements contained or expressed herein and each is as far as I am aware true and accurate as of the date hereof. I acknowledge that the Lender and the Developer are relying upon all matters contained herein in connection with the Property and the advance of funds by the Lender from time to time.

[signature page follows]

[Declaration - 1333 Weber St.]

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED before me by video conference in)
the City of _____ on the _____)
day of _____, 2023)
in accordance with O. Reg. 431/20 after having)
taken reasonable precautions in accordance with)
the standards of practice in Ontario, including)
ensuring that the declarant understands the)
content and purpose of this declaration before)
signing.)

A Commissioner, etc.



Print Name:

SCHEDULE "I"

DATED as of _____, 2023.

FULL AND FINAL RELEASE

IN CONSIDERATION of the payment of the all-inclusive amount of \$_____ and other good and valid consideration, the receipt and sufficiency of which is hereby acknowledged, _____ (the "**Contractor**"), and their directors, officers, employees, servants, agents, successors, assigns and insurers, as applicable (collectively the "**Releasor**") hereby **RELEASES, ACQUITS AND FOREVER DISCHARGES** 1776411 Ontario Ltd. ("**177 Ontario**") and 1333 Weber Street Kitchener LP (the "**Partnership**"), and their directors, officers, employees, servants, agents, successors, assigns and insurers, as applicable (collectively the "**Releasees**"), of and from all claims, actions, causes of action, demands, contracts, accounts, debts, dues, covenants, and claims for damages, costs and interest, which the Releasor ever had, now have or may hereafter have, whether known or unknown, suspected or unsuspected, arising from the supply of services and/or materials (the "**Work**") by the Contractor to 177 Ontario and/or the Partnership in respect of a contract between the Contractor and 177 Ontario and/or the Partnership and/or the following party, if applicable: _____ [note: insert name of party or insert 'N/A' if not applicable] (the "**Contract**"), but limited to the Work performed during the period from _____ to _____ (the "**Release Period**") in respect of an improvement at the property registered in the name of 177 Ontario, municipally known as 1333 Weber St. E., Kitchener, Ontario and legally described in PIN 22590-0550(LT) (the "**Released Matters**"). The Released Matters include any claims for extra or additional services performed by the Contractor and any other damage or expense alleged to have been incurred by the Contractor during the Release Period, including but not limited to

claims for delay. However, the Released Matters do not include any claim in respect of funds in the amount of \$_____ held back from the Releasor pursuant to Part IV of the *Construction Act* for Work performed during the Release Period, nor for Work performed after the Release Period.

AND IT IS UNDERSTOOD AND AGREED that the payment of the consideration described herein is not an admission of liability or fault on the part of the Releasees, or any of them.

AND IT IS FURTHER UNDERSTOOD AND AGREED that for the consideration aforesaid the Releasor undertakes and agrees not to take any steps or initiate any proceedings against any person, partnership, corporation or other such entity which might claim, or which might be entitled to claim, contribution and indemnity or other relief over and/or against the Releasees under the provisions of any statute or otherwise, with respect to the Released Matters or with respect to which the Releasor agrees herein not to make any claim or take any proceedings. The Releasor agrees that this Full and Final Release may be pleaded as a complete bar and defence to any such claim or action, and the Releasor agrees to indemnify and hold harmless the Releasees from any expenses or legal fees incurred in responding to the Releasor's commencement or continuation of any such claim or action.

AND IT IS FURTHER UNDERSTOOD AND AGREED that the parties will keep the terms of this Full and Final Release and this settlement confidential and will not disclose the contents or substance of same to any person other than their legal counsel, except with the consent of the other party, or as may be required by law.

AND IT IS FURTHER UNDERSTOOD AND AGREED that the Releasor will refrain from making any statements that are disparaging, negative or uncomplimentary of, or would cause any person or entity to question the business, reputation or competences of the Releasees.

AND IT IS HEREBY ACKNOWLEDGED that the Releasor has had the benefit of legal advice prior to executing this Full and Final Release, that the terms of this Full and Final Release are fully understood and that this Full and Final Release is given voluntarily for the purpose of making a full and final compromise, adjustment and settlement of all claims aforesaid.

AND IT IS HEREBY AGREED by the Releasor that this Full and Final Release shall be governed entirely by the laws of the Province of Ontario and no action involving this Full and Final Release shall be brought anywhere except in the Superior Court of Justice in Toronto, Ontario.

