

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547832
Estate No.: 31-2547832

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
3070 ELLESmere DEVELOPMENTS INC.**

MOTION RECORD
(returnable September 11, 2019)

August 29, 2019

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Tab 1

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547832
Estate No.: 31-2547832

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
3070 ELLESmere DEVELOPMENTS INC.**

NOTICE OF MOTION
(returnable September 11, 2019)

3070 Ellesmere Developments Inc. (“**Ellesmere**”) will make a motion to the court on September 11, 2019, at 10:00 a.m., or as soon after that time as the motion can be heard at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1R7.

PROPOSED METHOD OF HEARING: The Motion is to be heard

- in writing under subrule 37.12.1(1) ;
- in writing as an opposed motion under subrule 37.12.1(4);
- orally.

THE MOTION IS FOR

- (a) An order substantially in the form attached hereto as Schedule “A”, *inter alia* (“**NOI Order**”):
 - (i) if necessary, abridging the time for service and filing of this notice of motion and the motion record and dispensing with further service thereof;

- (ii) appointing FAAN Advisors Group Inc. ("FAAN") as Chief Restructuring Advisor ("CRA") of Ellesmere;
- (iii) approving the first report of Crowe Soberman Inc. in its capacity as proposal trustee in these proceedings ("Proposal Trustee"), to be filed ("First Report"), and the conduct and activities of the Proposal Trustee as described therein;
- (iv) granting the following priority charges over the property of Ellesmere, which charges shall rank in the priority set out in the NOI Order:
 - (A) a charge in favour of the Stalking Horse Purchaser (defined below) to secure repayment of the Initial Deposit (defined below) up to a maximum of \$622,000 (the "Deposit Charge");
 - (B) a charge in favour of the Professional Group (defined below) in the aggregate maximum amount of \$500,000 (the "Administration Charge");
- (v) extending the time to file a proposal from September 19, 2019 to November 1, 2019; and
- (vi) sealing Confidential Exhibit "A" to the Affidavit of Tong Liu, to be sworn (the "Supplementary Liu Affidavit");

(b) An order substantially in the form attached hereto as Schedule "B", *inter alia* (the "SISP Approval Order"):

- (i) approving the terms of the purchase agreement between Co-Stone Development Inc. and Campus Suites Inc. (together, the "Stalking

Horse Purchaser") and Ellesmere, dated August 19, 2019 (the **"Stalking Horse Purchase Agreement"**);

- (ii) approving the sale and investment solicitation process ("SISP") described in the Stalking Horse Purchase Agreement;
- (iii) approving the retention of Avison Young Commercial Real Estate (Ontario) Inc. ("Avison Young") as sales process agent for the SISP (the **"Sales Process Agent"**);

(c) and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE

- (a) Ellesmere is an Ontario corporation and a real estate holding company. Ellesmere owns the real property known municipally as 3070 Ellesmere Road, Scarborough, Ontario, M1E 4C3 (the **"Property"**).
- (b) Ellesmere purchased the Property on January 24, 2014, with the intention of developing a 26-storey condominium tower (the **"Project"**).
- (c) Ellesmere filed a Notice of Intention to Make a Proposal on August 20, 2019 (the **"NOI"**), under which the Proposal Trustee was appointed.
- (d) The circumstances leading to the filing of the NOI are set out in detail in the First Report and the Affidavit of Tong Liu, sworn August 29, 2019 (the **"Liu Affidavit"**).
- (e) As described in the First Report and the Liu Affidavit, Ellesmere initiated NOI proceedings because Ellesmere's joint venture partner ("Rise") failed to inject the necessary equity and to advance the Project, including securing construction financing and commencing construction. Rise has

also blocked Ellesmere from advancing joint venture discussions with alternative partners.

- (f) Ellesmere's management is of the view that a sale of Ellesmere's assets through a proposal process is necessary to restructure the underlying business operations and maximize the repayment of Ellesmere's obligations to its secured creditors, and other stakeholders.

Deposit

- (g) As part of the Stalking Horse Purchase Agreement, the Stalking Horse Purchaser will provide a total of \$1.6 million as a deposit ("**Deposit**"). Ellesmere requires a portion of the Deposit, \$622,000, to fund the proposal proceedings (the "**Initial Deposit**").
- (h) Pursuant to the terms of the Stalking Horse Purchase Agreement, Ellesmere is permitted to use the Initial Deposit to fund certain professional fees, costs associated with the SISP and rent payments in accordance with a cash flow forecast prepared by Ellesmere and the Proposal Trustee.
- (i) If the Stalking Horse Purchaser is selected as the Successful Bidder (as defined below), the Deposit shall be credited against the purchase price for the Property. If the Stalking Horse Purchaser is not selected as the Successful Bidder, Ellesmere shall repay the Deposit from the proceeds of the transaction with the Successful Bidder.
- (j) Ellesmere requires use of the Initial Deposit because it has no savings, no revenue and no other sources of borrowing.

- (k) Ellesmere proposes that the Deposit Charge have a second-ranking priority over all of Ellesmere's property.
- (l) The Proposal Trustee supports approval of the Stalking Horse Purchase Agreement and the granting of the Deposit Charge. All secured creditors will be served with a copy of this notice of motion and motion record.

SISP

- (m) The purpose of the SISP is to seek competing offers on an "as is, where is" basis to purchase the Property which is superior to the offer contemplated in the Stalking Horse Purchase Agreement.
- (n) The proposed SISP contemplates an eight week marketing/diligence period with a deadline for submission of final bids proposed by November 7, 2019 (the "**BID Deadline**").
- (o) Following the Bid Deadline, the Proposal Trustee will determine if each bid may be deemed a qualified bid ("**Qualified Bid**"). The Stalking Horse Agreement is deemed a Qualified Bid. To be a Qualified Bid, a bid must contain, among other things:
 - (i) a mark-up of the Stalking Horse Purchase Agreement reflecting the bidder's proposed changes to the agreement (a "**Modified Purchase Agreement**");
 - (ii) a binding and irrevocable bid until November 18, 2019;
 - (iii) evidence of the bidder's financial ability to close the transaction; and

- (iv) a deposit equal to 10% of the purchase price contained in the Modified Purchase Agreement, which must be paid to the Proposal Trustee prior to the Bid Deadline.
- (p) If one or more Qualified Bids other than the Stalking Horse Purchase Agreement are received, all such Qualified Bids will proceed to an auction in accordance with the procedures set out in the SISP on or before November 14, 2019 (the “**Auction**”).
- (q) The accepted bid (the “**Accepted Bid**”) will be either (i) the Stalking Horse Purchase Agreement if no Qualified Bid is received by the Bid Deadline or so designated by the Proposal Trustee; or (ii) the highest and/or best bid as determined by the Proposal Trustee at the Auction (the “**Successful Bid**”). If an Auction is conducted, the next highest or otherwise best Qualified Bid after the Successful Bid will be designated as a backup bid.
- (r) Within ten days of the selection of the Accepted Bid, and no later than November 30, 2019, Ellesmere will file a motion with the Court seeking an order approving and implementing the Accepted Bid.
- (s) The SISP has been designed to maximize the realizable value of Ellesmere’s assets and is otherwise fair and in the best interests of all parties.
- (t) The Proposal Trustee supports Ellesmere’s request to approve the SISP.

Stalking Horse Purchase Agreement

- (u) Ellesmere and the Stalking Horse Purchaser have entered into, subject to the Court's approval, the Stalking Horse Purchase Agreement, which forms part of the SISP.
- (v) The Proposal Trustee supports the approval of the terms of the Stalking Horse Purchase Agreement.
- (w) The Stalking Horse Purchaser has agreed to purchase the Property.
- (x) The purchase price under the Stalking Horse Agreement is \$16 million.
- (y) The closing of the transaction contemplated in the Stalking Horse Purchase Agreement is conditional on, among other things: (i) the Stalking Horse Purchaser being selected as the Successful Bidder under the SISP; (ii) the Court granting the SISP Approval Order; and (iii) the issuance of an approval and vesting order by the Court, which provides that the Property be transferred to the Stalking Horse Purchaser free and clear of all encumbrances (other than those specifically assumed) on closing of the transaction.

Appointment of CRA

- (z) To facilitate the proposal proceeding, Ellesmere seeks the appointment of FAAN as chief restructuring advisor of the company to provide financial, strategic and sales advice to Ellesmere pursuant to the terms of a letter agreement, effective as of the date of the NOI Order, if granted (the "CRA Agreement").

- (aa) FAAN has extensive experience in corporate reorganization and financial services.
- (bb) Pursuant to the terms of the CRA Agreement, Ellesmere will assist the Sales Process Agent and Proposal Trustee in conducting the SISP, overseeing the preparation of cash flow forecasts and managing liquidity constraints, leading discussions with Ellesmere's lenders, and contingency planning in these proposal proceedings.
- (cc) The CRA Agreement is not effective unless and until the Court grants the order sought herein.

Appointment of Sales Process Agent

- (dd) Ellesmere is also seeking approval of the appointment of Avison Young as Sales Process Agent to assist the Proposal Trustee in conducting the SISP.
- (ee) Avison Young has significant experience in the commercial real estate market in Toronto.

Administration Charge

- (ff) The Proposal Trustee, counsel to the Proposal Trustee, the CRA, Cassels Brock & Blackwell LLP (“**Cassels**”) and Harris Sheaffer LLP (with Cassels, counsel to Ellesmere, collectively, the “**Professional Group**”) seek the protection of a \$500,000 charge against the assets, undertakings and property (including all real and personal property) of Ellesmere to secure payment of professional fees and disbursements incurred in the proposal proceedings, including with respect to the fees and disbursements of the

Professional Group incurred in the proposal proceedings (the **“Administration Charge”**).

- (gg) The Administration Charge will have third-ranking priority over all of Ellesmere’s property.
- (hh) As set out in the Liu Affidavit, Ellesmere believes that the Administration Charge is essential to a successful restructuring and a fair and transparent SISP.
- (ii) The services to be provided by the Professional Group are critical to a successful proposal proceeding.
- (jj) It is unlikely that the Professional Group will continue to participate in the proposal proceedings unless their reasonable fees and disbursements are secured by way of the proposed Administration Charge.
- (kk) The quantum of the proposed Administration Charge is reasonable given the nature and scope of the services to be provided, the expected duration of the Proposal proceedings and the anticipated SISP, and the uncertainty regarding Ellesmere’s ability to fund professional fees from free cash flow.

Extension of Time to File a Proposal

- (ll) Ellesmere is requesting an extension of the stay of proceedings and the time by which to file a proposal from September 19, 2019 to November 1, 2019 on the following grounds:
 - (i) The proposed extension will provide the time required to implement the SISP; and

- (ii) The proposed extension will also allow Ellesmere to formulate a repayment proposal for its creditors.
- (mm) Ellesmere's cash-flow projections indicate that the company has sufficient cash-flow to meet its financial obligations during the proposed extension period.
- (nn) Ellesmere has acted, and continues to act, in good faith and with due diligence.
- (oo) Ellesmere will likely be able to make a viable proposal to its creditors if the requested extension is granted.
- (pp) In the opinion of the Proposal Trustee, no creditor will be materially prejudiced if the extension is granted.
- (qq) The Proposal Trustee supports the proposed extension of the time to file a proposal.

Sealing Order

- (rr) The CRA Agreement contains confidential information about the rates charged by FAAN that, if disclosed, could have a negative impact on FAAN's competitive position in the market. As such, Ellesmere is requesting that Confidential Exhibit "A" to the Supplementary Liu Affidavit be sealed.
- (ss) The provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and in particular, Sections 50.4(9), 50.6, 64.2, and 65.13 thereof;
- (tt) Section 137(2) of the *Courts of Justice Act*, R.S.O. c. C. 43, as amended;

- (uu) Rules 1, 2, 3, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
- (vv) Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the

Motion:

- (a) The First Report, together with the Appendices thereto;
- (b) The Liu Affidavit, together with the Exhibits thereto;
- (c) The Supplementary Liu Affidavit, together with the Exhibits thereto; and
- (d) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

August 29, 2019

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Lawyers for 3070 Ellesmere Developments
Inc.

TO: **SERVICE LIST**

Schedule "A"

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547832
Estate No.: 31-2547832

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

THE HONOURABLE) WEDNESDAY, THE 11TH DAY
)
) OF SEPTEMBER, 2019
JUSTICE)

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
3070 ELLESMERE DEVELOPMENTS INC.**

NOI ORDER

**(Appointment of CRA, Extension of Proposal Period, Approval of Deposit Charge
and Administrative Charge)**

THIS MOTION, made by 3070 Ellesmere Developments Inc. ("Ellesmere") for an order: (1) approving the first report of Crowe Soberman Inc., in its capacity as proposal trustee of Ellesmere ("Proposal Trustee"), dated ●, 2019, filed ("First Report"), and the conduct and activities of the Proposal Trustee described therein; (2) appointing FAAN Advisors Group Inc. ("FAAN") as Chief Restructuring Advisor ("CRA") of Ellesmere; (3) approving charges in favour of the Stalking Horse Purchaser (defined below) up to a maximum of \$622,000 and the Professional Group (defined below) up to a maximum of \$500,000; and (4) extending the time to file a proposal, was heard this day at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1R7.

ON READING the First Report and the Affidavits of Tong Liu, sworn August 29, 2019 and ●, 2019 (the “**Supplementary Liu Affidavit**”), and on hearing the submissions of counsel for Ellesmere and counsel for the Proposal Trustee, no one appearing for any other parties although duly served as appears from the affidavits of service of ●, sworn August 29, 2019, and ●, 2019 filed;

SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of motion, the motion record and the supplementary motion record (including service of the First Report) be and is hereby validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF THE FIRST REPORT

2. **THIS COURT ORDERS** that the First Report, together with the conduct and activities of the Proposal Trustee as set out therein, be and are hereby approved.

APPOINTMENT OF CRA

3. **THIS COURT ORDERS** that FAAN is appointed as CRA on the terms of the letter agreement between FAAN and Ellesmere, dated September 11, 2019, which terms are hereby approved. The CRA is authorized and empowered to operate and manage the affairs of Ellesmere during the pendency of these proposal proceedings.

4. **THIS COURT ORDERS** that the CRA shall incur no liability for anything done by it as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

DEPOSIT CHARGE

5. **THIS COURT ORDERS** that CoStone Development Inc. and Campus Suites Inc. (together, the “**Stalking Horse Purchaser**”) shall be entitled to the benefit of and is hereby granted a charge (the “**Deposit Charge**”) on the current and future assets, undertakings and properties of Ellesmere, of every nature and kind whatsoever (including all real and personal property), and wherever situate including all proceeds thereof (“**Property**”), which charge shall not exceed an aggregate amount of \$622,000, as security for the repayment of a portion of the deposit made by the Stalking Horse Purchaser pursuant to the terms of the purchase agreement between the Stalking Horse Purchaser and Ellesmere, dated August 19, 2019 (the “**Stalking Horse Purchaser**”). The Deposit Charge shall have the priority set out in paragraph 9 hereof.

ADMINISTRATION CHARGE

6. **THIS COURT ORDERS** that the Proposal Trustee, counsel for the Proposal Trustee, the CRA, Cassels Brock & Blackwell LLP (“**Cassels**”), and Harris Sheaffer LLP (“**Harris**”, with the Proposal Trustee and its counsel, the CRA and Cassels, collectively, the “**Professional Group**”) shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by Ellesmere as part of the costs of these proceedings, both before and after the making of this Order in respect of these proceedings and related matters. Ellesmere is hereby authorized to pay the accounts of the Professional Group on a monthly basis.

7. **THIS COURT ORDERS** that the Proposal Trustee, counsel for the Proposal Trustee, Harris and Cassels shall pass their accounts from time to time, and for this

purpose, the accounts of the Proposal Trustee, counsel for the Proposal Trustee, Harris, and Cassels are hereby referred to a judge of the Ontario Superior Court of Justice (Commercial List) at Toronto, Ontario.

8. **THIS COURT ORDERS** that the Professional Group shall be entitled to the benefit of and are hereby granted a charge ("Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Professional Group, both before and after the making of this Order with respect to and incidental to these proceedings, including the reasonable fees and disbursements of the Proposal Trustee, counsel for the Proposal Trustee, and Cassels incurred in preparation of the these proceedings. The Administration Charge shall have the priority set out in paragraph 9 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

9. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Deposit Charge, as among them, shall be as follows:

- a) First – Deposit Charge; and
- b) Second – Administration Charge.

10. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge or the Deposit Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to

the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

11. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, except for the charge in favour of 2478888 Ontario Inc. on the Property.

12. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, Ellesmere shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless Ellesmere also obtains the prior written consent of the Proposal Trustee, the Stalking Horse Purchaser and the Professional Group, or further Order of this Court.

13. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the Stalking Horse Purchaser thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (“**BIA**”), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the

creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds Ellesmere, and notwithstanding any provision to the contrary in any Agreement:

- a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Stalking Horse Purchase Agreement shall create or be deemed to constitute a breach by Ellesmere of any Agreement to which it is a party;
- b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from Ellesmere entering into the Stalking Horse Purchase Agreement, the creation of the Charges; and
- c) the payments made by Ellesmere pursuant to this Order, the Stalking Horse Purchase Agreement, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

EXTENSION OF TIME TO MAKE A PROPOSAL

14. **THIS COURT ORDERS** that the time to make a proposal is delayed and extended to November 1, 2019.

SEALING

15. **THIS COURT ORDERS** that Confidential Exhibit "A" to the Supplementary Liu Affidavit be sealed, kept confidential and not form part of the public record, but rather shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court.

AID AND ASSISTANCE OF OTHER COURTS

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

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 3070 ELLESmere DEVELOPMENTS INC.

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547832
Estate No.: 31-2547832

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO

ORDER
(NOI)

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Schedule "B"

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547832
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**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

THE HONOURABLE) WEDNESDAY, THE 11TH DAY
)
)
)
JUSTICE) OF SEPTEMBER, 2019

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
3070 ELLESmere DEVELOPMENTS INC.**

**ORDER
(Stalking Horse & SISP)**

THIS MOTION, made by 3070 Ellesmere Developments Inc. ("Ellesmere") for an order, *inter alia*, approving the Sales Process (as defined below) and certain related relief, was heard this day at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1R7.

ON READING the First Report of Crowe Soberman Inc., in its capacity as proposal trustee of Ellesmere (the "**Proposal Trustee**") and the Affidavits of Tong Liu, sworn August 29, 2019, and ●, 2019, and on hearing the submissions of counsel for Ellesmere, counsel for the Proposal Trustee, and counsel for the Stalking Horse Purchaser (defined below), no one appearing for any other parties although duly served as appears from the affidavits of service of ●, sworn August 29, 2019, and ●, 2019 filed;

DEFINITIONS

1. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meaning ascribed to them under the (i) purchase agreement between CoStone Development Inc. and Campus Suites Inc. (together, the **“Stalking Horse Purchaser”**) and Ellesmere, dated August 19, 2019 (the **“Stalking Horse Purchase Agreement”**); or (ii) the sale and investment solicitation process attached hereto as Schedule “A” (the **“SISP”**), as the case may be.

APPROVAL OF SALES PROCESS AGENT

2. **THIS COURT ORDERS** that Avison Young Commercial Real Estate (Ontario) Inc. is appointed as sales process agent for the SISP (the **“Sales Process Agent”**) on the terms of the agreement between Ellesmere and the Sales Process Agent, dated September 11, 2019, which terms are hereby approved.

APPROVAL OF STALKING HORSE AGREEMENT

3. **THIS COURT ORDERS** that the execution, delivery, entry into, compliance with, and performance by Ellesmere of the Stalking Horse Purchase Agreement be and is hereby ratified, authorized and approved, *provided however*, that nothing contained in this Order approves the sale or the vesting of the Property to the Stalking Horse Purchaser pursuant to the Stalking Horse Purchase Agreement and that, if the Stalking Horse Purchaser is the Successful Bid under the SISP, the approval of the sale and vesting of the Property to the Stalking Horse Purchaser shall be considered by this Court on a subsequent motion made to this Court following completion of the SISP.

4. **THIS COURT ORDERS** that the Stalking Horse Purchase Agreement be and is hereby approved and accepted solely for the purposes of (i) constituting a Qualified Bid under the SISP; (ii) the use of the Deposit; and (iii) approving the Break Fee, subject to the further Order of the Court referred to in paragraph 3 above.

5. **THIS COURT ORDERS** that the Stalking Horse Purchase Agreement shall not be rendered invalid or unenforceable and the rights and remedies of the Stalking Horse Purchaser thereunder shall not otherwise be limited or impaired in any way by (i) Ellesmere's proposal proceedings under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended ("BIA") and any declarations of insolvency made in connection therewith; (ii) any applications for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of security interests, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds Ellesmere, and notwithstanding any provision to the contrary in any Agreement:

- a) the execution, delivery or performance of the Stalking Horse Purchase Agreement shall not create or be deemed to constitute a breach by Ellesmere of any Agreement to which it is a party; and
- b) the Stalking Horse Purchaser shall not have any liability to any person whatsoever as a result of any breach of any Agreement caused by or

resulting from Ellesmere entering into the Stalking Horse Purchase Agreement.

APPROVAL OF SISP

6. **THIS COURT ORDERS** that the SISP attached hereto as Schedule "A" (subject to such non-material amendments as may be agreed to by Ellesmere and the Proposal Trustee) be and is hereby approved and the Proposal Trustee and Ellesmere are hereby authorized and directed to take such steps as they deem necessary or advisable (subject to the terms of the SISP) to carry out the SISP, subject to prior approval of this Court being obtained before completion of any transaction(s) under the SISP.

7. **THIS COURT ORDERS** that the Proposal Trustee, Ellesmere, FAAN Advisors Group Inc., in its capacity as Chief Restructuring Advisor of Ellesmere (the "CRA") and their respective affiliates, partners, directors, officers, employees, agents, advisors and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or wilful misconduct of the Proposal Trustee or Ellesmere, as applicable, as determined by the Court.

GENERAL

8. **THIS COURT REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the

Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

9. **THIS COURT ORDERS** that at any time during the SISP the Proposal Trustee or Ellesmere may apply to the Court for directions with respect to the SISP.

Schedule “A”

STALKING HORSE BIDDING PROCEDURES

A. The Vendor intends to file a notice of intention to make a proposal ("NOI") under the *Bankruptcy and Insolvency Act* (the "BIA") with the Ontario Superior Court of Justice (Commercial List) (the "Court");

B. The Vendor has received an offer to purchase the land municipally known as 3070 Ellesmere Road in Scarborough, Ontario (the "Property") pursuant to an agreement of purchase and sale (the "Purchase Agreement") with CoStone Development Inc. and Campus Suites Inc., in partnership, in trust for an entity to be formed (the "Stalking Horse Bidder") in accordance with these Stalking Horse Bidding Procedures dated with effect at ●, 2019.

C. The Vendor wishes to maximize proceeds of sale for the Property, and the Stalking Horse Bidder agreed that the Purchase Agreement will stand as first qualified bid (subject to the terms in the Purchase Agreement) in a "stalking horse" auction sale process, provided that the Stalking Horse Bidder reserves the right to claim the Break Fee (as defined below) in the event that an Alternate Purchaser purchases the Property pursuant to the Bidding Procedures.

1. Bidding Procedures

On or about ●, 2019, the Vendor obtained an Order of the Court approving: (a) the Vendor entering into the Purchase Agreement with the Stalking Horse Bidder dated as of ●, 2019; (b) the payment of a Break Fee pursuant to the Purchase Agreement; and (c) these Stalking Horse Bidding Procedures ("Bidding Procedures") for the solicitation of offers (each a "Bid") for the acquisition of the Property, understanding that the Stalking Horse Bid shall constitute the first Qualified Bid for the purposes of acquiring the Property in accordance with the Purchase Agreement.

All references to currency in these Bidding Procedures are reference to Canadian Dollars unless otherwise stated.

All terms with initial capitals that are not otherwise defined in these Bidding Procedures are as defined in the Purchase Agreement.

2. Property for Sale

The Vendor may solicit superior offers to that in the Purchase Agreement for the Property. Interested parties requesting information about the qualification process and information in connection with their due diligence, should contact Hans Rizarri of Crowe Soberman Inc. at Hans.Rizarri@CroweSoberman.com.

3. Bidding Deadlines

All Bids must be submitted in accordance with the terms of these Bidding Procedures so that they are actually received by each of the Notice Parties (as defined below) no later than 10:00 a.m. (Eastern Daylight time) on November 7, 2019 (the "Bid Deadline"). A Bid received after the Bid

Deadline shall not constitute a Qualified Bid (as defined below). Written copies of each Bid shall be delivered by the applicable deadline to:

- (a) the Proposal Trustee, Crowe Soberman Inc., Attn: Hans Rizarri, Email: Hans.Rizarri@CroweSoberman.com; and
- (b) Counsel to the Vendor, Cassels Brock & Blackwell LLP, Attn: Larry Ellis, E-mail: lellis@casselsbrock.com;

(collectively, the "Notice Parties").

Each Bid shall be delivered to all Notice Parties at the same time.

4. Designation as Qualified Bidder

To participate in an Auction (as defined below), a party submitting a Bid for the Property (a "Bidder") must submit a Bid that satisfies each of the following conditions (a "Qualified Bid"), as determined by the Proposal Trustee in its discretion and in consultation with the Vendor:

- (a) Written Submission of Modified Purchase Agreement and Commitment to Close
Bidders (other than the Stalking Horse Bidder) must submit a Bid by the Bid Deadline in the form of an executed mark-up of the Purchase Agreement (each a "Modified Purchase Agreement") reflecting such Bidder's proposed changes to the Purchase Agreement (together with a redlined version of the Modified Purchase Agreement against the Purchase Agreement), which shall include such terms as set out hereafter, and a written and binding commitment to close on the terms and conditions set forth therein.
- (b) Qualified Bid Value
A Bid must be equal to or greater than Purchase Price (being \$16,000,000), plus the Break Fee (being \$400,000 plus HST if applicable) and plus \$100,000 (which amount is equal to the First Overbid Increment, as defined herein).
- (c) Irrevocable
Each Bid shall be irrevocable until (i) November 18, 2019, in the event that the Qualified Bid is determined to be the Successful Bid; and (ii) November 18, 2019, in the event that the Qualified Bid is determined to be the Back-up Bid (as defined below) (each, the "Commitment Date"), as applicable.

(d) Contingencies

A Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other contingencies associated with a Bid may not, in aggregate, be materially more burdensome than those set forth in the Purchase Agreement, as determined by the Proposal Trustee in consultation with the Vendor.

(e) Financing Sources and Evidence of Financial Ability to Close

A Bid must identify the actual Bidder and beneficial and legal owners of the Bidder and contain written evidence of a commitment for financing or other evidence of the ability to consummate the sale on or before the Closing Date satisfactory to the Proposal Trustee, in consultation with the Vendor, with appropriate contact information for such financing sources.

(f) No Fees Payable to Qualified Bidder

A Bid may not request or entitle the Qualified Bidder (other than the Stalking Horse Bidder) to any break fee, expense reimbursement, or similar type of payment.

(g) Deposit

Each Bid must be accompanied by a deposit (each, a "Deposit") in an amount equal 10% of the purchase price contained in the Modified Purchase Agreement, which shall be paid to the Proposal Trustee by the Bid Deadline, to be held in trust in accordance with these Bidding Procedures.

(h) Non-cash Consideration

Bids may not include non-cash consideration, such as promissory notes, earn-outs, publicly traded equities or other equity consideration;

A Bidder submitting a Qualified Bid is a "Qualified Bidder". Subject to Section satisfying the condition in Section 5.2(c) of the Purchase Agreement, the Stalking Horse Bidder shall be deemed to be a Qualified Bidder and the Purchase Agreement shall be deemed to be a Qualified Bid, and a third-party beneficiary of these Bidding Procedures with standing to object to the Proposal Trustee's implementation of these Bidding Procedures.

5. Due Diligence

Subject to the provisions set out below in this Section 5, Qualified Bidders and their agents, representatives and employees shall have reasonable access to the Property during normal business hours from time to time, and, upon reasonable prior notice to the Proposal Trustee and the Vendor, at the Qualified Bidder's sole risk and expense, for the purpose of making any of the Qualified Bidder's inspections as in its discretion the Qualified Bidder deems necessary or desirable, including soil tests and environmental audits; such access shall be done in a manner to minimize disruption, to the extent reasonably possible, to the use of the Property. Qualified Bidders and their consultants shall not conduct any invasive or intrusive inspections, investigations or tests, including boring or drilling of the Property, unless the scope of such work has been approved by the Vendor and the Proposal Trustee in writing, which approval shall not be unreasonably withheld or delayed, and any such invasive or intrusive inspections, investigations or tests shall, at the Vendor's option, be done in the company of a representative of the Vendor and the Vendor agrees to make a representative available for this purpose. Any damage to the Property caused by such tests and inspections or caused in any way connected to a Qualified Bidder's (or its agents', representatives' and/or employees') entry upon the Property will be promptly repaired by the Qualified Bidder, at the Qualified Bidder's sole cost and expense.

6. Due Diligence by Vendor

Each Qualified Bidder shall comply with all requests for additional information by the Proposal Trustee or Vendor regarding such Bidder and its contemplated transaction. Failure by a Bidder to comply in a timely manner with requests for additional information may be a basis for the Proposal Trustee, in consultation with the Vendor, to determine that the Bidder is not a Qualified Bidder.

7. Auction

An auction ("Auction") shall be held to determine the highest and/or best Bid with respect to the Property, only if a Qualified Bid (other than the Stalking Horse Bid) is received by the Bid Deadline.

If no such Qualified Bid is received by the Bid Deadline, then the Auction shall not take place and the Vendor shall proceed to close the Transaction with the Stalking Horse Bidder in accordance with the Purchase Agreement.

If a Qualified Bid is received in accordance with these Bidding Procedures, the Auction shall be conducted according to the following procedures:

(a) Participation at Auction

Only Qualified Bidders are eligible to participate at the Auction. The Stalking Horse Bidder is a Qualified Bidder and eligible to participate at the Auction. Only the Proposal Trustee and the authorized representatives (including counsel and other advisors) of each of the Qualified Bidders and the Vendor, will be permitted to attend at the Auction.

The bidding at the Auction shall begin with the highest Qualified Bid (the "Opening Bid") and each subsequent round of bidding shall continue in minimum increments of at least the Minimum Overbid Increment (as defined below).

(b) Proposal Trustee to Conduct Auction

The Proposal Trustee, in consultation with the Vendor, shall direct and preside over the Auction. At the start of the Auction, the Proposal Trustee shall provide the terms of the Opening Bid to all participating Qualified Bidders at the Auction and a blackline of the Opening Bid to the Purchase Agreement. The determination of which Qualified Bid constitutes the Opening Bid shall take into account any factors the Proposal Trustee, in consultation with the Vendor, reasonably deems relevant to the value of the Qualified Bid to the Proposal Trustee (in consultation with the Vendor), including, among other things, the following: (i) the amount and nature of the consideration; (ii) the ability of the Qualified Bidder to close the proposed transaction; (iii) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (iv) purchase-price adjustments, if any; (v) the impact of the contemplated transaction on any actual or potential litigation; (vi) the net economic effect of any changes from the Purchase Agreement, if any, contemplated by the contemplated transaction documents (the "Contemplated Transaction Documents"); (viii) the net after-tax consideration to be received by the Vendor; and (ix) such other considerations as the Proposal Trustee deems relevant in its business judgment (collectively, the "Bid Assessment Criteria").

(c) Overbids

All Bids made after the Opening Bid shall be Overbids (as defined below) and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders that are participating in the Auction.

(d) Procedure by Which the Stalking Horse Bidder Outbids Overbids

In order to outbid any Overbid, the Stalking Horse Bidder need not resubmit any Modified Purchase Agreement or additional Purchase Agreements, rather the Stalking Horse Bidder is entitled (i) to effect increases in its Bid by increasing, in accordance with the terms set out herein, the Purchase Price set out in the Purchase Agreement with all other terms and conditions of the Purchase Agreement remaining unchanged; or (ii) amend any of the terms and conditions of the Purchase Agreement in its discretion, including, without limitation, an increase of the Purchase Price.

(e) Terms of Overbids

- (i) **First Overbid Increment.** If Purchaser is the Stalking Horse Bidder, the first Overbid shall be made in the increment of at least \$100,000.00 (the "First Overbid Increment");
- (ii) **Subsequent Minimum Overbid Increment.** Any Overbid shall be made in increments of at least \$100,000.00 (the "Minimum Overbid Increment"). The amount of the Purchase Price of any Overbid shall not be less than the bid leading a particular round (the "Round Leading Bid");
- (iii) **Minimum Terms are the same as for Qualified Bids.** Except as modified herein, an Overbid must comply with the conditions for a Qualified Bid set forth above, except that the Bid Deadline will not apply. Any Overbid made by a Qualified Bidder must remain open and is binding on the Qualified Bidder until the Commitment Date.

(f) Ability to Close

To the extent not previously provided (which shall be determined by the Proposal Trustee in consultation with the Vendor), a Qualified Bidder submitting an Overbid must submit, as part of its Overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Proposal Trustee) demonstrating such Qualified Bidder's ability to close the transaction proposed by such Overbid.

(g) Announcing Overbids

At the start of each round of bidding, the Proposal Trustee shall announce the material terms of the Round Leading Bid, and the resulting benefit to the Vendor based on, among other things, the Bid Assessment Criteria.

(h) Adjournments to Consider Overbids

The Proposal Trustee, in consultation with the Vendor, shall have the right, in its business judgment, to make one or more adjournments of the Auction to, among other things: (a) facilitate discussions between the Proposal Trustee, Vendor and individual Qualified Bidders; (b) allow individual Qualified Bidders to consider how

they wish to proceed; (c) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (d) give Qualified Bidders the opportunity to provide the Proposal Trustee with such additional evidence as it may require, in its business judgment, to determine that the Qualified Bidder has obtained all required internal corporate approvals, has sufficient internal resources or has received sufficient funding commitments to consummate the proposed transaction at the prevailing Overbid amount.

(i) Transcripts

The Proposal Trustee shall maintain a transcript of the Opening Bid and all Overbids made and announced at the Auction, including the Successful Bid and the Back-up Bid.

(j) Closing the Auction

Upon conclusion of the bidding, the Auction shall be closed, and Proposal Trustee shall (i) immediately review the final Overbid of each remaining Qualified Bidder on the Bid Assessment Criteria, (ii) identify the highest and/or best Overbid or Opening Bid (the "**Successful Bid**" and the entity or entities submitting such Successful Bid, the "**Successful Bidder**"), and the next highest and/or best Overbid, Opening Bid, or Purchase Agreement, after the Successful Bid (the "**Back-up Bid**" and the entity or submitting such Back-up Bid, the "**Back-up Bidder**"), and advise remaining Qualified Bidders of such determination.

8. Consent to Jurisdiction as Condition to Bid

All Qualified Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Court and waived any right to challenge the construction and enforcement of the Bidder's Contemplated Transaction Documents, as applicable. Qualified Bidders (other than the Stalking Horse Bidder) shall not be deemed third party beneficiaries of these Bidding Procedures and shall not have standing to object to the Proposal Trustee's implementation thereof.

9. Sale Hearing

A motion for a hearing to approve the sale of Property to the Successful Bidder shall be filed with the Court within ten (10) days of the conclusion of the Auction for a Court hearing to be no later than November 30, 2019 (the "**Approval Hearing**"). The Vendor will be deemed to have accepted the Successful Bid only when the Successful Bid has been approved by the Court.

Following the approval of the sale to the Successful Bidder at the Approval Hearing, if such Successful Bidder fails to consummate the sale in accordance with the terms and conditions of the Contemplated Transaction Documents of the Successful Bidder, the Proposal Trustee shall be authorized, but not required, to deem the Back-up Bid, as disclosed at the Approval Hearing, as the Successful Bid, subject to approval of the Court, which approvals may be sought by the Vendor on a conditional basis at the Approval Hearing.

10. Stalking Horse Break Fee

Subject to the terms of the Purchase Agreement, in the event that the Stalking Horse Bidder is not the Successful Bidder, immediately following closing of the sale to such Alternate Purchaser, the Purchase Agreement shall be terminated, the Stalking Horse Bidder shall be entitled to be paid its Deposit (plus accrued interest, if any) and the Break Fee (\$400,000, plus HST if applicable) shall be paid to the Stalking Horse Bidder from the proceeds of the transaction contemplated by the Successful Bid in accordance with the terms of the Purchase Agreement.

11. "As Is, Where Is"

The sale of the Property pursuant to these Bidding Procedures shall be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Vendor, its agents or estate except to the extent as expressly stated in the Purchase Agreement or the Contemplated Transaction Documents of another Successful Bidder. The Stalking Horse Bidder and each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Property prior to making its offer, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Property in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Property, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or (a) in the case of the Stalking Horse Bidder, the Purchase Agreement or Overbid by the Stalking Horse Bidder; or (b) in the case of any other Successful Bidder, the Contemplated Transaction Documents of such Qualified Bidder.

12. Return or Application of Deposit

The Deposits of all Qualified Bidders shall be held in a non-interest-bearing account unless otherwise agreed between the parties. Deposits of all Qualified Bidders, other than the Stalking Horse Bidder, the Successful Bidder and the Back-up Bidder, shall be returned to such Qualified Bidders two (2) Business Days after the selection of the Successful Bidder and Back-up Bidder (if any). The Deposit of the Back-up Bidder shall be held in an interest-bearing account until two (2) Business Days after the closing of the transaction contemplated by the Successful Bid, and thereafter returned to the Back-up Bidder. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Vendor shall be entitled to retain the Deposit of the Successful Bidder as part of its damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-up Bidder, the Deposit of the Back-up Bidder shall be applied to the purchase price of the transaction contemplated by the purchase agreement of the Back-up Bidder at closing.

13. Modifications and Reservations

Subject to the Stalking Horse and Bidding Procedures Order, the Proposal Trustee, in consultation with the Vendor, shall have the right to adopt such other rules for these Bidding Procedures (including rules that may depart from those set forth herein), that in its reasonable business judgment will better promote the goals of these Bidding Procedures.

Prior to or during the Auction, the Proposal Trustee may adopt such additional rules for the Auction that will better promote the goals of the Auction and that are not inconsistent with the provisions of these Bidding Procedures and the Stalking Horse and Bidding Procedures Order.

The Proposal Trustee may reject any Bid (except the Purchase Agreement) at any time before entry of an order of the Court approving a Successful Bid, that is (a) inadequate or insufficient; (b) not in conformity with the requirements of the BIA or these Bidding Procedures (as may be modified in accordance with the provisions hereof); or (c) contrary to the best interests of the Vendor, its estate and its creditors.

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547832
Estate No.: 31-2547832

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO

ORDER
(Stalking Horse Purchaser and SISP)

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Lawyers for 3070 Ellesmere Developments Inc.

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 3070 ELLESmere DEVELOPMENTS INC.

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547836
Estate No.: 31-2547835

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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Tab 2

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547832
Estate No.: 31-2547832

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
3070 ELLESMERE DEVELOPMENTS INC.**

**AFFIDAVIT OF TONG LIU
(sworn August 29, 2019)**

I, Tong (Thomas) Liu, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am the sole director and officer of 3070 Ellesmere Developments Inc. (“Ellesmere”). I have knowledge of the matters to which I hereinafter depose, which knowledge is personal to me, obtained from a review of the documents referred to or, where indicated, I am advised by others in which case I believe such information to be true.

A. Overview

2. This affidavit is made in the context of Ellesmere’s recent notice of intention to make a proposal proceeding (the “**Proposal Proceedings**”) under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”), and in support of Ellesmere’s motion for orders:

- a. appointing FAAN Advisors Group Inc. (“**FAAN**”) as Chief Restructuring Advisor (“**CRA**”) of Ellesmere;

- b. approving the first report of Crowe Soberman Inc. in its capacity as proposal trustee in these proceedings (the “**Proposal Trustee**”), to be filed (the “**First Report**”), and the conduct and activities of the Proposal Trustee as described therein;
- c. approving the terms of the purchase agreement between CoStone Development Inc. and Campus Suites Inc., (together the “**Stalking Horse Purchaser**”) and Ellesmere, dated August 19, 2019 (the “**Stalking Horse Purchase Agreement**”);
- d. approving the sale and investment solicitation process (the “**SISP**”) as that process is described in the Stalking Horse Purchase Agreement;
- e. approving the retention of Avison Young Commercial Real Estate (Ontario) Inc. (“**Avison Young**”) as sales process agent for the SISP (the “**Sales Process Agent**”);
- f. approving the Deposit Charge (as defined and described below) in favour the Stalking Horse Purchaser;
- g. approving a priority administration charge in favour of the Professional Group (defined below);
- h. sealing Confidential Exhibit “A” to this affidavit; and
- i. extending the date to file a proposal from September 19, 2019 to November 1, 2019.

3. The balance of this affidavit will describe the nature of Ellesmere’s business and the events leading up to the filing of a notice of intention to make a proposal (“**NOI**”) on

August 20, 2019, the appointment of the Proposal Trustee and provide information supportive of the relief requested above.

