

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

B E T W E E N:

TIMBERCREEK MORTGAGE SERVICING INC. and 2292912 ONTARIO INC.

Applicants

- and -

**YSL RESIDENCES INC., YG LIMITED PARTNERSHIP and CRESFORD
CAPITAL CORPORATION**

Respondents

**AFFIDAVIT OF PATRICK SMITH
(sworn June 16, 2021)**

I, Patrick Smith, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Vice President with Timbercreek Mortgage Servicing Inc. ("**Timbercreek**"). 2292912 Ontario Inc. (together with Timbercreek, the "**Applicants**") is an affiliate of Timbercreek that holds the Mortgage and the Security for and on behalf of Timbercreek as security for the Loan made by Timbercreek to Cresford Capital Corporation (the "**Borrower**"), Cresford (Rosedale) Developments Inc. (as guarantor), YSL Residences Inc. and YG Limited Partnership (collectively, the "**Cresford Parties**"). I have personal knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.

2. This Affidavit is being sworn in addition to my Affidavit sworn on October 28, 2020 (the "**First Smith Affidavit**"). Capitalized terms not otherwise defined herein shall have the meaning in the First Smith Affidavit.

3. I swear this Affidavit in support of the relief being sought by the Applicants set out at paragraph 2 of the First Smith Affidavit and to provide supplementary evidence by way of an update on certain events that occurred since the date the First Smith Affidavit was sworn.

4. Following the swearing of the First Smith Affidavit, Timbercreek and the Cresford Parties re-engaged in discussions to enter into a further amendment to the Forbearance Agreement. On November 12, 2020, one day before the receivership application brought by Timbercreek in these proceedings (the “**Receivership Application**”) was initially returnable, a second amendment to the Forbearance Agreement was entered into among Timbercreek and the Cresford Parties (the “**Second Forbearance Amendment**”). Upon entering into the Second Forbearance Amendment, the hearing of the Receivership Application was adjourned to December 2, 2020 and then further adjourned to February 2, 2021. A copy of the Second Forbearance Amendment is attached hereto as **Exhibit “A”**.

5. The terms of the Second Forbearance Amendment include, among other things:

- a. the Cresford Parties’ acknowledgement of the occurrence of Forbearance Termination Events (as defined in the Forbearance Agreement);
- b. the Cresford Parties’ acknowledgement that the Consent shall remain in full force and effect and binding on and enforceable against each of the Cresford Parties;
- c. the Cresford Parties’ confirmation of the amount of the Indebtedness then outstanding and that the Loan had matured and was due and payable;
- d. extending, subject to the terms and conditions of the Second Forbearance Amendment, the Forbearance Period (as defined in the Forbearance Agreement) and the date by which the Cresford Parties were required to pay in full all Indebtedness from August 17, 2020 to December 31, 2020; and

- e. granting two successive options to the Cresford Parties to request extensions to the Forbearance Period, subject to the Cresford Parties satisfying certain conditions precedent.
6. Following the entering into of the Second Forbearance Amendment, certain Forbearance Termination Events occurred, including without limitation:
 - a. the Loan and other obligations secured by the Security were not repaid in full on or prior to December 31, 2020;
 - b. realty taxes owing in respect of the Real Property to and including December 31, 2020 in the amount of \$1,519,100.91 were not paid to the City of Toronto on or before December 31, 2020;
 - c. the Borrower did not pay to Timbercreek certain interest, fees, disbursements, and taxes owing to Timbercreek.
7. The Cresford Parties also did not elect to request an extension of the Forbearance Period prior to December 31, 2020 pursuant to the terms of the Second Forbearance Amendment.
8. Discussions to enter into a further amendment to the Forbearance Agreement continued between Timbercreek and the Cresford Parties in late December, 2020 and through January, 2021. On January 28, 2021, a third amendment to the Forbearance Agreement was entered into among Timbercreek and the Cresford Parties (the “**Third Forbearance Amendment**”). Upon entering into the Third Forbearance Amendment, the hearing of the Receivership Application was adjourned to April 21, 2021. A copy of the Third Forbearance Amendment is attached hereto as **Exhibit “B”**.
9. The terms of the Third Forbearance Amendment include, among other things:

- a. confirming certain terms of the Second Forbearance Amendment as of the date of the Third Forbearance Amendment, including without limitation the terms set out in paragraphs 5.a through c above;
- b. extending, subject to the terms and conditions of the Third Forbearance Amendment, the Forbearance Period (as defined in the Forbearance Agreement) and the date by which the Cresford Parties were required to pay in full all Indebtedness from December 31, 2020 to April 2, 2021; and
- c. granting an option to the Cresford Parties to request an extension to the Forbearance Period, subject to the Cresford Parties satisfying certain conditions precedent.

10. On April 13, 2021, the Cresford Parties provided their election notice to Timbercreek and satisfied the conditions precedent to obtain the extension. Notwithstanding the Cresford Parties did not make the election in the required time, Timbercreek granted the extension of the Forbearance Period to June 30, 2021 pursuant to the terms of the Third Forbearance Amendment.

11. On April 29 and May 4, 2021, certain limited partners of YG Limited Partnership (“**YG LP**”) (the beneficial owner of the Real Property) served application records returnable on dates to be scheduled against certain of the Cresford Parties, among other respondents related to the Cresford Group, such applications being,

- a. the application of 2504670 Canada Inc., 8451761 Canada Inc., and Chi Long Inc. referenced as Ontario Superior Court of Justice Court File Number CV-21-00661386-00CL (the “**Chi Long Application**”); and

- b. the application of YongeSL Limited Partnership, among other limited partners of YG LP referenced as Ontario Superior Court of Justice Court File Number CV-21-00661530-00CL (the “**YongeSL Application**” and collectively with the Chi Long Application, the “**LP Applications**”, and such applicants collectively, the “**LP Applicants**”).

12. Separately, in April, 2021, the Cresford Parties requested Timbercreek consent to YG LP and YSL Residences Inc. (collectively, the “**Proposal Parties**”) filing notices of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada) (“**NOI**”) proceedings. Without Timbercreek’s consent, the filing of the NOIs would have constituted a Forbearance Termination Event. To document Timbercreek’s consent to the NOI filings and the conditions for its consent, a fourth amendment to the Forbearance Agreement was entered into among Timbercreek and the Cresford Parties (the “**Fourth Forbearance Amendment**”, and the Original Forbearance Agreement as amended by the Forbearance Amendment, the Second Forbearance Amendment, the Third Forbearance Amendment and the Fourth Forbearance Amendment, is collectively called the “**Forbearance Agreement**”). A copy of the Fourth Forbearance Amendment (excluding schedules) is attached hereto as **Exhibit “C”**.

13. The terms of the Fourth Forbearance Amendment include, among other things:
- a. confirming certain terms of the Second Forbearance Amendment and the Third Forbearance Amendment as of the date of the Fourth Forbearance Amendment, including without limitation the terms set out in paragraphs 5.a through c above;
 - b. Timbercreek consenting to the filing of the NOIs (and the contemplated proposal (the “**Proposal**”) by the Proposal Parties, subject to the Cresford Parties satisfying certain conditions precedent;

- c. the Cresford Parties consenting to the Lender seeking the appointment of a receiver in the event any of the relief sought in the LP Applications that is or may be adverse to the interests of Timbercreek is granted; and
- d. forbearance fees continuing to accrue each calendar month in the event all amounts due and owing under the Loan are not paid in full on or before June 30, 2021.

14. On May 3 and May 7, 2021 case conferences were held, following which Justice Gilmore made an endorsement that the LP Applications were stayed only for scheduling purposes as a result of the NOI proceedings and that any lift/stay motion must be heard in the context of the NOI proceedings. The lift/stay motion was scheduled to be heard on June 1, 2021 by Justice Dunphy. In addition, the sanction hearing for the Proposal (the “**Sanction Hearing**”) and the LP Applications (assuming the stay would be lifted) were scheduled to be heard on June 23, 2021. A copy of the Justice Gilmore’s endorsement is attached hereto as **Exhibit “D”**.

15. A hearing was held on June 1, 2021 by Justice Dunphy. His endorsement of that date provides that certain of the relief set forward in the LP Applications is to be heard at the Sanction Hearing. As reflected in the endorsement, counsel for Timbercreek disclosed at the hearing that it intended to file an update affidavit (this affidavit) for the Sanction Hearing and that in the event the Proposal is not approved, Timbercreek would ask the Court to appoint a receiver either the same day as the Sanction Hearing or as soon as practicable thereafter. A copy of Justice Dunphy’s endorsement is attached hereto as **Exhibit “E”**.

June 23 Hearing

16. In the event the Proposal does not move forward or the Court grants certain of the relief sought in the LP Applications, a Forbearance Termination Event will occur in accordance with the terms of the Fourth Forbearance Amendment and Timbercreek’s agreement to forbear from enforcing its rights including pursuant to the Security will terminate.

17. Subject to the terms of the Fourth Forbearance Amendment, the Applicants continue to have the contractual right to seek the appointment of a receiver over the Property pursuant to the terms of Timbercreek’s Security and the Consent, which continues to be operative and enforceable against the Cresford Parties, as described above.

18. I swear this Affidavit in support of the relief being sought by the Applicants as described in paragraph 3 of this Affidavit.

SWORN BEFORE ME

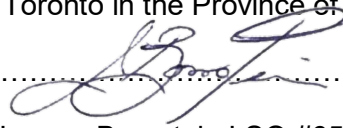
by videoconference on June 16, 2021 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent and I were both located in the City of Toronto in the Province of Ontario.



Commissioner for Taking Affidavits
(or as may be)
Jeremy Bornstein LSO#65425C

PATRICK SMITH

This is **Exhibit "A"** referred to in the affidavit of Patrick Smith sworn before me by videoconference on June 16, 2021 in accordance with O. Reg. 431/20: Administering Oath or Declaration Remotely. The deponent and I were both located in the City of Toronto in the Province of Ontario

A handwritten signature in black ink, appearing to read 'Jeremy Bornstein', is written over a horizontal dotted line.

Jeremy Bornstein LSO #65425C
Commissioner for Taking Affidavits
(or as may be)

FORBEARANCE AGREEMENT AMENDMENT #2

THIS FORBEARANCE AGREEMENT AMENDMENT #2 (as amended, restated, supplemented or replaced from time to time, **“this Amendment Agreement”** or **“this Agreement”**) is made as of this 12th day of November, 2020.

A M O N G:

TIMBERCREEK MORTGAGE SERVICING INC.
(hereinafter referred to as the **“Lender”**)

-and-

CRESFORD CAPITAL CORPORATION
(hereinafter referred to as the **“Borrower”**)

-and-

YG LIMITED PARTNERSHIP
(hereinafter referred to as the **“Beneficial Owner”**)

-and-

CRESFORD (ROSEDALE) DEVELOPMENTS INC.
(hereinafter referred to as **“Rosedale”**)

-and-

YSL RESIDENCES INC.
(formerly 2502295 Ontario Inc. and hereinafter referred to as **“YSL Residences”**)
(Rosedale and YSL Residences are hereinafter collectively called the **“Guarantors”**)

RECITALS:

WHEREAS the parties hereto entered into a forbearance agreement made as of March 26, 2020 in respect of the property municipally known as 363-385 Yonge Street and 3 Gerrard Street East, Toronto, Ontario (the **“Original Forbearance Agreement”**);

AND WHEREAS 2576725 Ontario Inc. (**“2576725”**) commenced a proceeding against, among others, YSL Residences in the Ontario Superior Court of Justice (Commercial List) (the **“Court”**) under Court File No. CV-00642892-00CL claiming, among other things, an equitable mortgage against the Real Property securing the principal amount of \$20,000,000 (the **“Equitable Mortgage Litigation”**) and the Court issued an order confirming an equitable mortgage in favour of 2576725 against the Real Property (the **“Equitable Mortgage Order”**);

AND WHEREAS the parties hereto entered into Forbearance Agreement Amendment #1 made as of July 3, 2020 (**“Forbearance Amendment #1”**) to amend certain terms and conditions of the Original Forbearance Agreement (the Original Forbearance Agreement as amended by Forbearance Amendment #1 is collectively called the **“Forbearance Agreement”**);

AND WHEREAS the Loan Parties delivered to the Lender an executed consent to receivership dated July 9, 2020 (the **“Consent to Receiver”**) pursuant to and in connection with Forbearance

Amendment #1 to held by Lender and utilized in the event that a Forbearance Termination Event (as that term was defined in the Forbearance Agreement as amended by Forbearance Amendment #1) occurred (and for certainty other than the "Specified Forbearance Termination Events" as that term is defined in Forbearance Amendment #1) and/or the Forbearance Period (as that term was defined in the Forbearance Agreement as amended by Forbearance Amendment #1) terminated for any reason whatsoever; and Forbearance Termination Events occurred and the Forbearance Period was terminated and accordingly the Consent to Receiver is operative and binding on and enforceable against each of the Loan Parties.

AND WHEREAS (i) multiple milestones contained in Section 6.1 of the Forbearance Agreement were not satisfied by the Borrower by the dates required for satisfaction of such milestones as contemplated by Section 6.1 of the Forbearance Agreement, including without limitation repayment of all of the Obligations on or before August 17, 2020, (ii) additional construction liens and certificates of action regarding construction liens were registered against title to the Real Property after March 6, 2020 and prior to May 31, 2020, (iii) the Equitable Mortgage Litigation was commenced against YSL Residences and in respect of the Real Property and the Court issued the Equitable Mortgage Order, and as a result thereof multiple Forbearance Termination Events occurred (such foregoing Forbearance Termination Events are collectively called, the "**Specified Forbearance Termination Events**"); and as a result of such defaults, the Forbearance Period (as defined in the Forbearance Agreement) was terminated;

AND WHEREAS the Security was delivered in favour of Computershare Trust Company of Canada as custodian and agent for and on behalf of the Lender ("**Computershare**") and Computershare transferred and assigned all its right, title and interest in and to, and all of its obligations under, the Security to 2292912 Ontario Inc. ("**2292912**") as replacement custodian and agent to hold the Security for and on behalf of the Lender;

AND WHEREAS 2292912 issued and delivered the Loan Parties (i) demand letters (the "**Demand Letters**") demanding repayment of the Obligations and (ii) notices of intention to enforce security pursuant to Section 244 of the BIA (collectively the "**BIA Notices**"), in each case on June 18, 2020;

AND WHEREAS the Lender and 2292912 commenced an application against the Borrower, the Beneficial Owner, and YSL Residences with the Ontario Superior Court of Justice (Commercial List) (the "**Court**") (Court File No. CV-20-00650224-00CL) (the "**Receivership Application**") (the Receivership Application includes, among other things, the draft order that the Lender and 2292912 are requesting the Court to issue, such draft order being referred to herein as the "**Draft Court Order**") and a Court hearing for the Receivership Application has been scheduled on Friday, November 13, 2020;

AND WHEREAS the Loan Parties have requested the Lender to agree to (i) adjourn the Court hearing for the Receivership Application from November 13, 2020 to the earliest date on which a Court hearing can be scheduled from and after November 30, 2020 (the "**First Adjourned Court Date**"), and (ii) temporarily forbear from enforcing its rights under the Transaction Documents and to amend certain terms of the Forbearance Agreement as set out herein notwithstanding the Specified Forbearance Termination Events, but in all cases subject to the terms and conditions of the Forbearance Agreement as amended by this Amendment Agreement;

NOW THEREFORE in consideration of the respective covenants of the parties hereto as herein contained, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto), each of the parties hereto hereby agrees as follows:

ARTICLE 1 INTERPRETATION AND GENERAL MATTERS

1.1 Definitions

Unless defined in this Amendment Agreement, all capitalized words and phrases shall have the same meanings ascribed thereto in the Forbearance Agreement.

1.2 Entire Agreement

Except for the Transaction Documents, the Forbearance Agreement, as amended by this Amendment Agreement constitutes the entire agreement of the parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, relating to the subject matter hereof. This Amendment Agreement may not be amended or modified except by written agreement executed by all the parties. No provision of this Amendment Agreement or the Forbearance Agreement as amended by this Amendment Agreement (collectively, the **"Amended Forbearance Agreement"**) will be deemed waived by any course of conduct unless such waiver is in writing and signed by all the parties, specifically stating that it is intended to modify this Amendment Agreement or the Amended Forbearance Agreement. This Amendment Agreement constitutes a Transaction Document.

1.3 Incorporation by Reference and Reaffirmation of Forbearance Agreement

Sections 1.2, 1.3, 1.4, 1.7 and 1.8 in the Forbearance Agreement are incorporated by reference into this Amendment Agreement as if fully set out herein (except that all references to "this Agreement" in such sections shall be deemed to be references to "this Amendment Agreement") and do and shall be deemed to form part of this Amendment Agreement. The terms of Article 7 of the Forbearance Agreement are incorporated by reference into this Amendment Agreement as if fully set out herein (except that all references to "this Agreement" in Article 7 incorporated herein shall be deemed to be references to "this Amendment Agreement") and does and shall be deemed to form part of this Amendment Agreement. Each of the Loan Parties represents and warrants to the Lender and covenants and agrees to and in favour of the Lender that except as amended by this Amendment Agreement, all provisions of the Forbearance Agreement continue in full force and effect, are reaffirmed by each of the Loan Parties, and do and shall continue to constitute legal, valid and binding obligations of each of the Loan Parties enforceable against each of the Loan Parties.

1.4 Acknowledgements by Loan Parties

Each of the Loan Parties acknowledges and confirms that each of the Specified Forbearance Termination Events has occurred. The Lender is not deemed to acknowledge or agree that any other Forbearance Termination Events have occurred other than the Specified Forbearance Termination Events.

Each of the Loan Parties acknowledges receipt of the Demand Letter and the BIA Notice issued and delivered to such Loan Party by the Lender, and further acknowledges and agrees that the ten (10) day notice period under Section 244 of the BIA has expired and the Lender is entitled to enforce all of its rights and remedies under the Transaction Documents and applicable law and in equity, subject to the terms of the Amended Forbearance Agreement.

Each of the Loan Parties acknowledges, confirms and covenants and agrees as follows: (i) the Loan Parties are not entitled to and shall not receive any interest or other credit on account of the prepayment of interest contemplated by Section 2.1(k) of this Amendment Agreement (being Section

6.1(w) of the Amended Forbearance Agreement), (ii) no interest shall accrue for the benefit of the Loan Parties on the prepayment of any Monthly Forbearance Fee or the prepayment of any interest contemplated by the Amended Forbearance Agreement and for certainty, the Lender shall not and shall not be required to give any credit or reimbursement to the Loan Parties on account of any such prepayment of any Monthly Forbearance Fees or interest, and (iii) each of (a) the Forbearance Fees, (b) the Extension Fee, and (c) the legal fees and disbursements incurred by the Lender to October 31, 2020 as set out in Section 1.5 of this Amendment Agreement are fair and reasonable and the Loan Parties irrevocably waive and release any right to challenge any such amounts (and for certainty including without limitation taxing any of such legal fees and disbursements) or request the Lender to repay any of such amounts to the Loan Parties.