THIS RELEASE shall be binding upon and shall enure to the benefit of the respective successors, assigns, and representatives of the Releasor and the Releasees.

THE RELEASOR hereby agrees and directs that all funds paid in settlement and resolution of the Released Claims may be paid to the Releasor's lawyers, being _____, in trust.

[signature page follows]

[Full and Final Release - 1333 Weber St.]

IN WITNESS WHEREOF the Releasor has set its hands as of the date first written above.

NAME:

Per: _____

Name:

Title:

Werner Lenschmer

Werner Lenschmer
President

Per: _____

Name:

Title:

I/We have authority to bind the above

DATED as of _____, 2023.

FULL AND FINAL RELEASE

IN CONSIDERATION of the payment of the all-inclusive amount of \$ _____ and other good and valid consideration, the receipt and sufficiency of which is hereby acknowledged, _____ (the “**Contractor**”), and their directors, officers, employees, servants, agents, successors, assigns and insurers, as applicable (collectively the “**Releasor**”) hereby **RELEASES, ACQUITS AND FOREVER DISCHARGES** 1776411 Ontario Ltd. (“**177 Ontario**”), 1333 Weber Street Kitchener LP (the “**Partnership**”), CMLS Financial Ltd. (“**CMLS**”), Computershare Trust Company of Canada (“**Computershare**”), and Genesis Mortgage Investment Corp. (“**Gentai**”) and their directors, officers, employees, servants, agents, successors, assigns and insurers, as applicable (collectively the “**Releasees**”), of and from all claims, actions, causes of action, demands, contracts, accounts, debts, dues, covenants, and claims for damages, costs and interest, which the Releasor ever had, now have or may hereafter have, whether known or unknown, suspected or unsuspected, arising from the supply of services and/or materials (the “**Work**”) by the Contractor to 177 Ontario and/or the Partnership in respect of a contract between the Contractor and 177 Ontario and/or the Partnership (the “**Contract**”), but limited to the Work performed during the period from _____ to _____ (the “**Release Period**”) in respect of an improvement at the property registered in the name of 177 Ontario, municipally known as 1333 Weber St. E., Kitchener, Ontario and legally described in PIN 22590-0550(LT) (the “**Property**”), as set out or could have been set out in the Construction Lien registered as Instrument No. _____ (the “**Released Matters**”). The Released Matters include any claims for extra or additional services performed by the Contractor and any

other damage or expense alleged to have been incurred by the Contractor during the Release Period, including but not limited to claims for delay. The Released Matters also include any priority claims made over the mortgage in favour of CMLS, Computershare and Gentai in the principal amount of \$82,000,000.00 over the Property registered on August 17, 2021, as Instrument No. WR1367209.

AND IT IS UNDERSTOOD AND AGREED that the payment of the consideration described herein is not an admission of liability or fault on the part of the Releasees, or any of them.

AND IT IS FURTHER UNDERSTOOD AND AGREED that for the consideration aforesaid the Releasor undertakes and agrees not to take any steps or initiate any proceedings against any person, partnership, corporation or other such entity which might claim, or which might be entitled to claim, contribution and indemnity or other relief over and/or against the Releasees under the provisions of any statute or otherwise, with respect to the Released Matters or with respect to which the Releasor agrees herein not to make any claim or take any proceedings. The Releasor agrees that this Full and Final Release may be pleaded as a complete bar and defence to any such claim or action, and the Releasor agrees to indemnify and hold harmless the Releasees from any expenses or legal fees incurred in responding to the Releasor's commencement or continuation of any such claim or action.

AND IT IS FURTHER UNDERSTOOD AND AGREED that the parties will keep the terms of this Full and Final Release and this settlement confidential and will not disclose the contents or substance of same to any person other than their legal counsel, except with the consent of the other party, or as may be required by law.

AND IT IS FURTHER UNDERSTOOD AND AGREED that the Releasor will refrain from making any statements that are disparaging, negative or uncomplimentary of, or would cause any person or entity to question the business, reputation or competences of the Releasees.

AND IT IS HEREBY ACKNOWLEDGED that the Releasor has had the benefit of legal advice prior to executing this Full and Final Release, that the terms of this Full and Final Release are fully understood and that this Full and Final Release is given voluntarily for the purpose of making a full and final compromise, adjustment and settlement of all claims aforesaid.