B. Background: Ellesmere's Business

4. Ellesmere is a privately-held Ontario corporation that carries on business as a real estate holding company. Attached as **Exhibit "A"** is a copy of the corporate profile report for Ellesmere.

5. Ellesmere owns a vacant parcel of land municipally known as 3070 Ellesmere Road, Scarborough, Ontario, M1E 4C3 (the "**Property**"). Attached as **Exhibit "B"** is a copy of the parcel registry search for the Property.

6. Ellesmere purchased the Property on January 24, 2014, with the intention of developing a 26-storey condominium tower, including retail and commercial space as well as 339 residential units (the "**Project**"). The Property is close to the University of Toronto's Scarborough campus and therefore would provide much-needed housing to the campus's growing student population.

7. Ellesmere sold 80% of the units in the Project by June 2014 and needed a partner who could assist in implementing the planning and construction aspects of the Project.

8. In 2016, Ellesmere was introduced to the principals of 2518358 Ontario Inc. ("**Rise**"). Rise's principals have experience with design and construction of student housing in Ontario. Attached as **Exhibit "C"** is a copy of the corporate profile report for Rise.

9. Ellesmere and Rise entered into a joint venture agreement for the Project on May 13, 2016 (the "**Joint Venture Agreement**"). A copy of the Joint Venture Agreement is attached as **Exhibit "D"**.

10. The Joint Venture Agreement was amended by an agreement dated November 11, 2016 (with the Joint Venture Agreement, the “**Amended Joint Venture Agreement**”).

A copy of the amending agreement is attached as **Exhibit “E”**.

11. The terms of the Amended Joint Venture Agreement included, among other terms:

- a. the joint venture would continue until all residential dwelling units were constructed or sold;
- b. thirty days after the commencement of excavation of the Property, title would be conveyed to a nominee corporation to hold title in trust for Ellesmere and Rise, and Ellesmere would convey a 50% beneficial interest in the Property to Rise, subject only to the pre-existing charge to Cameron Stephens Financial Corporation (“**Cameron Stephens**”), which would be assumed by the joint venture;
- c. Ellesmere’s initial contribution of \$8 million to the Project was acknowledged and it was agreed that Rise would fund any additional equity contributions required until it had also contributed \$8 million;
- d. a \$2 million charge would be granted to Rise against the Property to secure costs and expenses that Rise may incur which would be discharged when title is transferred to the nominee corporation; and
- e. profits from the Project would be split 50/50.

12. Rise was responsible for the construction of the Project. To that end, in September 2016, Rise and Ellesmere entered into a “**Construction and Project Management Agreement**” with 2135136 Ontario Inc. (“**Rise Development**”) for the development and construction of the Project. I understand that Rise Development is an affiliated or related

company to Rise. Attached as **Exhibit “F”** is a copy of the corporate profile report for Rise Development. Attached as **Exhibit “G”** is a copy of the Construction and Project Management Agreement.

13. Despite their obligations, Rise and Rise Development (together “**Rise**”) breached the Amended Joint Venture Agreement and the Construction and Project Management Agreement (together the “**Development Agreements**”), respectively, in that they:

- a. failed to complete site plan revision or otherwise secure construction permits from the City of Toronto;
- b. failed to take necessary steps to proceed with construction of the Project, including but not limited to initiation of excavation in April 2017;
- c. failed to seek or secure construction financing for the Project;
- d. failed to make payments in respect of the Property and the Project to equalize equity; and
- e. generally took all steps to frustrate the development of the Project.

14. Ellesmere entered into the Development Agreements with Rise for the express purpose of advancing the development of the Project from the successful position that Ellesmere had achieved. Rise failed to deliver the advancement of the Project in all respects.

15. Rise and Ellesmere are currently litigating with each other in relation to their rights in the Project. Attached to my Affidavit as **Exhibit “H”** are copies of the pleadings relevant to this litigation.

C. Ellesmere's Secured Creditors

i. Secured Lenders

16. Attached as Exhibit "B" is a copy of the parcel identification for the Property, dated August 22, 2019 (the "**PIN**").

17. On December 22, 2014, Cameron Stephens entered into a loan agreement with Ellesmere wherein Cameron Stephens loaned Ellesmere \$5,000,000 (the "**Cameron Stephens Loan Agreement**"). Cameron Stephens registered a charge against the Property in the amount of \$5,000,000 (the "**Cameron Stephens Charge**"). Cameron Stephens extended the Cameron Stephens Loan Agreement on May 31, 2016 for a period of six months. Attached as **Exhibit "I"** is a copy of the Cameron Stephens Loan Agreement together with amendments and extensions.

18. On August 31, 2016, Toronto Capital Corp., as agent for a group of individual lenders (collectively "**TCC**"), entered into a loan agreement with Ellesmere and certain related entities wherein TCC loaned Ellesmere and certain related entities \$5,000,000 (the "**TCC Loan Agreement**"). TCC registered a charge against the Property in the amount of \$5,000,000 (the "**TCC Charge**"). Attached as **Exhibit "J"** is a copy of the TCC Loan Agreement together with amendments.

19. One of the lenders that is a beneficiary of the TCC Charge is 2478888 Ontario Inc. ("**247**"). Attached as **Exhibits "K"** and "**L**", respectively, are a corporate profile report for 247 and a list of the individual lenders to the TCC Loan Agreement according to the PIN.

20. Ellesmere first defaulted on the Cameron Stephens Loan Agreement in and around December 2017.

21. In and around January 2018, 247 paid Cameron Stephens \$5,218,776.21 on account of all amounts owed under the Cameron Stephens Loan Agreement. 247 made this payment to protect the TCC Charge (the “**TCC Protective Disbursement**”). TCC added the TCC Protective Disbursement to the TCC Charge.

22. The Cameron Stephens Charge was discharged on October 10, 2018.

23. On May 18, 2018, 2615333 Ontario Inc. (“**261**”) purchased the TCC Loan Agreement and the associated debt (but not the TCC Protective Disbursement), which at the time was \$5,758,665.53 (the “**Assignment Transaction**”). Attached as **Exhibits “M”** and **“N”**, respectively, are a copy of the corporate profile report for 261 and a copy of the Mortgage Loan Purchase Agreement associated with the Assignment Transaction.

24. 261 did not register the Assignment Transaction on title to the Property. Ellesmere understands that 261 is an Ontario corporation operated by Xiao Dong Zhu, which is a person that is arm’s length from 247 and Ellesmere.

25. Also on May 18, 2018, TCC assigned the TCC Charge from the group of lenders noted at Exhibit “L” to 247 alone.

26. 247 and 261 entered into an Inter-Lender Agreement wherein 261 agreed to subordinate the interest it acquired pursuant to the Assignment Transaction to 247’s interest as a result of the TCC Protective Disbursement. Attached as **Exhibit “O”** is a copy of the unexecuted Inter-Lender Agreement.

27. The result of these collective transactions is as follows:

- a. 247 is the first mortgagee pursuant to the terms of the Cameron Stephens Loan Agreement. The principal amount owed to 247 on account of this position, as at August 14, 2018, was \$5,758,665.53 (the “**First Mortgagee**”). Interest and legal fees continue to accrue; and

b. 261 is the second mortgagee pursuant to the terms of the TCC Loan Agreement. The principal amount owed to 261 on account of this position, as at August 14, 2018, was \$5,218,776.21. Interest and legal fees continue to accrue.

28. On August 14, 2018, 247 issued a notice of intention to enforce security (“**NITES**”). Attached as **Exhibit “P”** is a copy of the 247’s NITES. 247 has not taken any other enforcements steps in connection with its NITES.

ii. Rise Charge

29. Rise has a second-ranking priority charge in the amount of \$2 million registered against the Property pursuant to the terms of the Amended Joint Venture Agreement. A copy of the Rise’s charge is attached as **Exhibit “Q”**.

30. Ellesmere disputes Rise’s entitlement to this charge. The validity of the charge is subject to the litigation between Rise and Ellesmere.

iii. Other Charges

31. Counsel for Ellesmere, Cassels Brock & Blackwell LLP (“**Cassels**”) also has a \$2 million charge on the Property to secure its fees related to, among other things, the within proceeding and various litigation proceedings where it has represented Ellesmere.

32. There is also a \$299,137 tax lien registered by Canada Revenue Agency. A copy of the tax lien is attached as **Exhibit “R”**.

D. Ellesmere’s Other Creditors

33. In addition to those creditors with security on the Property, one other creditor has registered a security interest against Ellesmere under the *Personal Property Security Act*, R.S.O. 1990, c. P.10 (“**PPSA Creditors**”). Aviva Insurance Company of Canada registered a charge in connection with deposits by purchasers of units in the Project.

Attached as **Exhibit “S”** is a copy of the summary of the Personal Property Security Registration System (Ontario) Enquiry Results for Ellesmere as of August 20, 2019.

34. In addition to the PPSA Creditors, as of January 2019, Ellesmere owes \$88,411.06 to the City of Toronto on account of property taxes. The outstanding taxes have been referred to a bailiff for collection. Ellesmere intends to pay all outstanding municipal taxes as soon as cash flow permits and/or upon a sale of its assets.

35. Ellesmere also has four judgment creditors, including two with orders that restrict the disposition of the Property. 244988 Ontario Inc., in its capacity as a shareholder of Ellesmere, commenced an action against Ellesmere and others (the “**244 Defendants**”) for, among other things, oppression for Ellesmere’s failure to construct the Project. On February 26, 2019, 244 Ontario obtained a default judgment against the 244 Defendants which directed the defendants to pay 244 Ontario \$3.2 million (the “**244 Judgment**”) and enjoined Ellesmere from taking any steps to sell or otherwise encumber the Property. A copy of the 244 Judgment is attached as **Exhibit “T”**.

36. In addition to the 244 Judgment, the Property is also subject to a certificate of pending litigation (the “**CPL Order**”) in an action by three individuals who allegedly entered into contracts with Ellesmere for the right to purchase units in the Project (the “**CPL Action**”). A copy of the CPL Order is attached as **Exhibit “U”**.

37. As further detailed below, the proposed SISP will provide the 244 Judgment creditors and the plaintiffs in the CPL Action with a court-supervised sale of the Property that is being conducted by the Proposal Trustee with the assistances of a court-appointed CRA and Sales Process Agent.

38. Ellesmere's remaining creditors are unsecured and are composed primarily of consultants and real estate agents retained in connection with the Project, lenders and a few non-arm's length entities.

E. Sales Process – Pre-Stalking Horse

39. Ellesmere has been actively marketing the Property since October 2018. During this period Ellesmere has engaged listing agents to assist it in these marketing efforts (the "Informal Sales Process").

40. Ellesmere received numerous offers from prospective purchasers during the Informal Sales Process. Ellesmere was close to consummating a sale transaction on several occasions, including:

- a. Ellesmere entered into a binding purchase agreement on December 5, 2018, with a prospective purchaser. The transaction was conditional upon the completion of certain conditions, including financing. The prospective purchaser was unable to waive its conditions and had to release Ellesmere from completing the sale;
- b. Ellesmere agreed to the terms of a sale to a new prospective purchaser in early July 2019. The prospective purchaser was unable to secure financing necessary to close the transaction upon the agreed upon terms and had to release Ellesmere from completing the sale; and
- c. Ellesmere negotiated a purchase agreement with a prospective purchaser from June 11, 2019 until August 7, 2019. These negotiations included the possibility of a stalking horse sales process and NOI proceedings. Ellesmere and this purchaser were very close to completing this

transaction, which would have been subject to court approval. However, because a substantially better offer was received during these negotiations, Ellesmere exited with this potential purchaser and turned its attention to completing a deal with the Stalking Horse Purchaser.

F. Sales Process – Stalking Horse

41. On August 6, 2019, a group of interested parties arranged a phone call with Ellesmere and its counsel. The purpose of the phone call was to explore the possibility of the interested parties submitting an offer to purchase the Property. Ellesmere explained to this group that if they were interested they would have to submit an unconditional bid by the end of the week. Ellesmere also explained that the bid would be subject to a court supervised stalking horse sales process.

42. On August 9, 2019, CoStone Development Inc. and Campus Suites Inc. (together, the “**Stalking Horse Purchaser**”) submitted a firm offer to purchase the Property. Ellesmere and the Stalking Horse Purchaser negotiated from this firm offer and executed a binding unconditional agreement on August 19, 2019 (the “**Stalking Horse Purchase Agreement**”). A copy of the Stalking Horse Purchase Agreement is attached as **Exhibit “V”**.

43. The key terms of the Stalking Horse Purchase Agreement are summarized below. Defined terms referenced but not defined herein shall have the meaning provided for in the Stalking Horse Purchase Agreement. Key terms include:

- a. purchase of the Property on an as is, where is basis, for a purchase price of \$16,000,000 (the “**Purchase Price**”), which amount is to act as the net minimum recovery for the Property pursuant to the SISP;

- b. payment of \$1,600,000 as a deposit;
- c. authorization that Ellesmere is permitted to use a portion of the deposit to fund expenses explicitly noted in the approved Cash Flow Forecast (as defined below);
- d. an adjustment in favour of the Purchaser should the cost of any environmental remediation plan approved by the City of Toronto exceed \$2,000,000 in costs;
- e. conditions precedent that the Court issue an Approval and Vesting Order and that the Proposal Trustee declare the Stalking Horse Purchaser the winner of the SISP (collectively the "**Conditions**"); and
- f. a closing date that is ten days after the Conditions have been satisfied.

44. The Stalking Horse Purchaser has made an initial deposit of \$400,000 pursuant to the terms of the Stalking Horse Purchase Agreement. This initial deposit is currently held in trust by Cassels.

45. The Stalking Horse Purchase Agreement provides Ellesmere's creditors with a viable minimum recovery, while at the same time providing an opportunity to increase the sale price through the SISP (which is an exhibit to the Stalking Horse Purchase Agreement). Key terms of the SISP include:

- a. potential purchasers must submit Bids by no later than November 7, 2019 (the "**Bid Deadline**"); and
- b. for a potential bidder to qualify to participate in an auction they must submit a bid that:

- i. exceeds the Purchase Price, plus the Break Fee (\$400,000) and the First Overbid Increment (\$100,000);
 - ii. is unconditional and irrevocable; and
 - iii. pays a deposit that is 10% of the amount that they bid.

46. The Proposal Trustee will review all offers received by the Bid Deadline and determine whether an auction is necessary. If an auction is necessary, the Proposal Trustee will follow the auction guidelines as are described in the SISP.

47. The SISP will be directly overseen by the Proposal Trustee with assistance from the Sale Process Agent, the CRA and Ellesmere's management.

48. The combination of a material Purchase Price as a minimum value, together with the robust SISP will ensure that Ellesmere secures the highest possible return for the sale of the Property. This is particularly true given the substantial interest potential purchasers have shown in purchasing the Property.

G. Cash Flow Forecast and Use of Deposit

49. During their initial phone call, Ellesmere informed the Stalking Horse Purchaser that Ellesmere required use of a portion of the Deposit to fund the Proposal Proceedings. Ellesmere worked with the Proposal Trustee to develop a cash flow forecast that established anticipated cash inputs and cash outputs for the thirteen-week period following execution of the Stalking Horse Purchase Agreement (the "**Cash Flow Forecast**"). The Purchaser, the Proposal Trustee and Ellesmere worked together to understand the Cash Flow Forecast and the Purchaser has approved the same. A copy of the Cash Flow Forecast is attached as **Exhibit "W"**.

50. Pursuant to the terms of the Stalking Horse Purchase Agreement, Ellesmere is permitted to use a portion of the Deposit to fund those expenses explicitly noted in the Cash Flow Forecast. The expenses are restricted to professional fees, soft costs associated with the SISP and rent payments (the “**Permitted Expenses**”).

51. Ellesmere requires use of a portion of the Deposit to fund the sale of the Property. Ellesmere has no savings, no revenue and no other source of borrowing.

52. If the Stalking Horse Purchaser is the ultimate purchaser of the Property through the SISP, the Deposit (including amounts spent on the Permitted Expenses) will be credited towards the Purchase Price.

53. If the Stalking Horse Purchaser is not the ultimate purchaser of the Property through the SISP, Ellesmere shall repay the Deposit to the Stalking Horse Purchaser from the proceeds of sale of the Property. To ensure that the Deposit will be repaid, the Stalking Horse Purchaser has requested a charge on the Property, which ranks ahead of all creditors, except for the portion of the TCC Charge in favour of the First Mortgagee (the “**Deposit Charge**”).

54. Ellesmere’s use of the Deposit is critical to maximizing the sale price for the Property because it ensures funding for the SISP and the soft costs necessary to fully market the property.

55. The charge in favour of the Stalking Horse Purchaser is fair and reasonable in that it is necessary to secure the use of the Deposit through these proposal proceedings.

H. The Purchaser

56. Ellesmere is confident that the Purchaser is qualified to complete the transaction contemplated in the Stalking Horse Purchase Agreement (the “**Transaction**”). The

Stalking Horse Purchaser is an established, fully-integrated student housing developer. The Stalking Horse Purchaser has been involved in the development and management of student and conventional housing for over thirty years. The Stalking Horse Purchaser has both developed and managed over 13,900 student housing and conventional units.

57. The Stalking Horse Purchaser has developed or is in the process of developing projects in four provinces and nine U.S. states. The Stalking Horse Purchaser has five projects in Canada, including:

- a. The Quad, Toronto, Ontario: a 2,220 bed private, four phase on-campus development on York University land of which the first phase has been completed;
- b. The Hub, Calgary, Alberta: a 507 bed mixed-use project near the University of Calgary and the Southern Alberta Institute of Technology;
- c. The Arc, Winnipeg, Manitoba: a 551 bed mixed-use project near the University of Manitoba;
- d. Parc Cité, Montreal, Quebec: a completed 280 bed hotel conversion project near McGill University; and
- e. 1eleven, Ottawa, Ontario: a completed 442 bed hotel conversion near the University of Ottawa and City Hall.

I. Break Fee

58. The Break Fee is the amount payable to the Stalking Horse Purchaser pursuant to the Stalking Horse Purchase Agreement if a superior bidder wins the right to purchase the Property in accordance with the SISP. The Break Fee is \$400,000.

59. The Break Fee is reasonable in that:

- a. the Stalking Horse Purchaser has agreed to fund material costs associated with a then existing sale transaction that was very close to complete (subject to Court approval);
- b. the Stalking Horse Purchaser has incurred additional material costs associated with the Transaction, which costs were helpful in establishing the SISP;
- c. Cassels has advised me that the Break Fee, as a percentage, is within the usual and customary standards; and
- d. the Proposal Trustee supports the amount as fair and reasonable in the circumstances.

J. Decision to File the NOI and the Appointment of Proposal Trustee

60. As a result of Rise's failure to inject the necessary equity and advance the Project, including securing construction financing and commencing construction, Ellesmere was rendered insolvent. Worsening the circumstance is the fact that Rise takes the position that it's the aggrieved party to block Ellesmere from advancing joint venture discussions with alternative partners. This is the sole reason that Ellesmere is unable to advance the Project and was forced to initiate the Informal Sales Process and execute the Stalking Horse Purchase Agreement.

61. Given the restrictions imposed upon Ellesmere in relation to the 244 Judgment and Ellesmere's illiquidity, it became clear that the only path forward to selling the Property was through a Court-supervised process in an insolvency proceeding.

62. As such, Ellesmere made the decision to file the NOI. The NOI was filed on August 20, 2019. A copy of the NOI is attached as **Exhibit “X”**.

K. Chief Restructuring Advisor

63. To facilitate the Proposal Proceeding, Ellesmere seeks the appointment of FAAN as chief restructuring advisor of the company to provide financial, strategic and sales process advice to Ellesmere pursuant to the terms of a letter agreement dated September 11, 2019 (the “**CRA Agreement**”). Ellesmere has determined that FAAN’s restructuring expertise and experience will assist Ellesmere in successfully completing the SISP and maximizing returns to the company’s creditors. A redacted copy of the CRA Agreement will be the subject of a supplementary affidavit filed in advance of the return date of this motion. A copy of the unredacted CRA Agreement will be filed with the Court as **Confidential Exhibit “A”**. Ellesmere requests that this exhibit be sealed because it contains confidential information about FAAN’s hourly rates.

64. FAAN’s principals have over 20 years of business experience including crisis management, corporate reorganization, financial services, refinancing, and strategic planning. FAAN and its principals have been involved as chief restructuring advisor or financial advisor in numerous restructuring proceedings across Canada including, but not limited to, the proposal proceedings of BCBG Max Azria Canada Inc. and Green Earth Stores Limited, the receivership and *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (“**CCAA**”) proceedings of Bondfield Construction Company Ltd., the CCAA proceedings of Ben Moss Jewellers Western Canada Ltd., and the bankruptcy and proposal proceedings of Danier Leather Inc.

65. FAAN has significant real estate experience. FAAN Mortgage Administrators Inc., an affiliate of FAAN, has been appointed by the Court as trustee under the *Mortgage Brokerages, Lenders, and Administrators Act, 2006*, S.O. 2006, c. 29, as amended (the “**MBLAA**”) in the proceedings involving Building & Development Mortgages Canada Inc. (“**BDMC**”), to, *inter alia*, manage BDMC’s mortgage administration duties in respect of the syndicated mortgage loans involving approximately 45 projects located across Canada which are in varying stages of development.

66. FAAN’s proposed mandate as CRA in these proceedings includes assisting the Sales Process Agent and the Proposal Trustee in conducting a sales process for the Property, overseeing the preparation of cash flow forecasts and managing liquidity constraints, leading discussions with Ellesmere’s lenders and stakeholders, and contingency planning in respect of these restructuring proceedings as necessary and advisable.

67. Pursuant to the terms of the CRA Agreement, in exchange for FAAN’s services as CRA, Ellesmere has agreed to pay FAAN an hourly fee and its reasonable expenses that are incurred on behalf of Ellesmere. These expenses include necessary and customary out-of-pocket expenses such as fees for telephone usage, couriers, travel, mileage, meals and accommodations. It is a term of the CRA Agreement that FAAN be granted protection for its fees in the form of the Administration Charge.

68. The CRA Agreement is not effective unless and until the Court grants the order sought by Ellesmere herein.

69. The CRA appointment is necessary and for the ultimate benefit of Ellesmere’s stakeholders. The CRA has material experience with:

- a. overseeing sales processes with a view to maximizing value;
- b. updating, reporting and presenting critical information to the Court; and
- c. working with insolvency professionals, such as the Proposal Trustee, its counsel, the Court and the insolvency counsel that are likely to be retained by key stakeholders.

70. The CRA will permit me to focus my efforts on addressing the litigation between Rise and Ellesmere, which litigation and any monetary results therefrom, are for the ultimate benefit of creditors.

71. I have no experience in working through insolvency and restructuring proceedings. I am of the view that having an experienced CRA will ensure that SISP and the Proposal Proceedings are conducted in the usual, expected and customary way.

72. The CRA is being paid on an hourly basis. This will ensure that Ellesmere minimizes the expense of retaining the CRA while at the same time ensures that it has experienced advice to manage key insolvency and restructuring related events.

L. Sales Process Agent

73. In anticipation of conducting the SISP, Ellesmere met with three different real estate brokerage firms to discuss the opportunity: CBRE, Colliers International Canada and Avison Young.

74. Ultimately, Ellesmere selected Avison Young as the Sales Process Agent because of their significant experience in the commercial real estate market in Toronto, and their cost-effective proposal for the sale of the Property.

75. The terms of Ellesmere's retainer of Avison Young are still being negotiated and will be the subject of a supplementary affidavit in advance of the return of this motion.

M. Administration Charge

76. As part of these proceedings, the Proposal Trustee, counsel to the Proposal Trustee, Cassels, Harris Sheaffer LLP (“**Harris**”, real estate counsel for Ellesmere), and the CRA (with the Proposal Trustee and its counsel, Cassels and Harris, collectively, the “**Professional Group**”) are seeking an administrative charge in the maximum aggregate amount of \$500,000 against all of Ellesmere’s assets (“**Administration Charge**”).

77. The Professional Group is requesting that the Administration Charge rank ahead of all secured and unsecured creditors except for the portion of the TCC Charge in favour of the First Mortgagee and the Deposit Charge.

78. I believe that the Administration Charge is essential to a successful restructuring and a fair and transparent SISP.

79. The Professional Group will not continue to provide services in the proposal proceedings unless their reasonable fees and disbursements are secured by way of the proposed Administration Charge.

80. The quantum of the proposed Administration Charge is reasonable given the nature and scope of the services to be provided, the expected duration of the proposal proceedings, the anticipated duration of the Sale Process and the fees of that process, and Ellesmere’s inability to fund professional fees from free cash flow.

N. Proposal Period Extension

81. Ellesmere filed its Notice of Intention to make a proposal on August 20, 2019.

82. Given the expected time that the SISP requires, it is necessary to extend the stay of proceedings provided for by the BIA (the “**Stay of Proceedings**”). I propose that

Ellesmere be granted an extension of 43 days, such that the Stay of Proceedings shall expire on November 1, 2019 (the “**Stay Extension**”).

83. Ellesmere has and will continue to act in good faith and with due diligence.

84. Ellesmere intends to make a viable proposal to its creditors upon the completion of the SISP, if the Stay Extension is granted.

85. Ellesmere’s stakeholders, including its creditors, will all benefit from the Stay Extension for the primary reason that the additional time will permit the Proposal Trustee, Ellesmere and the Sales Process Agent to implement the SISP and ensure the maximization of value in the sale of the Property. The result is that no creditor is materially prejudiced if the Stay Extension is granted.

86. As noted above, Ellesmere prepared the Cash Flow Forecast with the assistance of the Proposal Trustee for the period ending December 30, 2019. This projected cash flow has been discussed at length by and between the Proposal Trustee and Ellesmere’s management.

87. Based on these discussions, Ellesmere’s management believes the projected cash flow will be sufficient for it to continue to operate during the proposed extension period.

O. Unit Purchaser Deposits

88. Although Ellesmere had sold 80% of the units in the Project by June 2014, Rise felt that a different design and revised Project should be pursued. However, Rise failed to complete the site plan revision and never commenced construction.

89. Due to the delay in construction, most purchasers have contacted Ellesmere over the past two years to cancel their agreements and request return of their deposits (the **“Return Purchasers”**).

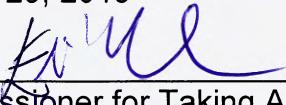
90. Ellesmere has honoured each request that it has received and refunded the Return Purchasers’ deposits.

91. As of the date of my affidavit \$1,321,784.15 in deposits are held in trust by Harris, Ellesmere’s real estate lawyers, in connection with the uncancelled sale of units in the Project.

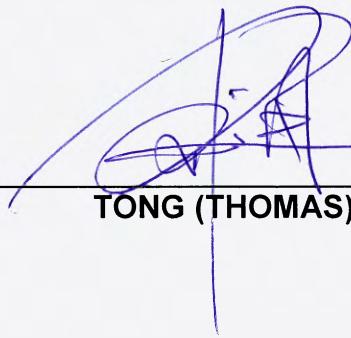
92. Ellesmere intends to continue to return all deposits to all purchasers who contact Ellesmere and request that their agreements of purchaser and sale be cancelled, and their deposits be returned.

93. Ellesmere intends to provide the Court with a further update and recommended course of action in connection with the uncancelled sale of units at a future hearing date.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on
August 29, 2019



Commissioner for Taking Affidavits



TONG (THOMAS) LIU

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 3070 ELLESmere DEVELOPMENTS INC.

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547832
Estate No.: 31-2547832

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVT

Cassels Brock & Blackwell LLP
2100 Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

Larry Ellis LSO #: 49313K
Tel: 416.869.5406
Fax: 416.262.3543
ellis@casselsbrock.com

Erin Craddock LSO #: 62828J
Tel: 416.860.6480
Fax: 416.644.9324
ecraddock@casselsbrock.com

Lawyers for 3070 Ellesmere Developments Inc.

This is Exhibit "A" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.



Commissioner for Taking Affidavits (or as may be)

Request ID: 023491217
 Transaction ID: 72810048
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/21
 Time Report Produced: 17:04:59
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date	
2402174	3070 ELLESmere DEVELOPMENTS INC.	2014/01/03	
		Jurisdiction	
		ONTARIO	
Corporation Type	Corporation Status	Former Jurisdiction	
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE	
Registered Office Address		Date Amalgamated	Amalgamation Ind.
TONG LIU 1600 16TH AVENUE		NOT APPLICABLE	NOT APPLICABLE
		New Amal. Number	Notice Date
RICHMOND HILL ONTARIO CANADA L4B 4N6		NOT APPLICABLE	NOT APPLICABLE
		Letter Date	
Mailing Address		NOT APPLICABLE	
TONG LIU 1600 16TH AVENUE		Revival Date	Continuation Date
		NOT APPLICABLE	NOT APPLICABLE
RICHMOND HILL ONTARIO CANADA L4B 4N6		Transferred Out Date	Cancel/Inactive Date
		NOT APPLICABLE	NOT APPLICABLE
		EP Licence Eff.Date	EP Licence Term.Date
		NOT APPLICABLE	NOT APPLICABLE
Activity Classification	Number of Directors	Date Commenced in Ontario	Date Ceased in Ontario
NOT AVAILABLE	Minimum Maximum	00001 00010	NOT APPLICABLE NOT APPLICABLE

Request ID: 023491217
Transaction ID: 72810048
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/21
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CORPORATION PROFILE REPORT

Ontario Corp Number

2402174

Corporation Name

3070 ELLESMERE DEVELOPMENTS INC.

Corporate Name History

3070 ELLESMERE DEVELOPMENTS INC.

Effective Date

2014/01/03

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

NO

**Administrator:
Name (Individual / Corporation)**

TONG

LIU

Address

225 GREENFIELD AVENUE

NORTH YORK
ONTARIO
CANADA M2N 3E2**Date Began**

2014/01/03

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type**Resident Canadian**

Y

Request ID: 023491217
 Transaction ID: 72810048
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/21
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CORPORATION PROFILE REPORT

Ontario Corp Number

2402174

Corporation Name

3070 ELLESMERE DEVELOPMENTS INC.

Administrator:

Name (Individual / Corporation)

TONG

LIU

Address

225 GREENFIELD AVENUE

NORTH YORK
 ONTARIO
 CANADA M2N 3E2

Date Began

2014/01/03

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian

Y

Administrator:

Name (Individual / Corporation)

TONG

LIU

Address

225 GREENFIELD AVENUE

NORTH YORK
 ONTARIO
 CANADA M2N 3E2

Date Began

2014/01/03

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

SECRETARY

Resident Canadian

Y

Request ID: 023491217
Transaction ID: 72810048
Category ID: UN/E

Province of Ontario
Ministry of Government Services

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CORPORATION PROFILE REPORT

Ontario Corp Number

2402174

Corporation Name

3070 ELLESMERE DEVELOPMENTS INC.

Administrator:**Name (Individual / Corporation)**

TONG

Address

LIU

225 GREENFIELD AVENUE

NORTH YORK
ONTARIO
CANADA M2N 3E2**Date Began**

2014/01/03

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

TREASURER

Resident Canadian

Y

Request ID: 023491217
Transaction ID: 72810048
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/21
Time Report Produced: 17:04:59
Page: 5

CORPORATION PROFILE REPORT

Ontario Corp Number

2402174

Corporation Name

3070 ELLESMERE DEVELOPMENTS INC.

Last Document Recorded

Act/Code Description	Form	Date
CIA CHANGE NOTICE	1	2018/02/12 (ELECTRONIC FILING)

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

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

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

This is Exhibit "B" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Rin Liu".

Commissioner for Taking Affidavits (or as may be)



PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

 PAGE 1 OF 6
 PREPARED FOR cbrewster
 ON 2019/08/22 AT 12:42:51

LAND

REGISTRY

OFFICE #66

06186-0033 (LT)

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

PROPERTY DESCRIPTION: PCL J-1 SECT M1227 BLK J PLAN 66M1227, CITY OF TORONTO

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE

ABSOLUTE

 RECENTLY
 FIRST CONVERSION FROM BOOK

 PIN CREATION DATE:
 1991/02/25

 OWNERS' NAMES
 3070 ELLIISHERE DEVELOPMENTS INC.

CAPACITY

SHARE

REG. NO.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
EFFECTIVE 2000/01/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1991/02/25 ON THIS PIN						
** WAS REPLACED WITH THE "PIN CREATION DATE" OF 1991/02/25 **						
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1991/01/05 **						
NOTE: THE NO DEALINGS INDICATOR IS IN EFFECT ON THIS PROPERTY						
A244876 1968/07/04 NOTICE AGREEMENT						
A256117 1968/12/03 BY LAW						
A310002 1971/02/03 TRANSFER						
A659220 1977/11/24 NOTICE OF LEASE						
A773362 1979/06/18 NOTICE AGREEMENT						
66R4105 1979/07/04 PLAN REFERENCE REMARKS: A778-58						
A903759 1981/02/11 CHARGE						
C525147 1988/12/01 CHARGE						
C525148 1988/12/01 NOTICE						
REMARKS: C525147						
C567536 1989/05/23 NOTICE						

 NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
 NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND

REGISTRY
OFFICE #66PAGE 2 OF 6
PREPARED FOR cbrewster
ON 2019/08/22 AT 12:42:51

06186-0033 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHRD
REMARKS: C525147						
C756875	1992/01/27	NOTICE OF LEASE		*** COMPLETELY DELETED *** NORFINCH CONSTRUCTION (TORONTO) LIMITED		MDS HEALTH GROUP LIMITED
C757583	1992/01/30	POSTPONEMENT		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		THE MANUFACTURERS LIFE INSURANCE COMPANY
REMARKS: A903759 TO C525148				*** COMPLETELY DELETED *** NORFINCH CONSTRUCTION (TORONTO) LIMITED		THE MANUFACTURERS LIFE INSURANCE COMPANY
C763495	1992/03/06	NOTICE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		THE MANUFACTURERS LIFE INSURANCE COMPANY
REMARKS: C525147				*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		THE MANUFACTURERS LIFE INSURANCE COMPANY
C763496	1992/03/06	POSTPONEMENT		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		THE MANUFACTURERS LIFE INSURANCE COMPANY
REMARKS: A903759 TO C525147				*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		THE MANUFACTURERS LIFE INSURANCE COMPANY
E454999	2001/09/12	DISCH OF CHARGE		*** COMPLETELY DELETED *** NORFINCH CONSTRUCTION (CANADA) LIMITED		THE NORFINCH GROUP INC.
REMARKS: RE: A903759				*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		THE MANUFACTURERS LIFE INSURANCE COMPANY
E514723	2002/03/05	APL CH NAME OWNER		*** COMPLETELY DELETED *** NORFINCH CONSTRUCTION (CANADA) LIMITED		THE NORFINCH GROUP INC.
REMARKS: RE: A310092		NOTICE		*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		THE MANUFACTURERS LIFE INSURANCE COMPANY
E515405	2002/03/07			*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		THE MANUFACTURERS LIFE INSURANCE COMPANY
REMARKS: C525147, C525148, C567536 & C763495				*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		THE MANUFACTURERS LIFE INSURANCE COMPANY
AT415392	2004/02/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE MANUFACTURERS LIFE INSURANCE COMPANY		THE MANUFACTURERS LIFE INSURANCE COMPANY
REMARKS: RE: C525147				*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		THE NORFINCH GROUP INC.
AT755017	2005/03/16	APL (GENERAL)		*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		THE NORFINCH GROUP INC.
REMARKS: DELETE A659220				*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		THE NORFINCH GROUP INC.
AT755018	2005/03/16	APL (GENERAL)		*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		THE NORFINCH GROUP INC.
REMARKS: DELETE C756875				*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		THE NORFINCH GROUP INC.
AT755225	2005/03/16	TRANSFER		*** COMPLETELY DELETED *** THE NORFINCH GROUP INC.		1060420 ONTARIO LIMITED

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

LAND
REGISTRY
OFFICE #66
REMARKS: 06186-0033 (LT)
* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PAGE 3 OF 6
PREPARED FOR cbrewster
ON 2019/08/22 AT 12:42:51

REG. NUM.

DATE

INSTRUMENT TYPE

AMOUNT

PARTIES FROM

PARTIES TO

CERT/ CHKD

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
AT755279	2005/03/16	TRANSFER		*** COMPLETELY DELETED *** 1060420 ONTARIO LIMITED	BERKLEY HOMES (ELLESMORE) INC.	
AT867125	2005/07/21	CHARGE		*** COMPLETELY DELETED *** BERKLEY HOMES (ELLESMORE) INC.	LEE-NAC ONTARIO FIVE INC.	
AT1453979	2007/05/25	TRANSFER REL&BAND		*** COMPLETELY DELETED *** CITY OF TORONTO	BERKLEY HOMES (ELLESMORE) INC.	
AT1963338	2008/12/04	CHARGE		*** COMPLETELY DELETED *** BERKLEY HOMES (ELLESMORE) INC.	ELMO & CO. INC.	
AT1966347	2008/12/04	POSTPONEMENT		*** COMPLETELY DELETED *** LEE-MAC ONTARIO FIVE INC.	ELMO & CO. INC.	
REMARKS: AT1967125	POSTPONES AT1963338			*** COMPLETELY DELETED *** BERKLEY HOMES (ELLESMORE) INC.	MACHAN, LINDSAY	
AT1974825	2008/12/16	CHARGE		*** COMPLETELY DELETED *** NACHAN, LINDSAY		
AT2209052	2009/10/22	DISCH OF CHARGE		*** COMPLETELY DELETED *** BERKLEY HOMES (ELLESMORE) INC.	2259098 ONTARIO INC.	
REMARKS: AT1974825.				*** COMPLETELY DELETED *** BERKLEY HOMES (ELLESMORE) INC.		
AT2618935	2011/02/10	TRANSFER		*** COMPLETELY DELETED *** 2259098 ONTARIO INC.	BERKLEY HOMES (ELLESMORE) INC.	
AT2618936	2011/02/10	CHARGE		*** COMPLETELY DELETED *** LEE-MAC ONTARIO FIVE INC.		
AT2618970	2011/02/10	DISCH OF CHARGE		*** COMPLETELY DELETED *** ELMO & CO. INC.		
REMARKS: AT867125.				*** COMPLETELY DELETED *** BERKLEY HOMES (ELLESMORE) INC.		
AT2618972	2011/02/10	DISCH OF CHARGE		*** COMPLETELY DELETED *** 3070 ELLESMORE DEVELOPMENTS INC.		
REMARKS: AT1964338.						
AT3505661	2014/01/24	TRANS POWER SALE	\$1,900,000	BERKLEY HOMES (ELLESMORE) INC.		
REMARKS: AT2618936.						

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 4 OF 6
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ON 2019/08/22 AT 12:42:51

LAND

REGISTRY

OFFICE #66

06186-0033 (LT)

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
AT386656	2015/04/29	CHARGE		*** COMPLETELY DELETED *** 3070 ELLESmere DEVELOPMENTS INC. *** COMPLETELY DELETED *** KCP MANAGEMENT INC.	CAMERON STEPHENS FINANCIAL CORPORATION	C
AT4090567	2015/12/09	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** KCP MANAGEMENT INC.	LEMINE REAL ESTATE CONSULTING INC. LEMINE CONSTRUCTION INC. 3070 ELLESmere DEVELOPMENTS INC.	
AT4104006	2015/12/23	CERTIFICATE		*** COMPLETELY DELETED *** KCP MANAGEMENT INC.	CAMERON STEPHENS FINANCIAL CORPORATION	
REMARKS: AT4090567				AT4343080 2016/09/15 CHARGE \$5,000,000 3070 ELLESmere DEVELOPMENTS INC.	TORONTO CAPITAL CORP. 247888 ONTARIO INC. 1220356 ONTARIO LIMITED TENEBAUM, LARRY 768124 ONTARIO INC. TARAGAR HOLDINGS LIMITED HOWIECO ENTERTAINMENT INC. MISIM INVESTMENTS LIMITED C.H.B.P. INVESTMENTS INC. THE SALZ CORPORATION USHER, RANDI SONE, ELLEN APPEL, AUBRIE APPEL, GAIL SONE, LAWRENCE	C
				AT4343088 2016/09/15 NO ASSIGN RENT GEN	TORONTO CAPITAL CORP. 247888 ONTARIO INC. 1220356 ONTARIO LIMITED TENEBAUM, LARRY 768124 ONTARIO INC. TARAGAR HOLDINGS LIMITED HOWIECO ENTERTAINMENT INC. MISIM INVESTMENTS LIMITED C.H.B.P. INVESTMENTS INC. THE SALZ CORPORATION USHER, RANDI SONE, ELLEN APPEL, AUBRIE APPEL, GAIL	C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 5 OF 6
PREPARED FOR cbrewster
ON 2019/08/22 AT 12:42:51

LAND

REGISTRY

OFFICE #46

06186-0033 (LT)
* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
AT4511551	2017/03/15	CHARGE	\$2,000,000	3070 ELLISMEDE DEVELOPMENTS INC. *** COMPLETELY DELETED *** KCP MANAGEMENT INC.	SONE, LAWRENCE 2518358 ONTARIO INC.	C
AT4525474	2017/03/31	APL DEL CONST LIEN				
AT4767544	2017/12/22	CAUTION-LAND		*** COMPLETELY DELETED *** 3070 ELLISMEDE DEVELOPMENTS INC.	2518358 ONTARIO INC.	C
AT4783874	2018/01/26	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** 2518358 ONTARIO INC.		
AT4816981	2018/03/07	CERTIFICATE		*** COMPLETELY DELETED *** 2518358 ONTARIO INC.		
AT4868408	2018/05/18	TRANSFER OF CHARGE		TORONTO CAPITAL CORP. 247888 ONTARIO INC. 1220356 ONTARIO LIMITED TENEBAUM, LARRY 768124 ONTARIO INC. TARGAR HOLDINGS LIMITED HOWIECO ENTERTAINMENT INC. MISIM INVESTMENTS LIMITED C.H.B.P. INVESTMENTS INC. THE SALZ CORPORATION USHER, RANDI SONE, ELLEN APPEL, AUBRIE APPEL, GAYL SONE, LAWRENCE	247888 ONTARIO INC.	C
AT4868438	2018/05/22	NO ASSIGN RENT GEN			247888 ONTARIO INC.	