Each of the Loan Parties agrees and consents to the Court hearing for the Receivership Application being adjourned to the first date on which the Court hearing from the Receivership Application can be scheduled from and after November 30, 2020 (the “**First Adjourned Court Date**”) but only if all of the Forbearance Agreement Amendment #2 Conditions Precedent are satisfied in accordance with Section 3.1 of this Amendment Agreement on or before Noon ET on November 13, 2020 and the Lender or its counsel delivers written confirmation to the Loan Parties or their lawyers confirming that such Forbearance Agreement Amendment #2 Conditions Precedent have been satisfied to the satisfaction of the Lender in its sole discretion, in which case the Loan Parties agree to and shall direct their lawyers to fully cooperate with the lawyers for the Lender and 2292912 to adjourn the Court hearing for the Receivership Application on such basis. The Loan Parties represent, confirm and agree that the Consent to Receiver is and shall remain in full force and effect and binding on and enforceable against all of the Loan Parties, and immediately upon the occurrence of a Forbearance Termination Event (but excluding the “Specified Termination Events” as that term is defined in the recitals of this Amendment Agreement) each of the Loan Parties irrevocably (i) consents to the Court issuing an order in the Receivership Application substantially in the form of the Draft Court Order (or with any changes required by the Court) and (ii) agrees that it shall not oppose or object to in any manner whatsoever the Receivership Application or the issuance by the Court of an order substantially in the form of the Draft Court Order (or with any changes required by the Court).

1.5 Acknowledgement of Obligations

- (a) Each of the Loan Parties hereby acknowledges, confirms and agrees that the Obligations are, and Borrower is indebted to the Lender under the Transaction Documents, as more specifically set out below:

Principal	\$100,000,000.00
Monthly Forbearance Fees (to and including the Monthly Forbearance Fee for November 2020) (additional monthly Forbearance fees will automatically become due and owing by the Loan Parties to the Lender on the first day of each calendar month commencing on December 1, 2020 in accordance with the terms of the Amended Forbearance Agreement)	\$900,000.00
Interest to and including October 31, 2020 (interest has accrued from and after November 1, 2020 and will continue to accrue pursuant to the Transaction Documents)	\$1,229,632.46

Exit Fee	\$175,000.00
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Legal Fees and disbursements and applicable taxes to October 31, 2020 (additional legal fees have accrued from and after November 1, 2020 and will continue to accrue until payment of all of the Obligations in full) (fees and disbursements and applicable taxes of the proposed receiver for the Receivership Application and its counsel have been incurred and will continue to be incurred until payment of all of the Obligations in full and, and such fees, disbursements and applicable taxes (i) incurred to the date of this Amendment Agreement are not set out in this Amendment Agreement, (ii) do and shall constitute Obligations and (iii) will become due and owing by the Loan Parties to the Lender when invoices for same are delivered by the Lender to the Loan Parties)	\$319,535.86
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Total:	\$102,624,168.32
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- (b) Each of the Loan Parties hereby acknowledges, confirms and agrees that the Obligations are unconditionally owing by the Borrower to the Lender as of the date hereof (and that the Loan (as that term has defined in the Loan Agreement) has matured without payment by the Borrower), without any right of setoff, defense, counterclaim or reduction of any kind, nature or description whatsoever by the Borrower or any other Loan Party, and the Loan Parties are estopped from disputing such Obligations. Each of the Loan Parties hereby further acknowledges, confirms and agrees that all amounts required to be paid by the Loan Parties to the Lender pursuant to the Amended Forbearance Agreement are fair and reasonable, have been earned by the Lender (or, if applicable, will automatically be earned by the Lender on such future dates), are due and owing by the Loan Parties to the Lender in full (or, if applicable, will automatically become due and owing to the Lender on such future dates), and each of the Loan Parties irrevocably releases and waives any claim or right to assert that such amounts (i) have not been or will not automatically be earned by the Lender or (ii) are not due and owing (or, if applicable, will not automatically become due and owing to the Lender on such future dates).
- (c) The Lender's accounts and records constitute, in the absence of manifest error, conclusive evidence of the Obligations pursuant to the Transaction Documents.

ARTICLE 2

AMENDMENTS TO AND ADDITIONAL PROVISIONS FOR THE FORBEARANCE AGREEMENT

2.1 Amendments

- (b) The date August 17, 2020 in Section 4.1(a) of the Forbearance Agreement is deleted and replaced with: December 31, 2020.

(c) The last paragraph in Section 4.1 of the Forbearance Agreement, inserted into the Forbearance Agreement pursuant to Section 2.1(b) of Forbearance Amendment #1, is deleted in its entirety.

(d) A new sentence at the end of Section 4.2 of the Forbearance Agreement is inserted as follows:

For certainty, in the event of a Forbearance Termination Event (but excluding the “Specified Termination Events” as that term is defined in the recitals of this Amendment Agreement), each of the Loan Parties irrevocably consents and agrees to the Lender and 2292912 scheduling the Court hearing for the Receivership Application on the earliest date available with the Court (and for certainty prior to any then scheduled Court hearing in accordance with the terms hereof), and no Loan Party shall request an adjournment for such Court hearing scheduled on any such earlier date.

(e) Section 4.6 of the Forbearance Agreement is deleted.

(f) The “.” at the end of Section 5.3(d) is deleted and replaced with “; and”, and a new Section 5.3(e) is inserted immediately thereafter as follows:

(e) The Loan Parties shall use commercially reasonable efforts, on or before December 31, 2020 to (i) pay to all construction lien claimants with construction liens and/or certificates of action registered against title to the Real Property all amounts owing to such lien claimants or such settlement amounts which are agreed to by such lien claimants in writing to permit the Loan Parties to discharge or cause to be discharged from title to the Real Property all such construction liens and certificates of action or (ii) deliver to the Lender on or before December 31, 2020 a detailed summary in writing to be in form and substance satisfactory to the Lender acting reasonably (the “**Construction Lien Status Summary**”) of the status of each of such construction liens and certificates of action including without limitation details, evidence and/or copies of (i) payments made by the Loan Parties to such construction lien claimants (including without limitation confirmation of receipts of payments from such construction lien claimants and any written settlement agreements or settlements concluded by email communications), (ii) discharges from title of construction lien claims, (iii) discontinuances of construction lien actions and discharges of certificates of action from title to the Real Property, and (iv) a status update for all construction lien claims and the negotiations between the Loan Parties and the applicable construction lien claimants for those construction lien claims not paid in full or settled by the date of such Construction Lien Status Summary.

(g) The text of Section 6.1(o) of the Forbearance Agreement (being “[Reserved]”) in the Forbearance Agreement before the amendments contained in this Amendment Agreement) is deleted and replaced with:

(o) the Concord Pacific Term Sheet is terminated for any reason or Concord Pacific advises the Loan Parties (or any one or more of them), orally or in writing, that Concord Pacific will not or does not intend to complete the Concord Pacific Transactions;

(h) The text of Section 6.1(p) of the Forbearance Agreement (being “[Reserved]”) in the Forbearance Agreement before the amendments contained in this Amendment Agreement) is deleted and replaced with:

(p) the Loan Parties (or any one or more of them) (i) transfer title of the Property (or any portion thereof) without concurrently paying to the Lender in full all of the

Obligations, (ii) challenge, object to, assert in writing, or in any way dispute that (A) any or all of the Obligations owing to the Lender or any fees or other amounts (including without limitation legal fees and disbursements) previously paid to the Lender or owing to the Lender by the Loan Parties, or (B) any of the Transactions Documents (or any terms of such Transaction Documents) is illegal, invalid or unenforceable;

(i) The text of Section 6.1(q) of the Forbearance Agreement is deleted and replaced with:

(q) on or before December 31, 2020, the Lender does not receive payment in full of all of the Obligations (unless the (i) Loan Parties elect to implement the First Extension Option and satisfy all of the First Extension Conditions Precedent by the required date in which case the date December 31, 2020 will be deemed to be amended to March 31, 2021) and (ii) the Loan Parties elect to implement the First Extension Option and satisfy all of the First Extension Conditions Precedent, and then elect to implement the Second Extension Option and satisfy all of the Second Extension Conditions Precedent by the required date in which case the date March 31, 2021 will be deemed to be amended to June 30, 2021);

(j) the “.” at the end of Section 6.1(u) of the Forbearance Agreement is deleted and replaced with “;”, and a new Section 6.1(v) is inserted into the Forbearance Agreement as follows:

(v) the filing or commencement by any Person of any claim, action, application or other form of court process seeking any order or relief that would or could reasonably be expected to, directly or indirectly, stop, defer, delay or adversely affect, impact or impair in any manner whatsoever (i) the completion of the Concord Pacific Transactions or any other sale transaction for any or all of the Property or (ii) payment to the Lender of any or all of the Obligations at any time.

(k) A new Section 6.1(w) is inserted as follows:

(w) the Loan Parties shall not pay to the Lender and the Lender shall not receive the following payments in full from the Loan Parties in immediately available funds on or before November 27, 2020: (a) \$900,000.00 on account of the Monthly Forbearance Fees earned from and including March, 2020 through to and including November, 2020; (b) \$80,000.00 as a prepayment of the Monthly Forbearance Fee for the calendar month of December 2020 which will become due and owing on December 1, 2020 (for certainty, no interest will accrue to the benefit of the Loan Parties on account of such prepayment); (c) the Extension Fee (as that term is defined in Forbearance Amendment #1) in the amount of \$175,000.00; (d) \$1,229,632.46 on account of unpaid interest which accrued to and including October 31, 2020 and which is due and owing by the Loan Parties to the Lender; (e) an amount equal to the amount of interest which (A) has accrued from and including November 1, 2020 to the date of the date of the payment of the amount referred to in this Section 6.1(w) and (B) will accrue from the date of the payment of the amount referred to in this Section 6.1(w) to and including December 31, 2020 (for certainty, (i) the Lender will promptly confirm the amounts of such interest in writing to the Loan Parties on receipt by the Lender of a written request therefor from the Loan Parties specifying the date on which the payment of the amount referred to in this Section 6.1(w) will be paid and (ii) the Loan Parties are not entitled to and shall not receive any interest or other credit on account of the prepayment of

interest); and (f) \$319,535.86 on account of legal fees (including disbursements and taxes) incurred by the Lender's counsel to and including October 31, 2020;

(k) A new Section 6.1(x) is inserted as follows:

(x) 2769746 Ontario Inc. does not purchase a \$20,000,000 subordinate C-Note interest in the Loan and pay for same in full in immediately available monies on or before November 27, 2020;

(l) A new Section 6.1(y) is inserted as follows:

(y) all realty taxes owing in respect of the Real Property to and include December 31, 2020 are not paid by the Loan Parties on or before December 31, 2020, and the Loan Parties shall not have delivered to the Lender on or before December 31, 2020 evidence of such payment in form and substance satisfactory to the Lender acting reasonably;

(m) A new Section 6.1(z) is inserted as follows:

(z) in the event that the Loan Parties (i) deliver the First 2021 Forbearance Period Extension Notice to the Lender and (ii) satisfy all of the First 2021 Forbearance Period Extension Conditions Precedent on or before December 31, 2020 in accordance with the terms of this Agreement, the Loan Parties do not (i) pay to all construction lien claimants with construction liens and/or certificates of action registered against title to the Real Property on or before March 31, 2021 all amounts owing to such lien claimants or such settlement amounts which are agreed to by such lien claimants in writing to permit the Loan Parties to discharge or cause to be discharged from title to the Real Property all such construction liens and certificates of action or (ii) deliver to the Lender on or before March 31, 2021 evidence of such payments to all of such construction lien claimants in form and substance satisfactory to the Lender acting reasonably; or

(n) A new Section 6.1(aa) is inserted as follows:

(aa) in the event that the Loan Parties (i) deliver the Second 2021 Forbearance Period Extension Notice to the Lender and (ii) satisfy all of the Second 2021 Forbearance Period Extension Conditions Precedent on or before March 31, 2021 in accordance with the terms of this Agreement, the Loan Parties do not (a) discharge or cause to be discharged from title to the Real Property all construction liens and certificates of action registered against title to the Property on or before April 30, 2021 or (b) deliver to the Lender on or before April 30, 2021 evidence of all of such discharges having been registered on title in form and substance satisfactory to the Lender acting reasonably.

2.2 First Extension Option

The Loan Parties shall have the option to request an extension of the Forbearance Period by amending the date "December 31, 2020" in Section 4.1 of the Amended Forbearance Agreement to "March 31, 2021" (the "**First Extension Option**") by delivering to the Lender on or before December 22, 2020 an extension request executed by all of the Loan Parties and addressed to the Lender and 2292912 (in form and substance satisfactory to the Lender acting reasonably) (the "**First Extension Election Notice**") confirming that the Loan Parties wish to exercise the First Extension Option. If the Loan Parties do not deliver the First Extension Election Notice to the Lender on or before 5:00 p.m. ET on December 22, 2020, then the First Extension Option shall automatically terminate without any other action or notice required whatsoever. The right of the Loan Parties to exercise the First Extension Option is and

shall at all times be conditional on each of the following conditions (collectively, the **“First Extension Conditions Precedent”**) being satisfied on or before December 31, 2020 (for certainty, in the event that the Lender does not deliver written notice to the Loan Parties on or before 5:00 p.m. ET on December 31, 2020 that all of the First Extension Conditions Precedent have been satisfied (the **“First Extension Lender Confirmation”**), then the First Extension Opinion shall automatically terminate without any other action or notice required whatsoever): (a) the Loan Parties shall have paid to the Lender and the Lender shall have received payment of interest which will accrue on the Obligations for the period commencing on (and for certainty including) January 1, 2021 to and including March 31, 2021 (the **“First Extension Period”**); (b) the Loan Parties shall have paid to the Lender and the Lender shall have received a forbearance fee in the amount of \$400,000.00 for and on account of the First Extension Period (the **“First Extension Forbearance Fee”**); (c) the Loan Parties shall have paid to the Lender the fees and disbursements and applicable taxes of (A) the Lender’s counsel to and including December 15, 2020, (B) the proposed receiver under the Receivership Application, and (C) counsel for the proposed receiver; and (d) (i) the Concord Pacific Transactions shall have been completed, (ii) Concord Pacific or an affiliate organized under the law of Canada or a province in Canada shall have assumed control of the construction project proposed to be located on the Real Property either through a management agreement with the Loan Parties or other transaction documents in either case to be in form and substance satisfactory to the Lender acting reasonably, (iii) the Loan Parties have delivered to the Lender full and complete (and where applicable executed) copies all of the documents, agreements, certificates, and other deliveries entered into or delivered in connection with the Concord Pacific Transactions (and for certainty as referred to above all of such documents, agreements, certificates, and other deliveries entered into or delivered in connection with the Concord Pacific Transactions are satisfactory to the Lender acting reasonably), and (iv) Concord Pacific or an affiliate organized under the laws of Canada or a province in Canada which is deemed creditworthy by the Lender acting reasonably (for certainty, Concord Pacific shall have delivered to the Lender such documentation and financial information reasonably requested by the Lender in order for the Lender to assess the creditworthiness of the proposed guarantor) (the guarantor, if accepted by the Lender acting reasonably, being called the **“Concord Pacific Guarantor”**) shall have delivered to the Lender a guarantee of the Obligations (such guarantee to be in form and substance satisfactory to the Lender acting reasonably) (such guarantee, if delivered, shall constitute and be deemed to constitute a **“Transaction Document”** as that term is defined in the Amended Forbearance Agreement) and such Concord Pacific Guarantor shall have delivered or caused to be delivered to the Lender standard supporting documents including without limitation an officer’s certificate addressed to the Lender and attaching as schedules the organizational documents of such Concord Pacific Guarantor and resolutions of the directors of such Concord Pacific Guarantor approving the execution and delivery of such guarantee and the performance of such Concord Pacific Guarantor’s obligations thereunder and an opinion letter from the lawyers for the Concord Pacific Guarantor as to standard matters including without limitation corporate status, power and capacity, authorization, execution, delivery and enforceability of such guarantee (and all of such supporting documents and the legal opinion shall be in form and substance satisfactory to the Lender acting reasonably). For certainty, the Loan Parties acknowledge and confirm that the Lender has advised the Loan Parties (and the Loan Parties represent and warrant to the Lender that the Loan Parties have advised Concord Pacific) that prior to (i) Concord Pacific advancing any or all of the loan by Concord Pacific to one or more of the Loan Parties pursuant to the Concord Pacific Transactions (the **“Concord Pacific Loan”**) or (ii) the Loan Parties (or any one or more of them) granting a mortgage over the Real Property or a charge of beneficial interest in the Real Property (the **“Concord Pacific Mortgage”**) if the Obligations have not been repaid in full to the Lender, then in such case Concord Pacific will be required to enter into a postponement and subordination agreement with the Lender and 2292912 (in form and substance satisfactory to the Lender acting reasonably) pursuant to which Concord Pacific will be required to (x) postpone repayment of the of the Concord Pacific Loan (or any portion thereof) to the

repayment of the Obligations in full, (y) subordinate the priority of the Concord Pacific Mortgage to the Mortgage, and (z) agree to “standstill” and not take any action to enforce the Concord Pacific Mortgage or any of the other security, lien or encumbrance granted to Concord Pacific prior to all of the Obligations having been repaid to the Lender in full. For certainty, the First Extension Option will be of no force or effect if a Forbearance Termination Event occurs on or before December 31, 2020.

The First Extension Forbearance Fee is and shall be fully earned upon delivery by the Loan Parties to the Lender of the First Extension Election Notice (and for certainty whether or not the First Extension Conditions Precedent are satisfied), and is in addition to all other fees, interest, costs and expenses payable in connection with or pursuant to the Transaction Documents or the Amended Forbearance Agreement (and constitute Obligations) without any further action or documents required whatsoever, interest shall accrue thereon, and shall be secured by the Security. The First Extension Forbearance Fee replaces and is in substitution for the Monthly Forbearance Fees which would otherwise be earned by the Lender and become due and owing by the Loan Parties to the Lender for the calendar months of January, February, and March, 2021. For certainty, in the event that the Forbearance Period, as may be extended by the First Extension Option, is terminated as a result of the occurrence of a Forbearance Termination Event or as a result of the repayment of all of the Obligations by the Loan Parties to the Lender, the Loan Parties are not and shall not be entitled to a payment, repayment, credit, or set-off for any portion of the First Extension Forbearance Fee if the Forbearance Period is terminated prior to the end of such extended period pursuant to the First Extension Option. Each of the Guarantors and the Beneficial Owner acknowledges and consents to the foregoing and confirms and agrees that all of such amounts constitute, or will constitute as applicable when such amounts are earned by the Lender, Obligations. Each of the Guarantors confirms and agrees that all of such amounts constitute, or will constitute as applicable when such amounts are earned by the Lender, “Obligations” as that term is defined in the Guarantee.