AND IT IS HEREBY AGREED by the Releasor that this Full and Final Release shall be governed entirely by the laws of the Province of Ontario and no action involving this Full and Final Release shall be brought anywhere except in the Superior Court of Justice in Toronto, Ontario.

THIS RELEASE shall be binding upon and shall enure to the benefit of the respective successors, assigns, and representatives of the Releasor and the Releasees.

THE RELEASOR hereby agrees and directs that all funds paid in settlement and resolution of the Released Claims may be paid to the Releasor's lawyers, being _____, in trust.

[signature page follows]

[Full and Final Release - 1333 Weber St.]

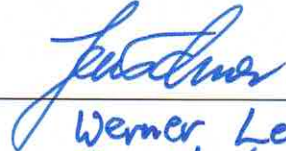
IN WITNESS WHEREOF the Releasor has set its hands as of the date first written above.

NAME:

Per:

Name:

Title:



Werner Lenschuer
President

Per:

Name:

Title:

I/We have authority to bind the above

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

SCHEDULE "K"

REMITTANCE STATUTORY DECLARATION

Date: April __, 2023

To: CMLS Financial Ltd.

From: 1776411 Ontario Ltd. LTD. as General Partner on behalf of 1333 Weber Street Kitchener LP


Re: Forbearance Agreement dated April __, 2023

This is a statutory declaration that as of April __, the Corporation is not in arrears with respect to any of the following:

- Workplace Safety and Insurance Board Premiums
- Employer Health Tax premiums
- Canada Pension Plan Contributions
- Employment Insurance Premiums
- Income Tax Remittances
- Provincial Sales Tax Remittances
- GST/HST

AND I make this solemn declaration conscientiously believing it to be true and that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME, in the City)
of , the Province of Ontario)
this day of April, 2023)

)
)
)
)
) 
) _____
) Werner Leuschner, in my capacity as
) President of 1776411 Ontario Ltd

A Commissioner for taking oaths, etc.

SCHEDULE "L"

FULL AND FINAL RELEASE, WAIVER and INDEMNITY

IN CONSIDERATION of the payment, or the promise of payment, to or on behalf of the Releasors (as defined below) or any of them, of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada and for other good and valuable consideration as set out in the Forbearance Agreement between the parties herein dated April __, 2023 (the "**Forbearance Agreement**"), the receipt and sufficiency of which is hereby acknowledged, the undersigned,

1776411 Ontario Ltd. as General Partner on behalf of 1333 Weber Street Kitchener LP (collectively, the "**Borrower**"), Werner Leuschner ("**Leuschner**"), 1639993 Ontario Ltd. ("**163 Ontario**"), Kamal Patel ("**Patel**") and Jaykam Developers Limited ("**Jaykam**") on behalf of, as applicable, themselves, their heirs, agents, administrators, trustees, executors, successors, predecessors, subsidiary, parent and affiliated corporations, officers, directors, shareholders, employees, partners, former partners, co-venturers, trustees, privies, insurers and assigns, and on behalf of any party or parties who claim a right or interest through them (hereinafter collectively referred to as the "**Releasors**")

HEREBY FULLY RELEASE, ACQUIT, AND FOREVER DISCHARGE, WITHOUT QUALIFICATION OR LIMITATION:

CMLS Financial Ltd. ("**CMLS**"), Computershare Trust Company of Canada ("**Computershare**"), and Genesis Mortgage Investment Corp. ("**Gentai**"), their subsidiaries, affiliates, directors, shareholders, officers, employees, administrators, agents, assigns, insurers, lawyers, trustees, property managers, predecessors, successors, investors in the Mortgage (as defined below) privies and any and all representatives (hereinafter collectively referred to as the "**Releasees**")

from all manner of actions, causes of action, suits, debts, dues, accounts, bonds, covenants, contracts, complaints, claims and demands for damages, monies, losses, indemnity, costs, interest in loss, or injuries howsoever arising, of whatsoever nature, whether in contract or in tort or arising as a result of a fiduciary duty or by virtue of any statute, or upon or by reason of any damage, loss or injury, which hereto may have been or may hereafter be sustained by the Releasors, whether known or unknown, as a consequence of the following (collectively, the "**Released Matters**"):

- (a) the property municipally known as 1333 Weber Street East, Kitchener (the "**Weber Street Property**");