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND
REGISTRY
OFFICE #66
06186-0033 (LT)
* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
AT4895530	2018/06/27	APL DEL CONST LIEN		HOTECO ENTERTAINMENT INC. MISIM INVESTMENTS LIMITED C. H. B. P. INVESTMENTS INC. THE SALZ CORPORATION USHER, RANDI SONE, EILEEN APPEL, AURIE APPEL, GAIL SONE, LAWRENCE		
REMARKS: AT4343080				*** COMPLETELY DELETED ***		
REMARKS: AT4789874.				3070 ELLESmere DEVELOPMENTS INC.		
AT4895500	2018/06/28	APL COURT ORDER		*** COMPLETELY DELETED ***		
REMARKS: AT3866856.				SUPERIOR COURT OF JUSTICE ONTARIO		
AT4978494	2018/10/10	DISCH OF CHARGE		*** COMPLETELY DELETED ***		
REMARKS: AT3866856.				CARMERON STEPHENS FINANCIAL CORPORATION		
AT5022246	2018/12/03	CHARGE	\$1,000,000	3070 ELLESmere DEVELOPMENTS INC.		
AT5034672	2018/12/14	APL AMEND ORDER		*** COMPLETELY DELETED ***		
REMARKS: AT4696500				ONTARIO SUPERIOR COURT OF JUSTICE		
AT5053775	2019/01/16	NOTICE		\$2 3070 ELLESmere DEVELOPMENTS INC.		
REMARKS: AT5022246				DU, XIHONG CHEN, YUNDUAN XU, GUOHUA		
AT5070485	2019/02/04	APL (GENERAL)		ONTARIO SUPERIOR COURT OF JUSTICE		
REMARKS: CERTIFICATE PENDING LITIGATION				2449880 ONTARIO INC.		
AT5101901	2019/03/26	RESTRICTIONS ORDER		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY		
AT5156441	2019/06/12	LIEN	\$299,137	THE MINISTER OF NATIONAL REVENUE		
REMARKS: TAX LIEN						

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This is Exhibit "C" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.



Commissioner for Taking Affidavits (or as may be)

Request ID: 023490375
 Transaction ID: 72808076
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/21
 Time Report Produced: 15:33:33
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date	
2518358	2518358 ONTARIO INC.	2016/05/13	
Jurisdiction			
ONTARIO			
Corporation Type	Corporation Status	Former Jurisdiction	
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE	
Registered Office Address		Date Amalgamated	Amalgamation Ind.
1400 CORNWALL ROAD Suite # 11 OAKVILLE ONTARIO CANADA L6J 7W5		NOT APPLICABLE	NOT APPLICABLE
Mailing Address		New Amal. Number	Notice Date
NOT AVAILABLE		NOT APPLICABLE	NOT APPLICABLE
		Revival Date	Continuation Date
		NOT APPLICABLE	NOT APPLICABLE
		Transferred Out Date	Cancel/Inactive Date
		NOT APPLICABLE	NOT APPLICABLE
		EP Licence Eff.Date	EP Licence Term.Date
		NOT APPLICABLE	NOT APPLICABLE
Activity Classification		Number of Directors Minimum Maximum	Date Commenced in Ontario Date Ceased in Ontario
NOT AVAILABLE		00001 00010	NOT APPLICABLE NOT APPLICABLE

Request ID: 023490375
Transaction ID: 72808076
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/21
Time Report Produced: 15:33:33
Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number

2518358

Corporation Name

2518358 ONTARIO INC.

Corporate Name History

2518358 ONTARIO INC.

Effective Date

2016/05/13

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

NO

Administrator:
Name (Individual / Corporation)

STACEY

CIANCONE

Address

611 TRADEWIND DRIVE
Suite # 300
ANCASTER
ONTARIO
CANADA L9G 4V5

Date Began

2016/05/13

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type**Resident Canadian**

Y

Request ID: 023490375
Transaction ID: 72808076
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/21
Time Report Produced: 15:33:33
Page: 3

CORPORATION PROFILE REPORT

Ontario Corp Number

2518358

Corporation Name

2518358 ONTARIO INC.

Administrator:**Name (Individual / Corporation)**

STACEY

CIANCONE

Address

611 TRADEWIND DRIVE
Suite # 300
ANCASTER
ONTARIO
CANADA L9G 4V5

Date Began

2016/05/13

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian**Administrator:****Name (Individual / Corporation)**

STACEY

CIANCONE

Address

611 TRADEWIND DRIVE
Suite # 300
ANCASTER
ONTARIO
CANADA L9G 4V5

Date Began

2016/05/13

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

SECRETARY

Resident Canadian

Request ID: 023490375
Transaction ID: 72808076
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/21
Time Report Produced: 15:33:33
Page: 4

CORPORATION PROFILE REPORT

Ontario Corp Number**Corporation Name**

2518358

2518358 ONTARIO INC.

Last Document Recorded

Act/Code Description	Form	Date
CIA ANNUAL RETURN 2018	1C	2019/07/14 (ELECTRONIC FILING)

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

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

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

This is Exhibit "D" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.



Thomas Liu
Commissioner for Taking Affidavits (or as may be)

JOINT VENTURE AGREEMENT

THIS AGREEMENT made as of the 1st day of May, 2016.

B E T W E E N:

2518358 ONTARIO INC.

(hereinafter referred to as "Rise")

- and -

3070 ELLESMERE DEVELOPMENTS INC.

(hereinafter referred to as "Ellesmere")

WHEREAS Rise and Ellesmere have agreed to form a joint venture for the purpose of a marketing, sale and construction of proposed residential condominium and student housing project on the lands legally described as Parcel J-1, Section M-1227, being Block J, Plan 66M-1227, City of Toronto.

AND WHEREAS the Joint Venturers are uniting in their efforts not for the purpose of creating a partnership but rather with a view to carry out, together, a joint project;

NOW THEREFORE in consideration of the mutual covenants of the parties hereto, hereinafter contained, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions. For the purposes of this Agreement, except as otherwise expressly provided herein or unless the context otherwise requires, the following terms shall have the meanings set forth below:

"Additional Equity Contribution" shall have the meaning ascribed thereto in Section 3.4.

"Affiliate" shall have the meaning ascribed thereto in the *Business Corporations Act* (Ontario).

"Agreement" shall mean this agreement, as the same may be amended from time to time by the parties hereto.

"Alternate" shall have the meaning ascribed thereto in Section 5.3 herein.



“Business Day” shall mean any day on which banks are generally open for business in the City of Toronto, Ontario other than Saturday, Sunday or any statutory or civic holiday observed in the City of Toronto, Ontario.

“Cash Surplus” shall have the meaning ascribed thereto in Section 4.2.

“Chairman” shall have the meaning ascribed thereto in Section 5.7.

“Contribution Notice” shall have the meaning ascribed thereto in Section 3.4.

“Default Loan” shall have the meaning ascribed thereto in Section 8.2.

“Defaulter” shall mean a Joint Venturer in respect of which an Event of Default has occurred and is continuing.

“Event of Default” shall mean, when used in relation to a Joint Venturer, that:

- (a) a Joint Venture Interest is no longer owned by such Joint Venturer or its Affiliate;
- (b) such Joint Venturer fails to make an Additional Equity Contribution pursuant to Sections 3.1 or 3.4;
- (c) such Joint Venturer shall have defaulted in the observance of its covenant in Section 7.1(2) and shall have failed to cure such default within 15 days after receipt by such Joint Venturer of a written notice from the Management Committee or from any other Joint Venturer asking it to cure such default;
- (d) such Joint Venturer shall have defaulted, for any reason other than Unavoidable Delay, in the observance or performance of any of its other covenants and obligations under or by virtue of this Agreement not otherwise referred to in this definition; and
 - (A) if such default can with due diligence be cured within 15 days, such Joint Venturer does not cure such default within 15 days after receipt by such Joint Venturer of a written notice from the Management Committee or from any other Joint Venturer asking it to cure such default; or
 - (B) if such default cannot with due diligence be cured within 15 days, such Joint Venturer does not promptly commence and proceed with due diligence to cure such default as soon as is reasonably possible and, in any event, within 45 days after receipt by the Joint Venturer of a written notice from the Management Committee or from any other Joint Venturer asking it to cure such default.

“Event of Insolvency” shall mean, when used in relation to a Joint Venturer, that:

- (a) a resolution is passed or an order is made for the winding-up, liquidation, revocation or cancellation of incorporation of such Joint Venturer except as



part of a *bona fide* reorganization which is not otherwise prohibited under this Agreement or a petition is filed for the winding-up, liquidation, revocation or cancellation of incorporation of such Joint Venturer, unless such petition is being disputed in good faith by appropriate proceedings and such proceedings effectively postpone enforcement of such petition;

- (b) such Joint Venturer is adjudged or declared bankrupt or insolvent or makes an assignment for the benefit of its creditors, or petitions or applies to any tribunal for the appointment of a receiver or trustee for it or for any substantial part of its property, or commences any proceedings relating to it under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereinafter in effect relating to or governing debtors or by any act indicates its consent to, approval of, or acquiescence in, any such proceeding for it or for any substantial part of its property, or suffers the appointment of any receiver or trustee and any such appointment continues undischarged and in effect for a period of 30 days;
- (c) a trustee in bankruptcy, liquidator, receiver or other officer with like powers is appointed for such Joint Venturer, for all or a substantial part of the assets of such Joint Venturer or for such Joint Venturer's Joint Venture Interest, unless the appointment of such trustee in bankruptcy, liquidator, receiver or other officer with like powers is being disputed in good faith and such proceedings effectively postpone enforcement of such appointment; or
- (d) if a writ, execution or attachment or similar process is issued or levied against all or a substantial portion of the property of the Joint Venturer or against the Joint Venture Interest of the Joint Venturer and such writ, execution, attachment or similar process is not released, bonded, satisfied, discharged, vacated or stayed within 30 days after its entry, commencement or levy unless such writ, execution, attachment or similar process is not specifically against the Joint Venture Interest of the Joint Venturer and the Joint Venturer shall have deposited with the court or appropriate trustee or escrow agent as security for the payment thereof in full, adequate sums of money (if required) and be contesting same in good faith.

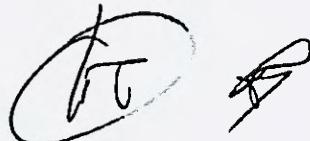
“Financial Requirements” shall have the meaning ascribed thereto in Section 3.4.

“Financing Rate” shall have the meaning ascribed thereto in Section 3.2

“Gross Receipts” shall have the meaning ascribed thereto in Section 4.2.

“Improvements” shall mean all buildings, structures, equipment, appurtenances, facilities, fixed improvements, fixtures and equipment and other improvements now or hereafter located, constructed or installed on the Lands or any portion thereof and all modifications, alterations, additions or improvements thereto.

“includes” shall mean includes, without limitation; and “including” shall mean including without limitation.

A photograph of two handwritten signatures in black ink. The signature on the left appears to be "J. T." and the signature on the right appears to be "F. S." They are written in a cursive, flowing style.

"Indemnitee" shall have the meaning ascribed thereto in Section 2.9.

"Indemnitor" shall have the meaning ascribed thereto in Section 2.9.

"Interest Rate" shall mean, at any time, a rate of interest which is equal to the rate charged by the Prime Rate plus five (5%) adjusted daily with each corresponding change in such interest rate, if any, and compounded monthly.

"Joint Venture" shall mean the Joint Venture established by this Agreement.

"Joint Venture Interest" shall mean, when used in relation to a Joint Venturer, all such Joint Venturer's right, title and interest in and to the Joint Venture contemplated by this Agreement.

"Joint Venturers" shall mean, collectively, Rise and Ellersmere and **"Joint Venturer"** shall mean either one of them.

"Lands" shall mean the lands legally described as Parcel J-1, Section M-1227, being Block J, Plan 66M-1227, City of Toronto.

"Major Decisions" shall have the meaning ascribed thereto in Section 5.2.

"Management Agreement" shall mean the management agreement contemplated in Section 2.15 herein.

"Management Committee" shall mean the management committee established pursuant to Article 5.

"Non-Defaulter" shall have the meaning ascribed thereto in Section 8.1.

"Notice" shall have the meaning ascribed thereto in Section 9.1.

"Operations" shall mean the high rise residential construction activities with respect to the Property.

"or" used in relation to more than one item items shall mean any of the following: one item, a combination of the items, all of the items, unless specifically indicated otherwise.

"Permitted Encumbrances" shall mean all mortgages, pledges, liens, charges, assignments, municipal agreements, easements and other encumbrances that may be approved by the Management Committee from time to time including security for any Third Party Financing and renewals thereof.

"Person" shall mean a natural person, firm, trust, partnership, association, corporation, government or governmental board, agency or authority.

"Personal Property" shall mean all of the Property that is not real property.

"Prime Rate" shall mean at any time the rate of interest per annum then most recently announced by the Joint Venture's bank at its head office branch in Toronto, Ontario as its



prime rate or reference rate of interest for unsecured commercial loans in Canadian funds payable on demand.

“Project” shall mean a residential condominium and studio housing project to be built on the Lands pursuant to the Project Documents or as otherwise approved by the Management Committee.

“Project Documents” shall mean the

- (a) Altus Report prepared in respect to the Project; and
- (b) the terms set out in Schedule “A” attached hereto.

for the furtherance of the Project, material changes to which must be approved by the Management Committee.

“Property” shall mean:

- (a) the Lands;
- (b) the Improvements;
- (c) the Project; and
- (d) any and all other property acquired, constructed, drafted, written or entered into in connection with the Lands, Improvements or Project, whether real or personal, and whether tangible or intangible, including any leases, agreements of purchase and sale, studies, plans, drawings and specifications, approvals and documents as applicable by the Nominee, Joint Venture, or either of the Joint Venturers.

“Representative” shall have the meaning ascribed thereto in Section 5.3.

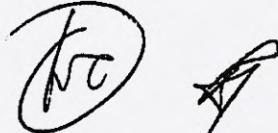
“Share” shall mean, with respect to a Joint Venturer, the proportion of the Joint Venture Interest of such Joint Venturer being:

Rise	50%
Ellesmere	50%

“Signing Officers” shall mean those parties appointed by the Joint Venturers from time to time.

“Tarion” shall mean Tarion Warranty Corporation.

“Tenancy Interest” shall mean, when used in relation to a Joint Venturer, all such Joint Venturer’s right, title and interest in and to the Joint Venture contemplated by this Agreement.



"Third Party Financing" shall have the meaning ascribed thereto in Section 3.2.

"Time of Closing" shall mean 11:00 a.m., Toronto time, or such other time on the Date of Closing or as the Vendor and Purchaser may agree upon in writing.

"Transfer" shall have the meaning ascribed thereto in Section 7.1(1).

"Transferee" shall have the meaning ascribed thereto in Section 7.4.

"Unavoidable Delay" shall mean a delay in the performance of an act or compliance with a covenant caused by an act of God, fire, strike, lockout, inability to obtain or delay in obtaining (which is not reasonably within the control of the party obliged to perform or comply) material, equipment or transport, inability to obtain or delay in obtaining (which is not reasonably within the control of the party obliged to perform or comply) governmental approvals, permits, licences or allocations, restrictive laws or governmental regulations or any other cause, whether of the kind specifically enumerated above or not, which is not reasonably within the control of the party obliged to comply or perform, but does not mean a delay caused by lack of funds or other financial reasons of a party.

1.2 Currency. All payments contemplated herein shall be made in Canadian funds.

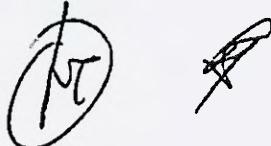
1.3 Gender and Number. Words importing the singular number only shall include the plural, and *vice versa*, and words importing the masculine gender shall include the feminine gender and neutral gender and words importing Persons shall include firms and corporations, and *vice versa*.

1.4 Headings. The division of this Agreement into Articles, Sections and Subsections and any headings thereof are for convenience of reference only and shall not affect the interpretation or construction of this Agreement.

1.5 Calculation of Time Periods. Unless specified to the contrary, when calculating the period of time within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next following Business Day.

1.6 Applicable Law. This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract. Each of the parties hereto irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.

1.7 Severable. If any covenant, obligation, agreement and provision contained in this Agreement or the application thereto to any Person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation, agreement and provision to Persons or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each covenant, obligation, agreement and provision of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law. The parties agree that they would have signed this Agreement without such invalid or unenforceable part included herein.



1.8 Entire Agreement. This Agreement together with the Management Agreement, constitutes the entire agreement between the parties relating to the Joint Venture, the Property and the Operations and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, among the parties with respect thereto, except as specifically referred to or contemplated herein.

1.9 Amendments. No amendment or modification of this Agreement shall be binding unless made in writing and signed by the parties hereto.

1.10 Waiver. No waiver by a Joint Venturer of any breach of any of the provisions of this Agreement by the Joint Venturer shall take effect or be binding upon the party unless in writing and signed by such Joint Venturer. Unless otherwise provided therein, such waiver shall not limit or affect the rights of the Joint Venturer with respect to any other breach or any other rights of the Joint Venturer provided herein.

1.11 Time of Essence. Time shall be of the essence of this Agreement.

1.12 Statutes. Any reference to a statute includes and is a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing or superseding such statute or such regulations.

1.13 Successors and Assigns. Subject to the provisions of Article 7, this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

ARTICLE 2 THE JOINT VENTURE

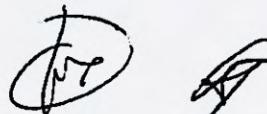
2.1 Establishment of the Joint Venture. The Joint Venturers agree to market, sell and construct the Project in accordance with the terms of this Agreement and to cause the Improvements to be constructed on the Lands in accordance with the Project Documents as shall be approved in accordance with the terms of this Agreement.

2.2 Name of the Joint Venture. The name of the Joint Venture shall be the Academy Joint Venture or such other name as determined by the Management Committee. The name shall not be used by any Joint Venturer other than in connection with the affairs of the Joint Venture.

2.3 Registration of Name. The Joint Venturers shall effect such registrations with respect to the name of the Joint Venture as may be necessary or desirable to preserve their ownership right in the name of the Joint Venture and to ensure use of the name solely in connection with the Joint Venture.

2.4 Term.

- (1) This Agreement is effective from and after the date hereof.
- (2) This Agreement shall continue in full force and effect until the later of the date (the "Termination Date") that all of the residential dwelling units forming part of the



Project have been sold and the date that final settlement has been made among the Joint Venturers in accordance with Section 2.4(3).

(3) On or as soon after the Termination Date as is practical the Joint Venturers shall make a final settlement among themselves to the end that, subject to Sections 2.9 and 5.22, or any other indemnity set out herein, the Joint Venturers shall have shared all of the rights and benefits and borne all of the liabilities and obligations of the Joint Venture in accordance with their respective Shares, provided that any distribution of funds shall be made only in accordance with Section 4.1 or such other provisions of this Agreement which speak to the distribution to be made pursuant to Article 4.

2.5 Assignment Agreement. If a transfer of a Tenancy Interest occurs then the parties shall, at the request of any of the Joint Venturers, at any time and from time to time, enter into an assignment pursuant to which the Transferee shall agree to assume the obligations of the Joint Venturer transferring its Tenancy Interest and shall contain a provision to the same effect as this Section 2.5. Such assignment agreement shall not release any Joint Venturer from any obligations existing prior to the date of the execution of the assignment agreement.

2.6 Shares. Unless otherwise agreed in writing by the parties, the Joint Venture Interest of each Joint Venturer in each and every asset and property, whether real or personal, tangible or intangible, now owned or hereafter acquired by the Joint Venturers in respect of the Property shall be equal to its Share.

2.7 Not a Partnership. Nothing in this Agreement shall be construed to constitute any of the Joint Venturers a partner, agent or representative of the other or to create any trust or any commercial or other partnership, other than the relationship specifically defined and created herein.

2.8 No Authority to Bind. Except as expressly provided in this Agreement, a Joint Venturer shall not have any authority to bind any other Joint Venturer nor shall any Joint Venturer be responsible or liable for any indebtedness, liability or obligation of any other Joint Venturer incurred or arising either before or after the date hereof, except as to those joint responsibilities, liabilities and obligations expressly assumed by the Joint Venturers as of the date hereof or incurred after the date hereof pursuant to and limited by the terms of this Agreement.

2.9 Indemnification for Unauthorized Acts. Each Joint Venturer (the "Indemnitor") hereby irrevocably and unconditionally undertakes and agrees to indemnify and save harmless each other Joint Venturer (the "Indemnitee") from and against any and all liability, loss, harm, damage, cost or expense, including legal fees (a "Loss"), which the Indemnitee may suffer, incur or sustain as a result of any act of the Indemnitor outside the scope of or in breach of this Agreement which act or activity is not contemplated within the scope of the Project Documents or which is not agreed to in writing by each Joint Venturer.

2.10 Rights and Liabilities of Joint Venturers. Subject to Sections 2.9 and 5.22, each Joint Venturer shall be liable only for its Share of the liabilities and obligations of the Joint Venturers under any agreements made by the Joint Venture with respect to the Property or Operations and shall not be liable for any other Joint Venturer's Share of such liabilities and obligations. Each Joint Venturer shall be entitled only to its Share of the rights and benefits of the Joint Venturers

under any such agreements. Each Joint Venturer hereby agrees to indemnify and save harmless each other Joint Venturer from and against any and all amounts, claims, demands, liabilities or obligations whatsoever in excess of the Share of such Joint Venturer which have been incurred by such Joint Venturer as a result of or in relation to the Property or Operations.

2.11 Other Activities.

- (1) Subject to Section 2.13, any Joint Venturer may engage in, or hold an interest in, any other business, venture, investment, activity or property, whether or not similar to or competitive with the business and properties of the Joint Venture, including the Project, and no Joint Venturer shall be required to account to or shall be liable to any other Joint Venturer;
- (2) A Joint Venturer shall not, by reason of this Agreement, be deemed to have any interest in any other business or venture engaged in by any other Joint Venturer.
- (3) No Joint Venturer or any officer, director or shareholder of a Joint Venturer shall be required to devote any particular amount of time or attention to the Joint Venture, save as otherwise provided herein, but each Joint Venturer shall cause its officers or employees to devote such time and attention thereto as shall be necessary to permit the effective ownership of the Property and the Operations in connection therewith.

2.12 Performance by Joint Venturers.

Each Joint Venturer hereby represents and warrants that it has full power, authority and legal right to enter into and be bound by this Agreement and covenants and agrees:

- (1) to promptly notify each other Joint Venturer of all material matters coming to the attention of such Joint Venturer concerning any aspect of the Lands, Property, the Operations or any other activity governed by this Agreement;
- (2) to punctually execute and deliver, or cause to be executed and delivered, such instruments as may from time to time be required in order to carry out the purposes of the Joint Venture; and
- (3) to punctually pay and discharge its separate and several debts and liabilities due or incurred pursuant to this Agreement

2.13 Future Projects.

Rise hereby agrees to permit Ellesmere to be named as co-developer in the next two Rise student housing project. Ellesmere shall not be entitled to any equity or profit participation but shall only be allowed to publicize its participation as a co-developer. In addition, Rise and its affiliates will have a first right of refusal to be a 50% joint venture partner with Ellesmere and/or any of its affiliates (subject to the same terms and conditions) in connection with the development of any future student residences by Ellesmere or its affiliates.

2.14 Real Estate.

Forthwith following the execution of this Agreement, Ellesmere agrees to convey the Lands to a new nominee titleholder (the "Nominee") which Nominee shall hold the Lands in trust for Rise and Ellesmere. Ellesmere shall convey an undivided fifty percent (50%) beneficial interest in the Lands to Rise, free and clear of all financial encumbrances, save and except for the existing Charge/Mortgage in favour of Cameron Stephens having an outstanding



principal balance of approximately \$5,000,000.00 which Charge/Mortgage shall be assumed by the Joint Venture, Rise shall be responsible for the payment of the land transfer tax in respect to such conveyance in accordance with a deemed value of such interest being \$950,000.00.

2.15 Construction and Project Management Agreement. The Joint Venturers shall execute within sixty (60) days from the execution of this Agreement, a Construction and Project Management Agreement with Rise or an affiliate of Rise. The Construction and Project Management Agreement shall provide that Rise or its affiliate shall provide and arrange for enrolment of the Project in Tarion and for Rise or its affiliate to provide all guarantees and financial covenants required by Tarion. The Construction and Project Management shall also incorporate the terms set out in Schedule "A" attached hereto.

ARTICLE 3 FINANCING

3.1 Initial Equity Contribution. The Parties shall, on the date hereof, contribute in cash to the Joint Venture the amounts set out below, which amounts shall be used to fund the initial Operations.

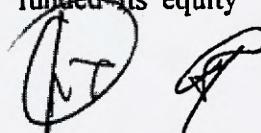
Initial Contribution

Rise	\$0.00
Ellesmere	\$8,000,000.00

3.2 Until such time as Rise's equity contribution is equal to Ellesmere's initial equity contribution Rise shall fund if required, any additional equity contributions that may be necessary for the Project until such time as the parties equity contributions are equal.

3.3 Borrowing from Third Parties. After Rise's equity contribution if required, has been made pursuant to Section 3.1 herein and the parties equity contributions have been equalized, any further amounts required from time to time for the purposes of the Joint Venture, including any amounts required for the construction of the Project or in respect of the Operations, shall be obtained, to the maximum extent possible, by way of mortgage financing of the Lands from a third party lender (the "Third Party Financing"). Rise shall be solely responsible to obtain Third Party Financing and negotiate the terms thereof. The Third Party Financing shall be secured against the Lands and the other assets of the Project. In the event guarantees are required for such Third Party Financing or for Tarion or other purposes, such guarantees shall be provided by Rise. The parties agree that any guarantees related to the leasing of units in the Project including, without limitation, guarantees of revenue streams or occupancy, required to be given to purchasers of units at the Project, shall be provided by both Rise and Ellesmere on a fifty-fifty basis. The Third Party Financing shall be secured against the Lands and the other assets of the Project.

3.4 Additional Equity Contributions. at any time, if Rise has fully funded its equity



contribution of Eight Million Dollars (\$8,000,000.00), if required, the revenues from the Property together with the proceeds of any Third Party Financing are insufficient to meet the Joint Venture's financial requirements (the "Financial Requirements") to fund Operations in accordance with the Project Documents, Rise shall give written notice (a "Contribution Notice") to Ellesmere specifying the Financial Requirements and the aggregate amount required to be contributed to satisfy the Financial Requirements and Rise and Ellesmere shall contribute, by way of additional equity, amounts sufficient to satisfy the Financial Requirements (such contribution referred to herein as an "Additional Equity Contribution").

ARTICLE 4 CASH SURPLUS, DISTRIBUTIONS

4.1 Distribution of Cash Surplus

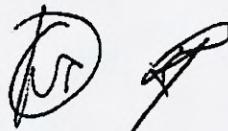
(1) The Cash Surplus of the Joint Venture shall be distributed to the Joint Venturers, as and when funds become available, in the following priority and manner:

- (a) firstly, repayment of all construction and other financing of the Project.
- (b) secondly, to Rise or Ellesmere on account of any Default Loan together with accrued interest thereunder, if any;
- (c) thirdly, payment of any statutory obligations such as harmonized sales taxes;
- (d) fourthly, to establish a reasonable reserve for any unknown or reasonably estimated costs for after sales services; and
- (e) fifthly, 50% to Rise and 50% to Ellesmere.

4.2 **Definition of Cash Surplus.** For the purposes of Section 4.1, "Cash Surplus" of the Joint Venture for any period shall mean all amounts received by the Joint Venture arising out of the Property, or the sale thereof or the Operation thereof (the "Gross Receipts") for the period including:

- (1) the sale of any units on the Property;
- (2) funds provided by Ellesmere or Rise pursuant to Section 3.4;
- (3) the amount, if any, of any insurance proceeds received by the Joint Venture in excess of: (i) the amount thereof necessary to repair the damage compensated for; and (ii) the amount, if any, payable to any third party mortgagee having a mortgage on the Lands or any part thereof; and
- (4) the net proceeds, if any, received by the Joint Venture from any and all Third Party Financing and refinancings thereof.

less the aggregate of:



- (5) all expenses, charges and outlays, actually paid by the Joint Venture during such period, including fees incurred on the development, marketing and sale of the condominium units to be constructed, any sums paid to third party lenders in respect of any loans owing by the Joint Venture and amounts paid as fees, expenses or otherwise pursuant to the terms of this Agreement; and
- (6) such portion of the Gross Receipts for the period as the Management Committee determines is reasonably necessary to provide a reserve for contingencies and for anticipated future costs and expenses for the Property and Operations, to the extent not covered by the reserves referred to in Section 4.1(1)(d).

ARTICLE 5 MANAGEMENT

5.1 Establishment of the Management Committee. The Joint Venturers hereby establish a Management Committee for the purpose of the Joint Venture, which shall be constituted and shall operate as hereinafter set out (the "Management Committee").

5.2 Power and Authority of Management Committee.

(1) The Management Committee has the power and authority and the Joint Venturers hereby direct the Management Committee to give any approvals and to make any decisions and determinations required or permitted to be given or made by the Joint Venturers with respect to the Property, Operations and any matter arising under or by virtue of this Agreement. For greater certainty, no act shall be taken, sum expended, decision made, or obligation incurred by the Joint Venturers with respect to a matter within the scope of any of the major decisions (collectively, the "Major Decisions") as enumerated below, unless such Major Decisions have been approved by the Management Committee as provided herein. Major Decisions shall consist of the following:

- (a) determining whether or not distributions should be made, and if made, the amount of such distributions, to the Joint Venturers as set forth in Section 4.1; and
- (b) any other decision or action which, by the provisions of this Agreement is required to be approved by the Joint Venturers or which materially affects the Property or the Operations.

(2) Any Major Decision that is not approved by the Management Committee in accordance with this Article 5 shall be deemed not to have been approved by the Joint Venturers and the Representatives and Alternates shall act or not act, accordingly.

(3) In the event a Major Decision is not approved, any member of the Management Committee may give written notice to each of the other members thereof that they request the matter be resolved by arbitration; and in that event, the provisions of Section 9.6 shall apply.

5.3 Appointment of Representative and Alternative Representative



(1) Each of the Joint Venturers shall appoint one representative (the "Representative") and one or more alternate representatives (an "Alternate") who may at any time serve in the place of a Representative of the Joint Venturer appointing such Alternate to serve on the Management Committee and shall notify the other Joint Venturer of the names and addresses of its Representative and Alternates.

(2) Each Joint Venturer may at any time and from time to time change any Representative or any Alternate appointed by it by giving written notice of such change to the other Joint Venturers and to the Representative or Alternate so replaced, and any Representative or Alternate, as the case may be, so replaced shall cease to be a Representative or Alternate, as the case may be, upon the giving of such notice.

5.4 Reference to Representative Includes Alternate. All references in this Agreement to a Representative shall include and refer to the Alternate in the event that the Representative is not present or is unable to act.

5.5 Representative to Represent and Bind. The Representative appointed by each Joint Venturer has the power and authority to represent and bind such Joint Venturer.

5.6 Decision Binding. A decision of the Management Committee made in accordance with Section 5.17 or 5.18 with respect to any matter, constitutes approval of the Management Committee under this Agreement and shall be binding on the Joint Venturers.

5.7 Chairman. The Joint Venturers, acting jointly, shall choose a Representative (but not an Alternate) as Chairman (the "Chairman"). The Chairman shall not have a second or casting vote at any meeting of the Management Committee.

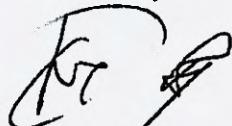
5.8 Secretary. The Chairman shall appoint a secretary (who need not be a Representative) who shall keep complete and accurate minutes of all meetings of the Management Committee.

5.9 Advisors. A Representative shall be entitled to invite advisors to attend meetings of the Management Committee, subject to such restrictions on their attendance at and their participation in meetings as the Management Committee may impose.

5.10 Meetings Generally. The Management Committee shall hold regular meetings at the location set out in Section 5.15 at such times as the Management Committee shall decide from time to time. Any Joint Venturer may call additional meetings of the Management Committee if he or any Joint Venturer considers it advisable to do so and shall do so if requested by the other Representatives.

5.11 Conference Telephone Meetings. Any Representative may participate in a meeting of the Management Committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a Representative participating in a meeting in such manner shall be deemed to be present in person at the meeting.

5.12 Notice. The individual who calls the meeting shall give each Representative and Alternate, if any, written notice of the time and place of each meeting of the Management Committee at least 10 days prior to the date of the meeting. The giving or the time of giving of such notice may be



waived with the consent in writing of each Representative.

5.13 Agendas

(1) The notice of each meeting of the Management Committee shall be accompanied by an agenda and any relevant supporting materials sufficiently detailed to inform each Representative and alternate representative of the matters to be considered at the meeting. The requirement for an agenda and supporting materials may be waived with the consent in writing of each Representative.

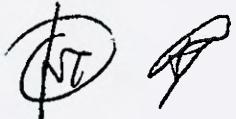
(2) A Representative or Alternate may require the addition of one or more matters to the agenda of a meeting by written notice thereof to the Chairman. Each notice shall be accompanied by any relevant supporting materials sufficiently detailed to inform each Representative and Alternate of the matter or matters to be added to the agenda of the meeting. Such notice and materials shall be delivered in sufficient time to enable the Chairman to comply with his obligations under Section 5.12 and this Section 5.13.

5.14 No Vote on Matters Not in Agenda. Matters which are not referred to in the agenda of a meeting of the Management Committee shall not be voted on at that meeting unless a Representative of each Joint Venturer is present, in person or by telephone, at the meeting and all of the Representatives consent, the vote of each Representative shall constitute evidence of such consent.

5.15 Location of Meetings. Meetings of the Management Committee shall be held at the offices of RISE, or at such other place as may be agreed upon by the Management Committee from time to time.

5.16 Quorum. The quorum for a meeting of the Management Committee shall be one Representative or Alternate of each Joint Venturer; provided, however, that if the meeting has been called pursuant to Section 5.12 and a quorum of the Representatives is not present within 30 minutes after the time fixed for holding the meeting, such meeting shall be adjourned to such date and time, not earlier than three Business Days following the date of the adjourned meeting, by written notice which may be given by the Chairman or any Representative. If at such adjourned meeting a quorum of the Representatives is not present within 30 minutes after the time fixed for holding the meeting, such meeting shall be adjourned to such date and time, not earlier than two Business Days following the date of the first adjourned meeting by written notice which may be given by the Chairman or any Representative to each Representative and at the second adjourned meeting, the Representatives present shall constitute a quorum and may transact the business for which the meeting was originally convened, notwithstanding that the Representative of each Joint Venturer is not present at the second adjourned meeting.

5.17 Vote Required Generally. Subject to Section 5.21, any decision of the Management Committee at any meeting thereof, including Major Decisions, shall require the affirmative vote of the Representative or Alternate of each of the Joint Venturers in attendance at such meeting in person or by proxy. Any reference in this Agreement to agreement of, approval of or determination by the Management Committee (or similar phrases), including with respect to a Major Decision, shall mean a decision by the Representative or Alternate of each of the Joint Venturers in accordance with this Section 5.17 or Section 5.21.



5.18 Agreement without Voting. Any matter that is agreed or consented to in writing by the requisite number of the Representatives of the Joint Venturers who are entitled to attend and vote on the matter at meetings of the Management Committee shall be binding on all the parties as if made by affirmative vote at a meeting in accordance with Section 5.17 but subject to Section 5.21.

5.19 Good Faith. Any decision required to be made by the Management Committee shall be made in good faith and in the best interests of the Joint Venture and strictly upon the merits of the matter in respect of which a decision is required and shall not be unreasonably delayed.

5.20 No Disqualification. The fact that a Joint Venturer or one or more of its Affiliates or related companies has entered into an agreement with the Joint Venture for the provision of materials or services for the Operations shall not constitute a conflict of interest which would limit its rights or actions under this Agreement unless specifically provided in such agreement or in this Agreement.

5.21 Disentitlement. Notwithstanding anything to the contrary herein contained, if an Event of Default or an Event of Insolvency has occurred and has not been cured with respect to a Defaulter, the other Joint Venturer which is not a Defaulter and its Representative on the Management Committee shall be solely empowered to make any and all decisions and to give any and all approvals from time to time required of the Joint Venturers in connection with the Property or the Operations, including any decision or approval with respect to Major Decisions, to the absolute exclusion of the Defaulter and its Representative on the Management Committee. Any decision or approval so made or given shall be fully binding on the Defaulter; provided that nothing herein shall be so construed to permit the non-defaulting Joint Venturer to sell the whole or any part of the Property without the prior written approval of the Defaulter.

5.22 Indemnity. Each Joint Venturer hereby agrees to indemnify and save harmless each Representative and Alternate from and against any and all liability, loss, harm, damage, cost or expense, including legal fees, which the Representative or Alternate may suffer, incur or sustain as a result of any suit, claim or demand brought or commenced against the Representative or Alternate and arising out of any action properly taken by the Management Committee. The liability of each Joint Venturer under or by virtue of this Section 5.22 shall be proportionate to, and limited to, its Share.

ARTICLE 6 OTHER FINANCIAL AND ACCOUNTING MATTERS

6.1 Accounting and Reporting. Financial statements for the Joint Venture shall be prepared in accordance with Accounting Standards for Private Enterprises (ASPE) and furnished to each Joint Venturer on a timely basis as agreed by the Joint Venturers. Any additional information or statements, including audited statements that each Joint Venturer may require for the preparation of their individual federal and provincial tax returns or otherwise shall be provided.

6.2 Books and Records. Proper and complete books, records, reports and accounts of the Joint Venture in respect of Operations shall be kept at the offices of Rise, and all such books, records, reports and accounts shall be open and available for inspection and copying by Ellesmere or its authorized representative at any reasonable time during normal business hours. The said books and records shall fully and accurately reflect all transactions of the Joint Venture.



6.3 Accountants. The accountants of the Joint Venture shall be the firm of chartered accountants approved by Rise from time to time and appointed in writing.

6.4 Bank Accounts. The bank of the Joint Venture shall be such bank or banks as Rise determines. All moneys from time to time received on account of the Joint Venture shall be paid immediately into the bank account of the Joint Venture in the same drafts, cheques, bills and cash in which they are received. All cheques, negotiable instruments and withdrawals from such bank accounts shall require the signature of one representative of Rise and one representative of Ellesmere.

6.5 Execution of Documents. All documents, instruments or agreements having a legally binding effect on the Joint Venturers in respect of the Property or the Operations which are not within the purview of Rise under the Management Agreement shall be signed on behalf of the Joint Venturers by one Representative or Alternate of each of the Joint Venturers or by such Person or Persons as may be designated in writing by the Management Committee from time to time.

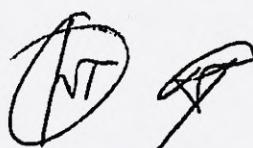
6.6 Payment for Services. Except as set forth herein, or hereafter approved or agreed to by the Joint Venturers, no payment shall be made to any Joint Venturer for its services or the services of its shareholders, directors or employees or for reimbursement of any expenses incurred by such Joint Venturer in providing any services to the Joint Venture.

6.7 Accounting. All internal accounting services in respect of the Joint Venture shall be done by Rise under the Management Agreement. Copies of all working papers and internal accounting documents shall be provided to the Joint Venturers, or any of them, from time to time, upon written request.

ARTICLE 7

7.1 Prohibition Against Transfers and Encumbrances. Except as expressly provided in this Agreement, a Joint Venturer shall not, without the prior written consent of the other Joint Venturer:

- (1) by operation of law or otherwise, voluntarily or involuntarily, directly or indirectly, sell, transfer, assign, convey, gift, exchange, lease, sublease, devise, bequest or otherwise dispose of ("Transfer") all or any portion of its Joint Venture Interest, it being acknowledged that a change in control of a Joint Venturer through a sale of shares, merger, amalgamation or otherwise shall be deemed to be a Transfer; or
- (2) save as set out herein, and except for the Permitted Encumbrances, create, assume, incur or consent to any lien, mortgage or charge upon all or any portion of its Joint Venture Interest or its rights and interests in or under this Agreement.