2.3 Second Extension Option

In the event that the Loan Parties exercise the First Extension Option and the Lender delivers the First Extension Lender Confirmation to the Loan Parties within the time periods contemplated by Section 2.2 of this Amendment Agreement, the Loan Parties shall have the option to request an extension of the Forbearance Period by amending the date “March 31, 2021” in Section 4.1 of the Amended Forbearance Agreement to “June 30, 2021” (the “**Second Extension Option**”) by delivering to the Lender on or before March 22, 2021 an extension request executed by all of the Loan Parties and addressed to the Lender and 2292912 (in form and substance satisfactory to the Lender acting reasonably) (the “**Second Extension Election Notice**”) confirming that the Loan Parties wish to exercise the Second Extension Option. If the Loan Parties do not deliver the Second Extension Election Notice to the Lender on or before 5:00 p.m. ET on March 22, 2021, then the Second Extension Option shall automatically terminate without any other action or notice required whatsoever. The right of the Loan Parties to exercise the Second Extension Option is and shall at all times be conditional on each of the following conditions (collectively, the “**Second Extension Conditions Precedent**”) being satisfied on or before March 31, 2021 (for certainty, in the event that the Lender does not deliver written notice to the Loan Parties on or before 5:00 p.m. ET on March 31, 2021 that all of the Second Extension Conditions Precedent have been satisfied (the “**Second Extension Lender Confirmation**”), then the Second Extension Option shall automatically terminate without any other action or notice required whatsoever): (a) the Loan Parties shall have paid to the Lender and the Lender shall have received payment of interest which will accrue on the Obligations for the period commencing on (and for certainty including) April 1, 2021 to and including June 30, 2021 (the “**Second Extension Period**”); (b) the Loan Parties shall have paid to the Lender and the Lender shall have received a forbearance fee in the amount of \$400,000.00 for and on account of the Second Extension Period (the “**Second Extension Forbearance Fee**”); (c) the Loan Parties

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shall have paid to the Lender and the Lender shall have received payment of the fees and disbursements and applicable taxes of (A) the Lender's counsel to and including March 15, 2021, and if applicable, (B) the proposed receiver under the Receivership Application, and (C) counsel for the proposed receiver; and (d) the Loan Parties have not (i) paid to all construction lien claimants with construction liens and/or certificates of action registered against title to the Real Property on or before March 31, 2021 all amounts owing to such lien claimants or settled such claims in writing with such lien claimants to permit the Loan Parties to discharge or cause to be discharged from title to the Real Property all such construction liens and certificates of action and (ii) delivered to the Lender on March 31, 2021 evidence of such payments to all of such construction lien claimants and their agreement to discharge their respective liens, discontinue their respective actions, and discharge their respective certificates of action from title to the Real Property, in form and substance satisfactory to the Lender acting reasonably. For certainty, the Second Extension Option will be of no force or effect if a Forbearance Termination Event occurs on or before March 31, 2021.

The Second Extension Forbearance Fee is and shall be fully earned upon delivery by the Loan Parties to the Lender of the Second Extension Election Notice (and for certainty whether or not the Second Extension Conditions Precedent are satisfied), and is in addition to all other fees, interest, costs and expenses payable in connection with or pursuant to the Transaction Documents or the Amended Forbearance Agreement (and constitute Obligations) without any further action or documents required whatsoever, interest shall accrue thereon, and shall be secured by the Security. The Second Extension Forbearance Fee replaces and is in substitution for the Monthly Forbearance Fees which would otherwise be earned by the Lender and become due and owing by the Loan Parties to the Lender for the calendar months of April, May, and June, 2021. For certainty, in the event that the Forbearance Period, as may be extended by the Second Extension Option, is terminated as a result of the occurrence of a Forbearance Termination Event or as a result of the repayment of all of the Obligations by the Loan Parties to the Lender, the Loan Parties are not and shall not be entitled to a payment, repayment, credit, or set-off for any portion of the Second Extension Forbearance Fee if the Forbearance Period is terminated prior to the end of such extended period pursuant to the Second Extension Option. Each of the Guarantors and the Beneficial Owner acknowledges and consents to the foregoing and confirms and agrees that all of such amounts constitute, or will constitute as applicable when such amounts are earned by the Lender, Obligations. Each of the Guarantors confirms and agrees that all of such amounts constitute, or will constitute as applicable when such amounts are earned by the Lender, "Obligations" as that term is defined in the Guarantee.

2.4 Monthly Forbearance Fees

In the event that the Loan Parties do not deliver the First Extension Election Notice to the Lender or the Lender does deliver the First Extension Lender Confirmation to the Loan Parties within the time periods contemplated by Section 2.2 of this Amendment Agreement, then in such case the Monthly Forbearance Fees shall continue to be earned by the Lender and become due and owing by the Loan Parties in accordance the Amended Forbearance Agreement for each calendar month commencing on January 1, 2021 without any other action or notice required whatsoever.

In the event that the Loan Parties exercise the First Extension Option and the Lender delivers the First Extension Lender Confirmation to the Loan Parties within the time periods contemplated by Section 2.2 of this Amendment Agreement but the Loan Parties do not deliver the Second Extension Election Notice to the Lender or the Lender does deliver the Second Extension Lender Confirmation to the Loan Parties within the time periods contemplated by Section 2.3 of this Amendment Agreement, then in such case the Monthly Forbearance Fees shall continue to be earned by the Lender and become due and

owing by the Loan Parties in accordance the Amended Forbearance Agreement for each calendar month commencing on April 1, 2021 without any other action or notice required whatsoever.

In the event that the Loan Parties exercise the First Extension Option and the Lender delivers the First Extension Lender Confirmation to the Loan Parties within the time periods contemplated by Section 2.2 of this Amendment Agreement, and the Loan Parties deliver the Second Extension Election Notice to the Lender and the Lender delivers the Second Extension Lender Confirmation to the Loan Parties within the time periods contemplated by Section 2.3 of this Amendment Agreement but the Loan Parties do not repay to the Lender all of the Obligations on or before June 30, 2021, then in such case the Monthly Forbearance Fees shall continue to be earned by the Lender and become due and owing by the Loan Parties in accordance the Amended Forbearance Agreement for each calendar month commencing on July 1, 2021 without any other action or notice required whatsoever.

2.5 Court Date for the Receivership Application

In the event that (i) the Loan Parties pay to the Lender and the Lender receives payment from the Loan Parties of all amounts required to be paid by the Loan Parties to the Lender on or before 5:00 p.m. ET on November 27, 2020, (ii) a Forbearance Termination Event does not occur pursuant to Section 6.1(x) of the Amended Forbearance Agreement, and (iii) no other Forbearance Termination Event occurs on or before November 27, 2020, then in such case the Lender agrees to instruct its lawyers to adjourn the Court hearing for the Receivership Application from the First Adjourned Court Date to the earliest date on which the Court hearing for the Receivership Application can be scheduled after January 1, 2021 in which case the Loan Parties will cause their lawyers to cooperate with the lawyers for the Lender to adjourn the Court hearing for the Receivership Application accordingly.

For certainty and notwithstanding the other terms of the Amended Forbearance Agreement (as same may hereafter be amended or restated from time to time), in the event that a Forbearance Termination Event occurs, the Lender shall be entitled and shall have the right without any other action or notice required whatsoever to schedule the Court hearing for the Receivership Application on the earliest available date on which such Court hearing can be scheduled with the Court (and for certainty prior to any then scheduled Court hearing in accordance with the terms hereof), in which case the Loan Parties shall instruct their lawyers to cooperate with counsel for the Lenders to schedule the Court hearing accordingly, and no Loan Party shall request an adjournment for such Court hearing scheduled on any such earlier date.

ARTICLE 3 CONDITIONS PRECEDENT

3.1 Conditions Precedent

The amendments to the Forbearance Agreement contained in this Section 3.1 of this Amendment Agreement shall not be effective unless:

(i) (a) all of the representations and warranties in this Agreement and the Forbearance Agreement as amended by this Agreement are true and correct in all respects as of the Forbearance Amendment #2 Effective Date, and (b) no Forbearance Termination Event shall have occurred (except for the Specified Forbearance Termination Events as that term is defined in the recitals to this Amendment Agreement);

(ii) the Lender shall have received in each case on or before Noon ET on Friday, November 13, 2020: (a) a copy of this Amendment Agreement fully executed by all of the Loan Parties; (b) a consent in

form and substance satisfactory to the Lender executed by Westmount in whose favour a mortgage is registered on title to the Property (which mortgage (the **“Westmount Mortgage”**) was subordinated by Westmount to the Lender pursuant to the terms of an amended and restated priority agreement (as same may have been amended, restated or supplemented, the **“Westmount Priority Agreement”**) between Computershare Trust Company of Canada (as the then custodian for the Lender) and Westmount dated September 25, 2019), consenting to the terms of this Amendment Agreement and agreeing to such other matters as the Lender may require; and (c) a term sheet issued by Concord Properties Developments Corp. (**“Concord Pacific”**) to the Borrower and the Beneficial Owner and executed by Concord Pacific, the Borrower and the Beneficial Owner (the **“Concord Pacific Term Sheet”**) providing for the establishment by Concord Pacific of a mezzanine loan facility for the Borrower and the Beneficial Owner in an amount not less than \$100,000,000.00 to be made available by Concord Pacific to the Borrower and the Beneficial Owner not later than December 31, 2020 and also setting out the a summary of the proposed transactions (the transactions contemplated by the Concord Pacific Term Sheet including without limitation the establishment of a mezzanine loan facility for the Borrower and the Beneficial Owner in an amount not less than \$100,000,000.00 are collectively called the **“Concord Pacific Transactions”**) (for certainty, the Concord Pacific Term Sheet may provide that it is non-binding).

(iii) counsel for the Loan Parties shall have confirmed their consent to the Court for the adjournment of the Court hearing for the Receivership Application from November 13, 2020 to the earliest date on which the Court hearing for the Receivership Application can be scheduled from and after November 30, 2020;

(iv) the Lender or its counsel has confirmed in writing (including by email) to the Loan Parties or their counsel that the conditions precedent listed in clauses (i) to (iii) inclusive of this Section 3.1 have been satisfied (the conditions precedent listed in Sections 3.1(i), (ii), (iii) and (iv) are collectively called the **“Forbearance Agreement Amendment #2 Conditions Precedent”**, and individually a **“Forbearance Agreement Amendment #2 Condition Precedent”**); and

(v) all of the Forbearance Agreement Amendment #2 Conditions Precedent have been satisfied on or before Noon ET on Friday, November 13, 2020.

The Loan Parties acknowledge and agree that unless and until all of such Forbearance Agreement Amendment #2 Conditions Precedent have been satisfied to the satisfaction of the Lender in its sole discretion and such satisfaction has been confirmed in writing by the Lender or its counsel to the Borrower or its counsel, (i) the Forbearance Period was, has been, and continues to be terminated and (ii) the amendments contained in Section 2.1 above are not and shall not be in force or effect, and (iii) as a result of the Specified Forbearance Termination Events and any other Forbearance Termination Events which have occurred and are continuing, the Lender is entitled to enforce all of rights and remedies under the Transaction Documents and applicable law and in equity in connection therewith, including without limitation proceeding with the Receivership Application at the currently scheduled Court hearing at 3:00 p.m. ET on Friday, November 13, 2020 or, if applicable the First Adjourned Court Date.

3.2 No Other Waivers; Reservation of Rights

The Lender reserves the right, in its sole and absolute discretion, to exercise any or all of its rights or remedies under any one or more of the Transaction Documents and the Amended Forbearance Agreement or applicable law, and the Lender has not waived any such rights or remedies, and nothing in this Agreement nor any delay on the part of the Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies. The rights and remedies of the Lender under this Agreement, the Amended Forbearance Agreement, and the Transaction Documents

are cumulative and not in substitution for any other rights or remedies available by applicable law, in equity or otherwise.

3.3 Execution in Counterparts and by Electronic Transmission

This Amendment Agreement may be executed in counterparts, each of which shall be deemed to be an original and which taken together will be deemed to constitute one and the same instrument. Counterparts may be executed and delivered either in original format or by any form of director electronic transmission including without limitation by portable document format (“**PDF**”) or “DocuSign” and the parties adopt any signatures executed in such manner as original signatures of the parties.

3.4 Governing Law

This Amendment Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflicts of law or principles of comity.

3.5 Release and Indemnity

In consideration of the agreements of the Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Loan Parties hereby absolutely, unconditionally and irrevocably waives, releases, remises and forever discharges the Lender, 2292912 and Computershare and each of their respective successors and assigns, participants, affiliates, subsidiaries, branches, divisions, predecessors, directors, officers, attorneys, employees, lenders, investors in the Obligations and other representatives and advisors (the Lender 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, damages, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever (individually, a “**Claim**” and collectively, “**Claims**”) of every name and nature, whether known or unknown, suspected or unsuspected, both arising at law and in equity, which any of the Loan Parties or any of their successors, heirs, executors, administrators, permitted assigns and 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 arises at any time on or prior to the day and date of this Amendment Agreement, including, without limitation, for or on account of, or in relation to, or in any way in connection with, the Forbearance Agreement, any of the Transaction Documents or transactions thereunder or related thereto.


In consideration of the agreements of the Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Loan Parties hereby agrees to indemnify and hold harmless (absolutely, unconditionally and irrevocably) the Releasees from and against any and all Claims of every name and nature, whether known or unknown, both arising at law and in equity, suffered or incurred by any of the Loan Parties by reason of any matter or thing whatsoever incurred by or asserted against the Lender as a result of or in connection with any matter, thing, action, inaction, or transaction whatsoever contemplated by this Amendment Agreement, the Amended Forbearance Agreement, or any of the Transaction Documents, except in the event that any such Claim is caused directly by the gross negligence or willful misconduct of the Lender as proven by a court of competent jurisdiction pursuant to an order non-appealable order in respect which the period for any permitted appeal has expired.

The releases and indemnities contained herein do and shall survive the expiry or other termination of the Forbearance Period and/or the Amended Forbearance Agreement and the repayment of the Obligations to the Lender.


[Signature Pages Follows]

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment Agreement as of the date first written above.

TIMBERCREEK MORTGAGE SERVICING INC.

By: 

Name: Julie Neault, Vice President
Authorized Signatory

By: 

Name: Scott Rowland, Vice President
Authorized Signatory

CRESFORD CAPITAL CORPORATION

By: _____
Name:
Authorized Signatory

**YG PARTNERSHIP,
by its GENERAL PARTNER, 9615334 CANADA INC.**

By: _____
Name:
Authorized Signatory

CRESFORD (ROSEDALE) DEVELOPMENTS INC.

By: _____
Name:
Authorized Signatory

YSL RESIDENCES INC.

By: _____
Name:
Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment Agreement as of the date first written above.

TIMBERCREEK MORTGAGE SERVICING INC.

By: _____
Name: Julie Neault, Vice President
Authorized Signatory

By: _____
Name: Scott Rowland, Vice President
Authorized Signatory

CRESFORD CAPITAL CORPORATION

By: *• Dan C Casey*
Name: Daniel Casey, President
Authorized Signatory

**YG PARTNERSHIP,
by its GENERAL PARTNER, 9615334 CANADA INC.**

By: *• Dan C Casey*
Name: Daniel Casey, President
Authorized Signatory

CRESFORD (ROSEDALE) DEVELOPMENTS INC.

By: *• Dan C Casey*
Name: Daniel Casey, President
Authorized Signatory

YSL RESIDENCES INC.

By: *• Dan C Casey*
Name: Daniel Casey, President
Authorized Signatory

This is **Exhibit "B"** referred to in the affidavit of Patrick Smith sworn before me by videoconference on June 16, 2021 in accordance with O. Reg. 431/20: Administering Oath or Declaration Remotely. The deponent and I were both located in the City of Toronto in the Province of Ontario

A handwritten signature in black ink, appearing to read "Jeremy Bornstein", is written over a horizontal dotted line.

Jeremy Bornstein LSO #65425C
Commissioner for Taking Affidavits
(or as may be)

FORBEARANCE AGREEMENT AMENDMENT #3

THIS FORBEARANCE AGREEMENT AMENDMENT #3 (as amended, restated, supplemented or replaced from time to time, “**this Amendment Agreement**” or “**this Agreement**”) is made as of this 28th day of January, 2021 and effective as of December 31, 2020.

A M O N G:

TIMBERCREEK MORTGAGE SERVICING INC.
(hereinafter referred to as the “**Lender**”)

-and-

CRESFORD CAPITAL CORPORATION
(hereinafter referred to as the “**Borrower**”)

-and-

YG LIMITED PARTNERSHIP
(hereinafter referred to as the “**Beneficial Owner**”)

-and-

CRESFORD (ROSEDALE) DEVELOPMENTS INC.
(hereinafter referred to as “**Rosedale**”)

-and-

YSL RESIDENCES INC.
(formerly 2502295 Ontario Inc. and hereinafter referred to as “**YSL Residences**”)
(Rosedale and YSL Residences are hereinafter collectively called the “**Guarantors**”)

RECITALS:

WHEREAS the parties hereto entered into a forbearance agreement made as of March 26, 2020 in respect of the property municipally known as 363-385 Yonge Street and 3 Gerrard Street East, Toronto, Ontario (the “**Original Forbearance Agreement**”);

AND WHEREAS 2576725 Ontario Inc. (“**2576725**”) commenced a proceeding against, among others, YSL Residences in the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under Court File No. CV-00642892-00CL claiming, among other things, an equitable mortgage against the Real Property securing the principal amount of \$20,000,000 (the “**Equitable Mortgage Litigation**”) and the Court issued an order confirming an equitable mortgage in favour of 2576725 against the Real Property (the “**Equitable Mortgage Order**”);

AND WHEREAS the Security was delivered in favour of Computershare Trust Company of Canada as custodian and agent for and on behalf of the Lender (“**Computershare**”) and Computershare transferred and assigned all its right, title and interest in and to, and all of its obligations under, the Security to 2292912 Ontario Inc. (“**2292912**”) as replacement custodian and agent to hold the Security for and on behalf of the Lender;

AND WHEREAS 2292912 issued and delivered the Loan Parties (i) demand letters (the **“Demand Letters”**) demanding repayment of the Obligations and (ii) notices of intention to enforce security pursuant to Section 244 of the BIA (collectively the **“BIA Notices”**), in each case on June 18, 2020;

AND WHEREAS the parties hereto entered into Forbearance Agreement Amendment #1 made as of July 3, 2020 (**“Forbearance Amendment #1”**) to amend certain terms and conditions of the Original Forbearance Agreement;

AND WHEREAS the Loan Parties delivered to the Lender an executed consent to receivership dated July 9, 2020 (the **“Consent to Receiver”**) pursuant to and in connection with Forbearance Amendment #1 to held by Lender and utilized in the event that a Forbearance Termination Event occurred (and for certainty other than the **“Specified Forbearance Termination Events”** as that term is defined in Forbearance Amendment #1) and/or the Forbearance Period terminated for any reason whatsoever; and Forbearance Termination Events occurred and the Forbearance Period was terminated and accordingly the Consent to Receiver is operative and binding on and enforceable against each of the Loan Parties.