- (b) a mortgage loan commitment bearing loan number 50715 dated June 28, 2021, as amended July 21, 2021, (collectively the “**Senior Commitment**”), pursuant to which CMLS made the following available to the Borrower in respect of phased four-tower residential condominium development known as “Elevate Condominiums” (the “**Project**”), under construction on the Weber Street Property:
 - i. a construction financing facility in the principal amount of \$52,800,000 to finance the first 15-storey, 177-unit residential condominium tower of the Project (“**Phase 1**”), subject to terms and conditions; and
 - ii. a letter of credit facility in the amount of \$2,700,000 to fund letters of credit to be provided to the municipality or region, subject to conditions;
- (c) a second mortgage loan commitment dated June 28, 2021 bearing loan number 50716, as amended on July 21, 2021 and May 3, 2022 by CMLS in favour of the Borrower (the “**Junior Commitment**”):
 - i. a construction financing facility in the principal amount of \$16,000,000, of which:
 - a. \$15,000,000 was to be used to finance Phase 1; and
 - b. \$1,000,000 was to be applied to “soft costs” of the second 15-storey condominium tower of the Project (“**Phase 2**”);
- (d) a first ranking mortgage (the “**Mortgage**”) in favour of CMLS, Computershare and Gentai (collectively, the “**Mortgagees**”) over the Weber Street Property registered as Instrument No. WR1367209 in the Land Titles Division of Kitchener (No. 58) on August 17, 2021;
- (e) a General Assignment of Rents over the Weber Street Property, registered on title on August 17, 2021, as Instrument No. WR1367209 in the Land Titles Division of Toronto (No. 58) (the “**GAR**”);
- (f) a General Security Agreement 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 priority agreement(s) between CMLS and/or the remaining Mortgagees;
- (g) an unlimited personal guarantee of Leuschner in favour of the Mortgagees dated August 13, 2021, an unlimited guarantee of I63 Ontario in favour of the Mortgagees dated August 13, 2021, an unlimited personal guarantee of Patel in favour of the Mortgagees dated August 13, 2021, and an unlimited guarantee of Jaykam in favour of the Mortgagees dated August 13, 2021 (collectively, the “**Guarantees**”);
- (h) the Forbearance Agreement;

- (i) any and all enforcement steps under the Senior Commitment and Junior Commitment (collectively, the “**Commitment Letters**”) in respect of the construction loan facilities thereunder (collectively, the “**Loans**”), Mortgage, the GAR, the GSA, the Guarantees and the Forbearance Agreement (collectively, the “**Agreements**”), including any and all actions or omissions relating thereto and/or to the Weber Street Property; and,
- (j) any and all actions, omissions and/or dealings with third parties by and/or on behalf of CMLS and/or the remaining Mortgagees relating to the Agreements and/or the Weber Street Property;

in respect of any and all steps taken, or omitted to be taken, by or on behalf CMLS or the remaining Mortgagees regarding the matters outlined above, whether known or unknown.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, the Releasors declare that the intent of this Full and Final Release is to conclude all issues arising up to and including April ____, 2023, from the matters set forth above and it is understood and agreed that this Full and Final Release is intended to cover, and does cover, not only all known injuries, losses and damages, but also injuries, losses and damages not now known or anticipated but which may later develop or be discovered, including all the effects and consequences thereof, relating to the Released Matters.

AND FOR THE SAID CONSIDERATION it is agreed and understood that the Releasors hereby waive any and all of their rights to any form of taxation and/or assessment with respect to any professional accounts involving, or relating to, any of the Agreements, and will not make, take or advance any claim, action, taxation, assessment, complaint or proceeding as against the Releasees relating to the Released Matters (collectively, a “**Proceeding**”), including any Proceeding against any person or corporation who might claim, in any manner or forum, contribution or indemnity in common law or in equity, or under the provisions of any statute or regulation, including the *Negligence Act* and the amendments thereto and/or under any successor legislation thereto, and/or under the *Rules of Civil Procedure*, from the Releasees, in connection with the matters outlined above.