7.2 Permitted Transfers to Affiliates. A Joint Venturer may at any time transfer all, but not less than all, of its Tenancy Interest to an Affiliate provided, in the case of Ellesmere, such Affiliate also acquires legal and beneficial title to the Lands.

7.3 Applicability of Remaining Sections to Transfers. The Transfers permitted pursuant to Sections 7.1 and 0 shall be subject to compliance with the remaining sections of this Article 7.

7.4 Specific Limitation. Save and except as set out in Section 0 hereof, a Joint Venturer shall not transfer all or any portion of its Joint Venture Interest to any Person (the "Transferee") if:

- (1) as a result of the transfer, the remaining Joint Venturer would become subject to any governmental controls or regulations affecting the Property by reason solely of the nationality or residence of the Transferee;
- (2) as a result of the transfer, the remaining Joint Venturer would become subject to any additional taxation by reason of the transfer;
- (3) the transfer would be prohibited by law or by any term of any mortgage, agreement or document entered into by the Joint Venturers in respect of the Property or Operations, unless any required approval has been obtained; or
- (4) the Transferee is not a corporation incorporated under the laws of Canada or one of the provinces thereof, unless otherwise approved by the other Joint Venturer.

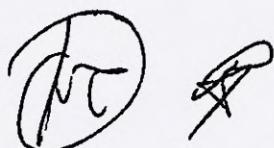
7.5 New Joint Venturer. As a condition precedent to a Transferee acquiring the Joint Venture Interest of a Joint Venturer (the "Transferor"), the Transferee shall execute and deliver to the other Joint Venturers an assignment agreement as provided for in Section 2.5.

7.6 Continuing Liability of Transferring Joint Venturer. If a Transferor transfers all of its Joint Venture Interest to a Transferee, the Transferor shall continue to be liable for and shall not be released or discharged from the satisfaction and performance of all or any of its liabilities and obligations under or by virtue of this Agreement unless the other Joint Venturer expressly releases and discharges the Transferor therefrom in writing.

ARTICLE 8 **DEFAULT, DEFAULT REMEDIES AND INSOLVENCY**

8.1 Rights of Non-Defaulter. If an Event of Default occurs in relation to a Defaulter, and such default continues for a period of 15 days after written notice thereof to the Defaulter, the other Joint Venturer, provided it is not a Defaulter (a "Non-Defaulter"), shall have the right, in addition to any other rights provided for herein:

- (1) to bring any proceedings in the nature of specific performance, injunction or other equitable remedy, it being acknowledged by each of the Joint Venturers that damages at law may be an inadequate remedy for the default or breach giving rise to the Event of Default;



- (2) to remedy the default giving rise to the Event of Default and bring any action at law or otherwise to be reimbursed by the Defaulter for any moneys expended to remedy such default, including any expenses incurred by the Non-Defaulter in connection therewith, together with interest thereon at the Interest Rate; and such advanced funds or expended money shall be deemed to be a Default Loan;
- (3) to bring any action at law that may be necessary or advisable in order to recover damages;
- (4) to take such steps or bring any proceedings that may be necessary or desirable to enforce any security interest granted by the Defaulter to the Non-Defaulter; or
- (5) to do such other acts and things as the Non-Defaulter may be authorized or entitled to do under this Agreement.

8.2 Default Loan. Funds advanced or money expended by a Non-Defaulter pursuant to Sections 3.4 or 0 shall be deemed to be a debt obligation (a "Default Loan") of the Defaulter to the benefit of the Non-Defaulter and:

- (1) shall be payable on demand, by written notice from the Non-Defaulter bearing interest at the a rate of the Interest Rate;
- (2) shall bear interest from the date of payment to the date of repayment at the Interest Rate, such interest to be calculated and payable monthly with interest on overdue interest at the Interest Rate; for greater certainty, any judgment obtained by the Non-Defaulter in respect of any such amount shall similarly bear interest at the Interest Rate;
- (3) the principal and any interest of the Default Loan be secured by a lien on the Joint Venture Interest of the Defaulter; and
- (4) the Non-Defaulter shall have the right to receive the Defaulter's share of any Cash Surplus in accordance with Section 4.1 or any fees or other sums payable to the Defaulter by or in respect of the Joint Venture including any fees or other sums due in respect of services rendered in connection with the Property.

8.3 Rights of a Non-Defaulter Separate. The rights of each Joint Venturer under this Article 8 and at law or in equity are separate and are not dependent on one another and each such right is complete in itself and not by reference to any other such right. Any of such rights or any combination of such rights may be exercised by a Joint Venturer from time to time and no such exercise shall exhaust such rights or preclude such Joint Venturer from exercising any other rights or any combination of such rights from time to time thereafter or simultaneously.

ARTICLE 9 GENERAL CONTRACT PROVISIONS

9.1 Notices. All notices, consents, approvals, statements, authorizations, documents, or other communications, required or permitted to be given hereunder shall be in writing and shall be delivered personally or by facsimile transmission or other electronic communication which results in a written or printed notice being given (including by electronic mail via the Internet), to the



parties hereto at their respective addresses set forth hereunder, namely:

(a) 2518358 Ontario Inc.
611 Tradewind Drive, Suite 300
Ancaster, Ontario L9G 4V5

Attention: Mr. Brian McMullin

(b) 3070 Ellesmere Developments Inc.
5000 Yonge Street, Suite 1806
Toronto, Ontario M2N 7E9

Attention: Mr. Thomas Liu

or at any such other address or addresses as may be given by any of them to the other in writing from time to time. Such Notice, if delivered personally or by facsimile transmission or other electronic communication which results in a written or printed notice being given (including by electronic mail via the Internet), shall be deemed to have been given on the day and at the time of personal delivery or telecopy or other electronic transmission, if delivered or transmitted prior to 5:00 p.m. on a Business Day, or if not prior to 5:00 p.m. on a Business Day, on the Business Day next following the day of delivery or telecopy or other electronic transmission, as the case may be.

9.2 Counterparts. This Agreement may be executed in separate counterparts, each of which so executed shall constitute an original and all of which together shall constitute one and the same agreement. An executed counterpart delivered by electronic means is hereby deemed to be as effective as an original delivered executed counterpart.

9.3 Interest on Overdue Amounts. Unless otherwise expressly provided for herein, if any party should fail to pay any amount to any other party when such amount is due, interest shall accrue on such unpaid amount from the date for payment to the date of actual payment at the Interest Rate, such interest to be calculated and payable monthly with interest on overdue interest at the Interest Rate.

9.4 Further Assurances. Each of the parties shall from time to time and at all times, do such further acts and deliver all such further assurances, deeds and documents as shall be reasonably required in order to fully perform and carry out the terms of this Agreement.

9.5 Planning Act. This Agreement shall be subject to compliance with the *Planning Act* (Ontario).

9.6 Dispute Resolution. Any dispute arising out of, in connection with, or relating to the interpretation of this Agreement, or the breach, or the alleged breach of any provision hereof, or any dispute in respect of which written notice has been sent from one member of the Management Committee to each of the other members thereof requesting arbitration, shall, in the first instance, be resolved by good faith negotiations between the Joint Venturers, failing which such dispute shall be submitted by the Joint Venturers to binding arbitration, provided that nothing in this section shall prevent any Joint Venturer from seeking equitable relief, including without limitation



injunctive relief, from any court of competent jurisdiction and enforcing any order made pursuant thereto. If any Joint Venturer wishes to have any matter under this Agreement arbitrated, it shall give notice to the other Joint Venturers specifying the particulars of the matter or matters in dispute. The Joint Venturers agree to select a single arbitrator to determine the matter in dispute. If the Joint Venturers fail to agree on a single arbitrator within 20 days following the date on which the initial request for arbitration is submitted by the initiating Joint Venturers, then any Joint Venturer may apply to a judge of the Superior Court of Justice pursuant to the *Arbitration Act* (Ontario) as amended from time to time for the appointment of a single arbitrator on 2 days' notice to the other Joint Venturers. The arbitration shall be conducted in accordance with the *Arbitration Act* (Ontario). The fees and expenses of such arbitration shall be determined and allocated between the Joint Venturers by the arbitrator.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto as of the date first above written.

2518358 ONTARIO INC.

By: P. Brian Marshall
Name: P. Brian Marshall
Title: C.P. & Partner

I have authority to bind the Corporation.

3070 ELLESmere DEVELOPMENTS INC.

By: Thomas L. Lee
Name: Thomas L. Lee
Title: President & CEO

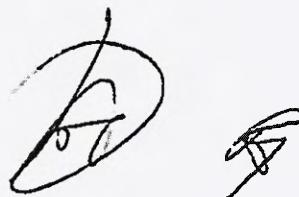
I have authority to bind the Corporation.

SCHEDULE "A"**Construction**

The parties acknowledge and agree that the current budget for the Project is based on a total gross living area ("GLA") of 277,870 square feet as indicated on the Altus Report. The parties shall agree upon the final GLA based on agreed upon and approved Site Plan as may be amended from time to time but in no event shall the GLA exceed the final approved municipal site plan. The parties shall agree upon the scope of work to be included in the line item 3.01, "The Construction Budget". Rise or its affiliate shall agree to perform all agreed upon work at a fixed price of Two Hundred and Fifteen Dollars (\$217.50) per square foot of gross living area, based upon such revised pro forma and the Project redesign (including increased density) as may be agreed to upon by the joint venture parties.

Rise shall be entitled to bill for all such work performed on a percent completed basis as approved by the cost consultant for the Project. All other costs, as agreed upon in the revised pro forma budget, shall be managed by Rise or its affiliates and shall be billed to the joint venture on an actual cost basis.

25585425.5

A photograph of two handwritten signatures. The first signature on the left appears to be 'B' and the second signature on the right appears to be 'S'.

This is Exhibit "E" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.



Commissioner for Taking Affidavits (or as may be)

This is an Amending Agreement made as of the 11th day of November, 2016.

B E T W E E N

2518358 ONTARIO INC.

(hereinafter called the "Rise")

-and-

3070 ELLESMORE DEVELOPMENTS INC.

(hereinafter called the "Ellesmere")

WHEREAS the parties hereto entered into a Joint Venture Agreement dated the 13th day of May, 2016 to market, sell and construct a proposed residential condominium and student housing project on the lands legally described as Parcel J-1, Section M-1227, being Block J, Plan 66M-1227, City of Toronto (the "Agreement");

AND WHEREAS the parties hereto have agreed to amend the Agreement as provided for hereunder;

NOW THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties agree as follows:

1. Delete Section 2.14 and insert the following:

2.14 Real Estate. On the date that is Thirty (30) days following the date on which commencement of excavation operations occur on the Lands, Ellesmere agrees to convey the Lands to a new nominee titleholder (the "Nominee") which Nominee shall hold the Lands in trust for Rise and Ellesmere. Ellesmere shall convey an undivided fifty percent (50%) beneficial interest in the Lands to Rise, free and clear of all financial encumbrances, save and except for the existing Charge/Mortgage in favour of Cameron Stephens having an outstanding principle balance of approximately \$5,000,000.00 which Charge/Mortgage shall be assumed by the Joint Venture (the "Cameron Stephens Mortgage"). Ellesmere agrees that no further mortgages or financial encumbrances shall be registered on title to the Lands prior to the date on which the Lands are to be conveyed to the Nominee in trust for Rise and Ellesmere as aforesaid. Rise shall be responsible for the payment of the land transfer tax in respect to such conveyance in accordance with a deemed value of such interest being \$950,000.00. Ellesmere agrees to discharge the Charge/Mortgage registered in favour of Toronto Capital Corp. et al registered September 15, 2016 as Instrument No. AT4343080 on or before the date that is thirty (30) days following the date on which commencement of excavation operations occurs on the

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Lands. In the event Ellesmere fails to register a discharge of such mortgage on or before such date, Ellesmere shall be deemed to be default hereunder. Contemporaneously with the execution of this Agreement, Ellesmere hereby agrees to grant Rise a Charge/Mortgage in the amount of Two Million Dollars (\$2,000,000.00), payable on demand, to secure the total amount of all costs and expenses incurred by Rise in respect of the Lands to such date. In the event of such default by Ellesmere, Rise shall be entitled to enforce the said mortgage. Ellesmere shall also be responsible to satisfy all mortgage payments payable on account of the Cameron Stephens Mortgage from and after such default. Provided Ellesmere has complied with its obligations hereunder, the said mortgage in favour of Rise shall be discharged on the date the Lands are conveyed to the Nominees in trust for Rise and Ellesmere as aforesaid.

2. Insert a new Section 3.5 as follows:

Save and except for construction financing to be arranged in connection with the Project (which may occur prior to the equalization of each party's equity contributions), Rise agrees that with respect to the equity contributions required pursuant to Section 3.2 from Rise, to cause each party's equity contributions to be equal, no such contribution may be made by Rise by way of financing obtained by placing any encumbrance, including any Permitted Encumbrances, on the Land or Project, or using the Land or Project as security for such financing.

3. Amend Section 4.1 as follows to add a new 4.1(2) as follows:

In the event the parties determine, acting reasonably, to cause a distribution of funds prior to the issuance of a record site condition for the Lands, Rise shall only be entitled to receive a return of its equity contribution, calculated as at the date of such distribution, on a 50/50, dollar for dollar basis, with Ellesmere until such time as time Rise's equity contribution has been repaid in full.

4. Except as specifically amended herein, all other terms and conditions of the Agreement shall remain in full force and effect unamended as of the date hereof.
5. This amending agreement may be executed in any number of counterparts, which taken together shall form one and the same agreement, and may be executed and delivered by telecopier or facsimile transmission, which shall be binding on the parties as though originally executed and delivered.
6. This amending agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

Dated as of the date first written above.

2518358 ONTARIO INC.

Per: Frank J. Hall
Name:
Title:
I have authority to bind the Corporation

3070 ELLESMORE DEVELOPMENTS INC.

Per: Frank J. Hall
Name:
Title:
I have authority to bind the Corporation

27362580.6

This is Exhibit "F" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.



Commissioner for Taking Affidavits (or as may be)

Request ID: 023490567
 Transaction ID: 72808516
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/21
 Time Report Produced: 15:49:34
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date	
2135136	2135136 ONTARIO INC.	2007/05/02	
Jurisdiction			
ONTARIO			
Corporation Type	Corporation Status	Former Jurisdiction	
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE	
Registered Office Address		Date Amalgamated	Amalgamation Ind.
1400 CORNWALL ROAD Suite # 11 OAKVILLE ONTARIO CANADA L6J 7W5		NOT APPLICABLE	NOT APPLICABLE
		New Amal. Number	Notice Date
		NOT APPLICABLE	NOT APPLICABLE
		Letter Date	
		NOT APPLICABLE	
Mailing Address		Revival Date	Continuation Date
NOT AVAILABLE		NOT APPLICABLE	NOT APPLICABLE
		Transferred Out Date	Cancel/Inactive Date
		NOT APPLICABLE	NOT APPLICABLE
		EP Licence Eff.Date	EP Licence Term.Date
		NOT APPLICABLE	NOT APPLICABLE
Activity Classification		Number of Directors Minimum Maximum	Date Commenced in Ontario Date Ceased in Ontario
NOT AVAILABLE		00001 00010	NOT APPLICABLE NOT APPLICABLE

Request ID: 023490567
Transaction ID: 72808516
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/21
Time Report Produced: 15:49:34
Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number

2135136

Corporation Name

2135136 ONTARIO INC.

Corporate Name History

2135136 ONTARIO INC.

Effective Date

2007/05/02

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

YES - SEARCH REQUIRED FOR DETAILS

**Administrator:
Name (Individual / Corporation)**CIANCONE
C.
STACEY**Address**611 TRADEWIND DRIVE
Suite # 300
ANCASTER
ONTARIO
CANADA L9G 4V5**Date Began**

2007/05/02

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 023490567
 Transaction ID: 72808516
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/21
 Time Report Produced: 15:49:34
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CORPORATION PROFILE REPORT

Ontario Corp Number

2135136

Corporation Name

2135136 ONTARIO INC.

Administrator:

Name (Individual / Corporation)

CIANCONE
 C.
 STACEY

Address

611 TRADEWIND DRIVE
 Suite # 300
 ANCASTER
 ONTARIO
 CANADA L9G 4V5

Date Began

2007/05/02

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian

Y

Administrator:

Name (Individual / Corporation)

CIANCONE
 C.
 STACEY

Address

611 TRADEWIND DRIVE
 Suite # 300
 ANCASTER
 ONTARIO
 CANADA L9G 4V5

Date Began

2012/01/01

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

SECRETARY

Resident Canadian

Request ID: 023490567
Transaction ID: 72808516
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/21
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CORPORATION PROFILE REPORT

Ontario Corp Number

2135136

Corporation Name

2135136 ONTARIO INC.

Last Document Recorded

Act/Code Description	Form	Date
CIA ANNUAL RETURN 2018	1C	2019/07/14 (ELECTRONIC FILING)

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

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

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

This is Exhibit "G" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Liu" followed by a surname starting with "W".

Commissioner for Taking Affidavits (or as may be)

CONSTRUCTION AND PROJECT MANAGEMENT AGREEMENT

THIS AGREEMENT made as of the 21st day of September, 2016

B E T W E E N:

**2518358 ONTARIO INC. and 3070 ELLESMORE
DEVELOPMENTS INC.**

(hereinafter, collectively, called the "Owner")

A N D:

2135136 ONTARIO INC., a corporation incorporated under the laws
of Ontario,

(hereinafter called the "Manager")

A N D:

RISE REAL ESTATE LIMITED., a corporation incorporated under
the laws of Ontario,

(hereinafter called "Rise")

WHEREAS:

A. The Owner wishes to develop and construct a high rise residential condominium and student housing project on the lands and premises defined in the Joint Venture Agreement (as defined below) as the "Lands";

B. The Owner wishes to retain the services of the Manager as the construction and project manager for the Project; and

C. The Manager possesses the appropriate skill, knowledge and resources to deliver a finished Project to the Owner, ready for, without limitation, registration, occupancy and leasing;

NOW THEREFORE, in consideration of the premises and mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1.1 Appointment and Duties of Manager

The Owner hereby engages the Manager and the Manager accepts, covenants and agrees to be fully responsible to manage and supervise all aspects of the development and construction of the Project upon the Lands.

1.2 Deliverable

The Manager hereby accepts, covenants and agrees to deliver the Project through to completion in accordance with the terms and conditions of this Agreement, including, without limitation, a Project that is ready for registration, occupancy and leasing.

1.3 **Definitions**

“Altus Report” means the report commissioned by the Owner and to be prepared and finalized by Altus Group Limited and as will be attached hereto as Schedule A.

“Approved by the Owner”, “Approval of the Owner” and “Owner’s Approval” means approved by, or approval of, the Owner by direction in writing, at all times, by mutual agreement of both Persons comprising the Owner.

“Construction Schedule” means a schedule setting out Project construction milestones and timelines as appended hereto as Schedule C.

“Event of Default” means, in the case of the Manager:

- (a) the material failure of the Manager to perform its duties and discharge its obligations under this Agreement;
- (b) the malfeasance or misfeasance of the Manager in the performance of its duties and discharge of its obligations under this Agreement; or
- (c) an Event of Insolvency.

“Event of Insolvency” means the occurrence of any one or more of the following events in respect of the Manager:

- (a) a resolution is passed or an order made for the winding-up, liquidation, revocation or cancellation of incorporation of the Manager or a petition for a receiving order or application of bankruptcy is filed against the Manager, unless the same is being contested actively and diligently in good faith by appropriate and timely proceedings and is dismissed, vacated or stayed within 30 days of filing;
- (b) the Manager makes an assignment for the benefit of its creditors;
- (c) the Manager becomes bankrupt or, as an insolvent debtor, takes the benefit of any act now or hereafter in force for bankrupt or insolvent debtors; or
- (d) a receiver or any other officer with similar powers is appointed for the Manager or a substantial part of the Manager’s assets.

“GLA” means the sum of all above grade areas of all stories of the building structure or part thereof from the ground floor and above that has been constructed, measured from the exterior of the outside walls (but excluding any parking areas) up to the mechanical penthouse;

“Joint Venture Agreement” means the joint venture agreement between 2518358 Ontario Inc. and 3070 Ellesmere Developments Inc. dated the 13th day of May, 2016.

“Nominee” means the corporation incorporated by the Owner to hold title to the Lands.

“Project Budget” means a budget for the Project but which shall exclude the fixed costs set out in Section 1.10(k) herein.

“Project Cost Consultant” means such cost consultant as may be appointed by the Owner.

"Project Schedule" means a schedule of Project development milestones as appended hereto as Schedule B.

"Unavoidable Delay" means a delay caused by fire, strike or other casualty or contingency beyond the reasonable control of a party who is, by reason thereof, delayed in the performance of such party's covenants and obligations under this Agreement in circumstances where it is not within the reasonable control of such party to avoid such delay (but does not include any insolvency, lack of funds or other financial cause of delay).

All other capitalized terms, not defined herein, shall have the respective meanings ascribed to them in the Joint Venture Agreement.

1.4 Appointment of and Acceptance by Manager

The Manager accepts its appointment and covenants and agrees to carry out its obligations hereunder in a competent, honest, diligent and efficient manner in accordance with the terms of this Agreement.

1.5 Good Faith Deposit by Manager

Upon execution of this Agreement, the Manager will forward to 3070 Ellesmere Developments Inc. the sum of Five Hundred Thousand Dollars (\$500,000.00), which payment shall be held by 3070 Ellesmere Developments Inc. in trust and released and returned to the Manager provided this Agreement has not been terminated as a result of the Manager failing to meet the performance milestones set for January and February, 2016 as set out in Schedule D attached to this Agreement.

1.6 Representations and Warranties by Manager

The Manager represents and warrants that:

- (a) it has, and will have throughout the term of this Agreement, all of the requisite skills and experience to carry out the Manager's obligations and duties under this Agreement;
- (b) it is, and will be throughout the term of this Agreement, fully qualified and licensed to the extent required by law to manage real estate development and construction, and perform all obligations of the Manager hereunder in the jurisdiction of the City of Toronto and agrees to comply with all such laws now or hereinafter in effect;
- (c) throughout the term of this Agreement, its personnel will be and remain qualified and that it possesses and will continue to possess the necessary experience and expertise to enable it to perform the services and duties hereunder; and
- (d) the Manager shall be available to meet with the Owner at least once per week.

1.7 Duty of Care

- (a) The Manager shall carry out its duties under this Agreement in a commercially reasonable manner and time shall in all respects hereof be of the essence. The Manager will carry out its duties in an efficient manner in keeping with the highest standards of managers in the City of Toronto, taking into account the nature and location of the Project.
- (b) The Manager will not be responsible for matters beyond its reasonable control (including without limitation, those arising as a result of force majeure or Unavoidable Delay).

1.8 Independent Contractor

The parties acknowledge that the Manager shall undertake its duties hereunder as an independent contractor and not as agent or in any other way representative of either or both of the Persons comprising the Owner except as herein expressly provided. It is further acknowledged that nothing in this Agreement or in any acts of the parties hereto shall be deemed to create a partnership relationship between the Manager, on the one hand, and the Owner, on the other hand.

1.9 Scope of Authority

In connection with the performance by the Manager of its duties under this Agreement, the Manager shall have the authority and the obligation:

- (a) to negotiate, settle and execute, as agent for the Owner, all contracts, provided that the aggregate amount of the expenses to be incurred thereunder are provided for in the Project Budget, including, without limitation, any contingency therein (save and except with respect to the work included within Section 3.0 of the Altus Report) or have otherwise been Approved by the Owner;
- (b) to apply on behalf of the Owner in the name of the Owner, to authorities for, and obtain, all land use classification amendments, applications, licences, permits and written approvals necessary or required for the Project (including, without limitation, demolition, excavation, site plan and building permits and their related agreements);
- (c) to negotiate and monitor performance obligations under development, servicing, site plan and other similar agreements required by any Governmental Authority;
- (d) to incur all expenses, whether or not of a capital nature, provided for in the then current Project Budget or otherwise Approved by the Owner with respect to a category of expense therein; and
- (e) in the event of an emergency when the Owner cannot, after reasonable efforts by the Manager (such efforts being evidenced in writing), be located for the purpose of giving their written approval, to proceed (and the Manager is hereby authorized and instructed to proceed) with such steps as in its discretion are deemed necessary for the protection or preservation of the Project or other property, the Owner or the Manager, as the case may be, or from any penalty or other liability or the prevention of injury to, or the death of, a person. Upon the happening of any such event, the Manager shall promptly give notice thereof to the Owner.

1.10 Management Services

The Manager shall in a proper and efficient manner, carry out the following development management services in connection with the Project at the expense of the Owner:

- (a) Development Concepts: formulate, present and finalize (i) development concepts for the Project and (ii) the Project Budget, as developed by Altus Group, and Approved by the Owner;
- (b) Schedules: formulate, present and finalize (i) Project Schedule and (ii) Construction Schedule, which shall be submitted for Approval by the Owner, in its sole and absolute discretion;
- (c) Contractors: select and enter into contracts in respect of the Project with contractors, consultants, suppliers and others (such selection which is to be provided to the Owner upon

execution of this Agreement for Approval by the Owner), provided that such expenses are of the types and within the amounts provided for in the Project Budget and co-ordinate, direct and supervise their work, scrutinize and settle their accounts and supervise and use its commercially reasonable efforts to ensure their performance;

- (d) Layout, Design: direct the layout, design and engineering for the Project, including without limitation, the preparation of all drawings and specifications;
- (e) Co-ordination: co-ordinate and direct to completion, the construction of the Project, including, without limitation, demolition, if any, and site preparation and time schedules, site plan agreements, property development agreements, construction contracts and applicable laws, co-ordinate the preparation of all plans, specifications and engineering drawings;
- (f) Safety: use commercially reasonable efforts to cause all contractors employed on the Project to be responsible for the safety of all workers and equipment on the Project in accordance with all applicable legislation governing construction safety;
- (g) Liens: use commercially reasonable efforts to require all contractors employed in respect of the Project to cause any and all ensure that no liens whatsoever, including, but not limited to construction liens and other liens for labour, services or materials alleged to have been furnished to or to have been charged to or for the Nominee or the Owner, the Manager, any consultant, any subcontractor or any of them or on their or its behalf in respect of the Project which may be registered on, against or otherwise affect the Property to be released, discharged and/or vacated forthwith by all appropriate means, including payment of funds into court, if necessary;
- (h) Legal Actions: monitor and notify the Owners of legal actions affecting the Project;
- (i) Insurance: to place, or cause to be placed, such policies of insurance in respect of the Project and bonding of contractors employed in respect of the Project (where appropriate) as the Owner considers necessary or desirable to protect the Owner, the Manager, contractors, suppliers, consultants and their property and interests from liability, damage or loss, including builders' risk insurance, liability insurance, errors and omissions insurance and delayed start-up/business interruption insurance, in each case, to the extent such insurance and bonding is available in the marketplace at a cost acceptable to the Owner. The Owner shall satisfy itself with respect to the adequacy of such insurance;
- (j) Books of Account, Information: at all times during the Project, maintain at its office or at the Property, appropriate books of account and records with respect to the contracts and in accordance with generally accepted accounting principles and practices applicable to the development management industry in Canada and applied on a consistent basis. The aforesaid books of account and records will be examinable by the Owner, or its authorized representative, upon one (1) days prior written notice to the Manager.
- (k) Budgets: the Manager shall prepare and submit a Project Budget, as developed by Altus Group, for Approval by the Owner but which shall exclude the scope of work included in line item 3.01 of the project budget set out in the Altus Report. The Manager may propose adjustments to the Project Budget from time to time. Such proposed adjustments by the Manager to the Project Budget shall be either Approved by the Owner or the Owner shall provide comments on such adjustments by no later than fifteen (15) days after their receipt, in which event the Manager shall forthwith submit a revised draft for written Approval by the Owner;
- (l) Banking:

- (i) Banking: handle all banking necessary for the due performance of the accounting and administrative functions of the Manager under this Agreement and for the receipt and disbursements of all monies of the Owner pertaining to the Project required to be attended to by the Manager under this Agreement on account of the costs of the Project to be paid to contractors, consultants and suppliers retained in connection with the Project. The Manager will establish and maintain a bank account for the Project in the name of the Owner, to which the Owner shall have access. The Manager shall only apply the deposit referred to in Section 1.5 against costs of the Project once the Owner has received invoices for such costs. The Manager shall also forthwith deposit into the aforementioned bank account all cash, cheques and other negotiable instruments received by the Manager pursuant to this Agreement. The Manager shall deal with such cash, cheques and negotiable instruments in accordance with sound cash management practices so that the Owner is adequately protected;
- (ii) Monies held in Trust: receive and hold in trust all monies received by the Manager on account of amounts to be paid to contractors, consultants and suppliers retained in connection with the Project for or on account of the Owner solely for the account of and in trust for the Owner and deposit same immediately and solely into the Owner's account as contemplated by subsection (i), or as the Owner may direct, and without being co-mingled with any other monies which are not related to the Property. The Manager shall invest monies in investments Approved by the Owner, in writing. The Manager shall provide such control over accounting and financial transactions as is reasonably required to protect the Owner's assets from theft, negligence or fraudulent activity on the part of the Manager or the Manager's employees. Losses arising from such instances are to be borne by the Manager; and
- (iii) Provision of Funds: not at any time be requested to and shall not overdraw the bank account or accounts operated by it in connection with the Property or the Project, and if the amount of the expenditures authorized to be made pursuant to this Agreement in accordance with approved amounts set out in the Project Budget exceed at any time the amount held by the Manager for the Owner, the Owner shall immediately furnish to the Manager sufficient funds to enable it to make such expenditures based on the total amount being applied for. If the Owner fails to furnish such funds, the Manager shall not be required, in its capacity as manager, to expend its own funds and shall have no other liability whatsoever for any consequences arising from such failure by the Owner and the Owner hereby agrees to indemnify and save the Manager harmless in its capacity as Manager, for any and all actions by third parties arising from its failure to make any expenditures by reason of the failure to provide funds. If the Manager elects to advance its own funds on behalf of the Owner, such payments shall constitute a demand obligation of the Owner to the Manager and bear interest at a rate per annum equal to the aggregate of the Prime Rate and one percent (1%) calculated and compounded monthly until such advances are re-paid to the Manager. The Manager shall (other than in circumstances of an emergency) provide no less than fourteen (14) Business Days' prior written notice of any requirement of the Owner to provide funds;
- (m) Financing: Rise shall provide its covenant and guarantee for the purposes of obtaining construction financing, if required;
- (n) Tarion: to obtain and maintain registration with Tarion Warranty Corporation and the requisite warranty coverage required of builders in Ontario;

(o) Security: arrange security for the physical protection of the Project and, when necessary, for the control of vehicular and pedestrian access and egress;

(p) Personnel:

engage (either as employees of the Manager or by contractual arrangements to which none of the Persons comprising the Owner is a party) such persons as shall be necessary and desirable for the continued and uninterrupted performance by the Manager of its obligations under this Agreement and so that it is not necessary for the Owner to have any employees to carry out the services of the Manager under this Agreement. None of such persons shall be, or be deemed to be, employees of the Owner and the Manager shall advise such staff at the time of hiring that they are employees of the Manager and not of anyone else. The Manager shall be solely responsible for all employment matters relating to such employees, including hiring, training, discipline, dismissal and administration of any collective agreements covering such employees.

Notwithstanding anything to the contrary contained herein, the only employees of the Manager which the Manager is responsible to pay are its head office staff but may contract out accounting services as may be Approved by the Owner which costs shall form part of the costs of the Project. For greater certainty, project/construction managers, project/construction coordinators, and project/construction administrators are considered head office staff;

(q) Meetings: co-ordinate and attend to all meetings with consultants, professionals and other service providers; attend the meetings with both of the Persons comprising the Owner as required;

(r) Opening, Promotion and Marketing: provide management services with respect to the opening, promotion and marketing of the Project and attend to all matters with respect to marketing the units;

(s) Remediation: The Manager agrees to commence the remediation of the Property pursuant to Schedule D of this Agreement ; and

(t) Generally: do and perform all things directly necessary for the proper and efficient administration and management of the completion of the Project.

The Manager shall disclose to and obtain the written Approval of the Owner from time to time with respect to any proposed expenditure relating to the Project to any Person not at arm's length from the Manager and (to the best of the Manager's knowledge in accordance with prudent corporate policies in that regard) each of its directors and officers.

1.11 Meetings

At the request of either of the Persons comprising the Owner or the Manager, from time to time, their respective representatives shall meet at the principal offices of the Manager in Toronto, Ontario or another mutually agreed upon location upon two (2) Business Days' written notice, on a mutually agreed upon date. The Manager shall be prepared to report to the Persons comprising the Owner on the status of the Project and the Manager's activities relating to the Project.

1.12 Compliance with the Project Budget and Construction Budget

The Manager shall comply with the Project Budget and Construction Budget. The parties shall agree upon the final GLA based on the agreed upon and approved Site Plan as may be amended from time to time but in no event shall the GLA exceed the final approved municipal site plan as may be

amended from time to time. The Manager hereby agrees to perform all construction set out in Sections 3.01, 3.02 and 3.03 of the Altus Report at a fixed price of Two Hundred Seventeen Dollars and Fifty Cents (\$217.50) per square foot of GLA, based upon such revised pro forma and the Project redesign (including increased density) as may be agreed to upon by the Owner. For greater certainty, the Manager shall deliver a completed project, including, but not limited to a building ready for registration for the aforementioned fixed Two Hundred Seventeen Dollars (\$217.50) per square foot of GLA price. The Manager shall not be entitled to the design management fee set out in code 5.04 of the Altus Report.

All expenses incurred by 3070 Ellesmere Developments Inc. to date shall be for the benefit of the Owners of the Project.

The Manager shall strictly adhere to the Project Budget and the Construction Budget. Furthermore, if the Manager needs to use any contingencies in the Project Budget or Construction Budget, the Manager shall give notice to the Owner, including a reason why the Manager needs to use the contingencies, for the Owner's Approval, such approval to be provided in its sole and absolute discretion.

1.13 Actions Contemplated in the Project Schedule and Construction Schedule

The Manager shall adhere to and maintain, using commercially reasonable efforts, the Project Schedule and Construction Schedule, but subject to Unavoidable Delay.

Furthermore, the Manager agrees to adhere to the Project Milestones attached hereto as Schedule D, the discretion as to whether each milestone has been satisfied being in the sole discretion of 3070 Ellesmere Developments Inc., acting reasonably. Should the Manager not meet a milestone, 3070 Ellesmere Developments Inc. shall be entitled to give notice of such default in accordance with Section 1.14, whereupon the Manager shall have thirty (30) days to rectify such default. In the event, such default is not rectified by such date, then the Manager shall be considered in default of this Agreement. If the Manager is in default in respect to the January, 2017 milestones, after receiving notice of such default and the Manager failing to rectify same with the required time period, then this Agreement may be terminated in accordance with Section 1.14 (a) of this Agreement and, in addition, all fees paid to the Manager under this Agreement shall be considered forfeited and shall thereby be refunded and returned to the Project. Notwithstanding the foregoing, the Project Milestones attached hereto as Schedule D shall be deemed to be automatically extended one day for each day the Charge/Mortgage registered in favour of Toronto Capital Corp. registered September 15, 2016 as Instrument No. AT4343080 remains registered on title to the Lands following the date that is thirty (30) days following the date on which commencement of ~~excavation~~ operations occur on the Lands.

excavation

1.14 Termination of Manager

Default by Manager: If an Event of Default occurs, the Owner may give notice (a "Notice of Complaint") to the Manager specifying in reasonable detail the Event of Default and if, within thirty (30) days of receipt of any Notice of Complaint, the Manager fails to cure the Event of Default in a reasonable manner, or if more than thirty (30) days are required to cure the Event of Default, the Manager fails to commence and continue diligently to cure the Event of Default or give reasonable assurances to the Owner that such Event of Default will be cured within a reasonable period of time, the Owner shall have the right to terminate the appointment as manager by notice (a "Notice of Termination") to the Manager stating that its appointment as manager is terminated and the reason for termination. Such termination shall be effective thirty (30) days from the date on which the Notice of Termination is received by the Manager in the event the Manager has failed to rectify such default by such time period.

Termination by Owner: The Owner may terminate the Manager's appointment as manager at any time on not less than 180 days' notice to the Manager. It is acknowledged and agreed by the Owners

that the termination of the Manager pursuant to this provision shall be deemed to be a Major Decision pursuant to the terms of the Joint Venture Agreement.

1.15 Delivery of Records, etc.

If its appointment as manager is terminated, the Manager shall, notwithstanding such termination, forthwith upon termination and from time to time thereafter deliver to the Owner, and to 3070 Ellesmere Developments Inc., all records and documents in an organized manner, including, without limitation, the following:

- (a) document plans;
- (b) project budgets;
- (c) all contracts;
- (d) all operating records;
- (e) books of account; and
- (f) all supplies, services and materials (to the extent paid for by the Owner), keys, garage cards, parking permits and passes,

and any and all ancillary documents maintained with respect to the Project (whether on- or off-site) which are then in the possession or control of the Manager and which relate directly or indirectly to the Project; provided that the Manager may elect to retain copies of such records, books of account and documents and notwithstanding the expiry or termination of this Agreement, the Owner shall thereafter and from time to time for a reasonable period of time produce at its offices the originals of such items whenever the Manager reasonably requires them for its purposes in connection with its obligations under this Agreement. The Manager shall keep all such information confidential.

Upon termination of its appointment as manager, the Manager shall also deliver to the Owner the following with respect to the Project:

- (i) a final accounting as of the date of termination to be delivered within forty-five (45) days after such termination; and
- (ii) any balance of monies held by the Manager, for and on behalf of the Owner, with respect to the Project to be delivered immediately upon such termination.

1.16 Confidentiality and Non-Use

The Manager recognizes that, save as otherwise available to the public at large, information communicated by the Owner to the Manager, including information that is produced by the Manager for the Owner and the Project as set out in this Agreement, is the confidential proprietary information of the Owner and is the property of the Owner. The Manager covenants not to communicate the information nor to disclose same, or any part of same, to any person whatsoever. The Manager further covenants not to use the said information for any reason not approved of in writing by the Owner.

1.17 Effect of Continued Performance

The Owner shall not be under any obligation to pay to the Manager any amount whatsoever for services performed by the Manager after the effective date of termination.

1.18 Duties of the Nominee Flowing From Termination

Upon termination of the Manager's appointment as manager, the Nominee shall:

- (a) to the extent necessary, assume the contracts entered into by the Manager in connection with the Project if such contracts have been entered into in accordance with the terms and provisions of this Agreement and indemnify and save the Manager harmless against any liability by reason of anything done or required to be done under any such contract after the effective date of termination of the appointment as a manager, provided that if any contract covers any improvement in addition to the Project, then the Owner shall have the option to elect either to terminate any such contract or to retain it provided that the third party to such contract acknowledges that it relates only to the Project and any fees and expenses provided for therein are adjusted on a prorated basis;
- (b) pay for any indemnify and save the Manager harmless against the costs of all services, materials and supplied ordered by the Manager in accordance with the terms and provisions of this Agreement but which may not have been charged to and paid by the Manager at the time of termination;
- (c) subject to Section 1.17, pay to the Manager a construction management fee to the effective date of termination in accordance with the budget prepared by the Project Cost Consultant, as same may be amended from time to time; and
- (d) be entitled to conduct a post-termination financial audit of the Project at the expense of the Owner, and the Manager shall co-operate with respect to same.

1.19 Indemnity by Manager

During, and after the termination of, its appointment as manager, the Manager shall indemnify and save the Owner, together with their respective officers, directors, employees, agents and representatives, harmless in respect of any action, cause of action, suit, debt, cost, expense, claim or demand whatsoever, at law or in equity, arising:

- (a) from or as a result of any material breach, by the Manager, its employees, servants, agents or other persons for whom it is legally responsible, of any of the terms and provisions of this Agreement;
- (b) by reason of any negligent act or omission, or willful misconduct of the Manager, its employees, servants, agents or other persons for whom it is responsible at law (except to the extent covered and paid by the insurance of the Nominee or the Owner relating to the Property or the Project); or
- (c) by reason of any action taken by the Manager outside the terms and provisions of this Agreement.

This section survives the expiry or termination of this Agreement.

This indemnity shall not extend to any debt, cost, expense, claim or demand for which insurance proceeds have been recovered by the Nominee or the Owner and shall not override any provision of this Agreement that allocates responsibility to the Nominee or the Owner.

1.20 Assignment by Manager

The Manager shall not assign its appointment as manager or subcontract its obligations hereunder without notice to the Owner. No assignment or subcontracting shall relieve the Manager of its

responsibilities, duties and obligations under this Agreement. Furthermore, if the Owner grants its consent to an assignment or subcontracting of the Manager's obligations under this Agreement, the Manager shall ensure that the assignee confirms by agreement with the Owner that it shall be bound by the terms and provisions of this Agreement.

1.21 Compensation of Manager

The parties agree that the Manager shall receive all applicable fees payable to the Manager as set out in the Altus Report up to the date of termination, if applicable (excluding those fees payable in connection with the fixed construction costs set forth in Section 1.12 herein).