AND WHEREAS the parties hereto entered into Forbearance Agreement Amendment #2 made as of November 12, 2020 (**“Forbearance Amendment #2”**) to amend certain terms and conditions of the Original Forbearance Agreement as amended by Forbearance Amendment #1 (the Original Forbearance Agreement as amended by Forbearance Amendment #1 and Forbearance Amendment #2 is collectively called the **“Forbearance Agreement”**);

AND WHEREAS the Lender and 2292912 commenced an application against the Borrower, the Beneficial Owner, and YSL Residences with the Ontario Superior Court of Justice (Commercial List) (the **“Court”**) (Court File No. CV-20-00650224-00CL) (the **“Receivership Application”**) (the Receivership Application includes, among other things, the draft order that the Lender and 2292912 are requesting the Court to issue, such draft order being referred to herein as the **“Draft Court Order”**) and a Court hearing for the Receivership Application has been scheduled on Friday, November 13, 2020;

AND WHEREAS pursuant to the terms of Forbearance Amendment #2, the Loan Parties and the Lender to agreed to adjourn the Court hearing for the Receivership Application from November 13, 2020 to the earliest date on which a Court hearing can be scheduled from and after November 30, 2020 (the **“First Adjourned Court Date”**), and such adjournment was consented to by the Court and the date for the Court hearing for the Receivership Application was adjourned to December 2, 2020 and then further adjourned to February 2, 2021 (the **“Second Adjourned Court Date”**);

AND WHEREAS multiple Forbearance Termination Events occurred including (i) the Lender did not receive repayment of all of the Obligations on or before December 31, 2020 (including without limitation the interest which accrued on the Obligations during the calendar month of December, 2020) which constitutes a Forbearance Termination Event pursuant to Section 6.1(a) of the Forbearance Agreement, (ii) the Borrower failed comply with its obligations under Section 5.3(e) of the Forbearance Agreement (regarding construction lien matters) which constitutes a Forbearance Termination Event pursuant to Section 6.1(b) of the Forbearance Agreement, (iii) all realty taxes owing in respect of the Real Property to and including December 31, 2020 (the amount of such unpaid realty taxes being in the amount of \$1,519,100.91 and called the **“Unpaid 2020 Realty Tax Amount”**) were not paid by the Loan Parties on or before December 31, 2020 which constitutes a Forbearance Termination Event pursuant to Section 6.1(y) of the Forbearance Agreement, (iv) the Borrower has not paid to the Lender the January-March 2021 Forbearance Extension Fee which is due and owing by the Borrower (immediately upon the Borrower’s execution of this Amendment Agreement) and which has been earned by the Lender, constitutes Obligations, and is secured by the Security, (v) the Borrower has not paid to the Lender interest which accrued on the Obligations during the calendar month of December 2020 (and became due and

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owing on January 1, 2020) in the amount of \$604,166.67 and which is due and owing by the Borrower, constitutes Obligations, and is secured by the Security, (vi) the Borrower has not paid to the Lender certain fees, disbursements, and taxes incurred by the Lender on account of services performed by the Lender's counsel, the Proposed Receiver (as defined below) and counsel to the Proposed Receiver in the aggregate amount of \$143,549.33 which amount is due and owing by the Borrower, constitutes Obligations, and is secured by the Security (such Forbearance Termination Events are collectively called, the **"Forbearance Amendment #3 Specified Forbearance Termination Events"**) and as a result of such Forbearance Amendment #3 Specified Forbearance Termination Events, the Forbearance Period (as defined in the Forbearance Agreement) automatically terminated, and the Forbearance Period would have otherwise terminated automatically in accordance with the terms of the Forbearance Agreement on December 31, 2020;

AND WHEREAS the Borrower has advised the Lender that the Borrower will not be able to pay to the Lender when same becomes due and payable by the Borrower the interest which will accrue on the Principal of the Obligations during each of the calendar months of January 2021 (due and owing on February 1, 2021), February 2021 (due and owing on March 1, 2021), and March 2021 (due and owing on April 1, 2021) in the aggregate amount of \$1,812,500.00 (collectively, the **"Impending 2021 Monthly Interest Payment Defaults"**);

AND WHEREAS the Borrower has requested that the Lender pay to the City of Toronto the amount equal to the Unpaid 2020 Realty Tax Amount on account of the unpaid realty taxes owing to the City of Toronto by the Loan Parties for the Real Property for 2020, and for such Unpaid 2020 Realty Tax Amount to be added to the Obligations and constitute Obligations concurrently with such payment by the Lender to the City of Toronto without any further action or documentation required whatsoever, and such Unpaid 2020 Realty Tax Amount paid by the Lender to the City of Toronto does and shall constitute Obligations and is and shall be secured by the Security;

AND WHEREAS the Loan Parties have requested that the Lender (i) agree to adjourn the Court hearing for the Receivership Application from Second Adjourned Court Date to the earliest date on which a Court hearing can be scheduled from and after April 1, 2021 after (x) the execution and delivery of this Agreement by the parties hereto and (y) all of the Forbearance Agreement Amendment #3 Conditions Precedent are satisfied provided that all of such Forbearance Agreement Amendment #3 Conditions Precedent are satisfied by the time and date required in Section 3.1 below and (ii) temporarily forbear from enforcing its rights under the Transaction Documents and amend certain terms of the Forbearance Agreement as set out herein notwithstanding the Forbearance Amendment #3 Specified Forbearance Termination Events or the Impending 2021 Monthly Interest Payment Defaults, but in all cases subject to the terms and conditions of the Forbearance Agreement as amended by this Amendment Agreement;

NOW THEREFORE in consideration of the respective covenants of the parties hereto as herein contained, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto), each of the parties hereto hereby agrees as follows:

ARTICLE 1 INTERPRETATION AND GENERAL MATTERS

1.1 Definitions

Unless defined in this Amendment Agreement, all capitalized words and phrases shall have the same meanings ascribed thereto in the Forbearance Agreement. The definition of the term "Transaction Documents" defined in Section 1.1(k) of the Original Forbearance Agreement is deleted and replaced with the following: **"Transaction Documents"** means, collectively, the Loan Documents, the Guarantee, the

Security and all documents, instruments or other agreements executed or delivered in connection with any of the foregoing by any one or more of the Loan Parties including without limitation the forbearance agreement between the Lender and the Loan Parties made as of the 26th day of March, 2020 (as same may be amended, restated or supplemented from time to time), and “**Transaction Document**” means any one of them.

1.2 Entire Agreement

Except for the Transaction Documents, the Forbearance Agreement, as amended by this Amendment Agreement constitutes the entire agreement of the parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, relating to the subject matter hereof. This Amendment Agreement may not be amended or modified except by written agreement executed by all the parties. No provision of this Amendment Agreement or the Forbearance Agreement as amended by this Amendment Agreement (collectively, the “**Amended Forbearance Agreement**”) will be deemed waived by any course of conduct unless such waiver is in writing and signed by all the parties, specifically stating that it is intended to modify this Amendment Agreement or the Amended Forbearance Agreement. This Amendment Agreement constitutes a Transaction Document.

1.3 Incorporation by Reference and Reaffirmation of Forbearance Agreement

Sections 1.2, 1.3, 1.4, 1.7 and 1.8 in the Forbearance Agreement are incorporated by reference into this Amendment Agreement as if fully set out herein (except that all references to “this Agreement” in such sections shall be deemed to be references to “this Amendment Agreement”) and do and shall be deemed to form part of this Amendment Agreement. The terms of Article 7 of the Forbearance Agreement are incorporated by reference into this Amendment Agreement as if fully set out herein (except that all references to “this Agreement” in Article 7 incorporated herein shall be deemed to be references to “this Amendment Agreement”) and does and shall be deemed to form part of this Amendment Agreement. Each of the Loan Parties represents and warrants to the Lender and covenants and agrees to and in favour of the Lender that except as amended by this Amendment Agreement, all provisions of the Forbearance Agreement continue in full force and effect, and are reaffirmed by each of the Loan Parties. Each of the Loan Parties represents and covenants and agrees to and in favour of the Lender that each of the Loan Documents, this Agreement, and the Amended Forbearance Agreement and do and shall continue to constitute legal, valid and binding obligations of each of the Loan Parties enforceable against each of the Loan Parties in accordance with their respective terms.

1.4 Acknowledgements by Loan Parties

Each of the Loan Parties acknowledges and confirms that each of the Forbearance Amendment #3 Specified Forbearance Termination Events has occurred. The Lender is not deemed by the immediately preceding sentence or anything else in this Agreement to represent, agree or acknowledge that any Forbearance Termination Events have occurred other than the Forbearance Amendment #3 Specified Forbearance Termination Events.

Each of the Loan Parties acknowledges receipt of the Demand Letter and the BIA Notice issued and delivered to such Loan Party by the Lender, and further acknowledges and agrees that the ten (10) day notice period under Section 244 of the BIA has expired and the Lender is entitled to enforce all of its rights and remedies under the Transaction Documents and applicable law and in equity, subject to the terms of the Amended Forbearance Agreement.

Each of the Loan Parties acknowledges, confirms and covenants and agrees as follows: (i) the Loan Parties are not entitled to and shall not receive any interest or other credit on account of any payments paid by 2769746 to the Lender as contemplated by Section 2.2 or Section 3.1(iv)-(vi) (inclusive) of this Amendment Agreement and (ii) each of (a) the January-March 2021 Forbearance Fee (b) the fees and disbursements of counsel to the Lender, the proposed receiver under the Receivership Application (the **“Proposed Receiver”**) and counsel to the Proposed Receiver as set out in Section 1.5 of this Amendment Agreement are fair and reasonable and the Loan Parties irrevocably waive and release any right to challenge any such amounts (and for certainty including without limitation taxing any of such legal fees and disbursements) or request the Lender to repay any of such amounts to the Loan Parties.

The Loan Parties represent, confirm and agree that the Consent to Receiver is and shall remain in full force and effect and binding on and enforceable against all of the Loan Parties, and in the event of a Forbearance Termination Event, excluding the “Forbearance Amendment #3 Specified Forbearance Termination Events” and the Impending 2021 Monthly Interest Payment Defaults, each of the Loan Parties irrevocably (i) consents to the Court issuing an order in the Receivership Application substantially in the form of the Draft Court Order (or with any changes required by the Court) and (ii) agrees that it shall not oppose or object to in any manner whatsoever the Receivership Application or the issuance by the Court of an order substantially in the form of the Draft Court Order (or with any changes required by the Court).

1.5 Acknowledgement of Obligations

- (a) Each of the Loan Parties hereby acknowledges, confirms and agrees that as of January 1, 2021, the Obligations were and the Borrower is indebted to the Lender under the Transaction Documents as more specifically set out below:

Principal	\$100,000,000.00
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Interest which accrued during December, 2020 from and including December 1, 2020 to and including December 31, 2020 which became due on January 1, 2021 (the “December 2020 Interest”) (interest has continued to accrue from and including January 1, 2021 and will continue to accrue in accordance with the terms of the Transaction Documents until all of the Obligations are paid to the Lender in full):	\$604,166.67
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Legal Fees and Disbursements and Applicable Taxes of (A) the Lender’s counsel to and including, (B) the Proposed Receiver, and (C) counsel for the Proposed Receiver, in each case to December 15, 2021 (additional legal fees, disbursements and taxes for the Lender have accrued from and after December 16, 2020 and will continue to accrue until all of the Obligations are paid to the Lender in full, and such applicable fees, disbursements and taxes (i) are not set out in this Amendment Agreement, (ii) do and shall constitute Obligations, and (iii) will become due and owing by the Loan Parties to the Lender when invoices for same are delivered by the Lender to the Loan Parties):	\$143,549.33
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January-March 2021 Forbearance Extension Fee:	\$400,000.00 (pursuant to Section 1.6 below)
Total:	\$101,147,716.00

Each of the Loan Parties acknowledges, covenants and agrees with the Lender that concurrently with the execution and delivery of this Amendment Agreement and the payment by the Lender to the City of Toronto of the Unpaid 2020 Realty Tax Amount, such Unpaid 2020 Realty Tax Amount will automatically become owing by the Borrower to the Lender, constitute Obligations, and be secured by the Security.

- (b) Each of the Loan Parties hereby acknowledges, confirms and agrees that the Obligations are unconditionally owing by the Borrower to the Lender as of the date hereof (and that the Loan (as that term has defined in the Loan Agreement) has matured without payment by the Borrower), without any right of setoff, defense, counterclaim or reduction of any kind, nature or description whatsoever by the Borrower or any other Loan Party, and the Loan Parties are estopped from disputing such Obligations. Each of the Loan Parties hereby further acknowledges, confirms and agrees that all amounts required to be paid by the Loan Parties to the Lender pursuant to the Amended Forbearance Agreement are fair and reasonable, have been earned by the Lender (or, if applicable, will automatically be earned by the Lender on such future dates), are due and owing by the Loan Parties to the Lender in full (or, if applicable, will automatically become due and owing to the Lender on such future dates), and each of the Loan Parties irrevocably releases and waives any claim or right to assert that such amounts (i) have not been or will not automatically be earned by the Lender or (ii) are not due and owing (or, if applicable, will not automatically become due and owing to the Lender on such future dates).
- (b) The Lender's accounts and records constitute, in the absence of manifest error, conclusive evidence of the Obligations pursuant to the Transaction Documents.

1.6 **January-March 2021 Forbearance Extension Fee**

The Borrower covenants and agrees to pay to the Lender a forbearance fee in the amount of \$400,000.00 as consideration for the agreement by the Lender to extend the term of the Forbearance Period to April 2, 2021 pursuant to Section 2.1(b) below (the "**January-March 2021 Forbearance Extension Fee**"). The January-March 2021 Forbearance Extension Fee is and shall be fully earned upon delivery of this Agreement by the Loan Parties to the Lender (and for certainty whether or not the Forbearance Amendment #3 Conditions Precedent are satisfied) and constitute Obligations, and is in addition to all other fees, interest, costs and expenses payable in connection with or pursuant to the Transaction Documents including the Amended Forbearance Agreement without any further action or documents required whatsoever. The January-March

2021 Forbearance Extension Fee replaces and is in substitution for the Monthly Forbearance Fees which would otherwise be earned by the Lender and become due and owing by the Loan Parties to the Lender for the calendar months of January, February, and March, 2021. For certainty, in the event that the Forbearance Period, as may be extended by the terms of this Agreement, is not extended as a result of the occurrence of a Forbearance Termination Event (other than a Forbearance Amendment #3 Specified Forbearance Termination Event) or because the Forbearance Amendment #3 Conditions Precedent are not satisfied on or before the date required for such satisfaction pursuant to Section 3.1 below, or if the Forbearance Period is extended as contemplated by the terms of this Amendment Agreement but a Forbearance Termination Event (other than a Forbearance Amendment #3 Specified Forbearance Termination Event or the Impending 2021 Monthly Interest Payment Defaults) occurs and the Forbearance Period is terminated, or as a result of the repayment of all of the Obligations by the Loan Parties to the Lender, the Loan Parties are not and shall not be entitled to a payment, repayment, credit, or set-off for any portion of the January-March 2021 Forbearance Extension Fee if the Forbearance Period is terminated prior to April 2, 2021 for any reason whatsoever. Each of the Guarantors and the Beneficial Owner acknowledges and consents to the foregoing and together with the Borrower confirm and agree that such amount constitutes Obligations which are secured by the Security. Each of the Guarantors confirms and agrees that all of such amounts constitutes "Obligations" as that term is defined in the Guarantee.

ARTICLE 2

AMENDMENTS TO AND ADDITIONAL PROVISIONS FOR THE FORBEARANCE AGREEMENT

2.1 Amendments

- (a) The following definitions are inserted into Section 1.1 of the Amended Forbearance Agreement in the appropriate alphabetical location in Section 1.1:

"Forbearance Amendment #1" means Forbearance Agreement Amendment #a made as of July 3, 2020 between the Lender and the Loan Parties, as same may be amended, restated or supplemented from time to time.

"Forbearance Amendment #2" means Forbearance Agreement Amendment #2 made as of November 12, 2020 between the Lender and the Loan Parties, as same may be amended, restated or supplemented from time to time.

"Forbearance Amendment #3" means Forbearance Agreement Amendment #3 made as of January 28, 2021 between the Lender and the Loan Parties, as same may be amended, restated or supplemented from time to time.

- (b) The date December 31, 2020 in Section 4.1(a) of the Forbearance Agreement is deleted and replaced with: April 2, 2021.
- (b) The last sentence of Section 4.2 of the Forbearance Agreement deleted and replaced with the following:

For certainty, in the event of a Forbearance Termination Event (but excluding the "Forbearance Amendment #3 Specified Forbearance Termination Events" as that term is defined in the recitals of Forbearance Amendment #3 or the Impending 2021 Monthly

Interest Payment Defaults), each of the Loan Parties irrevocably (i) consents and agrees to the Lender and 2292912 scheduling the Court hearing for the Receivership Application on the earliest date available with the Court (and for certainty prior to any then scheduled Court hearing in accordance with the terms hereof) and (ii) covenants and agrees to cause their counsel to cooperate with counsel for the Lender in rescheduling the Court hearing, and no Loan Party shall request an adjournment for such Court hearing scheduled on any such earlier date.