IT IS AGREED AND UNDERSTOOD that if the Releasors, or any of them, commence or continue such a Proceeding and the Releasees, or any of them, are included in or added to such a Proceeding in any manner whatsoever, whether justified in law or not, the Releasors will immediately discontinue the Proceeding, and each of the Releasors will be jointly and severally liable to the Releasees for the legal costs incurred by the Releasees in any such Proceeding on a full indemnity basis, and if any Proceedings against the Releasees proceeds, the Releasors will jointly and severally indemnify the Releasees on a full indemnity basis in respect of any and all monetary awards made against the Releasees in favour of the Releasors or any of them. Without limiting the generality of the foregoing, if any such Proceeding, results in a reduction of any professional accounts involving or relating to the Agreements pursuant to any form of taxation and/or assessment (including but not limited to opposing a fee approval motion), each of the Releasors will be jointly and severally liable to the Releasees for the amount of the reduction.

This Full and Final Release shall operate conclusively as an estoppel in the event of any Proceeding which might be brought in the future by the Releasors or any of them with respect to the matters covered by this Full and Final Release. This Full and Final Release may be pleaded in the event any such Proceeding is brought, as a complete defence and reply, and may be relied upon in any Proceeding to dismiss it on a summary basis and no objection will be raised by the Releasors, or any of them, in any subsequent action that the other parties in the subsequent action were not privy to the formation of this Release.

AND THE RELEASORS HEREBY CONFIRM that they have full authority and capacity to release their respective rights and interests as against the Releasees.

AND FOR THE SAID CONSIDERATION the Releasors hereby irrevocably represent and warrant that they have not assigned to any person, firm, or corporation any of the actions, causes of action, claims, debts, suits or demands of any nature or kind which they have released by this Full and Final Release.

AND IT IS HEREBY DECLARED that the terms of this settlement are fully understood, that the consideration stated herein and in the Forbearance Agreement is the sole consideration for this Full and Final Release and that the said payment, or promise of payment, is accepted voluntarily for the purpose of making full and final compromise in settlement of all claims and proceedings against the Releasees, now or hereafter brought, for damages, loss or injury resulting from the matters set forth above.

THE RELEASORS ACKNOWLEDGE that they have carefully read this Full and Final Release, have had the opportunity to seek the advice of a lawyer as to the nature and effect of this Full and Final Release, understand all of the terms in this Full and Final Release, and have executed this Full and Final Release voluntarily and with knowledge of the consequences thereof.

THE RELEASORS ACKNOWLEDGE that this Full and Final Release and the Forbearance Agreement contain the entire agreement between the parties hereto, that the terms of this Full and Final Release are contractual, are not a mere recital and any breach of these terms may be enforced against the Releasors, or any of them, and may give rise to a damage claim against the Releasors, or any of them, enforceable by a further legal proceeding.

WE HEREBY AGREE that this Full and Final Release will be governed by the Laws of the Province of Ontario and that any dispute arising from this Full and Final Release will be adjudicated by the Ontario Superior Court of Justice, and the Releasors hereby attorn to the exclusive jurisdiction of this Court for this purpose.

IT IS UNDERSTOOD AND AGREED that this Full and Final Release may be executed in two or more counterparts, each of which shall be deemed to be an original, and that such separate counterparts shall constitute together one and the same instrument, notwithstanding their date of actual execution.

IN WITNESS WHEREOF the undersigned have executed this Full and Final Release by their hands and seals, as the case may be, this ___ day of April, 2023.



1776411 Ontario Ltd., as General Partner
on behalf of 1333 Weber Street Kitchener
LP

Per: Werner Leuschner



1639993 Ontario Ltd.

Per: Werner Leuschner



Jaykam Developers Limited

Per: Kamal Patel

SIGNED, SEALED & DELIVERED

in the presence of


Witness

AC. LEUSCHNER
Name (Please Print)

)
)
)
)
)
)
)



Werner Leuschner

SIGNED, SEALED & DELIVERED

in the presence of



Witness

Abhishek Patel

Name (Please Print)

)
)
)
)
)
)
)
)



Kamal Patel

CERTIFICATE OF SOLICITOR

I, Graham Phoenix of Loopstra Nixon LLP, Barristers and Solicitors, of the City of Toronto, in acknowledge that I explained the significance of this Full and Final Release dated April __, 2023 to **Werner Leuschner personally and on behalf of 1639993 Ontario Ltd. and 177611 Ontario Ltd. as General Partner on behalf of 1333 Weber Street Kitchener LP**, and to **Kamal Patel personally and on behalf of Jaykam Developers Limited** and, in my judgment, I do verily believe that they understood the significance of the Full and Final Release and were under no incapacity of any nature when it was executed and explained to them.