1.22 No Solicitation

The Owner agrees that it shall not solicit any of the Manager's head office staff only.

1.23 Joint Venture Agreement

The parties acknowledge that this Agreement and the Joint Venture Agreement are integral to one another.

1.24 Nominee

With respect to the Nominee, the parties agree as follows:

- (a) The Nominee, as per this Agreement, will be comprised of two (2) persons, one (1) chosen by each of the Persons comprising the Owner; and
- (b) Each Person comprising the Owner shall receive fifty percent (50%) equity shares in the Nominee. This is the manner in which the Nominee shall hold title to the Lands for and on behalf of the Owner;
- (c) In the instance that this Agreement is effectively terminated by 2518358 Ontario Inc. prior to January 15, 2017 pursuant to Section 1.13, 2518358 Ontario Inc. shall receive its equity share in the Nominee, and no further entitlements, including profits or title to lands held by the Nominee.

1.25 General

- (a) **Severability** - Should any provision or provisions of this Agreement for any reason be determined to be invalid or unenforceable, such determination shall not affect the validity or enforceability of the remaining provisions hereof, which remaining provisions shall continue in full force and effect as if this Agreement had been executed without the invalid or unenforceable provision or provisions.
- (b) **Notice** - Any notice or other communication (a "Notice") required or permitted to be given or made hereunder shall be in writing and shall be well and sufficiently given or made if delivered in person during normal business hours on a Business Day and left with the receptionist or other responsible employee of the relevant party at the applicable address set forth below; or sent by prepaid first class mail, charges prepaid and confirmed by prepaid first class mail; or sent by any electronic means of sending messages, including e-mail or facsimile transmission which produces a paper record (an "Electronic Transmission"), to any of the parties hereto at the address set out opposite its respective name below:

(A) to the Owner at:

1600 16th Avenue
Richmond Hill, ON L4B 4N6

Facsimile No.: 905-508-1806

with a copy to:

611 Tradewind Dr., Suite 300
Ancaster, ON L9G 4V5

Facsimile No.: 905-648-8575

(B) to the Manager at:

611 Tradewind Dr., Suite 300
Ancaster, ON L9G 4V5

Facsimile No.: 905-648-8575

Any party may change its address for notice at any time by Notice given to all of the other parties to this Agreement pursuant to the provisions of this section.

Any Notice given or made in accordance with this section shall be deemed to have been given or made and to have been received:

(C) on the day it was delivered, if delivered as aforesaid;

(D) on the third (3rd) Business Day (excluding each day during which there exists any general interruption of postal services due to strike, lockout or other cause) after it was mailed, if mailed as aforesaid; and

(E) on the day of sending if sent by Electronic Transmission during normal business hours of the addressee on a Business Day and, if not, then on the first Business Day after the sending thereof.

(c) **Time** - Time shall be of the essence of this Agreement.

(d) **Waiver** - Any waiver of or consent to depart from the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the parties hereto giving it and only in the specific instance for the specific purpose for which it has been given. No failure on the part of any party hereto to exercise and no delay in exercising any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

(e) **Entire Agreement** - This Agreement and the schedules hereto express herein the entire understanding and agreement of the parties hereto concerning the subject matter hereof and there is no implied covenant, condition, term, reservation or warranty relating to or concerning such subject matter.

Notwithstanding the foregoing and the execution of this Agreement, the parties hereby covenant and agree that Schedules A, B and C, being the Altus Report,

Project Schedule and Construction Schedule, are to be provided by the Manager and agreed upon by the Owner on or before January 9, 2017. Once agreed upon, the said schedules will be attached to and form part of this Agreement.

- (f) **Further Assurances** - The parties hereto shall execute such further and other assurances and documents and do all such things and acts which shall be necessary or proper for carrying out the purpose and intent of this Agreement.
- (g) **Enurement** - The provisions of this Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective heirs, successors and permitted assigns.
- (h) **Attornment** - For the purpose of all legal proceedings, this Agreement shall be deemed to have been performed in the Province of Ontario and the course of the Province of Ontario shall have exclusive jurisdiction to entertain any action or proceeding arising under this Agreement and its validity, construction and effect shall be governed exclusively by the laws applicable to agreements wholly performed in the Province of Ontario. The Owner and the Manager each hereby attorns exclusively to the jurisdiction of the courts of the Province Ontario.
- (i) **Amendments** - No amendment to this Agreement or addition hereto shall be valid or binding unless set forth in writing and duly executed by all of the parties hereto.
- (j) **Headings** - The appearance of headings in this Agreement is for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (k) **Time of the Essence** - Time is of the essence in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

2518358 ONTARIO INC.

2135136 ONTARIO INC.

Per: Roncillo
Name:
Title:

I have the authority to bind the Corporation

Per: Roncillo
Name:
Title:

I have the authority to bind the Corporation

3070 ELLESMORE DEVELOPMENTS INC.

Per: Roncillo
Name:
Title:

I have authority to bind the Corporation.

SCHEDULE "A"**Altus Report**

[attached hereto]

SCHEDULE "B"**Project Schedule**

[attached hereto]

SCHEDEULE "C"

Construction Schedule

[attached hereto]

SCHEDULE D**Performance Milestones**

Date	Performance Milestone
November 16, 2016	Carry out a ground breaking ceremony
January 22, 2017	Marketing drawings will be ready for resale and new units
February 5, 2017	Submit a minor variance application to the City of Toronto for the finalized design; Submit a Site Plan Control application to the City of Toronto; Apply for shoring permit (conditional permit).
April 18, 2017	Commence shoring, excavation and environmental clean-up/remediation; Commence site construction
December 21, 2017	Completion of environmental remediation; Acknowledge receipt of a Record of Site Condition (RSC) from the Ministry of Environment
March 30, 2018	Complete of underground structure (underground parking garage has been built and building it at ground level)
September 30, 2019	Building Occupancy will have been obtained and building will be ready for registration

26527781.11

This is Exhibit "H" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.



Commissioner for Taking Affidavits (or as may be)

Court File No. CV-18-~~1000~~⁰⁰⁰⁰

CV-18-C0598800-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

2518358 ONTARIO INC.

Plaintiff

and

3070 ELLESmere DEVELOPMENTS INC.

Defendant



STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the statement of claim served with this notice of action.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario Lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer, or where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this notice of action is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

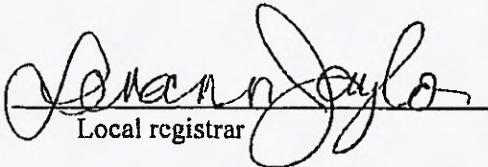
IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Statement of Claim
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TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: MAY 30 2018

Issued by



Jennifer Taylor
Local registrar

Address of court office: 393 University Avenue
10th Floor
Toronto, ON M5G 1E6

TO: 3070 ELLESMORE DEVELOPMENTS INC.
5000 Yonge Street, Suite 1806
Toronto, ON M2W 7E9

CLAIM

1. The Plaintiff ("Rise") claims:

- (a) an order that a certificate of pending litigation be issued by the Court and be registered against title to the property described in Schedule A to this Statement of Claim (the "Lands");
- (b) an interim, interlocutory or permanent mandatory order directing the Defendant ("Ellesmere") to convey the Lands to a new nominee titleholder (the "Nominee") to hold the Lands in trust for Rise and Ellesmere in accordance with Joint Venture Agreement (as hereinafter defined);
- (c) an interim, interlocutory or permanent mandatory order directing Ellesmere to comply with its obligations in section 2.14 of the Joint Venture Agreement (as hereinafter defined);
- (d) an interim, interlocutory or permanent mandatory order permitting Rise to exercise its rights set out in the Joint Venture Agreement and available to it in the case of an Event of Default (as hereinafter defined) by Ellesmere;
- (e) an order for specific performance by Ellesmere of its obligations in the Joint Venture Agreement;
- (f) payment of the sum of \$3,950,000;
- (g) in the alternative to (f), damages for breach of contract in the amount of \$3,950,000;

Statement of Claim
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- (h) in the further alternative to (f), restitution for unjust enrichment or compensation on the basis of *quantum meruit* or *ex aequo et bono* in the amount of \$3,950,000;
- (i) interest as provided in the Joint Venture Agreement or, alternatively, pursuant to the *Courts of Justice Act*, R.S.O. 1990, c.C.43;
- (j) its costs of this action on the basis of substantial or, alternatively, partial indemnity; and
- (k) such further relief as to this Honourable Court seems just.

The Parties

2. Rise is a corporation incorporated pursuant to the laws of the Province of Ontario.
3. Ellesmere is a corporation incorporated pursuant to the laws of the Province of Ontario. 3070 is the registered owner of the lands legally described as Parcel J-1, Section M-1227, being Block J, Plan 66M-1227, Toronto (the "Lands").

The Joint Venture Agreement

4. On or about May 13, 2016, Rise and Ellesmere entered into a Joint Venture Agreement dated May 13, 2016 (the "May JVA"), in connection with a joint venture for the purpose of the marketing, sale, and construction of a proposed residential condominium and student housing project (the "Project") on the Lands.
5. On or about November 11, 2016, the May JVA was amended by an Amending Agreement dated November 11, 2016 (the "November JVA") that was entered into by Rise and Ellesmere.

Statement of Claim
Page 5 of 15

6. The May JVA, as amended by the November, JVA is referred to hereinafter as the "Joint Venture Agreement".

7. Section 2.14 of the Joint Venture Agreement sets out certain rights and obligations of 251 Inc. and Ellesmere, which are stated as follows:

- (a) On the date that is Thirty (30) days following the date on which commencement of excavation operations occur on the Lands, Ellesmere agrees to convey the Lands to a new nominee titleholder (the "Nominee") which Nominee shall hold the Lands in trust for Rise and Ellesmere.
- (b) Ellesmere shall convey an undivided fifty percent (50%) beneficial interest in the Lands to Rise, free and clear of all financial encumbrances, save and except for the existing Charge/Mortgage in favour of Cameron Stephens having an outstanding principle balance of approximately \$5,000,000.00 which Charge/Mortgage shall be assumed by the Joint Venture (the "Cameron Stephens Mortgage").
- (c) Ellesmere agrees that no further mortgages or financial encumbrances shall be registered on title to the Lands prior to the date on which the Lands are to be conveyed to the Nominee in trust for Rise and Ellesmere as aforesaid.
- (d) Ellesmere agrees to discharge the Charge/Mortgage registered in favour of Toronto Capital Corp. et al registered September 15, 2016 as Instrument No. AT4343080 (the "TCC Mortgage") on or before the date that is thirty (30) days following the date on which commencement of excavation operations occurs on

the Lands. In the event Ellesmere fails to register a discharge of the TCC Mortgage on or before such date, Ellesmere shall be deemed to be in default of its obligations in the Joint Venture Agreement (an "Ellesmere Default").

- (e) Contemporaneously with the execution of the Joint Venture Agreement, Ellesmere agrees to grant Rise a Charge/Mortgage in the amount of Two Million Dollars (\$2,000,000.00), payable on demand, to secure the total amount of all costs and expenses incurred by Rise in respect of the Lands to such date (the "Rise Mortgage").
- (f) In the event of an Ellesmere Default, Rise shall be entitled to enforce the Rise Mortgage. Ellesmere shall also be responsible to satisfy all mortgage payments payable on account of the Cameron Stephens Mortgage from and after an Ellesmere default. Provided Ellesmere has complied with its obligations under the Joint Venture Agreement, the said Rise Mortgage shall be discharged on the date the Lands are conveyed to the Nominee in trust for Rise and Ellesmere as provided for in section 2.14 of the Joint Venture Agreement.

8. Section 7.1 of the Joint Venture Agreement states as follows:

7.1 Prohibition Against Transfers and Encumbrances. Except as expressly provided in this Agreement, a Joint Venturer shall not, without the prior written consent of the other Joint Venturer:

- (1) by operation of law or otherwise, voluntarily or involuntarily, directly or indirectly, sell, transfer, assign, convey, gift, exchange, lease, sublease, devise, bequest or otherwise dispose of ("Transfer") all or any portion of its Joint Venture Interest, it being acknowledged that a change in control of a Joint Venturer through a sale of shares, merger amalgamation or otherwise shall be deemed to be a Transfer; or

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(2) save as set out herein, and except for the Permitted Encumbrances, create, assume, incur or consent to any lien, mortgage or charge upon all or any portion of its Joint Venture Interest or its rights and interests in or under this Agreement.

9. Section 8.1 of the Joint Venture Agreement states as follows:

8.1 Rights of Non-Defaulter. If an Event of Default occurs in relation to a Defaulter, and such default continues for a period of 15 days after written notice thereof to the Defaulter, the other Joint Venturer, provided it is not a Defaulter (a "Non-Defaulter"), shall have the right, in addition to any other rights provided for herein:

(1) to bring any proceedings in the nature of specific performance, injunction or other equitable remedy, it being acknowledged by each of the Joint Venturers that damages at law may be an inadequate remedy for the default or breach giving rise to the Event of Default;

(2) to remedy the default giving rise to the Event of Default and bring any action at law or otherwise to be reimbursed by the Defaulter for any moneys expended to remedy such default, including any expenses incurred by the Non-Defaulter in connection therewith, together with interest thereon at the Interest Rate; and such advanced funds or expended money shall be deemed to be a Default Loan;

(3) to bring any action at law that may be necessary or advisable in order to recover damages;

(4) to take such steps or bring any proceedings that may be necessary or desirable to enforce any security interest granted by the Defaulter to the Non-Defaulter; or

(5) to do such other acts and things as the Non-Defaulter may be authorized or entitled to do under this Agreement.

The Breaches of the Joint Venture Agreement by Ellesmere

10. Excavation operations on the Lands commenced on April 27, 2017. Risc discharged its obligations set out in the Joint Venture Agreement.

Statement of Claim
Page 8 of 15

11. Pursuant to section 2.14 of the Joint Venture Agreement, Ellesmere was to convey the Lands to the Nominee to hold the Lands in trust for Rise and Ellesmere on May 27, 2017, namely, the date that is thirty (30) days following the date on which commencement of excavation operations occurred on the Lands. Ellesmere failed to convey the Lands to the Nominee, and thus breached the Joint Venture Agreement.

12. Also pursuant to section 2.14 of the Joint Venture Agreement, Ellesmere was to convey an undivided fifty percent (50%) beneficial interest in the Lands to Rise, free and clear of all financial encumbrances, save and except for the Cameron Stephens Mortgage. Ellesmere has not conveyed an undivided fifty percent (50%) beneficial interest in the Lands to Rise, free and clear of all financial encumbrances, save and except for the Cameron Stephens Mortgage. Consequently, Ellesmere breached the Joint Venture Agreement in this regard.

13. In section 2.14 of the Joint Venture Agreement, Ellesmere agreed that no further mortgages or financial encumbrances shall be registered on title to the Lands prior to the date on which the Lands are to be conveyed to the Nominee in trust for Rise and Ellesmere as aforesaid.

14. Further, in section 2.14 of the Joint Venture Agreement, Ellesmere agreed to discharge the TCC Mortgage on or before the date that is thirty (30) days following the date on which commencement of excavation operations occurs on the Lands. As excavation operations began on April 27, 2017, Ellesmere was to have discharged the TCC Mortgage by May 27, 2017. The TCC Mortgage was not discharged by May 27, 2017, and the TCC Mortgage remains registered on title. As a result of Ellesmere's failure in this regard, Ellesmere breached the Joint Venture Agreement, which constitutes an Ellesmere Default.

15. Ellesmere did grant the Rise Mortgage. The Rise Mortgage was registered against title to the Lands on March 15, 2017, as Instrument Number AT4511551. Since May 8, 2017, because of the Ellesmere Default, Rise has been entitled to enforce the Rise Mortgage as provided for in section 2.14 of the Joint Venture Agreement. In addition, since that date, Ellesmere has been responsible to satisfy all mortgage payments payable on account of the Cameron Stephens Mortgage. Ellesmere has not satisfied all mortgage payment payable on account of the Cameron Stephens Mortgage and, accordingly, Ellesmere breached the Joint Venture Agreement.

16. On or about May 15, 2018, Ellesmere, directly or, alternatively, indirectly, on its own, or, alternatively, with others known to Ellesmere but unknown to Rise, by operation of law or otherwise, voluntarily, directly or, alternatively, indirectly, transferred, assigned, conveyed, gifted, exchanged, or otherwise disposed of all or any portion of its Joint Venture Interest, contrary to section 7.1 of the Joint Venture Agreement.

17. On or about May 15, 2018, Ellesmere, directly or, alternatively, indirectly, on its own, or, alternatively, with others known to Ellesmere but unknown to Rise, created, assumed, incurred or consented to a mortgage or charge upon all or any portion of its Joint Venture Interest or its rights and interests in or under the Joint Venture Agreement, contrary to section 7.1 of the Joint Venture Agreement.

18. As a result of the breaches of contract by Ellesmere, Rise has suffered damages.

The Consequences of the Breaches of the Joint Venture Agreement by Ellesmere

19. The:

- (a) failure of Ellesmere to convey the Lands to the Nominee on May 27, 2017;

- (b) failure of Ellesmere to convey an undivided fifty percent (50%) beneficial interest in the Lands to Rise, free and clear of all financial encumbrances, save and except for the Cameron Stephens Mortgage;
- (c) breaches by Ellesmere of section 7.1 of the Joint Venture Agreement;
- (d) failure of Ellesmere to discharge the TCC Mortgage on or before the date that is thirty (30) days following the date on which commencement of excavation operations occurs on the Lands.,

constitute Events of Default within the meaning of that phrase as set out in the Joint Venture Agreement, because Ellesmere has "defaulted, for any reason other than Unavoidable Delay, in the observance or performance of any of its other covenants and obligations under or by virtue of" the Joint Venture Agreement and the "default can with due diligence be cured within 15 days" but Ellesmere did "not cure such default within 15 days after receipt by such Joint Venturer of a written notice from the Management Committee or from any other Joint Venturer asking it to cure such default". The requisite written notice was given to Ellesmere in accordance with the provisions of the Joint Venture Agreement on June 6, 2017.

20. The breaches by Ellesmere create certain rights on the part of Rise:

- (a) Rise is entitled to enforce the Rise Mortgage, as provided for in section 2.14 of the Joint Venture Agreement;
- (b) Rise is entitled to indemnification "from and against any and all liability, loss, harm, damage, cost or expense, including legal fees (a "Loss"), which" Rise "may suffer, incur or sustain as a result of" the breaches by Ellesmere of its obligations

under the Joint Venture Agreement, as provided for in section 2.9 of the Joint Venture Agreement;

- (c) pursuant to section 5.21 of the Joint Venture Agreement, because of the default, Rise is "solely empowered to make any and all decisions and to give any and all approvals from time to time required of the Joint Venturers in connection with the Lands, to the absolute exclusion of" Ellesmere, and "any decision or approval so made or given shall be fully binding on" Ellesmere;
- (d) as Ellesmere's default has continued beyond the period of 15 days after notice, pursuant to section 8.1 of the Joint Venture Agreement, Rise has the right to:
 - (i) bring any proceedings in the nature of specific performance, injunction or other equitable remedy
 - (ii) to remedy the default giving rise to the Event of Default and bring any action at law or otherwise to be reimbursed by Ellesmere for any moneys expended to remedy such default, including any expenses incurred by the Non-Defaulter in connection therewith, together with interest thereon at the Interest Rate; and such advanced funds or expended money shall be deemed to be a Default Loan;
 - (iii) to bring any action at law that may be necessary or advisable in order to recover damages; and,
 - (iv) to take such steps or bring any proceedings that may be necessary or desirable to enforce the Rise Mortgage.

21. Rise pleads and relies upon the provisions of the Joint Venture Agreement, exercises all

its rights set out therein and expressly claims all relief, including but not limited to damages, compensation, indemnification and specific performance of all obligations of Ellesmere, to which it is entitled as set out in the Joint Venture Agreement.

Breach of Contract

22. At all material times relating to the Project, Brooklyn Contracting Inc. ("BCI") was an agent of Rise for the purpose of providing designs, plans, specifications and contracting services for Rise, where agreed upon between BCI and Rise. On or about September 21, 2016, BCI, as agent for Rise, and Ellesmere entered into an agreement (the "Contract") pursuant to the terms of which BCI agreed to supply designs, plans and specifications to enhance the value of the Lands in connection with the Project (hereinafter referred to as the "Contract Work").

23. The Contract is a valid and binding agreement pursuant to which BCI on behalf of Rise agreed to perform the Contract Work and Ellesmere agreed to pay Rise on behalf of BCI for the Contract Work. BCI performed the Contract Work and discharged its obligations under the Contract in good faith and in a diligent and timely manner. Ellesmere has failed to pay Rise for the Contract Work and otherwise failed to comply with its obligations in the Contract. As a result of the failure by Ellesmere to perform pursuant to Contract, Rise has suffered damages.

Unjust Enrichment of 3070

24. The Contract Work was performed at the request of Ellesmere. Alternatively, Ellesmere has been "incontrovertibly benefited" by the services performed and materials provided by BCI as the agent of Rise. Ellesmere has been enriched by the services performed and materials provided by BCI as the agent of Rise. Rise was deprived of payment for the services performed

and materials provided to Ellesmere and there is no juristic reason for Ellesmere's failure to pay Rise. Rise pleads and relies upon the doctrine of unjust enrichment and states that it is entitled to recompence from Ellesmere in the amount of \$3,950,000.

Quantum Meruit Compensation Claim

25. In the further alternative, Rise was not paid for the valuable services performed and materials provided to Ellesmere for Ellesmere's benefit. The services performed and materials provided were furnished at the request of Ellesmere, or, alternatively, with the encouragement or, alternatively, acquiescence of Ellesmere, in circumstances that render it unjust for Ellesmere to retain the benefit conferred by the provision of the services and materials. Rise leads and relies upon the doctrines of *quantum meruit* and *ex aequo et bono* and states that it is entitled to compensation from Ellesmere in the amount of \$3,950,000.

The Claim for a Certificate of Pending Litigation

26. There is an interest in land in question in this proceeding. Rise has a reasonable claim to that interest in land. That reasonable claim is based on the claims of Rise that:

- (a) the Lands ought to have been conveyed to the Nominees by May 27, 2017;
- (b) it is entitled to an undivided fifty percent (50%) beneficial interest in the Lands;
- (c) its interest in the Land should be free and clear of all financial encumbrances, save and except for the Cameron Stephens Mortgage;
- (d) Ellesmere permitted unauthorized encumbrances against the Lands;
- (e) Ellesmere should have discharged the TCC Mortgage by May 27, 2017;

Statement of Claim
Page 14 of 15

- (f) it is entitled to take such steps or bring any proceedings that may be necessary or desirable to enforce the Rise Mortgage; and,
- (g) it is entitled to make any and all decisions regarding the Lands to the absolute exclusion of" Ellesmere and "any decision or approval so made or given shall be fully binding on" Ellesmere.

27. Rise pleads and relies upon sections 101 and 103 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43.

The Plaintiff proposes that this action be tried at Toronto, Ontario.

Date: May 30, 2018

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Lawyers for the Plaintiff

SCHEDULE A

Description of premises:

PIN: 06186 - 0033 LT

Legal Description:

PCL J-1 SECT M1227 BLK J PLAN 66M1227, CITY OF TORONTO

Municipal Address:

3070 Ellesmere Rd, Scarborough, ON M1E 4C3

32721690.2

2518358 ONTARIO INC.

and

3070 ELLESMORE DEVELOPMENTS INC.

(Short title of proceeding)

Court File No. CV-18-005918800-000

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT TORONTO

STATEMENT OF CLAIM

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Court File No. CV-18-598800

**ONTARIO,
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

2518358 ONTARIO INC.

Plaintiff

- and -

3070 ELLESMERE DEVELOPMENTS INC.

Defendant

STATEMENT OF DEFENCE

1. The defendant, 3070 Ellesmere Developments Inc. ("Ellesmere"), admits the allegations contained in paragraphs 2, 3, 4, 5, 6, 8, 9, and 13 of the statement of claim of the plaintiff, 2518358 Ontario Inc. ("Rise").
2. Ellesmere denies the allegations contained in paragraphs 7, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 of the statement of claim, and further denies that Rise is entitled to the relief claimed in paragraph 1 thereof.

Background to joint venture

3. In 2014, Ellesmere purchased the property at 3070 Ellesmere Road, Scarborough, Ontario (the "Property") with the intention of developing a condominium tower, including retail, commercial, and residential space.
4. Follow purchase of the Property, but prior to Ellesmere having any involvement with Rise, Ellesmere arranged and paid for concept drawings for a proposed development, obtained land use zoning, and secured site plan approval from the City of Toronto.
5. In 2016, Ellesmere was introduced to Rise Real Estate Inc. (a related company to Rise, which had not yet been incorporated at the time) as a potential development partner who may

be able to assist with implementing the design and construction aspects of the anticipated development.

6. By that time, Ellesmere had already sold approximately 80% of the units for the originally planned condominium development.

7. Following negotiations, Ellesmere and Rise Real Estate Inc., in trust for a company to be incorporated and without corporate liability (ultimately Rise), agreed, by letter of intent, to proceed with a proposed residential condominium and student housing project (the **“Development Project”**) on terms that included the following:

- (a) a joint venture agreement would be executed for the purpose of jointly developing the Property;
- (b) Rise would provide all construction and project management for the Development Project, and a separate construction and project management agreement would be signed;
- (c) Ellesmere’s pre-development expenses and costs already incurred would be treated as initial equity to be equalized by Rise as and when additional equity was required;
- (d) following equity equalization, any additional equity required would be funded equally by both parties;
- (e) the Development Project would be financed, to the maximum extent possible, by construction financing, for which Rise would be responsible for arranging;
- (f) a pro forma budget would be agreed, which would include Rise performing all agreed work at a price of \$215.00 per square foot of gross living area;
- (g) Rise would bill its construction work on a percent completed basis, with any other costs billed on an actual cost basis; and

(h) following completion and sale of the Development Project, Ellesmere and Rise would share in all proceeds remaining after repayment of all construction and other financing, HST liabilities, and pro-rata reimbursement of equity on a 50/50 basis.

8. Following a due diligence period, Rise Real Estate Inc. signed a waiver of the conditions in the letter of intent. A form of joint venture agreement for the marketing, sale, and construction of the Development Project was thereafter negotiated.

Agreements between the joint venturers

9. On May 13, 2016, Rise was incorporated to take the role of Ellesmere's legal joint venture partner. Rise is a single-purpose shell corporation with no assets or active business, acting solely as the joint venturer in the Development Project.

10. On May 13, 2016, Ellesmere and Rise entered into a joint venture agreement in respect of the Development Project (the "**JV Agreement**"), which was amended on November 11, 2016.

11. The terms of the JV Agreement, as amended, include the following:

- (a) the joint venture would continue until all residential dwelling units were constructed and sold, or until a final settlement between Ellesmere and Rise is reached, whichever occurs first (clause 2.4);
- (b) Ellesmere and Rise would have equal shares in all assets and property of the joint venturers that they acquire in respect of the Property, unless otherwise agreed in writing (clause 2.6);
- (c) thirty (30) days after the commencement of excavation at the Property, title would be conveyed to a nominee corporation to hold title in trust for Ellesmere and Rise (with Rise to pay the land transfer tax), and Ellesmere would convey a 50% beneficial interest in the Property to Rise, subject only to the pre-existing

mortgage to Cameron Stephens Financial Corporation, which would be assumed by the joint venture (clause 2.14, as amended);

- (d) no further mortgages or financial encumbrances would be registered against title prior to the transfer of title to a nominee corporation (at least not without consent), and a second mortgage against title in favour of Toronto Capital Corp. and others, registered on September 15, 2016, would be discharged within thirty (30) days after the commencement of excavation at the Property (clause 2.14, as amended);
- (e) a charge/mortgage would be granted to Rise against the Property for \$2,000,000 to secure costs and expenses incurred by Rise, to be discharged when title is transferred to the nominee corporation (clause 2.14, as amended);
- (f) if Ellesmere fails to discharge the second mortgage within thirty (30) days after the commencement of excavation at the Property, then Rise is entitled to enforce on its charge and Ellesmere would thereafter be solely responsible to satisfy all mortgage payments payable on account of the Cameron Stephens Charge from and after such default (clause 2.14, as amended);
- (g) a construction and project management agreement would be executed between Ellesmere and Rise (or an affiliate of Rise), within 60 days, that would incorporate terms from Schedule "A" (clause 2.15);
- (h) all construction work would be performed by Rise at a fixed price of \$217.50 per sq. ft. of gross living area (increased from the amount agreed in the letter of intent), which was based on a total gross living area of 277,870 square feet (Schedule "A");
- (i) Ellesmere's initial contribution of \$8 million was acknowledged and it was agreed that Rise would fund any additional equity contributions required until it had also

contributed \$8 million, after which point any required equity contributions would be shared equally (clauses 3.1 and 3.2);

- (j) after Rise's equity contribution had matched that of Ellesmere, any further necessary equity would be obtained by financing, to the extent possible, specifically through third party mortgage financing secured against the Property or other assets of the Development Project (clause 3.3), or else would be obtained through additional equity contributions by both Ellesmere and Rise (clause 3.4);
- (k) Rise's equalization equity contributions cannot be secured by way of financing where security against the Property is required (clause 3.5);
- (l) profits from the Development Project were to be shared on a 50/50 basis after expenses and necessary contingencies (article 4); and
- (m) no transfer or encumbrance of either joint venturer's interest in the Property was permissible without consent of the other joint venturer (clause 7.1).

12. On September 21, 2016, Rise and Ellesmere as "Owner" entered into a Construction and Project Management Agreement with 2135136 Ontario Inc. ("213") (an affiliated company to Rise Real Estate Inc. and Rise) as "Construction Manager" for development and construction of the Development Project (the "**Construction Contract**").

13. The terms of the Construction Contract include the following:

- (a) 213 was to be fully responsible for managing and supervising all aspects of development and construction at the Property (clause 1.1);
- (b) construction of the Development Project was to proceed in accordance with the Development Project milestones and timelines (clause 1.13);

- (c) 213 was to adhere to and maintain, using commercially reasonable efforts, both the Project Schedule and Construction Schedule (both being defined in the Construction Contract) and to adhere to all milestones specified in the Construction Contract, which included a deadline for commencement of site construction by April 18, 2017, including shoring, excavation and environmental clean-up/remediation (clause 1.13 and Schedule D);
- (d) determining whether or not a milestone for the Development Project has been satisfied was agreed to be solely in the discretion of Ellesmere (clause 1.13); and
- (e) the Construction Contract and the Joint Venture Agreement are confirmed to be "integral to one another" (clause 1.23).

14. Contrary to the allegations at paragraphs 22 to 25 of the statement of claim, at no time has Ellesmere entered into any contract or agreement with Brooklyn Contracting Inc. ("BCI") as agent for Rise, or at all. No such contract exists.

No breaches of JV Agreement by Ellesmere

15. Contrary to the allegations of Rise at paragraphs 10-17 of the statement of claim, Ellesmere has not breached any of its obligations under the JV Agreement or the Construction Contract.

16. It is an express term of the Construction Contract, which is integral to the JV Agreement by its terms, that Ellesmere has sole discretion in determining whether or not a milestone for the Development Project has been satisfied.

17. Pursuant to the terms of the JV Agreement, the rights being asserted by Rise in its statement of claim are all conditional upon the commencement of excavation, which is expressly contemplated in the Construction Contract as a portion of the milestone date for the commencement of shoring, excavation, environmental clean-up/remediation, and site construction.

18. Contrary to the allegation in paragraph 10 of the statement of claim, excavation work has not commenced. Rise is thereby not yet entitled to enforce any of the rights that it seeks to enforce in the statement of claim. Ellesmere accordingly expressly denies that it is in breach of any obligations as alleged throughout the statement of claim.

19. In particular, and without limitation:

- (a) no actual excavation work has commenced or proceeded at all;
- (b) the only work performed at the Property is site preparation work, namely site clearing and grading, which occurs prior to commencement of excavation, but does not constitute "excavation" in any legal or common sense;
- (c) Rise has failed to obtain necessary re-zoning of the Property required to proceed with the Development Project, as re-designed by Rise;
- (d) Rise has not submitted any construction drawings to the City of Toronto for permit approval;
- (e) Rise has not sought or obtained a construction permit for the Development Project, which is a prerequisite to any excavation work commencing;
- (f) Rise has not sought or obtained construction financing for the Development Project, in breach of its obligation to do so under the JV Agreement and despite an express agreement between the parties that such financing is a necessary prerequisite to any excavation or other construction work commencing; and
- (g) Ellesmere has not accepted that excavation work has commenced, which is within its sole discretion to decide.

20. Contrary to the allegations in paragraphs 16 and 17 of the statement of claim, Ellesmere has not transferred its ownership interest and has not further encumbered the Property in any way. The three charges registered against the Property, one of which is in favour of Rise in

accordance with the JV Agreement, are all acknowledged and/or contemplated by the JV Agreement, as amended. Rise has been aware of them at all material times.

21. Ellesmere accordingly denies that any Events of Default (as defined in the JV Agreement) have occurred as alleged at paragraph 19 of the statement of claim and, thereby, denies that Rise is entitled to exercise any of rights as it alleges at paragraph 20 and elsewhere in the statement of claim.

22. Rise itself is in breach of its obligations pursuant to the JV Agreement to assist with or assume monthly mortgage payments for the Development Project, which are in default in whole or in part as a result of Rise's breaches.

No separate design contract as alleged

23. As stated at paragraph 14 above, Ellesmere denies that any contract was entered into with BCI in respect of the Development Project. Ellesmere further denies that it has requested or authorized any work to be performed by BCI, or that BCI has performed any work as alleged in accordance with any such purported agreement, or otherwise, and puts Rise to the strict proof thereof.

24. All design and related work was an express obligation of Rise and/or 213 pursuant to the JV Agreement and the Construction Contract. Rise has no contractual or other entitlement to claim compensation for itself in respect of for design work, which work Rise was required to undertake on behalf of both Ellesmere and Rise pursuant to the agreement of the parties.

Rise's breaches of the agreements

25. Rise has failed, neglected or refused to comply with its express and implied obligations under the JV Agreement and the Construction Contract, in breach of those agreements and in breach of Rise's duty of good faith in contract dealings. Particulars of such breaches include, but are not limited to, the following:

- (a) failing to complete re-zoning or otherwise secure design approvals from the City of Toronto in a timely fashion, or at all;
- (b) failing to take necessary steps to proceed with construction of the Development Project in a timely fashion, or at all;
- (c) failing to seek or secure construction financing for the Development Project;
- (d) failing to make payments in respect of the Property and the Development Project to equalize equity, as required pursuant to the JV Agreement, in respect of which Rise's total equity contributions are less than \$450,000;
- (e) registering a caution and, thereafter, a construction lien against the Property, without contractual, legal or other legitimate basis for so doing, solely for the purposes of frustrating Ellesmere's legitimate efforts to refinance the Property, which Ellesmere is entitled to do;
- (f) pursuing an unsupportable lien action against Ellesmere, and refusing to voluntarily discharge its invalid lien, instead forcing Ellesmere to pursue and obtain an order discharging such lien; and
- (g) generally taking any and all available steps to frustrate the Development Project from proceeding.

No entitlement to CPL

26. Contrary to the allegation at paragraph 26 of the statement of claim, Ellesmere expressly denies that Rise is entitled to a certificate of pending litigation, including without limitation for reasons outlined throughout this pleading.

No damages as alleged

27. If Rise has suffered any damages as alleged, which is denied, then such losses or damages were caused solely or materially contributed to by the breaches of contract and conduct of Rise itself, the particulars of which are described above.

28. Contrary to the allegations in paragraphs 24 and 25 of the statement of claim, Ellesmere further denies any unjust enrichment or claim in *quantum meruit*, as alleged. In particular, and without limitation, Ellesmere denies that any amounts claimed by Rise are owing or that Ellesmere has derived any benefit on account of any work performed by Rise (or BCI on its behalf, which is also denied). Rise's work, if any, has all been performed in accordance with its obligations under the JV Agreement and the Construction Contract, for which no compensation is owing.

29. In the alternative, any benefit purportedly derived from the services and materials provided has been negated by Rise's breaches of the Joint Venture Agreement and Construction Contract, such that no enrichment has occurred.

30. In any event, Ellesmere denies that Rise has sustained any losses or damages as alleged in its statement of claim, and puts Rise to the strict proof thereof.

31. In the alternative, if Rise has sustained any losses or damages, which is denied, then such losses or damages are exaggerated, too remote and Rise has failed to mitigate them.

32. As a result of Rise's defaults under and breaches of the JV Agreement and the Construction Contract, which remain ongoing, Ellesmere has suffered and continues to suffer losses and damages. In particular, and without limitation, Ellesmere is incurring significant mortgage-related liabilities as a result of its inability to refinance the Property, construction costs have increased as a result of Rise's delays, and Ellesmere has suffered additional losses of anticipated capital due to the lengthy delays caused by Rise in the Development Project

proceeding. Full particulars of Ellesmere's ongoing losses and damages will be provided prior to trial.

33. Ellesmere claims a set-off against any amounts that may be found owing to Rise for all such costs, losses and damages pursuant to section 111 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

34. Ellesmere pleads and relies upon the provisions of the *Negligence Act*, R.S.O. 1990, c. N.1, as amended, and the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

35. Ellesmere therefore request that this action be dismissed with costs on a substantial indemnity basis.

July 13, 2018

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Lawyers for the plaintiff

2518358 ONTARIO INC.
Plaintiff

and **3070 ELLESmere DEVELOPMENTS INC.**
Defendant

Court File No. CV 18-598800

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF the *Construction Lien Act, R.S.O.*
1990, Chapter C.30**

Proceeding commenced at TORONTO

STATEMENT OF DEFENCE

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Lawyers for the defendant

This is Exhibit "I" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Thomas Liu".

Commissioner for Taking Affidavits (or as may be)

**C A M E R O N | M O R T G A G E
S T E P H E N S | C A P I T A L L T D**

December 22nd, 2014

LeMine Investment Group
5000 Yonge St., Unit 1806
North York, Ontario
M2N 7E9

Attention: Thomas Liu

Re: 1st Mortgage Land Financing / The Academy, 3070 Ellesmere Road

Cameron Stephens Mortgage Capital Ltd. is pleased to advise that we are prepared to offer the following loan facility subject to syndication and to the terms and conditions outlined below (hereinafter called the "Commitment").

Borrower Name: 3070 Ellesmere Developments Inc. (the "Borrower")

Lender: Cameron Stephens Financial Corporation ("CSFC") (the "Lender")

Servicer: Cameron Stephens Mortgage Capital Ltd. ("CSMC")

Guarantor: The joint and several personal guarantee of Thomas Liu and corporate guarantee of the LeMine Investment Group for 100% of the loan amount. (the "Guarantor")

Project Description: "The Academy" being a 1.30 acre parcel of land located at Ellesmere and Morningside, in Scarborough, ON (municipally, 3070 Ellesmere Road). The site is to be improved with a high rise development made up of 339 residential units of which 272 have been sold as of the date of submission. The site is currently zoned for the intended use. (the "Project")

Loan Facility: \$5,000,000 1st Mortgage Land Loan

Purpose: To provide first mortgage land financing

Interest Rate: 7.25% / Prime + 4.25% per annum (greater of)

Interest on the Loan Facility shall be calculated daily and compounded and payable monthly not in advance based on the number of days that the loan is outstanding.

Term: Repayable on demand by the Lender, however, without prejudice to the right of the Lender to demand payment at any time for any reason whatsoever, the Lender acknowledges that the repayment schedule proposed by the Borrower forecasts the repayment of any drawn amounts under the Loan Facility including interest within 12 months of the first day of the month following the first advance of funds under the Loan Facility ("Maturity Date"). Subject to there having been no default by the Borrower or the Guarantor during the original term of the loan, two 3-month extensions may be granted at the Lender's option subject to payment of the Extension Fee.

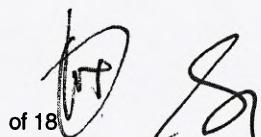
Commitment Fees:

\$75,000	Deemed earned upon acceptance of the Commitment Letter and payable as follows:
\$20,000	Upon acceptance of the Commitment.
\$55,000	Payable upon the 1 st advance

Notwithstanding the above, the Lender retains the right to defer the foregoing payment dates.

The Borrower acknowledges that these fees are a reasonable estimate of the Lender's cost incurred in sourcing, investigating, underwriting and preparing the Loan Facility and holding monies available to fund the Loan Facility and that said fee is still earned by the Lender if the Loan Facility is not advanced.

25 Adelaide Street East, Suite 600 Toronto, ON M5C 3A1
Phone: 416-591-8787 Fax: 416-591-9001 Broker #10769



Discharge Fee: The final discharge for the project that discharges the mortgage will be \$550 deemed earned by the Lender and payable by the Borrower prior to the delivery of the discharge.

Discharge statements will be provided to the Borrowers within three business days of written notice.

Administration Fee: The Lender shall charge an administration fee ("Administration Fee") of \$350 per advance throughout the term of the loan.