- (c) The text of Section 5.3(e) of the Forbearance Agreement is deleted in its entirety and replaced with “[Reserved]”.
- (d) The text of Section 6.1(o) of the Forbearance Agreement is deleted and replaced with the following:
 - (o) the Concord Pacific Term Sheet is terminated for any reason or Concord Pacific or its counsel advises the Loan Parties (or any one or more of them) or the Lender or any of their respective counsel, orally or in writing, that Concord Pacific will not or does not intend to complete the Concord Pacific Transactions;
- (e) The text of Section 6.1(q) of the Forbearance Agreement is deleted and replaced with the following:
 - (q) on or before April 2, 2021, the Lender does not receive payment in full of all of the Obligations; unless (i) a Forbearance Termination Event occurs prior to April 2, 2021, and the Lender does not receive payment in full of all of the Obligations on such earlier date, (ii) the Loan Parties elect to implement the April-June 2021 Extension Option and deliver the April-June 2021 Extension Election Notice to the Lender on or before 5:00 p.m. ET on April 2, 2021 in which case the Loan Parties will have until 5:00 p.m. ET on April 9, 2021 to pay to the Lender and for the Lender to receive payment in full all of the Obligations unless the Loan Parties satisfy all of the April-June 2021 Extension Conditions Precedent by the required date for such satisfaction in which case clause (iii) of this Section 6.1(q) shall apply, or (iii) the Loan Parties elect to implement the April-June 2021 Extension Option and deliver the April-June 2021 Extension Election Notice to the Lender on or before 5:00 p.m. ET on April 2, 2021 and satisfy all of the April-June 2021 Extension Conditions Precedent by the required date for such satisfaction in which case the date April 9, 2020 will be deemed to be amended to June 30, 2021;
- (f) The text of Section 6.1(u) of the Forbearance Agreement is deleted and replaced with the following:
 - (u) the filing or commencement by any Person of any claim, action, application or other form of court process seeking any order or relief that would or could reasonably be expected to (i) adversely affect, challenge, impact or impair, or request a court to declare invalid or unenforceable, directly or indirectly, (x) the enforceability of the Obligations or any of the Transaction Documents or any of the transactions contemplated thereby or (y) the Lender’s rights, remedies and/or entitlements under the Transaction Documents and/or in respect of any of the Obligations (including without limitation the priority of (A) the Liens created under the Security and (B) the Lender’s right to payment of the Obligations (including without limitation in priority to any other creditors of the Loan Parties or any Person which has any ownership interest, directly or indirectly, in any one or more of the Loan Parties)), (ii) adversely affect, impact or impair, directly or indirectly,

the rights and/or entitlements of the Loan Parties to sell the Property or to sell and/or give up control of the Property (or a direct or indirect ownership interest therein) or the management and control of the Property, or (iii) interfere or impair in any manner, directly or indirectly, with the actions, efforts, strategies or processes of the Loan Parties or the Lender or any court appointed receiver to sell the Property;

- (i) The text of Section 6.1(z) of the Forbearance Agreement is deleted in its entirety and replaced with “[Reserved]”.
- (j) The text of Section 6.1(aa) of the Forbearance Agreement is deleted in its entirety and replaced with “[Reserved]”.
- (k) Section 2.2 of the Forbearance Amendment #2 is hereby deleted in its entirety and replaced with “[Reserved]”, as if the First Extension Option had never been contained therein or constituted part of the Amended Forbearance Agreement.
- (l) Section 2.3 of the Forbearance Amendment #2 is hereby deleted in its entirety and replaced with “[Reserved]”, as if the Second Extension Option has never been contained therein or constituted part of the Amended Forbearance Agreement.

2.2 April-June 2021 Extension Option

Provided that no Forbearance Termination Event has occurred (other than the Forbearance Amendment #3 Specified Forbearance Termination Events or the Impending 2021 Monthly Interest Payment Defaults), the Loan Parties shall have the option to request an extension of the Forbearance Period by amending the date “April 2, 2021” in Section 4.1 of the Amended Forbearance Agreement to “June 30, 2021” (the “**April-June 2021 Extension Option**”) by delivering to the Lender on or before April 2, 2021 an extension request executed by all of the Loan Parties and addressed to the Lender and 2292912 (in form and substance satisfactory to the Lender acting reasonably) (the “**April-June 2021 Extension Election Notice**”) confirming that the Loan Parties wish to exercise the April-June 2021 Extension Option. The Loan Parties covenant and agree that as consideration for the agreement of the Lender to provide the April-June 2021 Extension Option and provided that the Loan Parties deliver the April-June 2021 Extension Election Notice to the Lender on or before 5:00 p.m. ET on April 2, 2021, the Lender shall have automatically earned and the Loan Parties shall be required to pay to the Lender, without any other action or notice required whatsoever, a fee in the amount of \$400,000.00 (the “**April-June 2021 Extension Forbearance Fee**”), and for certainty such April-June 2021 Extension Forbearance Fee will (i) be earned and become due and payable by the Loan Parties to the Lender when the Loan Parties deliver the April-June 2021 Extension Election Notice whether or not the April-June 2021 Extension Conditions Precedent (as that term is defined below) are satisfied by the time period required by the terms of this Section 2.2 below, and (ii) constitute Obligations and be secured by the Security. If the Loan Parties do not deliver the April-June 2021 Election Notice to the Lender on or before 5:00 p.m. ET on April 2, 2021, then the April-June 2021 Extension Option shall automatically terminate without any other action or notice required whatsoever.

The right of the Loan Parties to exercise the April-June 2021 Extension Option is and shall at all times be conditional on each of the following conditions (collectively, the “**April-June 2021 Extension Conditions Precedent**”) being satisfied on or before 5:00 p.m. ET on April 9, 2020 (for certainty, in the event that the Lender does not deliver written notice to the Loan Parties (or the Lender’s counsel does not deliver written notice to counsel for the Loan Parties) on or before 5:00 p.m. ET on April 9, 2020 that all of the April-June 2021 Extension Conditions Precedent have been satisfied (the “**April-June 2021**

Extension Lender Confirmation”), then the April-June 2021 Extension Option shall automatically terminate without any other action or notice required whatsoever):

(a) 2769746 shall have (x) paid to the Lender’s investors in the Loan (collectively, the **“Mortgage Loan Investors”**) and the Mortgage Loan Investors shall have received in immediately available funds an aggregate amount equal to (i) the amount of the April-June 2021 Extension Forbearance Fee (in this case of the payment contemplated by this clause (i) such payment to be paid to and received by the Mortgage Loan Investors other than 2769746), (ii) the amount of interest which will accrue on the Obligations for the period commencing on April 1, 2021 to and including June 30, 2021, and (iii) the amount equal to the amount of the fees, disbursements and applicable taxes of (I) the Lender’s counsel, (II) the Proposed Receiver, and (III) counsel for the Proposed Receiver, in each case to and including March 31, 2021; in each case on account of the acquisition of a portion of the Loan by 2769746 from the Mortgage Loan Investors (except in the case of the payment contemplated by clause (i) of this subparagraph (a) which payment is to be paid to and received by the Mortgage Loan Investors other than 2769746) (for certainty, the payments contemplated to be paid by 2769746 pursuant to this subparagraph (a) do not and shall not be deemed to constitute a payment by, for or on behalf of the Borrower or any of the other Loan Parties to the Lender and shall not reduce the Obligations in any manner whatsoever) and (y) entered into an agreement with the Lender or the other Mortgage Loan Investors to confirm the terms of such acquisition of such portions of the Loan by 2769746 from the Mortgage Loan Investors in form and substance satisfactory to the Lender or such Mortgage Loan Investors as applicable;

(b) no Forbearance Termination Event other than the Forbearance Amendment #3 Specified Forbearance Termination Events or the Impending 2021 Monthly Interest Payment Defaults shall have occurred on or before (x) April 2, 2021 or (y) April 9, 2021; and

(c) the Lender or its counsel has delivered to the Loan Parties or their counsel (including by email) the April-June 2021 Extension Lender Confirmation on or before 5:00 p.m. ET on April 9, 2021.

The April-June 2021 Extension Forbearance Fee is and shall be fully earned upon delivery by the Loan Parties to the Lender of the April-June 2021 Extension Election Notice (and for certainty whether or not the April-June 2021 Extension Conditions Precedent are satisfied), constitute Obligations which are secured by the Security, and is in addition to all other fees, interest, costs and expenses payable in connection with or pursuant to the Transaction Documents or the Amended Forbearance Agreement without any further action or documents required whatsoever, and interest shall accrue thereon. The April-June 2021 Extension Forbearance Fee replaces and is in substitution for the Monthly Forbearance Fees which would otherwise be earned by the Lender and become due and owing by the Loan Parties to the Lender for the calendar months of April, May, and June, 2021. For certainty, in the event that the Forbearance Period, as may be extended by the April-June 2021 Extension Option, is terminated as a result of the occurrence of a Forbearance Termination Event or as a result of the repayment of all of the Obligations by the Loan Parties to the Lender, the Loan Parties are not and shall not be entitled to a payment, repayment, credit, or set-off for any portion of the April-June 2021 Extension Forbearance Fee. Each of the Guarantors and the Beneficial Owner acknowledge and consent to the foregoing and confirms and agrees that all of such amounts constitute, or will constitute as applicable when such amounts are earned by the Lender, Obligations. Each of the Guarantors confirms and agrees that all of such amounts constitute, or will constitute as applicable when such amounts are earned by the Lender, “Obligations” as that term is defined in the Guarantee.

The Loan Parties shall be entitled to the rights and benefits of the April-June 2021 Extension Option if (i) the Loan Parties deliver the April-June 2021 Extension Election Notice to the Lender by the

time required by the first paragraph of this Section 2.2 and (ii) all April-June 2021 Extension Conditions Precedent have been and continue to be satisfied on or before April 9, 2021.

2.3 Monthly Forbearance Fees

In the event that the Loan Parties do not deliver the April-June 2021 Extension Election Notice to the Lender or the Lender does deliver the April-June 2021 Lender Extension Confirmation to the Loan Parties within the time periods contemplated by Section 2.2 of this Amendment Agreement, then in such case the Monthly Forbearance Fees shall continue to be earned by the Lender and become due and owing by the Loan Parties in accordance the Amended Forbearance Agreement for each calendar month commencing on April 1, 2021 without any other action or notice required whatsoever. The Monthly Forbearance Fees constitute additional Obligations and interest shall accrue thereon in accordance with the terms of the Transaction Documents (for certainty and notwithstanding provisions to the contrary in the Forbearance Agreement, none of the Monthly Forbearance Fees or any other forbearance fees contemplated by the Amended Forbearance Agreement were, are or shall be deemed to be added to the principal amount of the Obligations).

2.4 Court Date for the Receivership Application

In the event that the Loan Parties satisfy all of the Forbearance Agreement Amendment #3 Conditions Precedent on or before the time and date required by Section 3.1 below, (ii) no other Forbearance Termination Event occurs on or before such same time and date, then in such case the Lender agrees to instruct its lawyers to adjourn the Court hearing for the Receivership Application from the Second Adjourned Court Date to the earliest date on which the Court hearing for the Receivership Application can be scheduled on or after April 3, 2021 (the "**Third Adjourned Court Date**") in which case the Loan Parties will cause their lawyers to cooperate with the lawyers for the Lender to adjourn the Court hearing for the Receivership Application accordingly.

For certainty and notwithstanding the other terms of the Amended Forbearance Agreement (as same may hereafter be amended or restated from time to time), in the event that a Forbearance Termination Event (other than a Forbearance Amendment #3 Specified Forbearance Termination Event or the Impending 2021 Monthly Interest Payment Defaults) occurred before or occurs after the date of this Amendment Agreement, the Lender shall be entitled and shall have the right without any other action or notice required whatsoever to (i) proceed with the Court hearing for the Receivership Application on the Second Adjourned Court Date (if not already adjourned to the Third Adjourned Court Date) or (ii) schedule the Court hearing for the Receivership Application on the earliest available date on which such Court hearing can be scheduled with the Court (and for certainty prior to any then scheduled Court hearing (including without limitation the Third Adjourned Court Date) in accordance with the terms hereof), in which case the Loan Parties shall instruct their lawyers to cooperate with counsel for the Lenders to schedule the Court hearing accordingly, and no Loan Party shall request an adjournment for such Court hearing scheduled on any such earlier date.

2.5 Covenants by Loan Parties Regarding Concord Pacific Transactions

The Loan Parties shall provide regular written (and on request by the Lender telephonic) update reports regarding the status of the Concord Pacific Transactions (as that term is defined in Forbearance Amendment #2) and the completion thereof, such update reports to be in form and substance satisfactory to the Lender (the written reports shall be provided by the Loan Parties to the Lender not less frequently than two times per calendar month but for certainty, the Loan Parties will provide more frequent updates if there are material developments). The Loan Parties will deliver to the Lender with each such written reports current drafts of all material documents, agreements, certificates and other deliveries for the

Concord Pacific Transactions, and when same become available executed copies of all documents, agreements, certificates and other deliveries to effect or relating to the Concord Pacific Transactions. For certainty, the Loan Parties acknowledge and confirm that the Lender has advised the Loan Parties (and the Loan Parties represent and warrant to the Lender that the Loan Parties have advised Concord Pacific) that prior to (i) Concord Pacific advancing any or all of any loan by Concord Pacific to one or more of the Loan Parties and whether pursuant to the Concord Pacific Transactions, the Concord Pacific Term Sheet, or otherwise (in each case, a **“Concord Pacific Loan”**) or (ii) the Loan Parties (or any one or more of them) granting a mortgage over the Real Property or a charge of beneficial interest in the Real Property to Concord Pacific (a **“Concord Pacific Mortgage”**) if the Obligations have not been repaid in full to the Lender, then in such as a condition precedent of any Loan Party delivering such Mortgage of charge of beneficial interest, Concord Pacific is and shall be required to deliver a postponement, subordination and standstill agreement to the Lender and 2292912 (in form and substance satisfactory to the Lender) pursuant to which Concord Pacific will be required to (x) postpone repayment of all Concord Pacific Loans (or any portion thereof) to the repayment of the Obligations in full, (y) subordinate the priority of the Concord Pacific Mortgage to the Mortgage, and (z) agree to “standstill” and not take any action to enforce the Concord Pacific Mortgage or any other security, lien or encumbrance granted to Concord Pacific prior to all of the Obligations having been repaid to the Lender in full.

ARTICLE 3 CONDITIONS PRECEDENT

3.1 Conditions Precedent

The amendments to the Forbearance Agreement contained in Section 2.1 of this Amendment Agreement and Section 2.2 of this Amendment Agreement shall not be effective or of any force or effect unless:

(i) (a) all of the representations and warranties in this Agreement and the Amended Forbearance Agreement are true and correct in all respects as of the Forbearance Amendment #3 Effective Date, and (b) no Forbearance Termination Event shall have occurred (except for the Specified Forbearance Termination Events as that term is defined in the recitals to this Agreement);

(ii) the Lender shall have received (a) a copy of this Agreement fully executed by all of the Loan Parties and (b) a consent in form and substance satisfactory to the Lender executed by Westmount in whose favour a mortgage is registered on title to the Property (which mortgage (the **“Westmount Mortgage”**) was subordinated by Westmount to the Lender pursuant to the terms of an amended and restated priority agreement (as same may have been amended, restated or supplemented, the **“Westmount Priority Agreement”**) between Computershare Trust Company of Canada (as the then custodian for the Lender) and Westmount dated September 25, 2019), consenting to the terms of this Amendment Agreement and agreeing to such other matters as the Lender may require;

(iii) One West Holdings Ltd., an affiliate of Concord Pacific (the **“Concord Pacific Guarantor”**), shall have delivered to the Lender a guarantee of the Obligations (such guarantee to be in form and substance satisfactory to the Lender and shall contain, among other things, an indemnity by the Concord Pacific Guarantor to Timbercreek, Computershare, 2292912 and each of the Timbercreek’s investors in the Loan and on account of such matters as Timbercreek shall require, all in the Lender’s discretion) shall constitute and be deemed to constitute a “Transaction Document” as that term is defined in the Amended Forbearance Agreement) and the Concord Pacific Guarantor shall have delivered or caused to be delivered to the Lender standard supporting documents including without limitation an officer’s certificate

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addressed to the Lender and attaching as schedules the organizational documents of the Concord Pacific Guarantor and resolutions of the directors of the Concord Pacific Guarantor approving the execution and delivery of such guarantee and the performance of the Concord Pacific Guarantor's obligations thereunder and an opinion letter from the lawyers for the Concord Pacific Guarantor as to standard matters including without limitation corporate status, power and capacity, authorization, execution, delivery and enforceability of such guarantee (and all of such supporting documents and the legal opinion shall be in form and substance satisfactory to the Lender acting reasonably);

(iv) (x) 2769746 shall have paid to the Mortgage Loan Investors and the Mortgage Loan Investors shall have received in immediately available funds \$2,960,216.00 on account of the acquisition of portions of the Loan by 2769746 from the Mortgage Loan Investors, (y) 2769746 shall have paid to the Lender and the Lender shall have received in immediately available funds the amount of \$1,519,100.91 which shall be used by the Lender to pay the Unpaid 2020 Realty Tax Amount to the City of Toronto on account of the unpaid realty taxes owing to the City of Toronto by the Loan Parties for the Real Property for the 2020 calendar year (the Loan Parties covenant and agree to and in favour of the Lender and 2292912 that immediately upon such payment by the Lender to the City of Toronto as contemplated by this Section 3.1(iv)(y), such Unpaid 2020 Realty Tax Amount shall automatically be added to the Obligations and constitute Obligations, and such Unpaid 2020 Realty Tax Amount is and shall be secured by the Security, all without any further action or documentation required whatsoever) (for certainty, the payments contemplated to be paid by 2769746 in Section 3.1(iv)(x) and 3.1(iv)(y) do not and shall not be deemed to constitute a payment by, for or on behalf of the Borrower or any of the other Loan Parties to the Lender and shall not reduce the Obligations in any manner whatsoever), and (z) 2769746 shall have entered into an agreement with the Lender or the other Mortgage Loan Investors to confirm the terms of the acquisition of portions of the Loan by 2769746 from the Mortgage Loan Investors in form and substance satisfactory to the Lender or such Mortgage Loan Investors as applicable; for certainty, in the event that any penalties or interest are or become owing by the Loan Parties (or any one or more of them) to the City of Toronto on account of the realty taxes owing to the City of Toronto by the Loan Parties for the Real Property for the 2020 calendar year, then in such case the Loan Parties acknowledge and agree that the Loan Parties shall have the sole liability and responsibility to pay any and all such penalties or interest to the City of Toronto, and none of the Lender or 2292912 will or shall have any liability whatsoever to the Loan Parties or the City of Toronto for or on account of any such penalties or interest;

(v) the Lender or its counsel has confirmed in writing (including by email) to the Loan Parties or their counsel that the conditions precedent listed in clauses (i) to (iv) inclusive of this Section 3.1 have been satisfied (the conditions precedent listed in Section 3.1(i)-(v) (inclusive) are collectively called the **"Forbearance Agreement Amendment #3 Conditions Precedent"**, and individually a **"Forbearance Agreement Amendment #3 Condition Precedent"**); and

(vi) all of the Forbearance Agreement Amendment #3 Conditions Precedent have been satisfied on or before 4:30 p.m. (Noon) ET on January 29, 2021.