Date: March __, 2023

Graham Phoenix

**THIS IS EXHIBIT "S" REFERRED TO IN THE
AFFIDAVIT OF MICHAEL YEUNG SWORN
THE 2ND DAY OF OCTOBER, 2023**



Michael Yeung Sworn

A Commissioner for taking affidavits, etc.

Court File No.

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

B E T W E E N:

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**

CONSENT TO ACT AS RECEIVER

KSV Restructuring Inc. hereby consents to act as the court-appointed receiver and manager of (i) the real property legally described in Schedule "A" to the proposed Receivership Order (the "**Real Property**"); (ii) all of the Respondents' right, title and interest in the personal property arising from, pertaining to, located on, or used in the operation or maintenance of the Real Property, and all proceeds therefrom; and (iii) all of the Respondents' rights and interests in, to, under, and in respect of all material agreements, leases, documents, permits, approvals, licenses and instruments in respect of the Real Property and all monies or proceeds payable thereunder.

September 25, 2023

KSV RESTRUCTURING INC.



Name: Noah Goldstein
Title: Managing Director

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

Applicant

Respondents

Court File No.:

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

Proceeding commenced in Toronto

CONSENT TO ACT AS RECEIVER

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

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

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

Lawyers for the Proposed Receiver

**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

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

Proceedings commenced in Toronto

**AFFIDAVIT OF MICHAEL YEUNG
(Sworn October 2, 2023)**

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Lawyers for the Applicant

Tab 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) THURSDAY, THE 12th
)
JUSTICE CAVANAGH) DAY OF OCTOBER, 2023

GENESIS MORTGAGE INVESTMENT CORP.

Applicant

- and -

1776411 ONTARIO LTD. AND 1333 WEBER STREET KITCHENER LP

Respondents

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Genesis Mortgage Investment Corp. (the "**Applicant**") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing KSV Restructuring Inc. ("**KSV**") as receiver and manager (in such capacities, the "**Receiver**") without security, of (i) the real property legally described in Schedule "A" hereto (the "**Real Property**"), (ii) all of the right, title and interest of 1776411 Ontario Ltd. ("**177**") and 1333 Weber Street Kitchener LP (the "**Partnership**", and collectively with 177, the "**Debtor**") in the personal property arising from, pertaining to, located on, or used in the operation or maintenance of the Real Property, and all proceeds therefrom, and (iii) all of the Debtor's rights and interests in, to, under, and in respect of all material agreements, leases, documents, permits, approvals, licenses and instruments in respect of the Real Property and all monies or proceeds payable thereunder (collectively with (i) and (ii), the "**Property**") was heard this day via Zoom videoconference.

ON READING the affidavit of Michael Yeung sworn October 2, 2023 and the Exhibits thereto and on hearing the submissions of counsel for Applicant, KSV, and such other parties listed on the Participant Information Form, no one else appearing although duly served as appears from the affidavit of service of [●] sworn October ●, 2023 and on reading the consent of KSV to act as the Receiver,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver, without security, of the Property.

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform or disclaim any contracts of the Debtor or in respect of the Property;
- (d) to engage construction managers, project managers, contractors, subcontractors, trades, engineers, quantity surveyors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to undertake any construction at the Property necessary to bring the Property into compliance with applicable laws and building codes;
- (f) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (g) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (h) to settle, extend or compromise any indebtedness owing to the Debtor;
- (i) to deal with any lien claims, trust claims, and trust funds that have been or may be registered (as the case may be) or which arise in respect of the Property, including any part or parts thereof, and, with approval of this court, to make any required distribution(s) to any contractor or subcontractor of the Debtor or to or on behalf of any beneficiaries of such

trust funds pursuant to section 85 of the *Construction Act*, R.S.O. 1990, c. C.30;

- (j) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction permits and any requirements related thereto, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (k) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (l) to undertake environmental or worker's health and safety assessments of the Property and the operations of the Debtor thereon;
- (m) to market any or all of the Property, including, without limitation, condominium units, including advertising and soliciting offers in respect of any and all such the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (n) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required.