Extension Fee: An Extension Fee in the amount of 0.67% of the Authorized Loan Facility shall become due and payable upon the first day of each Extension period following the Maturity Date until full repayment.

Repayment: Interest only, payable monthly in arrears from the Interest Reserve Account held by the Lender. Upon full utilization, the Borrower agrees to make payments by way of pre-authorized debits to the Borrower's Project account.

Prepayment: If not in default and provided the Lender has received a minimum of 3 months in interest, the Borrower shall have the right upon 14 days written notice to the Lender to prepay the Loan Facility at any time subject to the Lender receiving all applicable fees as described herein and any accrued interest.

Security: The Borrower, prior to any advance of funds, shall deliver the following security documents, (collectively the "Security") which shall be in form, scope and substance satisfactory to the Lender and its legal counsel:

1. Mortgage with a principal amount of \$6,000,000 (1.2x the loan amount for administrative purposes) granting a first fixed charge against the Project.
2. The joint and several personal guarantee of Thomas Liu and the corporate guarantee of The LeMine Investment Group for 100% of the loan amount plus interest and expenses and an assignment and postponement of claims by Guarantor and all shareholders of the Borrower relating to any claims against the Borrower.
3. General Security Agreement registered under the Personal Property Security Act Ontario granting a first general assignment of:
 - Book Debts, Rents and Leases of the Borrower in respect to the Project.
 - All present and after acquired personal property of the Borrower.
 - Rights of the Borrower (a) under all building/development permits and the monies paid thereunder, (b) to all plans, specifications and drawings related to the Project.
4. Hypothecation and Pledge of all the shares of the Borrower.
5. The Lender shall have received an acceptable insurance binder or cover note, to be followed, within 30 days of the issuance of the binder or cover note, with a certified copy of a policy or policies of insurance, satisfactory to the Lender, containing the requirements of Schedule "A" hereto and including evidence of a Comprehensive General Liability Insurance policy for the Project in an amount of not less than \$5,000,000 per occurrence. The Commercial General Liability Policy must reference the project and CSFC is to be added as an additional insured.
6. The Lender's Solicitor shall obtain Title Insurance, at the cost of the Borrower, on the Project Land.
7. In the event the Lender elects to hold on deposit the Borrower's cash (the "Cash Collateral Account") or term deposits, GICs or the like, from other financial institutions, to secure the Loan Facility generally or specifically the outstanding Letter of Credit exposure, a specific assignment or charge over the cash, term deposit, GIC, as the case may be, will be required.

8. Negative Pledge by Borrower and Guarantor to not repay any shareholder loans, redeem shares, pay out dividends or increase compensation to principals of Borrower or Guarantor until the Loan Facility has been fully repaid.
9. Such other and further security and documentation as may be required by the Lender or its counsel to complete and perfect the Security.

Funding Conditions:

No funds will be advanced until the Lender has received and approved or waived the following, all in form and substance satisfactory to the Lender and its legal counsel:

1. Receipt and satisfactory confirmation by the Lender's Planning Consultant that the site is zoned for the intended use and that Site Plan Approval for the uses as described under the Project is probable and achievable in the next 12 months.
2. The Lender to receive satisfactory confirmation that the Borrower has injected \$4,737,500 of equity into the Project, which shall remain invested until such time as the Lender has been fully repaid all principal and interest.
3. Receipt and satisfactory review of a Ministry of Environment and City of Toronto approved Restoration Action Plan.
4. Receipt and satisfactory confirmation that \$4,048,161 in purchaser's deposits have been received.
5. A soils test report (load bearing capacity) by an acceptable professional engineer or such other similar report as is acceptable to the Lender, must be provided, demonstrating to the satisfaction of the Lender and its Cost Consultant that the proposed construction and site improvements of the Project are feasible under existing soil conditions, together with evidence that the construction specifications for the Project provide for construction in compliance with such conditions and with the recommendations, if any, which may be contained in such soils test report. In the case of renovation to an existing structure, the Borrower shall provide evidence satisfactory in form and content to the Lender, from independent engineers, as to the structural integrity of the building and details of any required remediation or upgrading whether for seismic purposes or otherwise.
6. The Borrower will obtain at its own expense an environmental audit, Phase 1 and Phase 2, from a firm approved by the Lender confirming that in their professional opinion there is no evidence that the site or any structures thereon are contaminated by any environmental hazards and recommending that no further action need be taken or will provide evidence of a remediation plan that will leave the site environmentally acceptable to the relevant Provincial and Federal Agencies and further evidence that said remediation plan is being performed, as budgeted for in the approved Budget and has been formally approved by the Ontario Ministry of the Environment. Such environmental audit must be accompanied by the Form of Reliance Certificate (attached to the Commitment Letter as Schedule "E") from the consultant to the Lender and shall confirm that the Lender and its assigns can rely upon such report for lending purposes.
7. All levies, impost fees, local improvement charges, property taxes and other charges affecting the Project due and payable shall have been paid to the date of the first advance of funds unless they are to be funded as part of the first advance.
8. The Borrower shall have provided the Lender with a survey of the Project by an Ontario licensed land surveyor, indicating no encroachments, easements or rights of way, save those which the Lender may specifically accept and showing the relationship of the lands to public thoroughfares for access purposes.

9. The Lender shall have received from an approved appraiser a satisfactory appraisal of the Project confirming a fair market land value of not less than \$9,300,000. Such appraisal report must be accompanied by the Form of Reliance Certificate (attached to the Commitment Letter as Schedule "E") from the appraiser to the Lender and shall confirm that the Lender and its assigns can rely upon such appraisal for lending purposes.
10. Receipt and satisfactory review of the Agreement of Purchase and Sale with respect to the original acquisition of the Project lands (and any subsequent amendments or side letters related thereto).
11. Receipt and satisfactory review of a personal net worth and/or financial statement(s) from the Borrower and each of the Guarantors on CSFC's Standard Form, duly signed and witnessed (attached to the Commitment Letter as Schedule "D"). In addition the Lender is to receive satisfactory credit reports for the Borrower and Guarantor, both prior to the initial advance and at any time thereafter, as required by the Lender, until the Loan Facility is fully repaid.
12. First right of refusal to provide Land Serving/Construction financing on the subject project.
13. Receipt and satisfactory review of any cost sharing agreements related to the subject Project, by the Lender, its cost consultant and legal counsel.
14. The Borrower and each additional Covenantor authorize the Lender to make inquiries concerning the character, general reputation, personal characteristics, financial and credit data of the Borrower and each additional Covenantor, including its respective directors, officers, shareholders, and principals, and to verify any information provided to the Lender hereunder, all for the purpose of underwriting and servicing the Loan.
15. The Lender shall engage a Land Development Consultant to review the development status and access to services for the Project confirming the following:
 - i) The probability of Site Plan Approval within 12 months and all issues related thereto;
 - ii) The proposed lot yield; and
 - iii) The timing and access to water, sanitary, and storm water management services.

The Said Report to be in a form and content acceptable to the Lender in its sole discretion.
16. Such other information the Lender may reasonably require.

Availability:

A one-time advance of \$5,000,000, of which \$362,500 will fund the Interest Reserve Account.

The first advance of funds provided for herein shall be advanced no later than 90 days after acceptance of the Commitment.

In the event that the mortgage is not registered or the first advance of funds is not made for any reason whatsoever on or before that date, at the option of the Lender, its obligations under this Commitment shall cease and it shall be released of any present or further obligations. Notwithstanding the foregoing, the Borrower and Guarantor shall remain liable for any outstanding fees and costs as set out herein.



Financing Program:

The Financing Program is to be as follows:

Use of Funds	Total	Per Acre	Per Sq. Ft.	% of Total
Land Value	\$9,300,000	\$ 7,153,846	\$ 35.49	95.51%
Interest Reserve	\$ 362,500	\$ 278,846	\$ 1.38	3.72%
Commitment Fee	\$ 75,000	\$ 57,692	\$ 0.29	0.77%
Total Use of Funds	\$9,737,500	\$ 7,490,385	\$ 37.15	100.00%

Source of Funds	Total	Per Acre	Per Sq. Ft.	% of Total
CSMC 1st Mortgage	\$5,000,000	\$ 3,846,154	\$ 19.08	51.35%
Borrower's Equity	\$4,737,500	\$ 3,644,231	\$ 18.08	48.65%
Total Sources of Funds	\$9,737,500	\$ 7,490,385	\$ 37.15	100.00%

Reporting Requirements:

The Borrower and/or Guarantor shall provide to the Lender:

1. Within 90 days of each fiscal year end during the term of the Loan Facility, accountant prepared financial statements for the Borrower and each corporate Guarantor. In addition, the Lender will process credit reports for the Borrower and Guarantor.
2. Updated financial statements and/or net worth statements annually for each personal Guarantor;
3. Such other financial and supporting information as the Lender may request.

Subsequent Financing:

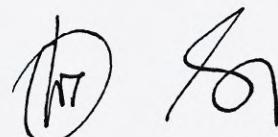
No financing subsequent to the Loan Facility shall be permitted, without the prior written consent of the Lender. The Borrower shall disclose to the Lender all existing or proposed financing related to the Project and shall not pledge or otherwise encumber its interest in the Project to any party other than the Lender, without the prior written consent of the Lender. The Borrower will provide evidence, satisfactory to the Lender, as to the source of the Borrower's required equity in the Project.

Other Conditions:

1. Loan disbursements shall take place only on title to the Project being acceptable to our solicitors and all matters in connection with the Security and other documentation deemed necessary or advisable by our solicitors being complied with by the Borrower and Guarantor and all Security and other instruments and agreements to evidence and secure the Loan Facility are duly executed, with evidence of registration where applicable.
2. The Lender shall require a satisfactory opinion and report from its solicitors indicating, among other things, the validity, enforceability and priority of all Security and the state of title of the Project.
3. The Lender shall require a satisfactory opinion and report from its solicitors regarding any encumbrances, financial charges or claims registered or to be registered against the Project.
4. The Lender shall require evidence of all corporate authorities together with an opinion of the Borrower's counsel as to usual matters such as: corporate authorities, absence of litigation, delivery of security, and execution of all security listed herein.
5. The Commitment and the Security may not be assigned, transferred or otherwise disposed of by the Borrower without the Lender's prior written consent. However, the Commitment and Security or any interest therein may be assigned or participated by the Lender (and its successors and assigns), in whole or in part, without the consent of the Borrower or the Guarantor. Except as hereinafter provided, the Borrower and Guarantor consent to the disclosure by the Lender to any such prospective assignee or participant of all information and documents regarding the Loan Facility, the Project, the Borrower, and the Guarantor within the possession or control of the Lender.



6. CSFC shall have the irrevocable right to erect a sign on the Project, at its own expense, indicating it has provided the financing on the Project during the period for which the financing, or any portion thereof, remains outstanding. CSFC may also refer to this Project in its advertising at any time after the first advance under the Loan Facility.
7. The Borrower shall establish a separate Project account at a financial institution acceptable to the Lender through which all advances and disbursements shall be made in respect to the Project.
8. In the event of the Borrower selling, transferring or conveying the Project or its rights therein to a purchaser, transferee or grantee not approved by the Lender, at the sole option of the Lender, all monies outstanding, together with all accrued and unpaid interest thereon and any other amounts due under the Commitment or the Security, shall become due and payable.
9. The voting control of the Borrower shall not change without the prior written consent of the Lender.
10. All appraisal, engineering, inspection, title, survey, legal, insurance review and other customary underwriting, inspection, securing or enforcement expenses of the Lender, are for the account of and shall be paid by the Borrower and may at the Lender's option be deducted from an advance and the Borrower hereby irrevocably directs and authorizes the Lender to pay such expenses and costs, together with any outstanding balance of the Commitment Fee, or any other amount due to the Lender, from and out of any advance of funds under this Loan Facility, in the event the same have not been paid at the time thereof. The Borrower acknowledges that in the event it does not request construction draws on a regular monthly basis, the Lender may inspect or cause its Cost Consultant to inspect the Project at any time, at the expense of the Borrower.
11. In the event of the Borrower failing to pay any amount when due or being in breach of any covenant, condition or term of the Commitment or the Security, or if any representation made by the Borrower, the Guarantor or their agents, or any information provided by them is found to be untrue or incorrect, or if any Event of Default as defined in the Security occurs, or if in the sole opinion of the Lender, a material adverse change occurs relating to the Borrower, the Guarantor, the Project, or the risk associated with the Loan Facility, the Borrower shall, at the option of the Lender, be in default of its obligations to the Lender and the Lender may cease or delay further funding or may exercise any and/or all remedies available to it at law or in equity. Further, the Lender may, at its option, on notice to the Borrower, declare the principal and interest on the Loan, and any other amount due under the Commitment forthwith due and payable, whereupon the same shall be and become immediately due and payable in full.
12. The waiver by the Lender of any breach or default by the Borrower of any provisions contained herein shall not be construed as a waiver of any other or subsequent breach or default by the Borrower. In addition, any failure by the Lender to exercise any rights or remedies hereunder or under the Security shall not constitute a waiver thereof.
13. The Commitment and Loan Facility shall be governed by and construed under laws of the Province of Ontario.
14. The Borrower and Guarantor agree that if any one or more of the provisions contained in this Commitment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Lender, not affect any or all other provisions of this Commitment and this Commitment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Handwritten signatures, including a stylized 'D' and 'J'.

15. If the Borrower or the Guarantor is comprised of more than one person or corporation, the obligations shall be the joint and several obligations of each such person or corporation comprising the Borrower or Guarantor unless otherwise specifically stated herein.
16. Time is of the essence in this Commitment.
17. The Lender shall have a right of first refusal to finance or arrange financing for any subsequent phases of the development, of which the Project forms a part, or any further development to be developed on the lands adjacent thereto and shall be given the first opportunity and a reasonable period of time, after delivery to the Lender of all reasonably requested information, to provide a commitment to fund such further development.
18. The Borrower and Guarantor shall indemnify and save harmless the Lender its officers, agents, trustees, employees, contractors, licensees or invitees from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature whatsoever arising out of the provisions of this Commitment and the Security, any letters of credit or letters of guarantee issued, sale or lease of the Project and/or the use or occupation of the Project including, without limitation, those arising from the right to enter the Project from time to time and to carry out the various tests, inspections and other activities permitted by the Commitment and the Security. In addition to any liability imposed on the Borrower and Guarantor under any instrument evidencing or securing the Loan indebtedness, the Borrower and Guarantor shall be liable for any and all of the Lender's costs, expenses, damages or liabilities, including, without limitation, all reasonable legal fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Project of any hazardous or noxious substances. The representations, warranties, covenants and agreements of the Borrower and Guarantor set forth in this subparagraph:
 - (i) Are separate and distinct obligations from the Borrower's and Guarantor's other obligations;
 - (ii) Survive the payment and satisfaction of their other obligations and the discharge of the Security from time to time taken as security therefore;
 - (iii) Are not discharged or satisfied by foreclosure of the charges created by any of the Security; and
 - (iv) Shall continue in effect after any transfer of the land including, without limitation, transfers pursuant to foreclosure proceedings (whether judicial or non-judicial) or by any transfer in lieu of foreclosure.
19. The Borrower and Guarantor will provide the usual warranties and representations respecting: accuracy of financial statements and that there has been no material adverse change in either the Borrower's or Guarantor's financial condition or operations, as reflected in the financial statements used to evaluate this credit; title to the Project charged by the Security; power and authority to execute and deliver documents; accuracy of documents delivered and representations made to Lender; no pending adverse claims; no outstanding judgments; no defaults under other agreements relating to the Project; preservation of assets; no undefended material actions, suits or proceedings; payment of all taxes; no consents, approvals or authorizations necessary in connection with documentation; compliance of construction of Project with all laws; no other charges against mortgaged lands except permitted encumbrances; all necessary services available to the Project; no hazardous substances used, stored, discharged or present on the mortgaged lands and will warrant such other reasonable matters as Lender or its legal counsel may require.



20. The Borrower agrees that if the Lender is called upon to issue or to cause to be issued Letters of Credit as part of this Loan Facility, then the Borrower will be required to publish the date of substantial completion of the Project in an appropriate trade publication.

21. The Lender's solicitor shall be:

Garfinkle, Biderman
 One Financial Place
 1 Adelaide Street East, Suite 801
 Toronto ON M5C 2V9
 Canada

Attention: Avrom Brown

22. The representations, warranties, covenants and obligations herein set out shall not merge or be extinguished by the execution or registration of the Security but shall survive until all obligations under this Commitment and the Security have been duly performed and the Loan Facility, interest thereon and any other moneys payable to the Lender are repaid in full. In the event of any inconsistency or conflict between any of the provisions of the Commitment and any provision or provisions of the Security, the Commitment will prevail on all financial provisions and conflicts but the Security will prevail for anything non financial.

23. No term or requirement of this Commitment may be waived or varied orally or by any course of conduct of the Borrower or anyone acting on his behalf or by any officer, employee or agent of the Lender. Any alteration or amendment to this Commitment must be in writing and signed by a duly authorized officer of the Lender and accepted by the Borrower and Guarantor.

24. The Borrower and Guarantor acknowledge and agree that the terms and conditions recited herein are confidential between themselves and the Lender, its Lawyer, Cost Consultant, Insurance Consultant and Project Monitor. The Borrower and Guarantor agree not to disclose the information contained herein to a third party, other than their lawyer, without the Lender's prior written consent.

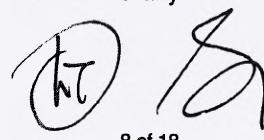
25. The Lender will require a satisfactory Letter of Transmittal regarding all professional reports including, without limiting, the environmental report. A Transmittal Letter is to be issued for each report, addressed to CSMC and state that the report can be relied upon by the Lender for mortgage financing purposes.

Proceeds of Crime (Money Laundering) and Terrorist Financing Act:

Pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the "Act"), the Lender is required to ask for identification of the Borrower, the Additional Covenantors and any third party involved in the transaction, and for information with respect to the source of funds used in connection with the Borrower's equity in the Property. The Borrower and each Additional Covenantor hereby covenant and agree to provide, prior to funding, such identification and information as may be reasonably required to ensure the Lender's compliance with the Act.

Material Changes:

If at any time before the Date of Advance there is or has been any material change, discrepancy or inaccuracy in any information, statements, representations or warranties made or furnished to the Lender by or on behalf of the Borrower or upon the occurrence of an Event of Default under this Commitment which cannot be or is not rectified or nullified by the Borrower to the Lender's satisfaction within ten (10) days after written notification thereof by the Lender to the Borrower or the Lender's due diligence investigations regarding the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) produces a materially adverse result, the Lender shall be entitled forthwith to withdraw and cancel its obligations hereunder and to declare any



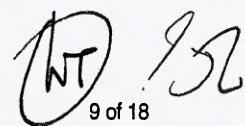
funds which have been advanced, together with interest and other amounts, to be forthwith due and repayable in full.

Privacy Act Consent:

By signing this Commitment, each of you, being the parties signing (including all mortgagors and all guarantors) agrees that CSFC is authorized and entitled to:

- a) Use your Personal Information (as hereinafter defined) to assess your ability to obtain your loan and to evaluate your ability to meet your financial obligations. This use includes disclosing and exchanging your Personal Information on an on-going basis with credit bureaus, credit reporting agencies and financial institutions or their agents, or to service providers, in order to determine and verify, on an on-going basis, your continuing eligibility for your loan and your continuing ability to meet your financial obligations. This use, disclosure and exchange of your Personal Information will continue as long as your loan is outstanding, and will help protect you from fraud and will also protect the integrity of the credit-granting system;
- b) If the security for your loan includes an insured mortgage, to disclose your Personal Information to the mortgage insurer and to exchange, on an on-going basis, your Personal Information with such mortgage insurer, for all purposes related to the provision of mortgage insurance; and;
- c) Use, disclose and exchange, on an on-going basis, all the personal information collected by us or delivered by you to us from time to time in connection with your loan and any information obtained by us from time to time pursuant to paragraphs (a) and (b) above (collectively your "**Personal Information**") to other organizations which may fund all or any part of your loan and/or own all or any part of your loan and the security securing your loan from time to time and permit prospective investors in your loan to inspect your Personal Information

Even though your loan and the security securing your loan may be funded or owned by one or more other organizations, CSMC will continue to service your loan.



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3070 Ellesmere Developments Inc. – The Academy

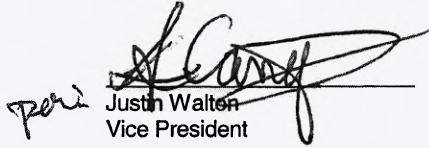
December 22nd, 2014

If you are in agreement with the foregoing terms and conditions, please indicate by signing and returning one (1) copy of this Commitment to the Lender's office by **January 2nd, 2015 together with your cheque in the amount of \$20,000 payable to Cameron Stephens Mortgage Capital** representing the Commitment Fee due and payable, failing which this letter shall be deemed null and void.

Yours truly,
Cameron Stephens Mortgage Capital Ltd.



Scott Cameron
President



Per: Justin Walton
Vice President

Borrower and Guarantor hereby accept the terms and conditions of the above-mentioned Commitment, agree to be responsible for all fees and disbursements payable in accordance with provisions of this Commitment and authorize the credit checks contemplated herein.

By signing this Commitment Letter, Borrower acknowledges that this loan is solely for its own benefit, and not for the benefit of any third party, except as specifically disclosed herein.

For your protection, personal information in the possession of other organizations as provided for herein is subject to their: (i) compliance with applicable law; and (ii) compliance with their own privacy codes, rules and regulations if and to the extent applicable. In some instances, such organizations or their applicable service providers may be located in jurisdictions outside of Canada, and your personal information may be subject to the laws of those foreign jurisdictions. To find out more about our privacy policy or to obtain information about our privacy practices, send a written request to Cameron Stephens Privacy Officer, Suite 600, 25 Adelaide Street East, Toronto, Ontario, M5C 3A1.

ACCEPTANCE

I/WE HEREBY accept the terms and conditions as stated herein.

DATED AT Toronto, this 17 day of Jan, 2014

Borrower

3070 Ellesmere Developments Inc.

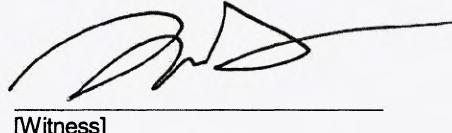
Per:
I have the authority to bind the corporation

Per:
I have the authority to bind the corporation

Guarantors

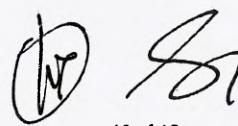
Thomas Liu

LeMine Investment Group



[Witness]

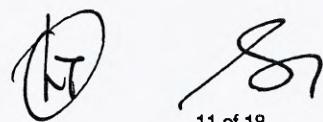
Per:
I have the authority to bind the corporation



SCHEDULE "A":
INSURANCE REQUIREMENTS

1. GENERAL

- a. All insurance policies referred to herein shall be in form and with insurers reasonably acceptable to Lender and contain the original signatures of the insurers, not just the insurance broker or agent, unless otherwise agreed, and shall be delivered to the Lender within 30 days of issuance of the insurance cover note or binder.
- b. All policies shall be permitted to contain reasonable deductibles.
- c. The Builder's Risk Insurance shall contain a Standard Mortgage Clause and show the lender as Mortgagee and Loss Payee and shall provide for sixty days (60) prior notice to Lender of any adverse material change or cancellation.
- d. If the Borrower fails to take out and keep in force such minimum insurance as is required hereunder, then Lender may, but shall not be obligated to, take out and keep in force such insurance at the immediate sole cost and expense of the Borrower plus costs incurred, or use other means at its disposal under the terms of the Mortgage.
- e. It is clearly understood and agreed that the Insurance Requirements contained herein are a minimum guide and, although must be adhered to throughout the life of the Mortgage, in no way represent an opinion as to the full scope of insurance cover a prudent Borrower would arrange to adequately protect its interest and the interest of Lender, and the Borrower must govern itself accordingly.

A photograph of two handwritten signatures. The signature on the left is enclosed in a circle and appears to be initials. The signature on the right is a cursive name.

SCHEDULE "B":

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PERSONAL & EMPLOYMENT INFORMATION

First Name:	Spouse's Name:	
Last Name:	Marital Status:	
Telephone (home):	Telephone (work):	
SIN (required):	Date of Birth:	
Driver's License:	# of dependents:	
Are you currently a client of Cameron Stephens Financial Corporation?		
Current Address:	Length of time at current address:	
Employer's Name:	Present Position:	
Address:	Length of Service:	
Annual Employment Income:	\$ _____	Details:
Income from other sources (specify):	\$ _____	_____
Total Annual Income (state year of reference): \$ _____		_____
Bank Reference:		_____
Address:		_____

SUMMARY ~ FINANCIAL INFORMATION

	ASSETS	VALUE		BALANCE OWING
CASH, DEPOSITS & MARKETABLE SECURITIES	BANK/TRUST CR/UNION	\$	OUTSTANDING LOANS	Refer to section D \$
REAL ESTATE	Must agree with section "B"	\$	MARGIN ACCOUNTS	Refer to section A \$
EQUITY IN NON-ARMS LENGTH COMPANIES	Must agree with section "C"	\$	OUTSTANDING MORTGAGES	Refer to section D \$
INVESTMENTS (Specify)		\$	OTHER LIABILITIES (itemize)	\$
OTHER ASSETS (itemize)				
TOTAL ASSETS		\$	TOTAL LIABILITIES	\$
			NET WORTH	\$

12 of 18

(Supporting Schedules)

ASSETS

Page 2 of 2

SECTION "A" ~ SECURITIES AND TAX SHELTERS

Description of Security and Quantity Held	Registered to/ To whom pledged	Market Value	Cost	Margin Accts Balance Owing	Annual Profit or Loss
1		\$	\$	\$	\$
2		\$	\$	\$	\$
3		\$	\$	\$	\$
4		\$	\$	\$	\$
	TOTAL	\$		\$	\$

SECTION "B" ~ REAL ESTATE

Address and Description (Acreage, Home, Business)	Title in Name of	Date Purchased	Market Value	Purchase Price	% Owned
1			\$ -		0%
2			\$ -		0%
3			\$ -		0%
4			\$ -		0%
5			\$ -		0%
6			\$ -		0%
	TOTAL		\$		

SECTION "C" ~ EQUITY IN NON ARMS-LENGTH COMPANIES

Name of Company	Nature of Business	Position / Relationship	Value of Equity Invested	% Ownership
1			\$	0%
2			\$	0%
3			\$	0%
4			\$	0%
5			\$	0%
6			\$	0%
NOTE: ATTACH FINANCIAL STATEMENTS		TOTAL	\$	

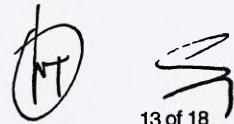
LIABILITIES**SECTION "D" ~ SECURITY**

Lender Name	Security	Amount	Terms & Rate	Outstanding Balance
1				\$
2				\$
3				\$
4				\$
5				\$
6				\$
		TOTAL		\$

I warrant and confirm that the information given herein is true and I understand clearly that it is being used to determine my credit responsibility. You are authorized to obtain any information you require relative to this application from any sources to which you may apply and each such source is hereby authorized to provide you with such information. You are furthermore authorized to disclose any response to direct inquiries from any other lender or credit bureau, such information on my loaning account as you consider appropriate, and I hereby agree to indemnify you against and save you harmless from any and all claims in damages or otherwise arising from such disclosure on your part. You are also authorized to retain the application whether or not the relative mortgage is approved

Dated this _____ day of _____, _____

Signature (in ink)



SCHEDULE "C":
MINIMUM SELLING PRICES

Intentionally deleted

Two handwritten signatures are present. The first signature, on the left, consists of a stylized letter 'D' enclosed in a circle. The second signature, on the right, consists of a stylized letter 'S'.

SCHEDULE "D"**Please complete either the corporate or individual source of funds**

Corporation

**STATUTORY DECLARATION
(Down Payment Verification)****CANADA**

) **IN THE MATTER OF** title to the lands known
) municipally as _____
) in the City of _____
) (the "Property")
)
) **AND IN THE MATTER OF** a mortgage loan from
) Cameron Stephens Mortgage Capital Ltd
) on the security of the Property (the "Mortgage")

I, _____, of the City of _____,
 in the Province of _____ make oath and say as follows:

1. I am the _____ of _____ (the "Corporation")
 named in the Mortgage and as such have knowledge of the matters hereinafter
 deposed.
2. In connection with the purchase of the Property, the Corporation is providing equity
 in the amount of _____ (\$ _____) DOLLARS (the "Equity").
3. The source of the Equity is:
 - a. Proceeds from the sale of property municipally known as

 (copy of purchase agreement attached)
 - b. Other (please describe): _____
4. None of the Equity has come from accounts or operations primarily situated outside
 of Canada.

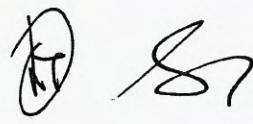
AND I make this solemn declaration conscientiously believing it to be true, and
 knowing that it is of the same force and effect as if made under oath pursuant to the
 Canada Evidence Act.

)
 DECLARED before me at the _____
 City of _____
 in the Province of _____
 this _____ day of _____, 20 _____

 _____ (Name of declarant)

 A Commissioner, etc. _____

NOTE: This statutory declaration is required only in connection with a new financing.
 Significant detail must be given in connection with the source of the down payment funds.



Individual

STATUTORY DECLARATION
(Down Payment Verification)

CANADA

-) **IN THE MATTER OF** title to the lands known
-) municipally as _____
-) in the City of _____
-) (the "Property")
-)
-) **AND IN THE MATTER OF** a mortgage loan from
-) Cameron Stephens Mortgage Capital Ltd
-) on the security of the Property (the "Mortgage")

I, _____, of the City of _____, in the Province of _____ make oath and say as follows:

1. In connection with the purchase of the Property, I am providing equity in the amount of _____ (\$ _____) DOLLARS (the "Equity").
2. The source of the Equity is:

a. Proceeds from the sale of property municipally known as

_____ (copy of purchase agreement attached)

b. Other (please describe): _____

3. None of the Equity has come from accounts or operations primarily situated outside of Canada.

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

DECLARED before me at the _____
 City of _____
 in the Province of _____
 this _____ day of _____, 20 _____

 _____ (Name of declarant)

 A Commissioner, etc. _____




SCHEDULE "E"
RELIANCE CERTIFICATE

TO: Cameron Stephens Financial Corporation, and such persons for whom they act as agent or trustee from time to time, and in each case, their respective successors and assigns

RE: [Describe agreement in respect of which reliance is being permitted] dated [insert date], prepared by [insert name of consultant] and addressed to [name addresses of report] (the "Report")

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby certifies, agrees and confirms that the addressees hereof, and their respective successors and assigns, shall be entitled to rely on the Report to the same extent and with such effect as if such Report were prepared for and addressed to them.

DATED the 17 day of January, 2014

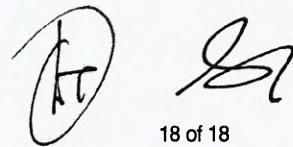
By:

Name:
Title:



SCHEDULE "F"
TERMS OF REFERENCE

Intentionally deleted.

Two handwritten signatures are present. The first signature on the left is a stylized 'AT'. The second signature on the right is a cursive 'SL'.

**C A M E R O N | M O R T G A G E
S T E P H E N S | C A P I T A L L T D .**

March 25th, 2015

LeMine Investment Group
5000 Yonge Street, Unit 1806
North York, Ontario
M2N 7E9

Attention: Thomas Liu

Re: 1st Mortgage Land Financing / The Academy, 3070 Ellesmere Road

Further to our Commitment Letter dated December 22nd, 2014 (the "Original Commitment"), Cameron Stephens Mortgage Capital Ltd. ("CSMC") is pleased to advise that we have approved the following amendment(s) to said letter subject to the terms and conditions outlined below. All other terms and conditions of CSMC's Original Commitment Letter shall remain unchanged and enforceable.

Guarantor:

Original

The joint and several personal guarantees of Thomas Liu and corporate guarantee of LeMine Investment Group for 100% of the loan amount.

Revised

The joint and several personal guarantees of Thomas Liu and Yixuan Wang (with ILA) and the corporate guarantee of LeMine Real Estate Consulting Inc. for 100% of the loan amount.

Funding Conditions:

Original

3. Receipt and satisfactory review of a Ministry of Environment and City of Toronto approved Restoration Action Plan.

Revised

3. Receipt and satisfactory review of Terraprobe report confirming an approved Restoration Action Plan is imminent for the subject property.

All other funding conditions to remain unchanged.

If you are in agreement with the foregoing terms and conditions, please indicate by signing and returning one (1) copy of this Letter to the Lender's office by March 31st, 2015, failing which this letter shall be deemed null and void.

Yours truly,

Cameron Stephens Mortgage Capital Ltd.

Scott Cameron
President

Steve Cameron
Assistant Vice President

Katie Bonar
Senior Account Manager

Borrower and Guarantor hereby accept the terms and conditions of the above-mentioned Amendment, agree to be responsible for all fees and disbursements payable in accordance with provisions of this Amendment and authorize the credit checks contemplated herein.

By signing this Amendment Letter, the Borrower acknowledges that this loan is solely for its own benefit, and not for the benefit of any third party, except as specifically disclosed herein.

hJ
YL

ACCEPTANCE

I WE HEREBY accept the terms and conditions as stated herein.

DATED AT Toronto, this 31 day of March, 2015

Borrower
3070 Ellesmere Developments Inc.

Per:
I have the authority to bind the corporation

Guarantors
LeMine Real Estate Consulting Inc.

Per:
I have the authority to bind the corporation

[Witness]

[Witness]

Thomas Liu

Yixuan Wang

**C A M E R O N | M O R T G A G E
S T E P H E N S | C A P I T A L L T D .**

May 31, 2016

LeMine Investment Group
5000 Yonge St., Unit 1806
North York, Ontario
M2N 7E9

Attention: Thomas Liu

Re: Loan Renewal / The Academy – 3070 Ellesmere Road (Loan #3371)

Further to our Commitment Letter dated December 22nd, 2014 (the "Original Commitment") and subsequent Amendments, Cameron Stephens Mortgage Capital ("CSMC") is pleased to advise that we have approved the following renewal subject to the terms and conditions outlined below. All other terms and conditions of the Original Commitment Letter shall remain unchanged and enforceable.

Borrower:	3070 Ellesmere Developments Inc. (the "Borrower")
Lender:	Cameron Stephens Financial Corporation ("CSFC") (the "Lender")
Servicer:	Cameron Stephens Mortgage Capital ("CSMC")
Guarantor:	<u>Unchanged</u> The joint and several personal guarantees of Thomas Liu and Yixuan Wang (with ILA) and the corporate guarantee of LeMine Real Estate Consulting Inc. for 100% of the loan amount.
Project Description:	"The Academy" being a 1.30 acre parcel of land located at Ellesmere and Morningside, in Scarborough, ON (municipality, 3070 Ellesmere Road). The site is Site Plan Approved for a high rise development made up of 339 residential units of which 276 have been sold as of the date of submission. The site is currently zoned for the intended use. The Borrower has applied for a 2 nd Minor Variance which would allow an increase to 426 units and expects to have approvals and additional pre-sales in place to begin construction by early fall of 2016.
Loan Facility:	<u>Unchanged</u> \$5,000,000 1 st Mortgage Land Loan
Purpose:	To renew the existing land loan for a period of 6 months
Interest Rate:	<u>Unchanged</u> 7.25% / Prime + 4.25% per annum (greater of)
Renewal Term:	6 months with two, 3-month extension periods (effective May 1, 2016)
Renewal Fee:	\$37,500 (0.75%) Note: Renewal Fee is 1.50% prorated to 6 Months.
Extension Fees:	<u>Unchanged</u> 0.67% per extension period
Security:	<u>Unchanged</u>
Funding Conditions:	<u>Revised</u> 1. Satisfactory confirmation by the Lender's solicitor of Site Plan Approval for a minimum of 26 storeys and 339 total units. All other Funding Conditions shall remain unchanged.

Repayment:Revised

- Interest is payable monthly in arrears from the Borrower's own resources
- Principal repayment from 100% of net sale / refinancing proceeds

Financing Program:Revised

Use of Funds	Total	Per Acre	Per Sq. Ft.	% of Total
Land Value	\$ 9,300,000	\$ 7,153,846	\$ 28.79	95.51%
Interest Reserve	\$ 362,500	\$ 278,846	\$ 1.12	3.72%
Commitment Fee	\$ 75,000	\$ 57,692	\$ 0.23	0.77%
Total Use of Funds	\$ 9,737,500	\$ 7,490,385	\$ 30.15	100.00%

Source of Funds	Total	Per Acre	Per Sq. Ft.	% of Total
CSMC 1st Mortgage	\$ 5,000,000	\$ 3,846,154	\$ 15.48	51.35%
Borrower's Equity	\$ 4,737,500	\$ 3,644,231	\$ 14.67	48.65%
Total Sources of Funds	\$ 9,737,500	\$ 7,490,385	\$ 30.15	100.00%

Notes:

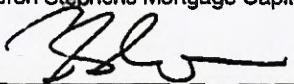
1. The only change is the P.S.F values, which are based on the increased proposal for 323,012 sq. ft.
2. Borrower's equity consists of appraisal surplus
3. The above financing program does not include the renewal fee

Loan Renewal – The Academy – 3070 Ellesmere Road

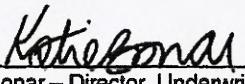
May 31, 2016

If you are in agreement with the foregoing terms and conditions, please indicate by signing and returning one (1) copy of this Commitment to the Lender's office by June 3rd, 2016 along with the renewal fee due and payable, failing which this Renewal Letter shall be deemed null and void.

Yours truly,
Cameron Stephens Mortgage Capital Ltd.


Scott Cameron – President


Robert Callander – Vice President


Katie Bonar – Director, Underwriting

Borrower and Guarantor hereby accept the terms and conditions of the above-mentioned Renewal, agree to be responsible for all fees and disbursements payable in accordance with provisions of this Renewal and authorize the credit checks contemplated herein.

By signing this Renewal Letter, Borrower acknowledges that this loan is solely for its own benefit, and not for the benefit of any third party, except as specifically disclosed herein.

ACCEPTANCE

I/WE HEREBY accept the terms and conditions as stated herein.

DATED AT _____, this _____ day of _____, 2016

Borrower

3070 Ellesmere Developments Inc.

Per:
I have the authority to bind the corporation

Guarantors

[Witness]

Thomas Liu

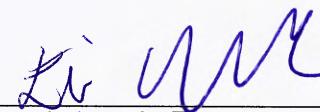
[Witness]

Yixuan Wang

LeMine Real Estate Consulting Inc.

Per:
I have the authority to bind the corporation

This is Exhibit "J" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.



Commissioner for Taking Affidavits (or as may be)

TORONTO CAPITAL CORP. (IN TRUST)**COMMITMENT*****PRIVATE & CONFIDENTIAL*****\$5,000,000 CDN Mortgage Financing**

The following terms are set out below solely for the purpose of outlining
the principal terms of the loan (the "Loan").

Lender: **TORONTO CAPITAL CORP. (in Trust)**

(the "Lender") will provide financing of up to CDN \$5,000,000.

Borrower(s): Central Park Ajax Developments Phase I Inc.

Lemine Real Estate Consulting Inc.

3070 Ellesmere Developments Inc.

Guarantor(s) Tong Liu

Properties: Phase 1A lands

- Approx 2.35 acres currently used as a parking lot
- PIN 26456 - 0086 (LT)

Academy

- 3070 Ellesmere Road, Toronto, Ontario

Use of Proceeds: The proceeds will be used as follows:

- Purchase of Phase 1A lands from the Town of Ajax.
- Development Expenses
- Declining Interest Reserve \$100,000
- Closing costs

Closing: The completion of the Loan ("Closing") shall occur on or before September 2, 2016 or such other date as agreed by the Borrowers and the Lender (the "Closing Date").

Term: The Loan shall mature on the first anniversary of the Closing Date (the "Maturity Date"). All accrued interest and principal shall become due and payable in full on the earlier of the date of demand and the Maturity Date.

The Loan may be renewed for another 12 months from the Maturity Date provided the loan is not in Default and all payments have been made as agreed. The renewal shall be subject to a renewal fee and interest rate to be negotiated prior to maturity.

Interest Rate: The Loan bears interest at 12.0% per annum, calculated monthly not in advance, repayable interest only monthly, payable on the monthly anniversary date of the Closing in each and every month of the term, both before and after demand, default and/or judgment. All payments received by the Lender will be applied first to any interest in arrears, then to the interest, and finally to the principal.

Prepayment Privilege: The Loan is closed for 4 months and open thereafter subject to a 1 month penalty.

Acceleration: All principal and interest shall become due and payable on the earlier of the date of demand and the occurrence of an Event of Default.