The Loan Parties acknowledge and agree that unless and until all of such Forbearance Agreement Amendment #3 Conditions Precedent have been satisfied to the satisfaction of the Lender in its sole discretion and such satisfaction has been confirmed in writing by the Lender or its counsel to the Borrower or its counsel, (i) the Forbearance Period was, has been, and continues to be terminated and (ii) the amendments contained in Section 2.1 above in this Agreement are not and shall not have any force or effect, (iii) Section 2.2 of this Agreement is not and shall not have any force or effect, and (iv) as a result of the Forbearance Amendment #3 Specified Forbearance Termination Events and any other Forbearance Termination Events which have occurred and are continuing, the Lender is entitled to enforce all of rights and remedies under the Transaction Documents and applicable law and in equity in connection therewith,

including without limitation proceeding with the Receivership Application at the currently scheduled Court hearing on Second Adjourned Court Date.

ARTICLE 4 GENERAL PROVISIONS

4.1 No Other Waivers; Reservation of Rights

The Lender reserves the right, in its sole and absolute discretion, to exercise any or all of its rights or remedies under any one or more of the Transaction Documents and the Amended Forbearance Agreement or applicable law or in equity, and the Lender has not waived any such rights or remedies, and nothing in this Agreement nor any delay on the part of the Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies. The rights and remedies of the Lender under this Agreement, the Amended Forbearance Agreement, and the other Transaction Documents are cumulative and not in substitution for any other rights or remedies available by applicable law, in equity or otherwise.

4.2 Execution in Counterparts and by Electronic Transmission

This Amendment Agreement may be executed in counterparts, each of which shall be deemed to be an original and which taken together will be deemed to constitute one and the same instrument. Counterparts may be executed and delivered either in original format or by any form of director electronic transmission including without limitation by portable document format (“**PDF**”) or “DocuSign” and the parties adopt any signatures executed in such manner as original signatures of the parties.

4.3 Governing Law

This Amendment Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflicts of law or principles of comity.

4.4 Defined Terms

Any capitalized word or phrase used in this Amendment Agreement but not defined in the Amended Forbearance Agreement or this Amendment will have the meaning given to such term in Forbearance Amendment #1 or Forbearance Amendment #2 as applicable.

4.5 Release and Indemnity

In consideration of the agreements of the Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Loan Parties hereby absolutely, unconditionally and irrevocably waives, releases, remises and forever discharges the Lender, 2292912 and Computershare and each of their respective successors and assigns, participants, affiliates, subsidiaries, branches, divisions, predecessors, directors, officers, attorneys, employees, lenders, investors in the Obligations and other representatives and advisors (the Lender 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, damages, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever (individually, a “**Claim**” and collectively, “**Claims**”) of every name and nature, whether known or unknown, suspected or unsuspected, both arising at law and in equity, which any of the Loan Parties or any of their successors, heirs, executors, administrators, permitted assigns and 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 arises at any time on or prior to the day and date of this Amendment Agreement, including, without limitation, for or on account of, or in relation to, or in any way in connection with, the Forbearance Agreement, any of the Transaction Documents or transactions thereunder or related thereto.


In consideration of the agreements of the Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Loan Parties hereby agrees to indemnify and hold harmless (absolutely, unconditionally and irrevocably) the Releasees from and against any and all Claims of every name and nature, whether known or unknown, both arising at law and in equity, suffered or incurred by any of the Loan Parties by reason of any matter or thing whatsoever incurred by or asserted against the Lender as a result of or in connection with any matter, thing, action, inaction, or transaction whatsoever contemplated by this Amendment Agreement, the Amended Forbearance Agreement, or any of the Transaction Documents, except in the event that any such Claim is caused directly by the gross negligence or willful misconduct of the Lender as proven by a court of competent jurisdiction pursuant to an order non-appealable order in respect which the period for any permitted appeal has expired.

The releases and indemnities contained herein do and shall survive the expiry or other termination of the Forbearance Period and/or the Amended Forbearance Agreement and the repayment of the Obligations to the Lender.

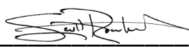
[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment Agreement as of the date first written above.

TIMBERCREEK MORTGAGE SERVICING INC.

By: 

Name: Julie Neault, Vice President
Authorized Signatory

By: 

Name: Scott Rowland, Vice President
Authorized Signatory

CRESFORD CAPITAL CORPORATION

By: _____
Name:
Authorized Signatory

**YG PARTNERSHIP,
by its GENERAL PARTNER, 9615334 CANADA INC.**

By: _____
Name:
Authorized Signatory

CRESFORD (ROSEDALE) DEVELOPMENTS INC.

By: _____
Name:
Authorized Signatory

YSL RESIDENCES INC.

By: _____
Name:
Authorized Signatory


IN WITNESS WHEREOF, the parties hereto have entered into this Amendment Agreement as of the date first written above.

TIMBERCREEK MORTGAGE SERVICING INC.


By: _____
Name: Julie Neault, Vice President
Authorized Signatory

By: _____
Name: Scott Rowland, Vice President
Authorized Signatory


CRESFORD CAPITAL CORPORATION

By:  _____
Name: Daniel Casey, President
Authorized Signatory

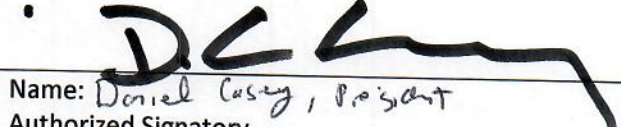
**YG PARTNERSHIP,
by its GENERAL PARTNER, 9615334 CANADA INC.**

By:  _____
Name: Daniel Casey, President
Authorized Signatory

CRESFORD (ROSEDALE) DEVELOPMENTS INC.

By:  _____
Name: Daniel Casey, President
Authorized Signatory

YSL RESIDENCES INC.

By:  _____
Name: Daniel Casey, President
Authorized Signatory

This is **Exhibit "C"** referred to in the affidavit of Patrick Smith sworn before me by videoconference on June 16, 2021 in accordance with O. Reg. 431/20: Administering Oath or Declaration Remotely. The deponent and I were both located in the City of Toronto in the Province of Ontario

A handwritten signature in blue ink, appearing to read 'Bornstein', is written over a horizontal dotted line.

Jeremy Bornstein LSO #65425C
Commissioner for Taking Affidavits
(or as may be)

CONSENT AND FORBEARANCE AGREEMENT AMENDMENT #4

THIS CONSENT AND FORBEARANCE AGREEMENT AMENDMENT #4 (as amended, restated, supplemented or replaced from time to time, **“this Amendment Agreement”** or **“this Agreement”**) is made and effective as of this 30th day of April, 2021.

A M O N G:

TIMBERCREEK MORTGAGE SERVICING INC.
(hereinafter referred to as the **“Lender”**)

-and-

CRESFORD CAPITAL CORPORATION
(hereinafter referred to as the **“Borrower”**)

-and-

YG LIMITED PARTNERSHIP
(hereinafter referred to as the **“Beneficial Owner”**)

-and-

CRESFORD (ROSEDALE) DEVELOPMENTS INC.
(hereinafter referred to as **“Rosedale”**)

-and-

YSL RESIDENCES INC.
(formerly 2502295 Ontario Inc. and hereinafter referred to as **“YSL Residences”**)
(Rosedale and YSL Residences are ~~collectively~~ ~~hereinafter~~ called the **“Guarantors”**)

RECITALS:

WHEREAS the parties hereto entered into a forbearance agreement made as of March 26, 2020 in respect of the property municipally known as 363-385 Yonge Street and 3 Gerrard Street East, Toronto, Ontario (the **“Original Forbearance Agreement”**);

AND WHEREAS 2576725 Ontario Inc. (**“2576725”**) commenced a proceeding against, among others, YSL Residences in the Ontario Superior Court of Justice (Commercial List) (the **“Court”**) under Court File No. CV-00642892-00CL claiming, among other things, an equitable mortgage against the Real Property securing the principal amount of \$20,000,000 (the **“Equitable Mortgage Litigation”**) and the Court issued an order confirming an equitable mortgage in favour of 2576725 against the Real Property (the **“Equitable Mortgage Order”**);

AND WHEREAS the Security was delivered in favour of Computershare Trust Company of Canada as custodian and agent for and on behalf of the Lender (**“Computershare”**) and Computershare transferred and assigned all its right, title and interest in and to, and all of its obligations under, the Security to 2292912 Ontario Inc. (**“2292912”**) as replacement custodian and agent to hold the Security for and on behalf of the Lender;

AND WHEREAS 2292912 issued and delivered the Loan Parties (i) demand letters (the “**Demand Letters**”) demanding repayment of the Obligations and (ii) notices of intention to enforce security pursuant to Section 244 of the BIA (collectively the “**BIA Notices**”), in each case on June 18, 2020;

AND WHEREAS the parties hereto entered into Forbearance Agreement Amendment #1 made as of July 3, 2020 (“**Forbearance Amendment #1**”) to amend certain terms and conditions of the Original Forbearance Agreement;

AND WHEREAS the Loan Parties delivered to the Lender an executed consent to receivership dated July 9, 2020 (the “**Consent to Receiver**”) pursuant to and in connection with Forbearance Amendment #1 to held by Lender and utilized in the event that a Forbearance Termination Event occurred (and for certainty other than the “Specified Forbearance Termination Events” as that term is defined in Forbearance Amendment #1) and/or the Forbearance Period terminated for any reason whatsoever; and Forbearance Termination Events occurred and the Forbearance Period was terminated and accordingly the Consent to Receiver is operative and binding on and enforceable against each of the Loan Parties.

AND WHEREAS the parties hereto entered into Forbearance Agreement Amendment #2 made as of November 12, 2020 (“**Forbearance Amendment #2**”) to amend certain terms and conditions of the Original Forbearance Agreement as amended by Forbearance Amendment #1;

AND WHEREAS the Lender and 2292912 commenced an application against the Borrower, the Beneficial Owner, and YSL Residences with the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) (Court File No. CV-20-00650224-00CL) (the “**Receivership Application**”) (the Receivership Application includes, among other things, the draft order that the Lender and 2292912 are requesting the Court to issue, such draft order being referred to herein as the “**Draft Court Order**”) and a Court hearing for the Receivership Application was originally scheduled on Friday, November 13, 2020;

AND WHEREAS pursuant to the terms of Forbearance Amendment #2, the Loan Parties and the Lender agreed to adjourn the Court hearing for the Receivership Application from November 13, 2020 to the earliest date on which a Court hearing could be scheduled from and after November 30, 2020 (the “**First Adjourned Court Date**”), and such adjournment was consented to by the Court and the date for the Court hearing for the Receivership Application was adjourned to December 2, 2020 and then further adjourned to February 2, 2021 (the “**Second Adjourned Court Date**”);

AND WHEREAS the parties hereto entered into Forbearance Agreement Amendment #3 made as of January 28, 2021 and effective as of December 31, 2020 (“**Forbearance Amendment #3**”) to amend certain terms and conditions of the Original Forbearance Agreement as amended by Forbearance Amendment #1 and Forbearance Amendment #2 (the Original Forbearance Agreement as amended by Forbearance Amendment #1, Forbearance Amendment #2 and Forbearance Amendment #3 is collectively called the “**Forbearance Agreement**”);

AND WHEREAS the date for the hearing for the Receivership Application was subsequently adjourned from Second Adjourned Court Date to April 21, 2021 and subsequently to July 12, 2021 (the “**July 12 Court Date**”);

AND WHEREAS the Loan Parties have requested that the Lender consent to the Beneficial Owner, 9615334 Canada Inc. (“**9615334**”, being the general partner of the Beneficial Owner) and YSL Residences (collectively, the “**Proposal Parties**”) filing a notice of intention to make a proposal pursuant to the BIA (the proposal to be made pursuant to the BIA being called the “**BIA Proposal**”) and for such proposal to be sponsored by Concord Properties Developments Corp. (the “**Proposal Sponsor**”), a

wholly owned subsidiary of Concord and in respect of which process KSV Restructuring Inc. (“KSV”) will act as the BIA proposal trustee and Davies Ward Phillips & Vineberg LLP (“Davies LLP”) as KSV’s counsel in such role (the “BIA Proposal Proceedings”), and without the consent of the Lender to the BIA Consent Matters (as that term is defined in Section 1.6 of this Amendment Agreement), each of the BIA Consent Matters will constitute a Forbearance Termination Event;

NOW THEREFORE in consideration of the respective covenants of the parties hereto as herein contained, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto), each of the parties hereto hereby agrees as follows:

ARTICLE 1 INTERPRETATION AND GENERAL MATTERS

1.1 Definitions

Unless defined in this Amendment Agreement, all capitalized words and phrases shall have the same meanings ascribed thereto in the Forbearance Agreement. The definition of the term “Transaction Documents” defined in Section 1.1(k) of the Original Forbearance Agreement is deleted and replaced with the following: “**Transaction Documents**” means, collectively, the Loan Documents, the Guarantee, the Security and all documents, instruments or other agreements executed or delivered in connection with the foregoing by any one or more of the Loan Parties including without limitation the forbearance agreement between the Lender and the Loan Parties made as of the ~~26~~th day of March, 2020 (as same may be amended, restated or supplemented from time to time) and each amendment to such forbearance agreement, and “**Transaction Document**” means any one of them.

1.2 Entire Agreement

Except for the Transaction Documents, the Forbearance Agreement, as amended by this Amendment Agreement constitutes the entire agreement of the parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, relating to the subject matter hereof. This Amendment Agreement may not be amended or modified except by written agreement executed by all the parties. No provision of this Amendment Agreement or the Forbearance Agreement as amended by this Amendment Agreement (collectively, the “**Amended Forbearance Agreement**”) will be deemed waived by any course of conduct unless such waiver is in writing and signed by all the parties, specifically stating that it is intended to modify this Amendment Agreement or the Amended Forbearance Agreement. This Amendment Agreement constitutes a Transaction Document.

1.3 Incorporation by Reference and Reaffirmation of Forbearance Agreement

Sections 1.2, 1.3, 1.4, 1.7 and 1.8 in the Forbearance Agreement are incorporated by reference into this Amendment Agreement as if fully set out herein (except that all references to “this Agreement” in such sections shall be deemed to be references to “this Amendment Agreement”) and do and shall be deemed to form part of this Amendment Agreement. The terms of Article 7 of the Forbearance Agreement are incorporated by reference into this Amendment Agreement as if fully set out herein (except that all references to “this Agreement” in Article 7 incorporated herein shall be deemed to be references to “this Amendment Agreement”) and does and shall be deemed to form part of this Amendment Agreement. Each of the Loan Parties represents and warrants to the Lender and covenants and agrees to and in favour of the Lender that except as amended by this Amendment Agreement, all provisions of the Forbearance Agreement continue in full force and effect, and are reaffirmed by each of the Loan Parties. Each of the Loan Parties represents and covenants and agrees to and in favour of the

Lender that each of the Transaction Documents do and shall continue to constitute legal, valid and binding obligations of each of the Loan Parties enforceable against each of the Loan Parties in accordance with their respective terms.

1.4 Acknowledgements by Loan Parties

Each of the Loan Parties represents and warrants to the Lender that (i) no Forbearance Termination Event has occurred other than for the Forbearance Amendment #3 Specified Forbearance Termination Events and the Impending 2021 Monthly Interest Payment Defaults, and (ii) the representation and warranties contained in the Transaction Documents are true and correct.

Each of the Loan Parties acknowledges receipt of the Demand Letter and the BIA Notice issued and delivered to such Loan Party by the Lender, and further acknowledges and agrees that the ten (10) day notice period under Section 244 of the BIA has expired and the Lender is entitled to enforce all of its rights and remedies under the Transaction Documents and applicable law and in equity, subject to the terms of the Amended Forbearance Agreement.

Each of the Loan Parties acknowledges, confirms and covenants and agrees that the fees and disbursements of counsel to the Lender, the Proposed Receiver and counsel to the Proposed Receiver, in each case as billed prior to the date hereof, are fair and reasonable and the Loan Parties irrevocably waive and release any right to challenge any such amounts (and for certainty including without limitation taxing any of such legal fees and disbursements) or request the Lender to repay any of such amounts to the Loan Parties.

The Loan Parties represent, confirm and agree that the Consent to Receiver is and shall remain in full force and effect and binding on and enforceable against all of the Loan Parties, and in the event of a Forbearance Termination Event (excluding the Forbearance Amendment #3 Specified Forbearance Termination Events (as that term is defined in Forbearance Amendment #3) and the Impending 2021 Monthly Interest Payment Defaults), each of the Loan Parties irrevocably (i) consents to the Court issuing an order in the Receivership Application substantially in the form of the Draft Court Order (or with any changes required by the Court) and (ii) agrees that it shall not oppose or object to in any manner whatsoever the Receivership Application or the issuance by the Court of an order substantially in the form of the Draft Court Order (or with any changes required by the Court). Each of the Loan Parties confirms and agrees that a "Forbearance Termination Event" will automatically occur in the event that one or more of the Loan Parties becomes bankrupt for any reason or by whatever method whatsoever, and the definition of "Forbearance Termination Event" is hereby amended accordingly.

Each of the amendments to the Forbearance Agreement were signed by 9615334 as the general partner for and on behalf of the YG Limited Partnership as the Beneficial Owner (notwithstanding the signature block on such amendment agreements inadvertently referring to "YG Partnership") and are binding on the Beneficial Owner.

Each of the Loan Parties irrevocably covenants and agrees that it (i) consents to KSV (as receiver) and Davies LLP (as counsel for KSV) acting in connection with the Receivership Application notwithstanding any real or potential conflict of interest as a result of their respective roles in the proposed BIA Proposal Proceedings, (ii) waives any conflict of interest that may exist, and (iii) will not object to or oppose KSV or Davies LLP acting in connection with the Receivership Application for any reason whatsoever including without limitation in the event that the BIA Proposal Proceedings is unsuccessful for any reason. Each of the undersigned covenants and agrees that it will not make, assert, commence or participate in or support any claim, action or other proceeding against KSV, Davies LLP or

the Lender in connection with or as a result of KSV and Davies LLP acting and continuing to act in their respective roles in connection with the Receivership Application.

Each of the Loan Parties irrevocably acknowledges, agrees and consents to the following in connection with the LP Litigation (as that term is defined below in Section 2.1(f) of this Amendment Agreement): (i) the Lender intends to instruct its counsel to attend to each court attendance (including without limitation any scheduling conference) in respect of the LP Litigation to advise the Court that if the Court intends to grant (A) any of the requested relief listed in Section 6.1(dd)(i), (ii) or (iii) of the Amended Forbearance Agreement or (B) any other relief which is or may be adverse to the Lender in the Lender's sole discretion, then in either case the Lender requests that the Proposed Receiver be appointed by the Court pursuant to the Receivership Application and to the extent necessary the Receivership Application to be heard by the Court at such time; and (ii) if the requested relief in the LP Litigation, if granted by the Court, would cause Section 6.1(dd)(iv) of the Amended Forbearance Agreement to become operative, then in such case the Lender may (x) without any notice required to be provided to the Loan Parties or their counsel instruct the Lender's counsel to attend to any court attendance, as necessary, including without limitation in respect of the LP Litigation to advise the Court that if the Court intends to grant any of such relief, that the Lender requests that the Receivership Application be heard by the Court at such time and for the Proposed Receiver to be appointed by the Court pursuant to the Receivership Application (and for certainty in place of any receiver requested to be appointed by the Court pursuant to the LP Litigation) and/or (y) at any time when or after the Court grants any such relief, immediately request a Court hearing for the Receivership Application on the earliest date available after the occurrence of any such event (as the granting of such relief by the Court will automatically constitute a Forbearance Termination Event in accordance with Section 6.1(dd)(iv)), and each of the Loan Parties irrevocably (I) consents and agrees to any such action which may be taken by the Lender in such circumstances and (II) covenants and agrees to cause its counsel to cooperate with counsel for the Lender in rescheduling the Court hearing to such earlier date as necessary, and no Loan Party shall request an adjournment for such Court hearing scheduled on any such earlier date or object to or oppose the Receivership Application.