- (o) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (p) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (r) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor and to meet with and discuss with such governmental authorities and execute any such agreements required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (t) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor; (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; (iii) all construction managers, project managers, contractors, subcontractors, trades, engineers, quantity surveyors, consultants and service providers, and all other persons acting on their instructions or behalf; and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due

to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court. For greater certainty, the claim commenced by CorFinancial Corp. with Court File No. CV-23-00706796-0000 is hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, including, without limitation, licenses and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

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

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

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

PIPEDA

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

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

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

shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and

is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<https://ksvadvisory.com/experience/case/1776411ontario>'.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any

other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

CRITICAL PAYMENTS

27. THIS COURT ORDERS that the Receiver may, with the written consent of Applicant, make payments owing by the Debtor to suppliers, contractors, subcontractors and other creditors in respect of amounts owing prior to the date of this Order. Such payments are in aggregate not to exceed \$250,000.

GENERAL

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

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

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

31. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located,

for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

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

34. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Order and are enforceable without the need for entry and filing.

SCHEDULE "A"

PIN: 22590-0550 (LT) *Estate/Qualifier:* Fee Simple LT Absolute Plus

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

Address: 1333 WEBER STREET EAST KITCHENER

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver and manager (the "**Receiver**") of the Property (as defined in the Order (as defined below)) of 1776411 Ontario Inc. and 1333 Weber Street Kitchener LP appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 12th day of October, 2023 (the "**Order**") made in an application having Court file number CV-23-00706813-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$[●], being part of the total principal sum of \$500,000 which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the ____ day of _____, 20__.

KSV Restructuring Inc., solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

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,
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

**GENESIS MORTGAGE INVESTMENT
CORP.**

and

1776411 ONTARIO LTD. AND 1333 WEBER STREET KITCHENER LP

Applicant

Respondents

Court File No.: CV-23-00706813-00CL

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

Proceedings commenced in Toronto

**ORDER
(October 12, 2023)**

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Lawyers for the Applicant

Tab 4

Court File No. ~~_____~~ CV-23-00706813-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) ~~WEEKDAY~~THURSDAY, THE #12th
JUSTICE ~~_____~~ CAVANAGH) DAY OF ~~MONTH~~OCTOBER,
20YR2023

~~PLAINTIFF¹~~

~~Plaintiff~~

GENESIS MORTGAGE INVESTMENT CORP.

Applicant

- and -

~~DEFENDANT~~

~~Defendant~~

1776411 ONTARIO LTD. AND 1333 WEBER STREET KITCHENER LP

Respondents

ORDER
(~~a~~Appointing Receiver)

THIS ~~MOTION~~APPLICATION made by the ~~Plaintiff~~²Genesis Mortgage Investment Corp. (the "Applicant") for an Order pursuant to section 243(1) of the *Bankruptcy and*

~~¹-The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

~~²-Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

Insolvency Act, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing ~~[RECEIVER'S NAME]~~KSV Restructuring Inc. ("KSV") as receiver ~~[and manager]~~ (in such capacities, the "Receiver") without security, of (i) the real property legally described in Schedule "A" hereto (the "Real Property"), (ii) all of the assets, ~~undertakings~~right, title and propertiesinterest of [DEBTOR'S NAME] (the "Debtor") acquired for, or used in relation to a business ~~carried on by the Debtor,~~1776411 Ontario Ltd. ("177") and 1333 Weber Street Kitchener LP (the "Partnership", and collectively with 177, the "Debtor") in the personal property arising from, pertaining to, located on, or used in the operation or maintenance of the Real Property, and all proceeds therefrom, and (iii) all of the Debtor's rights and interests in, to, under, and in respect of all material agreements, leases, documents, permits, approvals, licenses and instruments in respect of the Real Property and all monies or proceeds payable thereunder (collectively with (i) and (ii), the "Property") was heard this day ~~at 330 University Avenue, Toronto, Ontario~~via Zoom videoconference.