Security Interest: The Loan shall be evidenced by the following security:

- 2nd mortgage of \$5,000,000 over the Phase 1A lands subject to a 1st mortgage no greater than \$1,400,000 approved by the Lender
- 2nd mortgage of \$5,000,000 over 3070 Ellesmere Road, Toronto, Ontario subject to a 1st mortgage no greater than \$5,000,000
- 2nd position Assignment of Leases registered under PPSA
- 2nd position Assignment of Insurance
- Assignment of all drawings, reports, applications, contracts, permits, approvals and authorizations associated with the Properties.
- Assignment of all Purchase and Sale Agreements, Offers to Purchase, Offers to Lease and Leases associated with the Properties.
- Unlimited personal guarantee of Tong Liu.
- Unlimited corporate guarantees of 9654372 Canada Inc., 9654488 Canada Inc., 9654461 Canada Inc., 9617680 Canada Inc. and 9654364 Canada Inc. supported by a 2nd mortgage of \$5,000,000 over 132 to 134, 144 to 148, 150 to 154, 212 to 222 and 224 Harwood Avenue South, Ajax, Ontario subject to an aggregate 1st mortgage of \$2,050,000
- Inter-Lender Agreement
- No partial discharges permitted without the written consent of the Lender.
- All mortgages due on sale, change of control and/or change in beneficial ownership.
- The Company having done all things necessary to allow the security to be registered as contemplated herein, and in a manner satisfactory to the Lender and

- 3 -

its solicitors.

- Such other documentation, instruments, agreements, security and/or assurances as may be reasonably requested by the Lender and/or its solicitors.

Conditions:

In addition to the matters described elsewhere in this Commitment, the completion of the transaction will be subject to the following conditions:

- (a) No material adverse change having occurred in the Company's business or assets;
- (b) Borrowers are the legal and beneficial owners of the properties;
- (c) The Lender and the Lender's solicitor being satisfied with the results of its due diligence; and
- (d) The Borrower having done all things necessary to allow the security to be registered as contemplated herein, and in a manner satisfactory to the Lender and its solicitors.
- (e) Property taxes to be in good standing. Property tax statements evidencing no arrears to be provided semi-annually.
- (f) Satisfactory site inspections by the Lender.
- (g) Declining Interest Reserve to be held in trust by Avenue Capital Mortgage Administration Inc. and will be used first to cover the monthly payment before the Borrower is required to pay the monthly payment.

Permitted Discharges: Partial Subject to the Loan being up to date and in good standing the Lender will allow the following partial discharges:

- Upon receipt of a principal payment of \$2,500,000 the Lender will release the Borrower: 3070 Ellesmere Developments Inc. and discharge the 2nd mortgage over 3070 Ellesmere Road, Toronto, Ontario
- Upon receipt of a principal payment of \$3,500,000 the Lender will release the Borrower: Central Park Ajax Developments Phase 1 Inc. and discharge the 2nd mortgage over Phase 1A land [PIN 26456 – 0086 (LT)], Ajax, Ontario

Legal Documentation:

The Loan documentation will be prepared by the Lender's solicitors on the Lender's standard forms. Such agreements and documentation shall contain, among other things, customary representations, warranties, covenants and conditions (which may

- 4 -

supplement the terms of this Commitment) of the Company and shall otherwise be in form and substance satisfactory to the Company and the Company shall also execute such documents and agreements as may be required by Lender's solicitors.

Lender Fee: A Lender Fee shall be deducted of 2.0% on the advance amount. The Lender Fee represents compensation to the Lender for its efforts and expenditures in the review and study of all documentation pertaining to the transaction.

Legal Fees: All Legal Fees are for the sole account of the Borrower. Legal fees are estimated at \$6,000.00 plus disbursements and HST.

Broker Fee: A Broker Fee shall be deducted of 2.0% of the advance amount.
Broker Fee payable to: Toronto Capital Corp.

Delinquency Fees: Any legal fees, monitoring fees, receiver's fees or other fees associated with the collection of the Demand Loan shall be paid by the Borrowers, shall bear interest at a rate of 18% per annum and shall be due when incurred (the "Delinquency Fees").

Administration Fee The Loan bears an Administration Fee of 0.25% (+HST) per annum payable to Avenue Capital Mortgage Administration Inc., calculated monthly not in advance, payable with the monthly interest in each and every month of the term, both before and after demand, default and/or judgment.

Additional Provisions:

- N.S.F. fee of \$500.00 for each dishonoured cheque.
- Three months penalty will be charged if mortgage is not paid out in full on the maturity date.
- In the event of default, the mortgagee is entitled to charge \$5,000.00 for each action or proceeding instituted and a fee of \$600.00 per day for administering the maintenance and security of any property in its possession.
- The Borrowers and Guarantors acknowledge that the usual credit and personal enquiries may be made by the Lender in connection with the Loan and hereby consent to disclosure of any applicable personal information by all such credit and consumer reporting agencies.
- The Lender hereby acknowledges that the Borrower, 3070 Ellesmere Developments Inc., is the Mortgagor in a registered mortgage/charge on title (the "First Mortgage") to the Property municipally known as 3070 Ellesmere Road, Toronto, Ontario in favour of Cameron Stephens Financial Corporation (the

"Mortgagee"). The said First Mortgage is registered in first priority on title to the Property. The Lender acknowledges and agrees to place its mortgage/charge in subsequent and second priority to the First Mortgage. The Lender covenants and agrees, in the event that the Mortgagee calls for the First Mortgage to be repaid, the Lender will immediately and without delay pay the Mortgagee and take the Mortgagee's position as first mortgagee on title to the Property. The Lender further covenants and agrees that in the foregoing event, it will also keep its second mortgage in place, on the same terms and conditions, provided it is in good standing. The Borrower hereby acknowledges and agrees to execute a new Commitment and all documentation that may be required for the Lender to affect the same.

Events of Default: The following are events of default:

- The Borrower(s) failing to make an interest payment.
- The Borrower(s) default on one or more of the Conditions of this commitment.
- The Borrower(s) becoming insolvent or it commits an act of bankruptcy.

- 6 -

If this Commitment is acceptable to you, please sign it in the space provided below and return an original copy to us on or before August 31, 2016, along with:

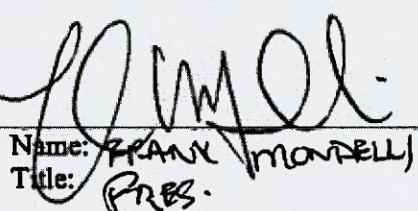
- a non-refundable deposit of \$10,000 payable to Toronto Capital Corp that will be credited against the Broker Fee (received)

Accepted and agreed this 31 day of August, 2016.

LENDER

TORONTO CAPITAL CORP. (IN TRUST)

Per:

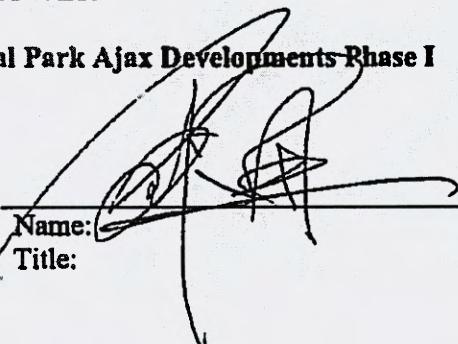


Name: FRANK MANDELL
Title: PRES.

BORROWER

Central Park Ajax Developments Phase I Inc.

Per:



Name: _____
Title: _____

BORROWER

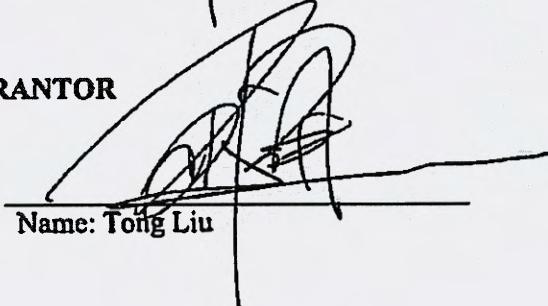
3070 Ellesmere Developments Inc.

Per:



Name: _____
Title: _____

GUARANTOR



Name: Tong Liu

BORROWER

Lemine Real Estate Consulting Inc.

Per:



Name: _____
Title: _____

TORONTO CAPITAL CORP. (IN TRUST)

COMMITMENT - AMENDMENT

*PRIVATE & CONFIDENTIAL***\$5,000,000 CDN Mortgage Financing**

The following terms are set out below solely for the purpose of outlining
 the principal terms of the loan (the "Loan").

This Agreement is attached to and forms part of the Commitment between:

Toronto Capital Corp. (in Trust)

and

Central Park Ajax Developments Phase I Inc., Lemine Real Estate Consulting Inc. & 3070 Ellesmere Developments Inc.

Permitted Partial DELETE:

Discharges:

- Upon receipt of a principal payment of \$2,500,000 the Lender will release the Borrower: 3070 Ellesmere Developments Inc. and discharge the 2nd mortgage over 3070 Ellesmere Road, Toronto, Ontario

ADD:

- Upon receipt of a principal payment of \$3,000,000 the Lender will release the Borrower: 3070 Ellesmere Developments Inc. and discharge the 2nd mortgage over 3070 Ellesmere Road, Toronto, Ontario

DELETE:

- Upon receipt of a principal payment of \$3,500,000 the Lender will release the Borrower: Central Park Ajax Developments Phase 1 Inc. and discharge the 2nd mortgage over Phase 1A land [PIN 26456 – 0086 (LT)], Ajax, Ontario

ADD:

- Upon receipt of a principal payment of \$3,000,000 the Lender will release the Borrower: Central Park Ajax Developments Phase 1 Inc. and discharge the 2nd mortgage over Phase 1A land [PIN 26456 – 0086 (LT)], Ajax, Ontario

- 2 -

Accepted and agreed this 14th day of September, 2016.

LENDER

TORONTO CAPITAL CORP. (IN TRUST)

Per:

Name: FRANK MONTELLI
Title: PRES.

BORROWER

Central Park Ajax Developments Phase I Inc.

Per:

Name: Tong Liu
Title: President

BORROWER

Lemine Real Estate Consulting Inc.

Per:

Name: Tong Liu
Title: President

BORROWER

3070 Ellesmere Developments Inc.

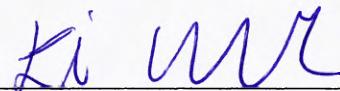
Per:

Name: Tong Liu
Title: President

GUARANTOR

Name: Tong Liu

This is Exhibit "K" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Li Liu".

Commissioner for Taking Affidavits (or as may be)

Request ID: 023493643
 Transaction ID: 72815827
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/22
 Time Report Produced: 11:26:51
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date	
2478888	2478888 ONTARIO INC.	2015/08/13	
Jurisdiction			ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction	
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE	
Registered Office Address		Date Amalgamated	Amalgamation Ind.
HENRY GOLDBERG 1030 SHEPPARD AVENUE WEST		NOT APPLICABLE	NOT APPLICABLE
Suite # 3 TORONTO ONTARIO CANADA M3H 6C1		New Amal. Number	Notice Date
		NOT APPLICABLE	NOT APPLICABLE
		Letter Date	
Mailing Address			NOT APPLICABLE
HENRY GOLDBERG 1030 SHEPPARD AVENUE WEST		Revival Date	Continuation Date
Suite # 3 TORONTO ONTARIO CANADA M3H 6C1		NOT APPLICABLE	NOT APPLICABLE
		Transferred Out Date	Cancel/Inactive Date
		NOT APPLICABLE	NOT APPLICABLE
		EP Licence Eff.Date	EP Licence Term.Date
		NOT APPLICABLE	NOT APPLICABLE
Activity Classification		Number of Directors Minimum Maximum	Date Commenced in Ontario Date Ceased in Ontario
NOT AVAILABLE		00001 00010	NOT APPLICABLE NOT APPLICABLE

Request ID: 023493643
 Transaction ID: 72815827
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/22
 Time Report Produced: 11:26:51
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CORPORATION PROFILE REPORT

Ontario Corp Number

2478888

Corporation Name

2478888 ONTARIO INC.

Corporate Name History

2478888 ONTARIO INC.

Effective Date

2015/08/13

Current Business Name(s) Exist:

YES

Expired Business Name(s) Exist:

NO

Administrator:

Name (Individual / Corporation)

HENRY

GOLDBERG

Address

1030 SHEPPARD AVENUE WEST

Suite # 3
 TORONTO
 ONTARIO
 CANADA M3H 6C1

Date Began

2015/08/13

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

GENERAL MANAGER

Resident Canadian

Y

Request ID: 023493643
 Transaction ID: 72815827
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/22
 Time Report Produced: 11:26:51
 Page: 3

CORPORATION PROFILE REPORT

Ontario Corp Number

2478888

Corporation Name

2478888 ONTARIO INC.

Administrator:

Name (Individual / Corporation)

HENRY

GOLDBERG

Address

1030 SHEPPARD AVENUE WEST
 Suite # 3
 TORONTO
 ONTARIO
 CANADA M3H 6C1

Date Began

2018/10/23

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Administrator:

Name (Individual / Corporation)

HENRY

GOLDBERG

Address

1030 SHEPPARD AVENUE WEST
 Suite # 3
 TORONTO
 ONTARIO
 CANADA M3H 6C1

Date Began

2018/10/23

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian

Y

Request ID: 023493643
Transaction ID: 72815827
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/22
Time Report Produced: 11:26:51
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CORPORATION PROFILE REPORT

Ontario Corp Number

2478888

Corporation Name

2478888 ONTARIO INC.

Last Document Recorded

Act/Code Description

Form

Date

CIA CHANGE NOTICE

1

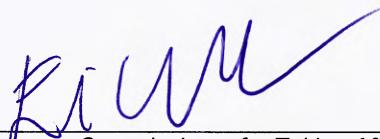
2018/10/23 (ELECTRONIC FILING)

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

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

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

This is Exhibit "L" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

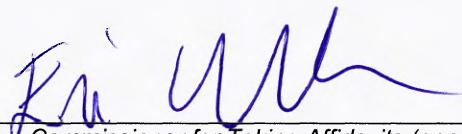
A handwritten signature in blue ink, appearing to read "Thomas Liu".

Commissioner for Taking Affidavits (or as may be)

**List of Toronto Capital Corp. Individual Lenders
(per Parcel Register for Property Identifier)**

Toronto Capital Corp.
247888 Ontario Inc.
1220356 Ontario Limited
Larry Tenebaum
768124 Ontario Inc.
Taragar Holdings Limited
Howieco Entertainment Inc.
Misim Investments Limited
C.H.B.P. Investments Inc.
The Salz Corporation
Randi Usher
Sone Ellen
Aubrie Appel
Gail Appel
Lawrence Sone

This is Exhibit "M" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Eric Wu".

Commissioner for Taking Affidavits (or as may be)

Request ID: 023493640
 Transaction ID: 72815822
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/22
 Time Report Produced: 11:26:49
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date	
2615333	2615333 ONTARIO INC.	2018/01/15	
Jurisdiction			
ONTARIO			
Corporation Type	Corporation Status	Former Jurisdiction	
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE	
Registered Office Address		Date Amalgamated	Amalgamation Ind.
851 WOODLAND ACRES CRES		NOT APPLICABLE	NOT APPLICABLE
		New Amal. Number	Notice Date
MAPLE ONTARIO CANADA L6A 1G2		NOT APPLICABLE	NOT APPLICABLE
Mailing Address		Letter Date	
851 WOODLAND ACRES CRES		NOT APPLICABLE	
		Revival Date	Continuation Date
851 WOODLAND ACRES CRES		NOT APPLICABLE	NOT APPLICABLE
MAPLE ONTARIO CANADA L6A 1G2		Transferred Out Date	Cancel/Inactive Date
		NOT APPLICABLE	NOT APPLICABLE
		EP Licence Eff.Date	EP Licence Term.Date
		NOT APPLICABLE	NOT APPLICABLE
Activity Classification	Number of Directors Minimum Maximum		Date Commenced in Ontario
	00001	00010	NOT APPLICABLE
Activity Classification	Date Ceased in Ontario		NOT APPLICABLE
	NOT AVAILABLE		NOT APPLICABLE

Request ID: 023493640
Transaction ID: 72815822
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/22
Time Report Produced: 11:26:49
Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number

2615333

Corporation Name

2615333 ONTARIO INC.

Corporate Name History

2615333 ONTARIO INC.

Effective Date

2018/01/15

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

NO

Administrator:**Name (Individual / Corporation)**

WENMING

CHENG

Address

29 MILL STREET

THORNHILL
ONTARIO
CANADA L4J 8C5**Date Began**

2018/01/15

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type**Resident Canadian**

Y

Request ID: 023493640
 Transaction ID: 72815822
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/22
 Time Report Produced: 11:26:49
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CORPORATION PROFILE REPORT

Ontario Corp Number

2615333

Corporation Name

2615333 ONTARIO INC.

Administrator:
Name (Individual / Corporation)

WENMING

CHENG

Address

29 MILL STREET
 THORNHILL
 ONTARIO
 CANADA L4J 8C5

Date Began

2018/01/15

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

TREASURER

Resident Canadian

Y

Administrator:
Name (Individual / Corporation)

ZHAOXIA

YU

Address

9 HAMMOK CRES
 MARKHAM
 ONTARIO
 CANADA M3T 2X1

Date Began

2018/01/15

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 023493640
 Transaction ID: 72815822
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2019/08/22
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CORPORATION PROFILE REPORT

Ontario Corp Number

2615333

Corporation Name

2615333 ONTARIO INC.

Administrator:

Name (Individual / Corporation)

ZHAOXIA

YU

Address

9 HAMMOCK CRES

MARKHAM
 ONTARIO
 CANADA M3T 2X1

Date Began

2018/01/15

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian

Y

Administrator:

Name (Individual / Corporation)

XIAO DONG

ZHU

Address

851 WOODLAND ACRES CRES

MAPLE
 ONTARIO
 CANADA L6A 1G2

Date Began

2018/01/15

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 023493640
Transaction ID: 72815822
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/22
Time Report Produced: 11:26:49
Page: 5

CORPORATION PROFILE REPORT

Ontario Corp Number

2615333

Corporation Name

2615333 ONTARIO INC.

Administrator:**Name (Individual / Corporation)**

XIAO DONG

ZHU

Address

851 WOODLAND ACRES CRES

MAPLE
ONTARIO
CANADA L6A 1G2**Date Began**

2018/01/15

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

SECRETARY

Resident Canadian

Y

Request ID: 023493640
Transaction ID: 72815822
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/08/22
Time Report Produced: 11:26:49
Page: 6

CORPORATION PROFILE REPORT

Ontario Corp Number

2615333

Corporation Name

2615333 ONTARIO INC.

Last Document Recorded

Act/Code Description	Form	Date
CIA INITIAL RETURN	1	2018/01/29 (ELECTRONIC FILING)

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

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

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

This is Exhibit "N" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Liu".

Commissioner for Taking Affidavits (or as may be)

MORTGAGE LOAN PURCHASE AGREEMENT

THIS AGREEMENT is made as of May 18th, 2018, between Toronto Capital Corp., 2478888 Ontario Inc., 1220356 Ontario Limited, Larry Tenebaum, 768124 Ontario Inc., Taragar Holdings Limited, Howieco Entertainment Inc., Misim Investments Limited, C.H.B.P. Investments Inc., The Salz Corporation, Randi Usher, Ellen Sone, Aubrie Appel, Gail Appel, Lawrence Sone (collectively the "Vendor") and 2615333 Ontario Inc. (the "Purchaser").

WHEREAS, the Vendor made a loan of \$5,000,000.00 (the "Loan") to 3070 Ellesmere Developments Inc., 9654372 Canada Inc., 9654488 Canada Inc., 9654461 Canada Inc. and 9617680 Canada Inc. and to Central Park Ajax Developments Phase 1 Inc. (collectively the "Borrower") secured by mortgages (collectively the "Mortgage"): (i) registered on September 15, 2016 as Instrument No. AT4343080 against title to the lands and premises legally described therein, in the property field description of PIN No. 06186-0033 (LT) in LRO No. 80 (Toronto) and municipally known as 3070 Ellesmere, Scarborough, Ontario (the "Ellesmere Property"), (ii) registered on September 15, 2016 as Instrument No. DR1516601 against title to the lands and premises legally described therein, in the property field description of PIN Nos. 26459-0046, 26459-0045, 26459-0037, 26459-0036 and 26459-0050 (LT) in LRO No. 40 (Durham) and municipally known respectively as 148, 152, 214, 224 and 134 Harwood Avenue South, Ajax, Ontario (the "Ajax Property"), and (iii) registered on September 16, 2016 as Instrument No. DR1517439 against title to the lands and premises legally described therein, in the property field description of PIN No. 26456-0086 (LT) in LRO No. 40 (Durham) and municipally known as 167 Harwood Avenue South, Ajax, Ontario (the "Harwood Property"). The Ellesmere Property, the Ajax Property and the Harwood Property are collectively referred to herein as the "Property"

AND WHEREAS the Vendor has agreed to sell, and the Purchaser has agreed to purchase the Purchased Assets on and subject to the terms and conditions provided herein;

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sum of TWO DOLLARS (\$2.00) and other good and valuable consideration now paid or given by each party to the other (the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto), the parties hereto hereby covenant and agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.1 Definitions

In addition to the words and phrases elsewhere defined herein, in this Agreement and unless the context otherwise requires, the following words and phrases shall have the following meanings ascribed thereto:

"Agreement" means this Mortgage Loan Purchase Agreement, including all schedules, amendments and supplements hereto.

"Applicable Laws" means, in respect of any Person, Loan, property, transaction or event, all applicable federal, provincial and municipal laws, statutes, regulations, rules, by-laws (including zoning by-laws), policies and guidelines, and all applicable common laws or equitable principles whether now or hereafter in force and effect, in Canada and the Province of Ontario to the extent applicable.

"Borrower", means the Chargor named in the Mortgage.

"Closing" has the meaning set forth in Section 3.1 hereof.

"Closing Date" means the date of completion of the sale of the Purchased Assets by the Vendor to the Purchaser pursuant to this Agreement, which is the date first written above.

"Closing Documents" has the meaning set forth in Section 3.2 hereof.

"Inter-Lender Agreement" means the Inter-Lender Agreement between 2615333 Ontario Inc. and 2478888 Ontario Inc. dated the 18th day of May, 2018.

“Mortgage Loan Documents” means in respect of the Loan, all documents, instruments and agreements now or hereafter creating, evidencing, securing, guaranteeing and/or relating to such Loan.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, limited liability company, trust, unincorporated association or government or any agency or political subdivision thereof.

“Purchase Price” means the sum of \$5,758,665.53 paid in respect of the purchase of the Purchased Assets;

“Purchased Assets” means, collectively, (i) the Loan including all payments due in respect thereof on and after the Closing Date, and (ii) all rights, title and interest of the Vendor in all Mortgage Loan Documents;

“Transfer” means the transfer, assignment and general conveyance of the Purchased Assets by the Vendor to the Purchaser, in form thereof which shall be satisfactory to the Purchaser and Vendor, each acting reasonably.

“Transfer Documents” means,

- a) in respect of the Loan and the Mortgage other than for the Mortgage on the Ellesmere Property (the “**Ellesmere Mortgage**”), (i) the Transfer, (ii) all other documents, instruments and registrations necessary or advisable to record the transfer and assignment of the Purchased Assets to the Purchaser (including any and all PPSA registrations) (iii) assignment(s) and release(s) of interest by the Vendor with respect to any insurance policy in respect of each Property to show the Purchaser as the additional insured, loss payee or similarly thereunder, and (iv) all related notifications thereof to the Borrower, ; and
- b) in respect of the Ellesmere Mortgage, a transfer of beneficial interest in the Purchased Assets relating to the Ellesmere Mortgage, subject to the interest of the Vendor in such Purchased Assets relating to the Ellesmere Mortgage in respect of the principal amount of \$5,210,950.63 as at April 30, 2018 plus thereafter interest at the rate provided for in the Ellesmere Mortgage and such costs and protective disbursements as may be incurred after April 30, 2018.

All Transfer Documents shall be in form and content satisfactory to the Purchaser and Vendor, each acting reasonably.

“226 Harwood Transaction” means the transaction arising from a Mortgage Loan Purchase Agreement between Usher Properties Inc., Ushjo Enterprises Limited, Randi Usher and C.H.B.P. Investments Inc. as vendor and the Purchaser dated of even date in respect of the mortgage registered as Instrument No. DR1524258 in LRO No. 40. and

“2,050,000 Million Transaction” means the transaction arising from a Mortgage Loan Purchase Agreement between Toronto Capital Corp., Luciano Tauro, Michele Mele, Salz & Son Limited, 768124 Ontario Inc., 1220356 Ontario Limited, Misim Investments Limited, Kamp Investments Inc., Peter Levine, Heather Levine, Aubrie Appel and Nichole Kravshik, as vendors and the Purchaser dated of even date.

Section 1.2 Purchase of Purchased Assets.

- (1) The Vendor hereby sells, transfers, assigns, and conveys to the Purchaser, and the Purchaser hereby purchases, the Purchased Assets, other than the Ellesmere Mortgage which is dealt with in the Inter-Lender Agreement, in consideration of payment of the Purchase Price by the Purchaser to the Vendor and upon and subject to the terms of this Agreement (the “**Transfer**”).
- (2) Notwithstanding any other provision of this Agreement or the other Closing Documents to the contrary, the Vendor makes no representation, warranty or covenant of any kind, including as to its right, title and/or interest in or ownership of that portion of the Purchased Assets or its ability to convey to the Purchaser good and marketable title to any right, title and/or interest therein and, with respect to such portion of the

Purchased Assets, the Purchaser agrees to accept the Transfer Documents and the Purchased Assets thereof solely on an “as-is where-is” basis and without any representation or warranty of any kind and on a non-recourse basis .

Section 1.3 Payment of Purchase Price.

(1) On the Closing Date, the Purchaser will pay the Purchase Price for the Purchased Assets to the Vendor, or as the Vendor may direct, by wire transfer in immediately available funds.

Section 1.4 Transfer Documents.

On the Closing Date and concurrently with the payment by the Purchaser to the Vendor of the full Purchase Price or the unpaid balance thereof, the Vendor will deliver the Transfer Documents to the Purchaser, together with each of the other Closing Documents set out in Section 3.2.

Section 1.5 [Intentionally Deleted].

Section 1.6 Further Assurances.

The Vendor, at its sole expense, will promptly do, execute and deliver or cause to be done, executed or delivered such further acts, documents and assurances as may be reasonably required to give effect to the transaction of purchase and sale hereby contemplated and to provide the Purchaser with all of the rights, title and benefits of full ownership of the Purchased Assets intended to be transferred and conveyed hereunder (subject to Section 1.2(2) hereof) from and after Closing.

Section 1.7 Independent Analysis of the Purchaser.

The Purchaser represents and warrants to the Vendor that the Purchaser has, independently and without reliance upon the Vendor or its affiliates and based on such documents and information as the Purchaser has deemed appropriate, made the Purchaser’s own credit analysis and decision to purchase the Purchased Assets. The Purchaser hereby acknowledges that neither the Vendor nor any of its affiliates have made any representations or warranties with respect to the Purchased Assets, and that the Vendor and its affiliates shall have no responsibility for (i) the collectability of the Loan or any amount due thereunder, (ii) the validity, enforceability or legal effect of any of the Mortgage Loan Documents in respect of the Loan, (iii) the validity, sufficiency, effectiveness, enforceability, priority or perfection of the security created or to be created by the Mortgage Loan Documents in respect of the Loan, (iv) the physical or financial condition of the Ajax Property, Harwood Property and Greenfield Property, any related leases or other collateral securing the Loan, and (v) the financial condition of any Borrower or any other Person. From and after Closing, the Purchaser assumes all risk of loss in connection with the Purchased Assets. In addition, the Purchaser further acknowledges that neither the Vendor nor any of its affiliates are making any representations and warranties of any kind as to the accuracy or completeness of any of the deliveries by the Vendor to the Purchaser with respect to the Purchased Assets.

Section 1.8 No Creation of a Partnership or Exclusive Purchase Right.

Nothing contained in this Agreement, and no action taken pursuant hereto will be deemed to create or otherwise constitute a partnership, association, joint venture or other entity between the parties hereto or to create a trust in respect of any of the Purchased Assets.

ARTICLE 2

Section 2.1 Representations, Warranties and Covenants of the Purchaser.

(1) As of the Closing Date, the Purchaser hereby represents, warrants and covenants to and for the benefit of the Vendor that:

(a) The Purchaser has not dealt with any broker, investment banker, agent or other Person that may be entitled to any commission or compensation in connection with the purchase of the Purchased Assets and Purchaser shall indemnify and hold the Vendor harmless from any claims for commission.

ARTICLE 3 CLOSING CONDITIONS AND CLOSING

The closing of the purchase of the Purchased Assets (the “**Closing**”) will occur on May 18th2018 at which date the parties shall deliver the applicable Closing Documents and the payment of the Purchase Price by the Purchaser to the Vendor, or as the Vendor may direct, on the Closing Date.

Section 3.2 Closing Documents.

The closing documents (the “**Closing Documents**”) consist of the following:

- (a) this Agreement duly executed and delivered by the parties hereto;
- (b) the Transfer Documents duly executed and delivered by the parties hereto;
- (c) the Inter-lender Agreement executed by 2615333 Ontario Inc. and the Purchaser; the Borrower Confirmation Agreement executed by 3070 Ellesmere Developments Inc. and 2615333 Ontario Inc.; and the Guarantor Confirmation Agreement executed by Tong Liu and other guarantors and 2615333 Ontario Inc.; and
- (d) notices and directions to each Borrower, each tenant (if applicable) and property insurer of the Property in forms as approved by the respective solicitors for the parties, both acting reasonably;

Section 3.3 Transfer Taxes, Costs and Expenses.

Unless otherwise expressly provided for herein, the Purchaser shall be solely responsible for and shall pay any and all federal, provincial and other sales, retail sales, goods and services, harmonized sales, value added, land transfer and other taxes whatsoever (excluding income taxes of the Vendor) which are payable in connection with the transfer of the Purchased Assets to Purchaser, together with all duties, registration fees or other charges properly payable by the Purchaser or in connection with the conveyance or transfer of the Purchased Assets and the registration and recording of the Transfer Documents. All due diligence, review and/or other costs incurred by Purchaser with respect to Purchaser's diligence of the Mortgage Loan shall be for the account of the Purchaser.

Section 3.4 Non Merger

This Agreement shall not merge on the Closing of the transaction contemplated hereunder but shall survive the same without limitation.

Section 3.5 Condition

The closing of the transaction contemplated by this Agreement is conditional upon the concurrent closing of the transactions contemplated by the 2,050,000 Million Transaction and the 226 Harwood Transaction, failing which, this Agreement shall be at an end and of no further force and effect.

ARTICLE 4

MISCELLANEOUS PROVISIONS

This Agreement may be amended from time to time by all of the parties hereto by written agreement signed by such parties.

Section 4.2 Governing Law and Attornment.

This Agreement is governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein and each of the parties hereby attorns to the non-exclusive jurisdiction of the Courts of Ontario.

Section 4.3 General Interpretive Principles.

For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

- (a) the terms defined in this Agreement have the meanings assigned to them in this Agreement and include the plural as well as the singular, and the use of any gender herein will be deemed to include the other gender;
- (b) references herein to "Articles," "Sections," "subsections," "paragraphs" and other subdivisions without reference to a document are to designated Articles, Sections, subsections, paragraphs and other subdivisions of this Agreement;
- (c) a reference to a subsection without further reference to a Section is a reference to such subsection as contained in the same Section in which the reference appears, and this rule will also apply to paragraphs and other subdivisions;
- (d) the words "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not any particular provision; and
- (e) the terms "include" or "including" mean without limitation by reason of enumeration.

Section 4.4 Reproduction of Documents.

This Agreement and all documents relating hereto, including any (i) consents, waivers and modifications that may hereafter be executed, (ii) documents received by any party at the closing, and (iii) certificates and other information previously or hereafter furnished, may be reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic or other similar process. The parties agree that any such reproduction is admissible in evidence as the original itself in any judicial or administrative proceeding, whether or not the original is in existence and whether or not such reproduction was made by a party in the regular course of business, and that any enlargement, facsimile or further reproduction of such reproduction is likewise admissible in evidence.

Section 4.5 Execution; Successors and Assigns.

Neither the Vendor nor the Purchaser may assign any of its rights and obligations hereunder without the prior written consent of the other party, which consent may be withheld in the sole and absolute discretion of such other party. Subject to the foregoing, this Agreement inures to the benefit of and is to be binding upon the parties hereto and their respective successors and permitted assigns.

Section 4.6 Entire Agreement.

This Agreement constitutes the entire agreement of the parties hereto regarding the subject matter of this Agreement and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein.

Section 4.7 True Sale.

The parties intend the sale of the Purchased Assets hereunder to be a true sale by the Vendor to the Purchaser, which is absolute and irrevocable, and will provide the Purchaser and each subsequent owner of the Purchased Assets with the full benefits of ownership thereof.

Section 4.8 Agreement and Covenants to Survive Delivery.

All representations, warranties and covenants of the Vendor and the Purchaser contained in this Agreement will remain operative and in full force and effect and will survive the transfer of the Purchased Assets by the Vendor to the Purchaser without limitation.

Unless otherwise expressly indicated, all dollar amounts referred to in this Agreement are in lawful money of Canada.

Section 4.9 Confidentiality

The parties hereto covenant and agree that, until successful completion of the transaction contemplated by this Agreement, all information concerning such transaction, this Agreement and the parties, whether provided by any party to the other or obtained by the other party independently, shall be kept absolutely confidential by each party and its employees, agents, solicitors, bankers or mortgage lenders, and shall not be disclosed in any way (i) to such party's employees, agents, solicitors, bankers or mortgage lenders except on a need-to-know basis and subject to their respective covenants to comply with the provisions of this paragraph, or (ii) to any other Person or the public at large except as may be required by Applicable Laws or by any court of competent jurisdiction.

Section 4.10 Time of the Essence.

Time is of the essence of this Agreement.

Section 4.11 Execution by Fax or Email.

The execution of this Agreement, or any amendment hereto or any notice, waiver or other communication given pursuant to or in connection with this Agreement, by any party hereto may be made by facsimile transmission, email transmission or any other similar method to which the Electronic Commerce Act (Ontario) would apply, and any such execution as aforesaid shall be valid, binding and enforceable to the same extent as an originally signed document.

Section 4.12 Counterparts & Consolidation.

This Agreement may be executed by the parties hereto in two or more counterparts, and when each party has executed and delivered a counterpart of this Agreement to all of the other parties hereto, such counterparts taken together shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document. The parties hereby irrevocably consent to and authorize their respective solicitors to consolidate the signed pages of each such executed counterpart into a single document, which consolidated document shall be deemed to be a fully executed original copy of this Agreement as though all parties had executed the same document.

Section 4.13 Consent

The Borrowers and Tong Liu, 9654372 Canada Inc., 9654488 Canada Inc., 9654461 Canada Inc., 9617680 Canada Inc. and 9654364 Canada Inc. acknowledge that the Vendor has assigned the Transfer Documents to the Purchaser and hereby consents to the same.

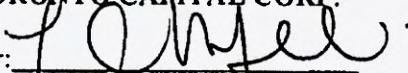
Section 4.14 Independent Legal Advice

Each party acknowledges that it has obtained independent legal representation in connection with the execution of this Agreement and has read this Agreement in its entirety, understands its contents and is signing this Agreement freely and voluntarily, without duress or undue influence from any other party.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement.

TORONTO CAPITAL CORP.

Per: 
Name: FRANK MONDELLI
Title: PRES.

I have authority to bind the corporation.

2478888 ONTARIO INC.

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

1220356 ONTARIO LIMITED

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

LARRY TENEBAUM

768124 ONTARIO INC.

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

TARAGAR HOLDINGS LIMITED

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

HOWIECO ENTERTAINMENT INC.

IN WITNESS WHEREOF, the parties have executed this Agreement.

TORONTO CAPITAL CORP.

Per: _____

Name: _____

Title: _____

I have authority to bind the corporation.

2478888 ONTARIO INC.

Per: 

Name: 

Title: 

I have authority to bind the corporation.

1220356 ONTARIO LIMITED

Per: _____

Name: _____

Title: _____

I have authority to bind the corporation.

LARRY TENEBAUM

768124 ONTARIO INC.

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1220356 ONTARIO LIMITED

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

LARRY TENEBAUM

768124 ONTARIO INC.

Per: Martel
Name: Martin Usher
Title: President
I have authority to bind the corporation.

TARAGAR HOLDINGS LIMITED

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

HOWIECO ENTERTAINMENT INC.

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TORONTO CAPITAL CORP.

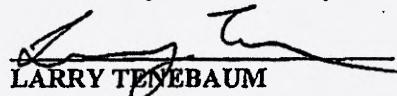
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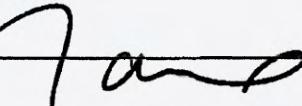
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LARRY TENEBAUM

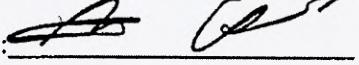
768124 ONTARIO INC.

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Title: _____
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TARAGAR HOLDINGS LIMITED

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

HOWIECO ENTERTAINMENT INC.

Per: 
Name:
Title:
I have authority to bind the corporation.

MISIM INVESTMENTS LIMITED

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

C.H.B.P. INVESTMENTS INC.

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

THE SALZ CORPORATION

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

RANDI USHER

ELLEN SONE

AUBRIE APPEL

Per: _____

Name: _____

Title: _____

I have authority to bind the corporation.

MISIM INVESTMENTS LIMITED

Per: _____

Name: _____

Title: _____

I have authority to bind the corporation.

C.H.B.P. INVESTMENTS INC.

Per: _____

Name: _____

Title: _____

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THE SALZ CORPORATION

Per: _____

Name: _____

Title: _____

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RANDI USHER

ELLEN SONE

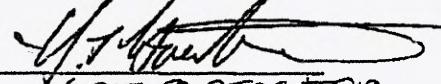
AUBRIE APPEL

Per _____
Name:
Title
I have authority to bind the corporation

MISIM INVESTMENTS LIMITED

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

C.H.B.P. INVESTMENTS INC.

Per 
Name: HORST J. STREITER
Title: PRESIDENT
I have authority to bind the corporation.

THE SALZ CORPORATION

Per _____
Name:
Title
I have authority to bind the corporation

RANDI USHER

ELLEN SONE

AUBRIE APPEL

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

MISIM INVESTMENTS LIMITED

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Title: _____
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Title: _____
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THE SALZ CORPORATION

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Name: _____
Title: _____
I have authority to bind the corporation.

RANDI USHER

ELLEN SONE

AUBRIE APPEL

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

MISIM INVESTMENTS LIMITED

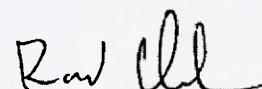
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C.H.B.P. INVESTMENTS INC.

Per: _____
Name: _____
Title: _____
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THE SALZ CORPORATION

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Title: _____
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Randi Usher

ELLEN SONE

AUBRIE APPEL

Per: _____

Name: _____

Title: _____

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MISIM INVESTMENTS LIMITED

Per: _____

Name: _____

Title: _____

I have authority to bind the corporation.

C.H.B.P. INVESTMENTS INC.

Per: _____

Name: _____

Title: _____

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THE SALZ CORPORATION

Per: _____

Name: _____

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RANDI USHER



ELLEN SONE

AUBRIE APPEL

Per: _____
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MISIM INVESTMENTS LIMITED

Per: _____
Name:
Title:
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C.H.B.P. INVESTMENTS INC.

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

THE SALZ CORPORATION

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

RANDI USHER

ELLEN SONE

AUBRIE APPEL

A. Appel
Gail Appel

GAIL APPEL



R.O. A.
LAWRENCE SONE

2615333 ONTARIO INC.

Per: _____

Name:

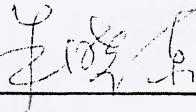
Title:

I have authority to bind the corporation.

GAIL APPEL

LAWRENCE SONE

2615333 ONTARIO INC.

Per: 

Name:

Title:

I have authority to bind the corporation.

3070 ELLESMORE DEVELOPMENTS INC.

Per: _____
 Name: Tony Liu
 Title: CEO
 Per: _____
 Name: _____
 Title: _____

I/we have authority to bind the Corporation

9654372 CANADA INC.

Per: _____
 Name: Tony Liu
 Title: CEO
 Per: _____
 Name: _____
 Title: _____

I/we have authority to bind the Corporation

9617680 CANADA INC.

Per: _____
 Name: Tony Liu
 Title: CEO
 Per: _____
 Name: _____
 Title: _____

I/we have authority to bind the Corporation.

CENTRAL PARK AJAX DEVELOPMENTS PHASE 1 INC.

Per: _____
 Name: Tony Liu
 Title: CEO
 Per: _____
 Name: _____
 Title: _____

I/we have authority to bind the Corporation.

9654488 CANADA INC.

Per: _____
 Name: Tony Liu
 Title: CEO
 Per: _____
 Name: _____
 Title: _____

I/we have authority to bind the Corporation.

9654461 CANADA INC.

Per: _____
 Name: Tony Liu
 Title: CEO
 Per: _____
 Name: _____
 Title: _____

I/we have authority to bind the Corporation

9654364 CANADA INC.

Per:

Name:

Title:

Tong Lin

CFO

Per:

Name:

Title:

I/we have authority to bind the Corporation

Witness:

GG

TL

TONG LIU

This is Exhibit "O" referred to in the Affidavit of Tong (Thomas)
Liu sworn August 29, 2019.