1.5 Acknowledgement of Obligations

- (a) Each of the Loan Parties hereby acknowledges, confirms and agrees that the Obligations are unconditionally owing by the Borrower to the Lender as of the date hereof (and that the Loan (as that term has defined in the Loan Agreement) has matured without payment by the Borrower), without any right of setoff, defense, counterclaim or reduction of any kind, nature or description whatsoever by the Borrower or any other Loan Party, and the Loan Parties are estopped from disputing such Obligations. Each of the Loan Parties hereby further acknowledges, confirms and agrees that all amounts required to be paid by the Loan Parties to the Lender pursuant to the Amended Forbearance Agreement are fair and reasonable, have been earned by the Lender (or, if applicable, will automatically be earned by the Lender on such future dates), are due and owing by the Loan Parties to the Lender in full (or, if applicable, will automatically become due and owing to the Lender on such future dates), and each of the Loan Parties irrevocably releases and waives any claim or right to assert that such amounts (i) have not been or will not automatically be earned by the Lender or (ii) are not due and owing (or, if applicable, will not automatically become due and owing to the Lender on such future dates).

- (b) The Lender's accounts and records constitute, in the absence of manifest error, conclusive evidence of the Obligations pursuant to the Transaction Documents.

1.6 Lender Consent

Concurrently with the delivery by the Lender or its counsel to the Loan Parties or their counsel of the Forbearance Amendment #4 Effectiveness Confirmation as contemplated by Section 3.1 of this Amendment Agreement, the Lender (a) consents to (i) the Loan Parties filing a filing of a BIA notice of intention to file a proposal or a BIA proposal specifically in respect of the BIA Proposal, (ii) the BIA Proposal, (iii) the BIA Proposal Proceedings and (iv) the implementation of the BIA Proposal (collectively, the "**BIA Consent Matters**") (the "**Lender BIA Consent**") and (b) confirms that the BIA Consent Matters shall not constitute a Forbearance Termination Event, but in all cases subject to (i) the other terms and conditions in the Amended Forbearance Agreement including without limitation the terms and conditions set out in Section 2.6 of this Amendment Agreement and (ii) the occurrence of any other Forbearance Termination Event including without limitation any other Forbearance Termination Event relating to, in connection with or arising in any way from the BIA Consent Matters. For certainty, the Lender BIA Consent is not and shall not (i) become operative or effective unless and until the Forbearance Amendment #4 Effectiveness Confirmation has been delivered in writing by the Lender or its counsel to the Loan Parties or their counsel or (ii) be or be deemed to be a consent by the Lender that the repayment of the Obligations to the Lender is permitted to be completed after June 30, 2021 (or such earlier date in the event that a Forbearance Termination Event occurs) notwithstanding that the BIA Proposal and/or the Proposal Sponsor Agreement may contemplate that the BIA Proposal may be completed after June 30, 2021.

ARTICLE 2

AMENDMENTS TO AND ADDITIONAL PROVISIONS FOR THE FORBEARANCE AGREEMENT

2.1 Amendments

- (a) The following definition is inserted into Section 1.1 of the Amended Forbearance Agreement in the appropriate alphabetical location in Section 1.1:

"Forbearance Amendment #4" means Consent and Forbearance Agreement Amendment #4 made as of April 30, 2021 between the Lender and the Loan Parties, as same may be amended, restated or supplemented from time to time.

- (b) The definition of "**Loan Parties**" contained in the recitals of the Original Forbearance Agreement is deleted the following definition is inserted into Section 1.1 of the Amended Forbearance Agreement in the appropriate alphabetical location in Section 1.1:

"Loan Parties" means the Borrower, the Beneficial Owner, the Guarantors, and 9615334, and **"Loan Party"** means any one of them;

- (c) The date April 2, 2021 in Section 4.1(a) of the Forbearance Agreement is deleted and replaced with: June 30, 2021.

- (d) A new Section 6.1(bb) of the Forbearance Agreement is inserted as follows:

(bb) on or before June 1, 2021, the Loan Parties shall not have delivered to the Lender a binding commitment letter for financing for the Property (the **“Take Out Financing”**) in a principal amount sufficient such that the net proceeds available to the Loan Parties after paying fees, costs, and expenses in connection with such financing transaction will be sufficient to repay the Obligations in full to the Lender and such commitment letter shall (x) be in form and substance and issued by a lender in each case satisfactory to the Lender in its sole discretion and (y) not subject to any property valuation/appraisal or other due diligence to be completed by the lender proposing to provide such Take Out Financing;

(e) A new Section 6.1(cc) of the Forbearance Agreement is inserted as follows:

(cc) on or before June 30, 2021 (i) the required creditors of the Proposal Parties pursuant to the BIA have not approved the BIA Proposal and (ii) the Court has not approved the BIA Proposal and BIA Proposal Proceedings without any conditions;

(f) A new Section 6.1(dd) of the Forbearance Agreement is inserted as follows:

(dd) the issuance of any order, direction or endorsement by the Court in connection with the application commenced with the Court by 2504670 Canada Inc., 8451761 Canada Inc. and Chi Long Inc. against certain of the Loan Parties and Daniel Casey or any other any action, application or other proceeding commenced by any one or more of the other limited partners of the Beneficial Owner (collectively, the **“Limited Partners”** and individually a **“Limited Partner”**) (collectively and individually the **“LP Litigation”**) that (i) appoints a receiver or receiver and manager of any Loan Party or any of the Property, (ii) prohibits the Proposal Parties (or any one or more of them) from filing a notice of intention to make a proposal or a proposal pursuant to the BIA or declares null or void any notice of intention to make a proposal or the process for the BIA Proposal, (iii) declares that 9615334 is terminated as the general partner of the Beneficial Owner or that 9615334 cannot exercise any powers of the general partner to bind the Beneficial Owner or otherwise restricts the ability of 9615334 to carry out the duties of the general partner of the Beneficial Owner, (iv) in the Lender’s sole discretion could or may (w) adversely affect, impact or impair, directly or indirectly, the Lender’s rights, remedies and/or entitlements under any Transaction Document, applicable law or otherwise including without limitation the right of the Lender or any receiver appointed pursuant to the Receivership Application to sell the Property, (x) adversely affect, impact or impair, directly or indirectly, the rights and/or entitlements of the Proposal Parties and the Sponsor to complete the BIA Proposal Proceedings and implement the BIA Proposal (including without limitation completing the proposed Take Out Financing and satisfying all conditions precedent in connection therewith) on or before June 30, 2021, or (y) adversely affect, impact or impair, directly or indirectly, the ability of the Loan Parties to repay the Obligations on or before June 30, 2021, or (z) interfere with or impair in any manner, directly or indirectly, with the actions, efforts, strategies or processes of the Loan Parties or the Lender or any court appointed receiver to sell the Property;

(g) A new Section 6.1(ee) of the Forbearance Agreement is inserted as follows:

(ee) any event or circumstance exists, arises or takes place in connection with any one or more of the Loan Parties which, in the Lender's sole discretion, may negatively affect or impair the ability of the Loan Parties to (i) implement the BIA Proposal on or before June 30, 2021 or (ii) repay the Obligations to the Lender in full on or before June 30, 2021.

2.3 Monthly Forbearance Fees

Without prejudice to all of the rights and remedies of the Lender in the Transaction Documents, in the event that the Loan Parties do not repay all of the Obligations in full on or before June 30, 2021, then in such case the Monthly Forbearance Fee (in a reduced amount of \$80,000 for each calendar month) shall continue to be earned by the Lender and become due and owing by the Loan Parties in accordance the Amended Forbearance Agreement for each calendar month commencing July 2021 (the Monthly Forbearance Fee automatically being earned by the Lender and becoming due and owing by the Loan Parties on July 1, 2021 without any other action or notice required whatsoever); provided that for certainty, this Section 2.3 does not constitute and shall not be interpreted as any agreement or consent by the Lender that the Obligations are not required to be repaid to the Lender in full on or before the earlier to occur of (i) June 30, 2021 or (ii) the date on which a Forbearance Termination Event occurs. The Monthly Forbearance Fees constitute additional Obligations and interest ~~shall~~ thereon in accordance with the terms of the Transaction Documents (for certainty and notwithstanding provisions to the contrary in any prior amendment to the Forbearance Agreement, none of the Monthly Forbearance Fees or any other forbearance fees contemplated by the Amended Forbearance Agreement were, are or shall be deemed to be added to the principal amount of the Obligations).

If the Loan Parties have not repaid the Obligations to the Lender on or before June 30, 2021 (or such earlier date as applicable in accordance with the terms hereof), then in such case the Loan Parties covenant and agree to pay to the Lender on or before 4 p.m. Toronto time on July 5, 2021 (collectively, the "**July 5 Payments**") (w) the full amount of the July 2021 Monthly Forbearance Fee, (x) an amount equal to the amount of interest which will accrue on the Obligations for the period commencing on July 1, 2021 to and including July 31, 2021, and (y) an amount equal to the amount of the fees, disbursements and applicable taxes of (I) the Lender's counsel, (II) the Proposed Receiver, and (III) counsel for the Proposed Receiver, in each case to and including June 30, 2021, and (z) the other provisions in the Amended Forbearance Agreement in respect of the Monthly Forbearance Fees shall apply to any such additional Monthly Forbearance Fees.

Nothing contained in this Section 2.3 is or shall be deemed to be an agreement or consent by the Lender to the extension of any date or dates contained in the Forbearance Agreement (as amended by this Amending Agreement) or any agreement by the Lender to forbear from taking any enforcement action in the event of a Forbearance Termination Event (other than a Forbearance Amendment #3 Specified Forbearance Termination Event or the Impending 2021 Monthly Interest Payment Defaults) including without limitation seeking a Court hearing for the Receivership Application on the earliest date available after any such Forbearance Termination Event (other than a Forbearance Amendment #3 Specified Forbearance Termination Event or the Impending 2021 Monthly Interest Payment Defaults), and for certainty whether or not the Loan Parties have paid to the Lender some or all of the July 5 Payments, and in such circumstance, each of the Loan Parties irrevocably (x) consents and agrees to any such action which may be taken by the Lender in such circumstances and (y) covenants and agrees to cause its counsel to cooperate with counsel for the Lender in rescheduling the Court hearing to such earlier date, and no Loan Party shall request an adjournment for such Court hearing scheduled on any such earlier date or object to or oppose the Receivership Application. The Loan Parties acknowledge and agree that they have no right to extend the Forbearance Expiry Date.

2.4 Court Date for the Receivership Application

For certainty and notwithstanding the other terms of the Amended Forbearance Agreement (as same may hereafter be amended or restated from time to time), in the event that a Forbearance Termination Event (other than a Forbearance Amendment #3 Specified Forbearance Termination Event or the Impending 2021 Monthly Interest Payment Defaults) occurred before or occurs after the date of this Amendment Agreement, the Lender shall be entitled and shall have the right without any other action or notice required whatsoever to (i) proceed with the Court hearing for the Receivership Application by scheduling the Court hearing for the Receivership Application on the earliest available date on which such Court hearing can be scheduled with the Court (and for certainty prior to the July 12 Court Date), in which case the Loan Parties shall instruct their lawyers to cooperate with counsel for the Lenders to schedule the Court hearing accordingly, and no Loan Party shall request an adjournment for such Court hearing scheduled on any such earlier date.

2.5 Covenants by Loan Parties Regarding LP Litigation and Threatened LP Litigation

The Loan Parties covenant and agree to and in favour of the Lender as follows in connection with any LP Litigation which may be threatened or commenced by or against any one or more of the Loan Parties: (a) the Loan Parties will use best efforts to deliver or caused to be delivered to counsel for the Lender full and complete copies of any draft material proposed to be filed with the Court by any Limited Partner (to the extent that such drafts are received by the Loan Parties or their counsel) as soon as practicable after receipt of same by the Loan Parties or their counsel and in any event not later than the Business Day immediately following the date of receipt of same by the Loan Parties or their counsel; (b) the Loan Parties will use their best efforts to deliver or cause to be delivered to counsel for the Lender full and complete copies of any draft material proposed to be filed with the Court by any one or more of the Loan Parties as soon as practicable and if possible not less than (2) Business Days prior to the date on which such material will be served by counsel to the Loan Parties or filed with the Court, and in any event the Loan Parties will deliver to cause to be delivered such served or filed material on the same Business Day on which such material is served by counsel to the Loan Parties or filed with the Court; (c) the Loan Parties consent to the Lender and counsel for the Lender attending each scheduling conference with the Court and each Court hearing, and the Loan Parties will cause their counsel to take reasonable steps to provide such access to the Lender and its counsel and to confirm to the Court the consent of the Loan Parties to same; and (d) the Loan Parties shall provide or cause their counsel to provide regular written (and on request by the Lender telephonic) update reports, such update reports to be of form and substance satisfactory to the Lender (the written reports shall be provided by the Loan Parties to the Lender not less frequently than ~~two~~ ^{times} per calendar month but for certainty, the Loan Parties will provide more frequent updates if there are any material developments), and the Loan Parties will attend on update phone calls with the Lender and its counsel as reasonably requested by the Lender from time to time.

2.6 Covenants by Loan Parties Regarding the BIA Proposal and the BIA Proposal Proceedings

The Loan Parties represent and warrant and covenant and agree as follows to and for the benefit of the Lender:

(a) the notice of intention to make a proposal pursuant to the BIA which will be issued and filed by the Loan Parties pursuant to the BIA is attached to this Amendment Agreement as Schedule "A";

(b) the BIA Proposal to be filed by the Proposal Parties in respect of which the Proposal Parties will seek approval from the required creditors and the Court pursuant to the BIA and the sponsor agreement from the Proposal Sponsor which will be entered into by the Proposal Sponsor and filed in connection with the BIA Proposal Proceedings (the **“Proposal Sponsor Agreement”**) are attached hereto as Schedule “B”;

(c) the Proposal Parties shall not amend the notice of intention to make a proposal pursuant to the BIA or the BIA Proposal, and the Proposal Sponsor shall not amend the Proposal Sponsor Agreement, in each case, without the prior written consent of the Lender in its sole discretion if any such amendment in any way affects or proposes to affect in any way the Lender, the Transactions Documents, the rights and remedies of the Lender thereunder, the Obligations, or the requirement of the Loan Parties to repay the Obligations to the Lender on the earlier to occur of June 30, 2021 and a Forbearance Termination Event (other than a Forbearance Amendment #3 Specified Forbearance Termination Event or the Impending 2021 Monthly Interest Payment Defaults); in the event of any amendment to the notice of intention to make a proposal, the BIA Proposal, or the Proposal Sponsor Agreement for which the consent of the Lender is not required by the foregoing provisions of this Section 2.6(c), then in such case the Loan Parties shall deliver or cause to be delivered to the Lender’s counsel drafts of any and all such amendments as soon as practicable and in any event not less than one clear (1) Business Day before any such amendment is entered into or filed with the Court;

(d) the Proposal Parties shall provide and cause their counsel, the Proposal Trustee and its counsel to provide regular written and telephonic reports to the Lender and its counsel regarding the status the BIA Proceedings and the expected date for the completion thereof, such update reports to be in form and substance satisfactory to the Lender (the written reports shall be provided by the Loan Parties to the Lender not less frequently than weekly but for certainty, the Loan Parties will provide more frequent updates if there are material developments); without limitation, the weekly reports referred to in the immediately preceding sentence shall include update summaries regarding votes received from creditors of the Proposal Parties for and against the BIA Proposal;

(e) the Proposal Parties shall deliver or cause to be delivered to the Lender’s counsel on a timely basis drafts of all documents and agreements to be delivered or entered into to complete or otherwise relating to the BIA Proposal and BIA Proposal Proceedings;

(f) the Proposal Parties will deliver or cause to be delivered to counsel for the Lender full and complete copies of any draft material proposed to be filed with the Court by any one or more of the Proposal Parties in connection with the BIA Proposal Proceedings as soon as practicable and in any event not less than one Business Day prior to the date on which such material will be served by counsel to the Proposal Parties or filed with the Court, and the Proposal Parties agree to consider and cause their counsel to consider, acting reasonably, any comments provided by counsel to the Lender on behalf of the Lender; and

(g) the Proposal Parties consent to the Lender and counsel for the Lender attending each scheduling conference with the Court, each Court hearing and each creditors meeting in connection with the Proposal Proceedings, and to the Lender filing material with the Court and to making submissions to the Court on behalf of the Lender at any Court hearing in connection with the BIA Proposal Proceedings.

ARTICLE 3
CONDITIONS PRECEDENT

3.1 Conditions Precedent

The amendments to the Forbearance Agreement contained in Section 2.1 of this Amendment Agreement and Section 2.2 of this Amendment Agreement shall not be effective or of any force or effect unless:

(i) (a) all of the representations and warranties in this Agreement and the Amended Forbearance Agreement are true and correct in all respects as of the date on which the Lender or its counsel confirms in writing that the Forbearance Agreement Amendment #4 Condition Precedent have been satisfied (as contemplated by Section 3.1(iii) below), and (b) no Forbearance Termination Event shall have occurred (except for the Forbearance Amendment #3 Specified Forbearance Termination Events and the Impending 2021 Monthly Interest Payment Defaults);

(ii) the Lender shall have received (a) a copy of this Agreement fully executed by all of the Loan Parties, (b) a consent in form and substance satisfactory to the Lender executed by Westmount in whose favour a mortgage is registered on title to the Property (which mortgage (the **"Westmount Mortgage"**) was subordinated by Westmount to the Lender pursuant to the terms of an amended and restated priority agreement (as same may have been amended, restated or supplemented, the **"Westmount Priority Agreement"**) between Computershare Trust Company of Canada (as the then custodian for the Lender) and Westmount dated September 25, 2019), consenting to the terms of this Amendment Agreement and agreeing to such other matters as the Lender may require, (c) a consent and waiver by the Concord Pacific Guarantor and 2769746 to the Proposed Receiver, Davies LLP, the Lender and 2292912 whereby the Concord Pacific Guarantor and 2769746 agree to KSV and Davies LLP acting in connection with the Receivership Application notwithstanding their proposed roles in the proposed BIA Proposal Proceedings, and (d) a confirmation agreement by the Concord Pacific Guarantor to the Lender acknowledging and consenting to this Amendment Agreement and confirming, among other things, that its guarantee to the Lender dated January 28, 2021 continues in full force and effect;

(iii) the Lender or its counsel has confirmed in writing (including by email) to the Loan Parties or their counsel that the conditions precedent listed in clauses (i) and (ii) of this Section 3.1 have been satisfied (the conditions precedent listed in Section 3.1(i), (ii) and (iii) are collectively called the **"Forbearance Agreement Amendment #4 Conditions Precedent"**, and individually a **"Forbearance Agreement Amendment #4 Condition Precedent"**); and

(vi) all of the Forbearance Agreement Amendment #4 Conditions Precedent have been satisfied on or before 4:00 p.m. Toronto time on April 30, 2021.