ON READING the affidavit of ~~[NAME]~~Michael Yeung sworn ~~[DATE]~~October 2, 2023 and the Exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]~~Applicant, KSV, and such other parties listed on the Participant Information Form, no one else appearing ~~for [NAME]~~ although duly served as appears from the affidavit of service of ~~[NAME]~~[NAME] sworn ~~[DATE]~~October 2, 2023 and on reading the consent of ~~[RECEIVER'S NAME]~~KSV to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of ~~Motion~~Motion Application and the ~~Motion~~Motion Application is hereby abridged and validated³ so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

³~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~ KSV is hereby appointed Receiver, without security, of ~~all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").~~

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform or disclaim any contracts of the Debtor or in respect of the Property;
- (d) to engage construction managers, project managers, contractors, subcontractors, trades, engineers, quantity surveyors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise

of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (e) to undertake any construction at the Property necessary to bring the Property into compliance with applicable laws and building codes;
- (f) ~~(e)~~ to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (g) ~~(f)~~ to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (h) ~~(g)~~ to settle, extend or compromise any indebtedness owing to the Debtor;
- (i) to deal with any lien claims, trust claims, and trust funds that have been or may be registered (as the case may be) or which arise in respect of the Property, including any part or parts thereof, and, with approval of this court, to make any required distribution(s) to any contractor or subcontractor of the Debtor or to or on behalf of any beneficiaries of such trust funds pursuant to section 85 of the Construction Act, R.S.O. 1990, c. C.30;
- (j) ~~(h)~~ to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction permits and any requirements related thereto, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (k) ~~(i)~~ to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to

settle or compromise any such proceedings.⁴ The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

(l) to undertake environmental or worker's health and safety assessments of the Property and the operations of the Debtor thereon;

(m) ~~(j)~~ to market any or all of the Property, including, without limitation, condominium units, including advertising and soliciting offers in respect of any and all such the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

(n) ~~(k)~~ to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

(i) without the approval of this Court in respect of any transaction not exceeding \$~~_____~~250,000, provided that the aggregate consideration for all such transactions does not exceed \$~~_____~~1,000,000; and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, ~~f~~or section 31 of the Ontario *Mortgages*

~~⁴This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

Act, as the case may be,⁵ shall not be required, ~~and in each case the Ontario Bulk Sales Act shall not apply.~~

- (o) ~~(h)~~ to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (p) ~~(m)~~ to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (q) ~~(n)~~ to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (r) ~~(o)~~ to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor and to meet with and discuss with such governmental authorities and execute any such agreements required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (s) ~~(p)~~ to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

⁵ ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

(t) ~~(q)~~ to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

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

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor; (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; ~~and (iii);~~ (iii) all construction managers, project managers, contractors, subcontractors, trades, engineers, quantity surveyors, consultants and service providers, and all other persons acting on their instructions or behalf; and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due

to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

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

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. ~~9.~~ THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court. For greater certainty, the claim commenced by CorFinancial Corp. with Court File No. CV-23-00706796-0000 is hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. ~~10.~~ THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, including, without limitation, licenses and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

11. ~~12.~~ THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to

the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

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

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of

the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable

Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.⁶

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

⁶~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

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

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$ ~~_____~~ 500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates

evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <https://ksvadvisory.com/experience/case/177641ontario>.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

CRITICAL PAYMENTS

27. THIS COURT ORDERS that the Receiver may, with the written consent of Applicant, make payments owing by the Debtor to suppliers, contractors, subcontractors

and other creditors in respect of amounts owing prior to the date of this Order. Such payments are in aggregate not to exceed \$250,000.

GENERAL

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

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

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

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

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

33. ~~32.~~ THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party

likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

34. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Order and are enforceable without the need for entry and filing.

SCHEDULE "A"

PIN: 22590-0550 (LT) Estate/Qualifier: Fee Simple LT Absolute Plus

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

Address: 1333 WEBER STREET EAST KITCHENER

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ KSV Restructuring Inc., the receiver and manager (the "Receiver") of the ~~assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property")~~ Property (as defined in the Order (as defined below)) of 1776411 Ontario Inc. and 1333 Weber Street Kitchener LP appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 12th day of October, ~~20~~ 2023 (the "Order") made in an application having Court file number CV-23-00706813-00CL_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____ [●], being part of the total principal sum of \$ _____ 500,000 which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the ____ day of _____, 20__.

~~[RECEIVER'S NAME]~~ **KSV Restructuring Inc.**, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

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,
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

GENESIS MORTGAGE INVESTMENT CORP. and 1776411 ONTARIO LTD. AND 1333 WEBER STREET KITCHENER LP

Applicant

Respondents

Court File No.: CV-23-00706813-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced in Toronto

ORDER
(October 12, 2023)

BENNETT JONES LLP
One First Canadian Place, Suite 3400
P.O. Box 130
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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

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceedings commenced in Toronto

**APPLICATION RECORD
(Returnable October 12, 2023)**

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