The Loan Parties acknowledge and agree that unless and until all of such Forbearance Agreement Amendment #4 Conditions Precedent have been satisfied to the satisfaction of the Lender in its sole discretion and such satisfaction has been confirmed in writing by the Lender or its counsel to the Borrower or its counsel as contemplated by clause (iii) above (the **"Forbearance Amendment #4 Effectiveness Confirmation"**), the Lender BIA Consent is and shall continue to be of no force or effect, and the filing of a BIA notice of intention to file a proposal or a BIA proposal by any one or more of the Loan Parties does and shall constitute an automatic Forbearance Termination Event in which case the Lender will be entitled to enforce all of its rights and remedies under the Transaction Documents and applicable law and in equity in connection therewith, including without limitation scheduling a hearing with the Court for the Receivership Application on the earliest date possible on which Receivership Application can be heard.

ARTICLE 4 GENERAL PROVISIONS

4.1 No Other Waivers; Reservation of Rights

The Lender reserves the right, in its sole and absolute discretion, to exercise any or all of its rights or remedies under any one or more of the Transaction Documents and the Amended Forbearance Agreement or applicable law or in equity, and the Lender has not waived any such rights or remedies, and nothing in this Agreement nor any delay on the part of the Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies. The rights and remedies of the Lender under this Agreement, the Amended Forbearance Agreement, and the other Transaction Documents are cumulative and not in substitution for any other rights or remedies available by applicable law, in equity or otherwise.

4.2 Execution in Counterparts and by Electronic Transmission

This Amendment Agreement may be executed in counterparts, each of which shall be deemed to be an original and which taken together will be deemed to constitute one and the same instrument. Counterparts may be executed and delivered either in original format or by any form of director electronic transmission including without limitation by portable document format (“PDF”) or “DocuSign” and the parties adopt any signatures executed in such manner as original signatures of the parties.

4.3 Governing Law

This Amendment Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflicts of law or principles of comity.

4.4 Defined Terms

Any capitalized word or phrase used in this Amendment Agreement but not defined in the Amended Forbearance Agreement or this Amendment has the same meaning given to such word or term in Forbearance Amendment #1, Forbearance Amendment #2, or Forbearance Amendment #3 as applicable.

4.5 Release and Indemnity

In consideration of the agreements of the Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Loan Parties hereby absolutely, unconditionally and irrevocably waives, releases, remises and forever discharges the Lender, 2292912 and Computershare and each of their respective successors and assigns, participants, affiliates, subsidiaries, branches, divisions, predecessors, directors, officers, attorneys, employees, lenders, investors in the Obligations and other representatives and advisors (the Lender 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, damages, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever (individually, a “**Claim**” and collectively, “**Claims**”) of every name and nature, whether known or unknown, suspected or unsuspected, both arising at law and in equity, which any of the Loan Parties or any of their successors, heirs, executors, administrators, permitted assigns and 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 arises at any time on or prior to the day

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and date of this Amendment Agreement, including, without limitation, for or on account of, or in relation to, or in any way in connection with, the Forbearance Agreement, any of the Transaction Documents or transactions thereunder or related thereto.

In consideration of the agreements of the Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Loan Parties hereby agrees to indemnify and hold harmless (absolutely, unconditionally and irrevocably) the Releasees from and against any and all Claims of every name and nature, whether known or unknown, both arising at law and in equity, suffered or incurred by any of the Loan Parties by reason of any matter or thing whatsoever incurred by or asserted against the Lender as a result of or in connection with any matter, thing, action, inaction, or transaction whatsoever contemplated by this Amendment Agreement, the Amended Forbearance Agreement, or any of the Transaction Documents, except in the event that any such Claim is caused directly by the gross negligence or willful misconduct of the Lender as proven by a court of competent jurisdiction pursuant to an order non-appealable order in respect which the period for any permitted appeal has expired.

The releases and indemnities contained herein do and shall survive the expiry or other termination of the Forbearance Period and/or the Amended Forbearance Agreement and the repayment of the Obligations to the Lender.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment Agreement as of the date first written above.

TIMBERCREEK MORTGAGE SERVICING INC.

By: Patrick Smith
Name: Patrick Smith, Vice President
Authorized Signatory

By: Scott Rowland
Name: Scott Rowland, Vice President
Authorized Signatory

CRESFORD CAPITAL CORPORATION

By: _____
Name:
Authorized Signatory

**YG LIMITED PARTNERSHIP,
by its GENERAL PARTNER, 9615334 CANADA INC.**

By: _____
Name:
Authorized Signatory

CRESFORD (ROSEDALE) DEVELOPMENTS INC.

By: _____
Name:
Authorized Signatory

YSL RESIDENCES INC.

By: _____
Name:
Authorized Signatory

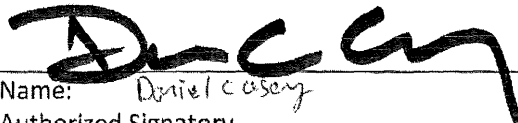
IN WITNESS WHEREOF, the parties hereto have entered into this Amendment Agreement as of the date first written above.

TIMBERCREEK MORTGAGE SERVICING INC.


By: _____
Name: Patrick Smith, Vice President
Authorized Signatory

By: _____
Name: Scott Rowland, Vice President
Authorized Signatory

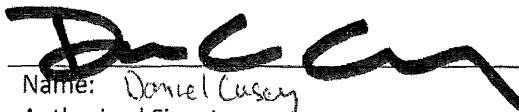
CRESFORD CAPITAL CORPORATION

By: 
Name: Daniel Casey
Authorized Signatory

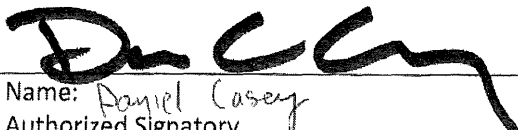
**YG LIMITED PARTNERSHIP,
by its GENERAL PARTNER, 9615334 CANADA INC.**

By: 
Name: Daniel Casey
Authorized Signatory

CRESFORD (ROSEDALE) DEVELOPMENTS INC.

By: 
Name: Daniel Casey
Authorized Signatory

YSL RESIDENCES INC.

By: 
Name: Daniel Casey
Authorized Signatory

This is **Exhibit "D"** referred to in the affidavit of Patrick Smith sworn before me by videoconference on June 16, 2021 in accordance with O. Reg. 431/20: Administering Oath or Declaration Remotely. The deponent and I were both located in the City of Toronto in the Province of Ontario

A handwritten signature in blue ink, appearing to read 'Bornstein', is written over a horizontal dotted line.

Jeremy Bornstein LSO #65425C
Commissioner for Taking Affidavits
(or as may be)

Maciel, Ana

From: Gilmore, Madam Justice Cory (SCJ) <Cory.Gilmore@scj-csj.ca>
Sent: Friday, May 07, 2021 2:10 PM
To: Dietrich, Jane; Wunder, Michael; slaubman@lolg.ca; Bornstein, Jeremy; rschwill@dwpv.com; hfogul@airdberlis.com; asoutter@tgf.ca; dgruber@bennettjones.com
Cc: JUS-G-MAG-CSD-Toronto-SCJ Commercial List
Subject: 2504670 Canada Inc. et al. v. Cresford Capital Corporation et al. Court file no. CV-21-00661386-00CL

Endorsement of Gilmore, J.

There are currently three outstanding applications in this matter and two NOI proceedings. As the assigned scheduling judge I took the view that Mr. Laubman and Mr. Soutter's clients' Applications have been stayed as a result of the NOI proceedings and that any lift/stay motion must be heard in the context of the proposal proceedings. . Mr. Laubman takes the position that the Applications are not stayed. I confirmed that I have taken the position that they are stayed for scheduling purposes only and have made no finding in that regard.

The lift/stay motion is therefore scheduled for June 1, 2021 at 10:00 a.m. for two hours. The judge hearing this motion may wish to conduct a conference with the parties after releasing his/her decision as the result of that motion will impact next steps.

The sanction hearing and the applications (assuming the stay is lifted) will be heard on June 23, 2021 for three hours at 10:00 a.m. This time allotment may need to be adjusted depending on the result of the lift/stay motion.

The consolidation of the NOI proceedings can likely be done by way of unopposed motion in writing. That may be placed before me when counsel are ready.

May 7, 2021



Madam Justice Cory A. Gilmore
Ontario Superior Court of Justice
361 University Avenue
4th Floor
Toronto, Ontario
M5G 1T3

cory.gilmore@scj-csj.ca

This is **Exhibit "E"** referred to in the affidavit of Patrick Smith sworn before me by videoconference on June 16, 2021 in accordance with O. Reg. 431/20: Administering Oath or Declaration Remotely. The deponent and I were both located in the City of Toronto in the Province of Ontario

A handwritten signature in blue ink, appearing to read 'Jeremy Bornstein', is written over a horizontal dotted line.

Jeremy Bornstein LSO #65425C
Commissioner for Taking Affidavits
(or as may be)

Consolidated Court File No.: 31-2734090
DATE: 20210601

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

**IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c.
B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF YG
LIMITED PARTNERSHIP AND YSL RESIDENCES INC. APPLICATION UNDER THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED**

BEFORE: S.F. Dunphy J.

COUNSEL: *Shaun Laubman and Sapna Thakker* Lawyers for the Moving Parties, 2504670
Canada Inc ., 8451761 Canada Inc ., and Chi Long Inc.

Alexander Soutter Lawyers for the Moving Parties Yonge SL et al.

Harry Fogul, Lawyers for YG Limited Partnership and YSL Residences Inc.

David Gruber Lawyers for Plan Sponsor Concord Properties Development Corp.

Bobby Kaufman and Mitch Vininsky for Proposal Trustee KSV Restructuring Inc.

Robin Schwill for KSV Restructuring Inc.

James W. MacLellan for Sureties Aviva et al and Westmount

Jane Dietrich for Timbercreek Mortgage Servicing Inc. et al.

HEARD at Toronto: June 1, 2021

REASONS FOR DECISION

[1] These two similar motions were brought by two applicants who between them represent all or substantially all of the limited partners of YG Limited Partnership. The LP is in turn the object of a *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended proposal which is scheduled to be voted upon at a June 15, 2021 meeting of creditors and, if approved by them, submitted to the court for approval on June 23, 2021 at a scheduled sanction hearing.

[2] The motions before me seek to declare the *BIA* stay of proceedings to be inapplicable to the two applications discussed below or, in the alternative, to lift the *BIA* stay of proceedings to enable the two applications to proceed on a parallel track for a full hearing on June 23, 2021.

[3] While I was invited to make a ruling on the applicability of the *BIA* stay of proceedings to the two applications, I declined to do so. I shall leave for another day the question of whether the addition of s. 140.1 and s. 54.1 to the *BIA* in 2005 and 2007 had the result of including holders of equity claims in the definition of “creditor” or merely clarified the status of debt claims such as class action misrepresentation claims or contractual rescission claims whose origin lies in an equity interest. Whether the stay of proceedings is found to be inapplicable as a matter of law or whether I conclude that it should be lifted as a matter of equity and judicial discretion is a matter of legal but not practical interest. In either event, it is plain to me that the two applicants’ arguments ought to be permitted a reasonable opportunity to be fleshed out and to be heard at the time the proposal is brought before the court for approval.

[4] The judge at a sanction hearing for a *BIA* proposal is always required to satisfy him or herself (i) that the application is procedurally sound in the sense that the statute and any relevant court orders relating to the approval process have been complied with; and (ii) that the proposal itself is fair and reasonable in all of the circumstances.

[5] The applicants raise grounds that – if established – would lead to the conclusion that either or both of the *BIA* Notice of Intention filed by the LP or the plan sponsorship agreement that forms the backbone of the proposed plan submitted to creditors for a vote were void. If true, there would be no proposal to approve. Further, they raise grounds that could lead to the conclusion that the plan itself is fundamentally unfair and unsound. Once again, if established, such grounds would be relevant to whether the judge at the sanction hearing can be satisfied that the proposed plan is fair and reasonable in all of the circumstances.

[6] The sanction hearing on June 23, 2021 is effectively the only opportunity the applicants will have to make their case. Deferring the hearing of their applications until after a potentially flawed or void proposal has been approved or implemented would be to deny them a hearing altogether. The arguments raised by them are neither spurious nor frivolous. I cannot purport to judge the merits of the claims at this early stage beyond concluding that they ought to be heard in the context of the sanction hearing on June 23, 2021.

[7] There is a difference between concluding that the two applicants need to be heard on June 23, 2021 and concluding that their applications ought to be heard in their entirety at the same time. A pragmatic approach is required to balance the competing interests, including those of creditors who may have a preference for even a flawed proposal over depending solely upon the tender mercies of a secured creditor initiating

its own realization process. There is only so much that can be accomplished in the time that is actually available. We must do the best we can do to be fair to all of the interests engaged in this process.

[8] The two applicants have initiated separate but largely identical proceedings against 9615334 Canada Inc. as general partner of the LP. At the risk of oversimplification, those two applications seek (i) an order that the general partner of the LP be removed from that role or a declaration that it has ceased to be general partner and can exercise none of the powers of a general partner over the LP; (ii) an order declaring that any agreements entered into by the general partner with the plan sponsor Concord are void; (iii) an order declaring the general partner to be in breach of the LP agreement; (iv) an order declaring the general partner to have breached its fiduciary obligations or its duty of good faith owed to the applicant limited partners; and (v) an order setting aside the NOI and the proposal as filed by the LP. One of the two applications (that of YongeSL et al) also has joined to it a request to appoint a Receiver on the grounds that it is just and convenient to do so.

[9] The primary relief sought on the two applications is (v) above. The applicants' position is that the NOI and the plan sponsorship agreement that underlies the proposal were filed or entered into by a general partner who had no authority to do so. The grounds for taking that position are the grounds for the relief sought in (i), (ii), (iii) and (iv). Those grounds are in turn based upon various provisions of the LP agreement that the applicants view as stripping the general partner of its authority to take certain steps (or to act as general partner) upon the happening of certain events including consenting to the appointment of a receiver or entering into the sponsorship agreement in relation to the plan.

[10] I am directing that the applicants should be entitled to seek to establish that the NOI is void or invalid by reason of the grounds alleged in support of the relief sought in (i) to (iv) above. In other words, the whole of both applications is not being heard on June 23, 2021 but so much of the grounds and evidence as are relevant to establish that the NOI and or plan sponsorship agreement are void shall be heard. Similarly, the alternative position of the applicants – that the grounds raised in support of invalidity are also grounds that justify exercising the discretion to reject the plan as unfair or unreasonable even if those grounds do not rise to the level of supporting a finding that the plan or the NOI itself are void – shall also be heard.

[11] I have passed over the claim of one of the applicants for a receiver purposefully. If the applicants are unable to establish that the NOI or the proposed plan are void and they are also unable to persuade the judge presiding over the sanction hearing to reject the proposed plan, the receivership application of YongeSL will be quite moot. If on the other hand the plan is not approved for any reason, then something of a vacuum would exist. The secured creditor Timbercreek has a pending application to enforce its security and to seek the appointment of a receiver that is currently scheduled for July

12, 2021. Timbercreek's counsel intends to file a short update affidavit for the June 23, 2021 sanction hearing and will be at the hearing for the purpose of alerting the court to its position should the plan not be approved for any reason. In that event, Timbercreek intends to ask the court to appoint a receiver either the same day or as soon after that date as is practicable. That position of course comes as a surprise to none of the parties nor should it. It is at least theoretically possible that the application by the LP unitholders for a receiver could have an object. In reality – given the volume of secured claims ahead of them – it is unlikely. That being said, I give them any necessary leave to proceed with that limited aspect of their application as well.

[12] In conclusion I am directing:

- a. that the prayer for relief in paragraph 1(d) of the 2504670 Canada Notice of Application shall be heard in connection with the scheduled Sanction Hearing of the BIA proposal and that in connection with that hearing, the grounds cited in support of the relief sought in paragraph 1(a), (b), (e) and (f) thereof may be referred to (the same direction applying to the analogous prayers for relief in the YongeSL application);
- b. both applicants shall also be heard on the question of whether the proposed plan is fair and reasonable having regard to their interests and to the grounds mentioned in the two Notices of Application; and
- c. the YongeSL application to appoint a receiver will only be considered in the event that the plan is not approved for any reason but the hearing judge may decide to defer the hearing of that application in favour of hearing the application of Timbercreek to be heard prior to July 12, 2021.

[13] The parties have conferred on a case timetable needed to have all of these arguments placed in a coherent and developed way in front of the judge on June 23, 2021. That timetable is as follows:

June 7 - Cresford's Record with respect to the LPs' Applications

June 10 - LPs' Reply Records with respect to the LPs' Applications

June 11 - Cross examinations

June 16 - LPs' Factums with respect to the LPs' Applications

June 18 - Cresford's Factum re the LPs' Applications and Factum re BIA Proposal

June 21 - LPs' Reply Factums with respect to the LPs' Applications/Responding Factums with respect to the BIA Proposal

June 23 – Hearing

[14] I have given the parties directions regarding the conduct of the cross-examinations. Absent agreement to the contrary, the two applicants shall have a total of ½ day between them and the respondents to the applications (the GP) shall have ½ day.

[15] The parties are directed to adhere to the above timetable. Costs of these motions are reserved to be dealt with by the judge hearing these submissions on the merits at the sanction hearing.



S.F. Dunphy J.

Date: June 1, 2021

TIMBERCREEK MORTGAGE SERVICING INC. and 2292912 ONTARIO INC. -and-

YSL RESIDENCES INC., YG LIMITED PARTNERSHIP
and CRESFORD CAPITAL CORPORATION

Applicants

Respondents

Court File No. CV-20-00650224-00CL

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

PROCEEDING COMMENCED AT
TORONTO

**AFFIDAVIT OF PATRICK SMITH
(sworn June 16, 2021)**

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