Liu
Commissioner for Taking Affidavits (or as may be)

INTER-LENDER AGREEMENT

3070 Ellesmere Road, Toronto

Dated as of April 30, 2018 between **2615333 ONTARIO INC.** (the "Buyer") and **2478888 ONTARIO INC.** (the "Seller")

Background:

- A. The Seller paid off the Cameron Mortgage as the holder of such mortgage had issued a Notice of Sale and the redemption period had expired.
- B. The Buyer has purchased from the Seller the Mortgage subject to the Seller's Interest. The Mortgage will remain registered on title with the Seller as the mortgagee, holding it as bare nominee for itself and the Buyer with respect to the Seller's Interest and the Buyer's Interest respectively.
- C. The Buyer also purchased the Related Mortgages from the Seller.
- D. On the terms of this Agreement, the Seller's Interest shall have priority over the Buyer's Interest.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 Definitions

In this Agreement, unless the context requires otherwise:

"Agreement" means this Agreement as it may be amended from time to time.

"Business Day" means any day except Saturday, Sunday or any day on which banks are generally not open for business in the City of Toronto.

"Buyer's Interest" means the interest of the mortgagee in the Mortgage other than the Seller's Interest.

"Cameron Mortgage" means the mortgage registered against the title to the Mortgaged Property as Instrument No. AT3868656.

"Cameron Payment" means the amount paid by the Seller on account of the Cameron Mortgage in order to obtain a discharge thereof namely \$5,218,776.21;

"Enforcement Action" means the commencement of any action or proceeding to enforce or realize on the Mortgage including commencing power of sale, obtaining or appointing a receiver (or manager or receiver/manager, action on the covenant, foreclosure (or accepting all or part of the Mortgaged Property in place of foreclosure) or exercising any other rights or remedies in relation to the Mortgage.

"including" means including without limitation, and **"includes"** means includes, without limitation.

"Mortgage" means the charge/mortgage of land in the original face principal amount of \$5,000,000 registered as no. AT4343080 on September 15, 2015 against the Mortgaged Property including the indebtedness and obligations of the mortgagor under the mortgage in favour of the Seller as mortgagee (as assignee from Toronto Capital Corp. and others as the original mortgagees), as it may be amended, extended or renewed from time to time, and together with all Mortgage Documents.

"Mortgage Documents" means all documents constituting additional or collateral security to the Mortgage and the indebtedness and obligations secured by it including: the assignment of rents registered as no. AT4343088; all policies of insurance relating to the Mortgaged Property and all other documents relating to the Mortgage.

"Mortgaged Property" means the lands and premises currently legally described in the property field description of PIN 06186-0033(LT) in LRO No. 66 (Toronto) and municipally known as 3070 Ellesmere Road, Toronto.

"Related Properties" means the properties mortgaged under the Related Mortgages.

"Related Mortgages" means the following charge/mortgages of land in the original face principal amount of \$5,000,000:

Registration No.	Current PIN	Address
DR1517439	26456-0105	167 Harwood Avenue South, Ajax, Ontario
DR1516601	26459-0046	148 Harwood Avenue South, Ajax Ontario
DR1516601	26459-0045	152 Harwood Avenue South, Ajax, Ontario
DR1516601	26459-0037	214 Harwood Avenue South, Ajax, Ontario
DR1516601	26459-0036	224 Harwood Avenue South, Ajax, Ontario
DR1516601	26459-0050	134 Harwood Avenue South, Ajax, Ontario

"Seller's Interest" means the interest of the Seller as mortgagee in the Mortgage in respect of the principal amount of \$5,210,950.63 as of the date of this Agreement plus thereafter interest at the rate provided for in the Mortgage and such costs and protective disbursements as may be incurred after the date of this Agreement.

1.2 Other

(1) **Entire Agreement** - This Agreement constitutes the entire agreement among the parties and cancels and supersedes any prior agreements, undertakings, declarations or representations, written or verbal in respect of it.

(2) **Severability** - Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction will be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement.

(3) Sections Etc. - The division of this Agreement into Sections, the insertion of headings, and the provision of any table of contents are for convenience of reference only and will not affect the construction or interpretation of this Agreement.

(4) Gender Etc. Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

(5) Business Days - If any payment is required to be made [or other action is required to be taken] pursuant to this Agreement on a day which is not a Business Day, then such payment [or action] will be made [or taken] on the next Business Day. Time will be of the essence of this Agreement in all respects.

(6) Calculation of Interest - In calculating interest payable under this Agreement for any period, the first day of such period will be included and the last day of such period will be excluded.

ARTICLE 2 - SUBORDINATION

2.1 Priority of the Seller's Interest

(1) Priority - The Seller's Interest shall have a first and absolute priority over the Buyer's Interest. The Seller's Interest shall be deemed to be a first charge on the Mortgaged Property under the Mortgage and the Buyer's Interest shall be deemed to be a second charge of the Mortgaged Property, as if these were two distinct and separate mortgages registered on the title to the Mortgaged Property with the Seller's Interest registered as a first charge and the Buyer's Interest registered as a second charge, and with all funds being deemed to have been advanced by the Seller before any funds advanced by the Buyer. The Buyer fully postpones and subordinates its Buyer's Interest in the Mortgage to the Seller's Interest.

- (2) Standstill; Enforcement Action – Until the Seller's Interest has been paid in full:
 - (a) the Buyer shall not take, direct, initiate, pursue or otherwise participate in, either directly or indirectly, any Enforcement Action in connection with or in respect of the Mortgage or against any party or parties who may be entitled to claim contribution or indemnity against the mortgagor;
 - (b) Enforcement Action, if any, shall be exercised solely by the Seller, and the Seller shall promptly give written notice to the Buyer of any such Enforcement Action taken by the Seller. Nothing in this Agreement shall compel the Seller at any time to commence any Enforcement Action;
 - (c) *[Intentionally Deleted];*
 - (d) all insurance proceeds, expropriation proceeds or any other proceeds or other money received under or with respect to the Mortgage, other than the required payments under the Mortgage shall be paid to the Seller and any such payments received by the Buyer shall have been received by the Buyer in trust for the Seller and shall be remitted by the Buyer to the Seller forthwith.
 - (e) all payments, recoveries, or any other proceeds or other money received under or with respect to the Mortgage when it is in default and from any Enforcement Action or

otherwise shall first be paid to the Seller until the entirety of the amount owed to the Seller for the Seller's Interest has been paid, and thereafter the balance, if any, of such proceeds and future proceeds shall be paid to the Buyer (or as otherwise provided for in the Mortgage).

(3) Changes - No discharge, release or waiver by Seller of the Mortgage or of its rights under it, or against or in respect of any part the Mortgaged Property or any person, or any amendment, renewal, extension, replacement, modification, supplement, replacement or restatement of the Mortgage (provided that the principal sum and the interest rate are not increased) shall require notice to or the Buyer or otherwise affect the subordination and postponement of the Buyer's Interest granted under this Agreement.

(4) Enforcement on Related Mortgages - Nothing in this Agreement shall restrict the Buyer's right to take Enforcement Action with respect to the Related Mortgages.

(5) Renewals - The consent (which may be unreasonably withheld) of both the Seller and the Buyer shall be required for any renewal of the Related Mortgages for a term greater than any renewal of the Mortgage as determined by the Seller, in its sole discretion.

2.2 Confirmation and No Challenge – The Buyer acknowledges and agrees that:

- (a) the Cameron Payment has been validly added to the balance of the indebtedness secured by the Mortgage;
- (b) the Cameron Payment is the outstanding balance due on the Seller's Interest (being the amount that the Seller paid to the holder of the Cameron Mortgage on the Mortgaged Property as a protective disbursement under the Mortgage and added to principal under the Mortgage) as of the date of this Agreement plus thereafter interest at the rate provided for in the Mortgage and such costs and protective disbursements as may be incurred after the date of this Agreement;
- (c) the Buyer shall not take, or cause or permit any other person to take on its behalf, any steps or action by which the priority, enforceability or validity of the Mortgage, the Cameron Payment and the interest rate of 12% per annum charged on the Cameron Payment notwithstanding that the Seller may elect to take an assignment of the Cameron Mortgage as hereinafter set forth, any of the rights of Seller under this Agreement, the Seller's Interest or the Buyer's Interest shall be challenged, delayed, defeated, impaired or diminished in any way. The Buyer shall not challenge, object to, compete with or impede in any manner any Enforcement Action by the Seller in respect of the Mortgage including in respect of all or any part of the Mortgaged Property; and
- (d) any renewal, extension or other amendment of the Mortgage shall concurrently and correspondently be made to the Related Mortgages. However, for clarity, nothing in this Section 2.2(d) shall restrict, among other things, the sale or other disposition under the Mortgage of only the Mortgaged Property.

2.3 Insolvency - The Seller shall have the right, but shall not the obligation, to claim and prove in respect of all or any part of the Mortgage indebtedness in any bankruptcy, insolvency, composition, scheme of arrangement, liquidation or winding up, voluntary or involuntary, J:\17-1387.s\ASSIGNMENT\Ellesmere\Inter Lender Agreement\Inter-Lender Agreement JF - v. 4 - EMP CL May 10, 2018.docx

affecting the mortgagor or any distribution of Mortgaged Property among creditors of the Borrower and to vote any of the interests of the Buyer in respect of the Mortgage in any such proceedings. All dividends, distributions or other sums that may be or become payable in respect of the Mortgage indebtedness pursuant to any such proceedings shall be due and be paid to the Seller until the Seller shall have received indefeasible payment and satisfaction of the full amount of the Seller's Interest. The Buyer will from time to time execute and deliver all statements, proofs of claim, transfers, assignments and documents and do all such other acts and things as the Seller may request from time to time to implement and give effect to the foregoing. The Buyer irrevocably constitutes and appoints the Seller or its respective officers from time to time the true and lawful attorney of the Buyer, with full power of substitution, to do any of the foregoing in the name of the Buyer, whenever the Seller, in its sole discretion, deems it to be necessary or expedient.

2.4 Trust – The Seller will be the holder of the Mortgage as trustee for the Seller and Buyer in respect of their respective interests in the Mortgage.

2.5 Indemnity - the Buyer shall indemnify and save harmless the Seller, its officers, directors, employees, agents, representatives, successors and assigns (together hereinafter called the "**Indemnified Parties**" or individually, the "**Indemnified Party**"), from and against any and all liabilities, losses, claims, damages, penalties, actions, suits, demand, levies, costs, expenses and disbursements (including, without limitation, any and all legal and advisor fees and disbursements, on a solicitor and his own client basis) (together hereinafter called "**Liabilities**") of whatever kind or nature which may at any time be suffered by, imposed on, incurred by or asserted against the Indemnified Parties, whether groundless or otherwise, howsoever arising from or out of any act or omission of the Seller made in connection with its acting as trustee for the Buyer in respect of the Buyer's Interest, hereunder, except for Liabilities arising from or caused by the fraud or the gross negligence of The Indemnified Parties. Notwithstanding any other provision hereof, this indemnity shall survive termination of this Agreement and termination of any trusts created hereby.

- (a) It is expressly declared and agreed as follows:
 - (i) The Indemnified Parties shall not be liable for, or by reason of, any failure or defect of title to, or security interest upon the Mortgaged Property or any part thereof;
 - (ii) The Indemnified Parties shall not incur any liability or responsibility whatever in consequence of permitting or suffering the owner of the Mortgaged Property (the "**Borrower**") to retain or be in possession of any part of the Mortgaged Property and to use and enjoy the same unless herein expressly otherwise provided; nor shall the Indemnified Parties be or become responsible or liable for any destruction, deterioration, loss, injury or damage which may be done or occur to the security by the Borrower, its agents or servants, or by any other person or be responsible for the consequence of any breach by the Borrower of any of the covenants contained in the Mortgage or of any acts of the agents or servants of the Borrower; and

(iii) The Indemnified Parties shall not be liable by reason of any entry into possession of the Lands or any part thereof, to account as mortgagee in possession or for anything except actual receipts or be liable for any loss on realization or for any default or omission for which a mortgagee in possession might be liable save such as may be caused by its own negligence or willful misconduct.

2.6 Cameron Mortgage – The Buyer acknowledges to and agrees with the Seller that:

- (i) the Seller has obtained a discharge of the Cameron Mortgage but has not registered the same as of the date hereof;
- (ii) the Cameron Payment has been added to the indebtedness due under the Mortgage and the Buyer confirms the validity thereof notwithstanding that the discharge of the Cameron Mortgage has not been registered;
- (iii) the Seller is entitled to interest on the Cameron Payment at the interest rate set out in the Mortgage; and
- (iv) the Seller at its sole discretion may elect to take an assignment of the Cameron Mortgage and not register the discharge it is holding and notwithstanding same the Seller shall be entitled to interest on the Cameron Payment at the interest rate set out in the Mortgage

2.7 Notice of Default and Information - Each of the Buyer and the Seller, if requested by the other of them, shall provide to the requesting party such information respecting the prior Seller's Interest or the subordinate Buyer's Interest, as the case may be, as the requesting party may from time to time reasonably request, including, without limitation, the outstanding amount of the Seller's Interest or the Buyer's Interest, as the case may be. In the event of a default under the Seller's Interest and/or the Buyer's Interest, for which default the Seller or Buyer intends to issue a notice of default to the Borrower, the Seller and/or the Buyer, as applicable, shall forthwith provide written notice to the other lender of such default, which notice shall specify the nature of such default. The Borrower and the Guarantors hereby irrevocably authorize and direct each of the Prior Lender and Subordinate Lender to provide any information with respect to the Borrower and/or the Guarantors to the other of the

ARTICLE 3 – NOTICES

3.1 Manner - Any notice required or permitted to be given by either party under this Agreement to the other shall be in writing and shall be delivered or sent by registered mail (except during a postal disruption or threatened postal disruption) or fax to the applicable address set out below:

(i) in the case of the Buyer to:	(ii) in the case of Seller to:
851 Woodland Acres Crescent Maple, Ontario L6A 1G2	2478888 Ontario Inc. 1030 Sheppard Avenue West Suite 3 Toronto, Ontario M3H 6C1
Attention: Xiao Dong Zhu Fax: [•]	Attention: Henry Goldberg
With a copy to:	Fax: 416.789.9768
Metcalfe, Blainey & Burns LLP Unit 202, 18 Crown Steele Drive Markham, Ontario L3R 9X8	With a copy to: Joseph Fried Meyer, Wassenaar & Banach, LLP 301 - 5001 Yonge Street Toronto, Ontario M2N 6P6
Attention: Janet Lee Fax: 905-475-6226 Email: janetlee@mbb.ca	Attention: Joseph Fried Fax: 416-223-9405 Email: Jfried@mwb.ca

- 3.2 Delivered - Any notice delivered shall be deemed to have been validly and effectively given on the day of such delivery. Any notice sent by registered mail shall be deemed to have been validly and effectively given on the third Business Day following the date of mailing. Any notice sent by fax shall be deemed to have been validly and effectively given on the day the fax is sent if sent before 4:00 p.m. but if after 4:00 p.m., then on the next Business Day after it was sent.
- 3.3 Change - Either party may from time to time by notice to the other change its address for service under this Agreement.

ARTICLE 4 - General

- 4.1 Assumption on Sale of Interest - No sale, transfer or assignment of the Mortgage (in whole or in part) or any interest in the Mortgage by the Buyer of the Buyer's Interest shall be effective and shall not be completed, unless the Seller consents to same in writing which consent may be unreasonably withheld and if the Seller's consent is obtained such consent shall be contingent upon the purchaser, transferee or assignee executing an assumption agreement in favour of the Seller to assume and be bound by this Agreement in the place of the party selling.
- 4.2 Termination - This Agreement shall remain in force from year to year until the Seller's Interest has been paid in full or the Mortgage security has been realized and the proceeds of realization distributed in accordance with this Agreement.
- 4.3 Further Assurances - The parties shall do such further things and execute such further documents as may be reasonably required by the other party to more fully implement the intent of this Agreement.
- 4.4 Waiver - A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the party to be bound by the waiver. No waiver will be inferred from or implied by any failure to act or delay in acting by a party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other party. The waiver by a party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).
- 4.5 Amendments - No amendment of this Agreement will be effective unless made in writing and signed by the parties to it.
- 4.6 Enurement - This Agreement will enure to the benefit of, and be binding on, the parties and their respective successors and permitted assigns.
- 4.7 Counterparts - This Agreement may be executed and delivered in counterpart and by PDF or fax.

SIGNATURES ON NEXT PAGE

- 10 -

The parties have executed and delivered this Agreement as of the date first written above.

2615333 ONTARIO INC.

By: _____

Name:

Title:

I have authority to bind the Corporation

2478888 ONTARIO INC.

By: _____

Name:

Title:

I have authority to bind the Corporation

2478888 ONTARIO INC.

By: _____

Name:

Title:

I have authority to bind the Corporation

This is Exhibit "P" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.



Commissioner for Taking Affidavits (or as may be)

FORM 115

NOTICE OF INTENTION TO ENFORCE SECURITY
(Subsection 244(1) Bankruptcy and Insolvency Act)

TO: 3070 ELLESmere DEVELOPMENTS INC., an insolvent corporation
 5000 Yonge Street, Suite 1806
 North York, Ontario M2N 7E9

TO: 3070 Ellesmere Developments Inc.
 200 Consumers Road, Suite 602
 Toronto, Ontario M2J 4R4

AND TO: 3070 Ellesmere Developments Inc.
 1600 16TH Avenue
 Richmond Hill, Ontario L4B 4N6

TAKE NOTICE THAT:

1. 247888 ONTARIO INC., a secured creditor, intends to enforce its security on the property of the insolvent person described below:

PIN No. 06186-0033 (LT)
 PCL J-1 SECT M1227 BLK J PLAN 66M1227, CITY OF TORONTO
 City of Toronto
 Toronto Land Titles Office (No. 80)

municipally known as 3070 Ellesmere Road, Scarborough, Ontario M1E 4C3

2. The security that is to be enforced is in the form of:

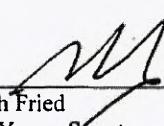
(a) a Charge/Mortgage of Land signed September 12, 2016 and registered in the Toronto Land Registry Office (No. 80) on September 15, 2016 as Instrument No. AT4343080, which mortgage was assigned to the undersigned by Transfer of Charge registered on May 18, 2018 in the said Land Titles Office as No. AT4868408.

3. The total amount of the indebtedness secured by the security is \$11,886,240.45 as at the 14th day of August, 2018, inclusive of \$1,200.00 costs plus HST thereon for issuing this Notice, with a per diem payment thereafter of \$3,714.58 on the mortgage loan.

4. The secured creditor will not have the right to enforce the security until after the expiry of the 10 day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at the City of Toronto, this 14th day of August, 2018.

247888 ONTARIO INC.
 by its solicitors
 MEYER, WASSENAAR & BANACH, LLP

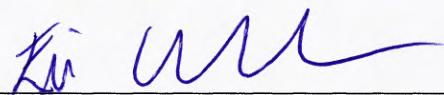
Per: 

Joseph Fried
 5001 Yonge Street
 Suite 301
 North York, Ontario M2N 6P6
 T: (416) 223-9191
 F: (416) 223-9405

Please direct any enquiries to: Joseph Fried at 416-223-9191 ext. 230 (jfried@mwb.ca)

This Notice is a required document under the Bankruptcy & Insolvency Act ("Act"). The use of the word "insolvent" is prescribed by the Act but nothing herein shall be deemed to imply that any person to whom this Notice is delivered is, in fact insolvent.

This is Exhibit "Q" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Liu WU".

Commissioner for Taking Affidavits (or as may be)

Properties

PIN 06186 - 0033 LT **Interest/Estate** Fee Simple
Description PCL J-1 SECT M1227 BLK J PLAN 66M1227, CITY OF TORONTO
Address 3070 ELLESmere
SCARBOROUGH

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name 3070 ELLESmere DEVELOPMENTS INC.
Address for Service 1600 16th Avenue
Richmond Hill, ON L4B 4N6

I, Thomas Liu, have the authority to bind the corporation.

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

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

Name 2518358 ONTARIO INC.
Address for Service 611 Tradewind Drive
Suite 300
Ancaster, ON L9G 4V5

Statements

Schedule: See Schedules

Provisions

Principal	\$2,000,000.00	Currency	CDN
Calculation Period			
Balance Due Date	See Schedule		
Interest Rate	See Schedule		
Payments			
<i>Interest Adjustment Date</i>			
<i>Payment Date</i>			
<i>First Payment Date</i>			
<i>Last Payment Date</i>			
Standard Charge Terms	200033		
Insurance Amount	full insurable value		
Guarantor			

Signed By

Randy Todd Hooke 181 Bay St., Suite 1800, Box 754 acting for
 Toronto Chargor(s)
 M5J 2T9

Tel 416-863-1500
 Fax 416-863-1515

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

Submitted By

AIRD & BERLIS LLP 181 Bay St., Suite 1800, Box 754 2017 03 15
 Toronto
 M5J 2T9

Tel 416-863-1500
 Fax 416-863-1515

LRO # 80 Charge/Mortgage

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

Registered as AT4511551 on 2017 03 15 at 10:26

yyyy mm dd Page 2 of 6

Fees/Taxes/Payment

Statutory Registration Fee	\$63.35
Total Paid	\$63.35

File Number

Chargee Client File Number : 132752-RTH

ADDITIONAL PROVISIONS

The following additional provisions shall be incorporated in the attached Charge/Mortgage between 3070 Ellesmere Developments Inc. (the “**Chargor**”) and 2518358 Ontario Inc. (the “**Chargee**”).

1. PROMISE TO PAY

The Chargor, for value received, hereby acknowledges itself indebted and promises to pay to the Chargee, on demand, all amounts now or hereafter owing by the Chargor to the Chargee up to the maximum principal amount of Two Million Dollars (\$2,000,000.00) in lawful money of Canada.

2. COLLATERAL SECURITY

This Charge/Mortgage is given by the Chargor to the Chargee as security for the payment and performance of all indebtedness, obligations and liabilities of the Chargor to the Chargee, present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed at any time owing by the Chargor to the Chargee or remaining unpaid or performed by the Chargor to the Chargee, whether incurred prior to, at the time of, or subsequent to the execution hereof, whether arising from agreement or dealings between the Chargor and the Chargee, and whether incurred by the Chargor alone or with another or others, and for the ultimate balance thereof, arising pursuant to:

- (a) the Joint Venture Agreement between the Chargor and the Chargee dated May 13, 2016, as amended by an Amending Agreement dated November 11, 2016 and as may be further amended, supplemented or restated from time to time (collectively, the “**Joint Venture Agreement**”). For greater certainty, this Charge/Mortgage secures the actual expenses incurred by the Chargee in respect to the Lands pursuant to the terms of the Joint Venture Agreement up to the aggregate amount of Two Million Dollars (\$2,000,000.00); and
- (b) this Charge/Mortgage.

(collectively, the “Secured Obligations”).

3. INTERPRETATION

In this Charge/Mortgage:

- (a) “Charge/Mortgage” means the Charge/Mortgage to which this schedule is attached, the set of Standard Charge Terms filed as No. 200033 and this schedule, as the same may be amended, modified, supplemented, extended or replaced from time to time;
- (b) the term “Lands” or “lands” or “the said lands” as used herein, and the term “land” as used in the set of Standard Charge Terms filed as No. 200033, shall mean the fee simple estate of the Chargor in the lands described on the Charge/Mortgage to which this schedule is attached, and shall include all tenements, hereditaments, appurtenances, buildings and structures now or hereafter erected thereon, and all easements and rights of way now or hereafter appurtenant thereto and any interest therein enjoyed by the Chargor;
- (c) the term “Person” means an individual, a partnership, a corporation, a government or any department or agency thereof, a trustee, any unincorporated organization and the heirs, executors, administrators or other legal representatives of an individual, and words importing “Person” have similar meanings;
- (d) all headings inserted herein are for convenience of reference only and shall not limit or extend the meaning of the terms and provisions hereof.

4. PAYMENT - CURRENCY

Unless otherwise expressly provided, the Chargor shall make all payments pursuant hereto in Canadian dollars.

5. DEFAULT

Notwithstanding Section 1 herein, the Chargee may only declare the Secured Obligations to be due and payable in the event of a default pursuant to the terms of the Joint Venture Agreement, which default the Chargor has failed to cure within sixty (60) days from the date on which the Chargee has given written notice to the Chargor of such default, whereupon all such indebtedness shall immediately become and be due and payable, and all rights and remedies hereunder, in law, in equity or otherwise of the Chargee shall thereupon become enforceable by the Chargee.

The Chargee may, by notice to the Chargor, waive any default of the Chargor on such terms and conditions as the Chargee may determine, but no such waiver shall be taken to affect any subsequent default or the rights resulting therefrom.

6. RIGHTS AND REMEDIES

Upon the rights and remedies of the Chargee hereunder becoming enforceable:

- (a) The Chargee may immediately take possession of the land subject to this Charge/Mortgage and may, either before or after any entry, and either before or after giving any notice, immediately lease the land subject to this Charge/Mortgage or any part thereof and/or sell or otherwise dispose of the land subject to this Charge/Mortgage or any part thereof either as a whole or in separate parcels at public auction or by tender or by private sale at such time or times as the Chargee may determine, and may make such sale, either for cash or credit or part cash and part credit, and with or without advertisement, and with or without a reserve bid, as the Chargee may deem proper, and the Chargee may also rescind or vary any contract of sale that may have been entered into and resell with or under any of the powers conferred hereunder and adjourn any such sale from time to time and may execute and deliver to the purchaser or purchasers of the said lands or any part thereof good and sufficient deed or deeds for the same, the Chargee being hereby constituted the irrevocable attorney of the Chargor for the purpose of making such sale and executing such deeds, and any such sale made as aforesaid shall be a perpetual bar both in law and in equity against the Chargor and all other persons claiming any interest in the land subject to this Charge/Mortgage or any part thereof by, from, through or under the Chargor. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by any express notice that any sale or lease is improper and no want of notice or publication shall invalidate any sale or lease hereunder; and/or
- (b) The Chargee may borrow money on the security of the land subject to this Charge/Mortgage in priority to the security constituted by the Charge/Mortgage for the purpose of maintaining, preserving or protecting the land subject to this Charge/Mortgage or any part thereof or carrying on all or any part of the business of the Chargor relating to the said land; and/or
- (c) Upon the Chargor receiving notice from the Chargee of the taking of possession of the land subject to this Charge/Mortgage or the appointment of a receiver, all the powers, functions, rights and privileges of each of the directors and officers of the Chargor with respect to the said lands shall, to the extent permitted by law, cease, unless specifically continued by the written consent of the Chargee; however, all other powers, functions, rights and privileges of such directors shall be unaffected by such events; and/or
- (d) For greater certainty, the parties hereto agree that in addition to, and not in substitution for, all the rights and remedies of the Chargee at law or contained

herein, the Chargee may, upon the rights and remedies of the Chargee hereunder becoming enforceable, subject to the rights of prior encumbrancers, mortgagees and chargees of the said lands:

- (i) foreclose all the right and title of the Chargor to and in the said lands;
- (ii) immediately enter into and take possession of the said lands free from all manner of former conveyances, mortgages, charges or encumbrances without the let, suit, hindrance, interruption or denial of the Chargor or any other person whatsoever; and/or
- (e) The Chargee or any agent or representative thereof may become purchaser at any sale of any of the land subject to this Charge/Mortgage whether made under the power of sale herein contained or pursuant to foreclosure or other judicial proceedings.
- (f) The Chargor expressly agrees that the rights and remedies of the Chargee hereunder are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by the Chargee of any right or remedy for a default or breach of any term, covenant or condition in this Charge/Mortgage of Land does not waive, alter, affect or prejudice any other right or remedy to which the Chargee may be lawfully entitled for the same default or breach. Any waiver by the Chargee of the strict observance, performance or compliance with any term, covenant or condition of this Charge/Mortgage is not a waiver of any subsequent default and any indulgence by the Chargee with respect to any failure to strictly observe, perform or comply with any term, covenant or condition of this Charge/Mortgage is not a waiver of the entire term, covenant or condition or any subsequent default. No delay or omission of the Chargee to exercise any remedy or right hereunder or at law, in equity or otherwise, shall impair any such remedy or shall be construed to be a waiver of any default hereunder or acquiescence therein.

7. MORTGAGE NOT TO BE VOID

In addition to, and not in substitution for, any other provision of this Charge/Mortgage and notwithstanding Subsection 6(2) of the *Land Registration Reform Act (Ontario)*, the parties hereto agree that this Charge/Mortgage shall not be void unless the Chargor shall pay or cause to be paid to the Chargee the Secured Obligations and shall otherwise observe and perform the terms hereof and unless all credit facilities granted in connection with which the Secured Obligations shall have been cancelled and terminated.

8. OTHER SECURITY/PAYMENTS RECEIVED

This security is in addition to and not in substitution for any other security now or hereafter held by the Chargee in respect of the Secured Obligations. No rights or remedies of the Chargee pursuant to this Charge/Mortgage and such other security shall be exclusive or dependent upon any other, and the Chargee may from time to time exercise any one or more of such rights or remedies independently or in combination, such remedies being cumulative and not in the alternative.

9. NON-MERGER

Neither the taking of any judgment or the obtaining of any order nor the exercise of any power of seizure or sale shall operate to extinguish the liability of the Chargor to pay the Secured Obligations, nor shall the same operate as a merger of any covenant herein contained or contained in the Joint Venture Agreement and it is further agreed that the taking of a judgment under any covenant herein contained shall not operate as a merger of such covenant.

10. NOTICE

All notices and other communications shall be in writing and shall be personally delivered to an officer or other responsible employee or sent by direct written electronic means such as telefacsimile, charges prepaid, if to the Chargor as follows:

Address: 1600 16th Avenue
Richmond Hill, Ontario L4B 4N6

and if to the Chargee as follows: 2518358 Ontario Inc.
611 Tradewind Drive, Suite 300
Ancaster, ON L9G 4V5

or at or to such other address or addresses, or telefacsimile number of numbers as either party may from time to time designate to the other party in such manner. Any communication which is personally delivered as aforesaid shall be deemed to have been validly and effectively given on the date of such delivery if such date is a Banking Day and such delivery was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the Banking Day next following such date of delivery. Any communication which is transmitted by direct written electronic means as aforesaid shall be deemed to have been validly and effectively given on the date of transmission if such date is a Banking Day and such transmission was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the Banking Day next following such date of transmission. For the purposes of this Charge/Mortgage, "Banking Day" shall mean any day other than a Saturday, Sunday or statutory holiday in Canada, on which banks generally are open for business in Toronto, Ontario. Any communication which is transmitted by facsimile shall on the day of such transmission be mailed by regular mail to the party to whom the communication has been faxed.

11. GENERAL

- (a) This Charge/Mortgage shall be discharged on the Chargor conveying the Lands to the trustee in accordance with the terms of the Joint Venture Agreement without payment of any kind;
- (b) The Secured Obligations shall be paid and shall be assignable.
- (c) If for any reason whatsoever any term, covenant or condition of this Charge/Mortgage, or the application thereof to any person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term, covenant or condition:
 - (i) is deemed to be independent of the remainder of this Charge/Mortgage and to be severable and divisible therefrom and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Charge/Mortgage or any part thereof; and
 - (ii) continues to be applicable to and enforceable to the fullest extent permitted by law against any Person and circumstances other than those as to which it has been held or rendered invalid, unenforceable or illegal.
- (d) This Charge/Mortgage and all its provisions shall enure to the benefit of the Chargee and its successors and assigns and shall be binding upon the Chargor and its successors and assigns.
- (e) This Charge/Mortgage shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada.
- (f) In the event of any conflict or inconsistency between the provisions of this Schedule and those contained in the Standard Charge Terms filed as No. 200033, the relevant provisions of this Schedule shall prevail and be paramount. In the event of any conflict or inconsistency between the provisions of this Charge/Mortgage and the provisions of the Joint Venture Agreement, the provisions of the Joint Venture Agreement shall prevail and be paramount.

This is Exhibit "R" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Li Liu".

Commissioner for Taking Affidavits (or as may be)

LRO # 80 Lien

Registered as AT5158441 on 2019 06 12 at 11:46

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

yyyy mm dd Page 1 of 2

Properties

PIN 06186 - 0033 LT
 Description PCL J-1 SECT M1227 BLK J PLAN 66M1227, CITY OF TORONTO
 Address 3070 ELLESMORE
 SCARBOROUGH

Claimant(s)

Name HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL
 REVENUE
 Address for Service Canada Revenue Agency
 55 Bay Street North
 Hamilton, Ontario
 L8R 3P7

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

This document is being authorized by a representative of the Crown.

Statements

Schedule: See Schedules

Signed By

Carla McGhee 55 Bay Street acting for Signed 2019 06 12
 Hamilton
 L8N 3E1
 Applicant(s)

Tel 905-572-2656

Fax 905-308-8802

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

Submitted By

CANADA REVENUE AGENCY 55 Bay Street 2019 06 12
 Hamilton
 L8N 3E1

Tel 905-572-2656

Fax 905-308-8802

Fees/Taxes/Payment

Statutory Registration Fee	\$64.40
Total Paid	\$64.40

File Number

Claimant Client File Number : ETA-4027-19

NOTICE OF LIEN PURSUANT TO SUBSECTION 316 (4) AND (5)
OF THE EXCISE TAX ACT

CONSIDERATION: \$299,137.76

WHEREAS pursuant to subsection 316 (1) and (2) of the Excise Tax Act, any amount payable or any part of the amount payable by a tax debtor (the "amount") and that amount remains unpaid the amount may be certified by the Minister of National Revenue and registered in the Federal Court of Canada (the "Court") at which point the certificate is deemed to be a judgment against the tax debtor;

WHEREAS pursuant to subsection 316 (4) and (5) of the Excise Tax Act, a document which the Court has issued, and which evidences a certificate of that Court upon registration on title or otherwise recorded creates a charge, lien or priority on, or a binding interest in property that the tax debtor holds;

AND WHEREAS 3070 ELLESmere DEVELOPMENTS INC.

is indebted to the Minister of National Revenue for Goods and Services tax and other amounts as set out in this notice at the date of issuance of the Certificate in Court File Number ETA-4027-19 by the Court, together with interest at such rate or rates as determined from time to time by Section 280 of the Excise Tax Act;

AND WHEREAS 3070 ELLESmere DEVELOPMENTS INC.

has an interest in the lands described in this notice.

NOW THEREFORE TAKE NOTICE that HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE claims a lien and charge against the interest of 3070 ELLESmere DEVELOPMENTS INC. in the lands described in this notice.

Notwithstanding the date of registration of this lien, a portion of the lien takes priority over all other encumbrances except those that fall within the definition of "prescribed security interest" in Regulation 2201 of the Income Tax Act. This priority is claimed pursuant to subsections 227(4) and (4.1) of the Income Tax Act, and/or section 222 of the Excise Tax Act.

This is Exhibit "S" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Thomas Liu".

Commissioner for Taking Affidavits (or as may be)

	File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.					
						CG	I	E	A	O	MV
1.	704942874 PPSA	3	20150408 1703 1462 6415 Reg. 5 year(s) Expires 8/1/2019	3070 ELLESmere DEVELOPMENTS INC. (Corp. No.: 002402174) 5000 YONGE STREET, SUITE 1806 TORONTO ON M2N7E9	CAMERON STEPHENS FINANCIAL CORPORATION				X	X	X
*DISCHARGED											
General Collateral Description: GENERAL SECURITY AGREEMENT AND ASSIGNMENT OF CASH COLLATERAL RELATING TO THAT PROJECT KNOWN AS THE ACADEMY LOCATED AT 3070 ELLESmere ROAD, TORONTO											
	4	20190801 1708 1462 0428 C DISCHRG	3070 ELLESmere DEVELOPMENTS INC. (Reference Debtor)								
	File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.					
2.	695785752 PPSA	1	20140502 1320 1590 1635 Reg. 10 year(s) Expires 5/2/2024	3070 ELLESmere DEVELOPMENTS INC. SUITE 1806, 5000 YONGE STREET TORONTO ON M2N 7E9	AVIVA INSURANCE COMPANY OF CANADA C/O SUITE 205, 600 COCHRANE DRIVE MARKHAM ON L3R 5K3				X	X	
	2	20160909 1142 1862 5467 A AMNDMNT	3070 ELLESmere DEVELOPMENTS INC. (Reference Debtor)								
						3070 ELLESmere DEVELOPMENTS INC. 1600/1610 16TH AVENUE					

		RICHMOND HILL ONT L4B 4N6					
Reason for Amendment: THE ADDRESS OF THE DEBTOR HAS CHANGED.							

This is Exhibit "T" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Liu W.M." The signature is fluid and cursive, with "Liu" on the left and "W.M." on the right.

Commissioner for Taking Affidavits (or as may be)

Properties

PIN 06186 - 0033 LT Interest/Estate Fee Simple
 Description PCL J-1 SECT M1227 BLK J PLAN 66M1227, CITY OF TORONTO
 Address 3070 ELLESMORE
SCARBOROUGH

Party From(s)

Name ONTARIO SUPERIOR COURT OF JUSTICE
 Address for Service 330 University Avenue
7th Floor
Toronto, ON M5G 1R7

Applicant(s)

Capacity Share

Name 2449880 ONTARIO INC.
 Address for Service 170 Valley Road
Toronto, ON M2L 1G4

Statements

The applicant applies to register the following order See Schedules. The order is still in full force and effect
 The court order contains the following title related restriction: The Court Orders that the Defendants, including 3070 Ellesmere Developments Inc., are enjoined from taking any steps to sell or otherwise encumber the property known municipally as 3070 Ellesmere Road, Scarborough, Ontario (the "Property"), which is more fully described on Schedule "A".

Signed By

Lawrence Alan Enfield	10 King St E, Suite 500 Toronto M5C 1C3	acting for Applicant(s)	Signed 2019 03 26
Tel 416-238-3208			
Fax 647-689-2367			

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

Submitted By

ENFIELD WOOD LLP	10 King St E, Suite 500 Toronto M5C 1C3	2019 03 26
Tel 416-238-3208		
Fax 647-689-2367		

Fees/Taxes/Payment

Statutory Registration Fee	\$64.40
Total Paid	\$64.40

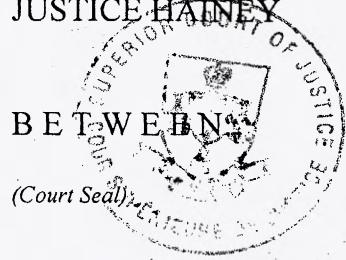
File Number

Party From Client File Number : 51041

Court File No. CV-18-592726-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) TUESDAY, THE 26th
JUSTICE HAINES)
BETWEEN) DAY OF FEBRUARY, 2019



2449880 ONTARIO INC.

Plaintiff

and

3070 ELLESMORE DEVELOPMENTS INC., TONG LIU, LEMINE
INVESTMENT GROUP INC., LEMINE DEVELOPMENT CORP.,
CENTRAL PARK AJAX DEVELOPMENTS PHASE 1 INC., 9654372
CANADA INC., 9654488 CANADA INC., 9654461 CANADA INC.,
9617680 CANADA INC. and AJAX MASTER HOLDING INC.

Defendants

ORDER

THIS MOTION made by the Plaintiff to strike the Defendants' Statement of Defence and for judgment, was heard this day at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1R7.

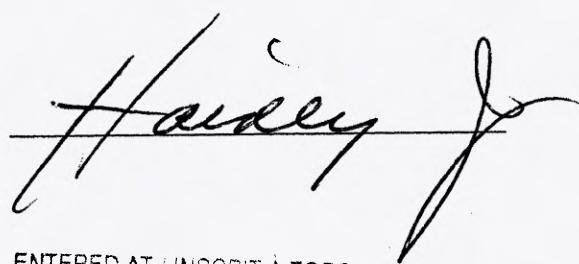
ON READING the Amended Motion Record and Factum of the Plaintiff, and on hearing the submissions of counsel for the plaintiff and the submissions of Thomas Liu on behalf of the defendants,

1. THIS COURT ORDERS that the Statement of Defence of the Defendants dated April 9, 2018 is struck without leave to amend.
2. THIS COURT ORDERS that default judgment is granted against the Defendants.
3. THIS COURT ORDERS that the Defendants shall forthwith pay to the Plaintiff \$3.2 million.
4. THIS COURT ORDERS that paragraphs 2 and 3 of this Order are stayed for a period of 60 days.
5. THIS COURT ORDERS that the Defendants, including 3070 Ellesmere Developments Inc., are enjoined from taking any steps to sell or otherwise encumber the property known municipally at 3070 Ellesmere Road in Scarborough, Ontario (the "Property"), which is more fully described in Schedule "A", and the Land Registrar for the Land Registry office of Metropolitan Toronto No. 66 & 64 shall be authorized to register this Order against title to the Property on Application by the Plaintiff.
6. THIS COURT ORDERS that the Defendants may bring a motion to vary paragraphs 1, 2 and 3 of this Order if, within 60 days, they comply strictly with the Orders of McEwen J. dated October 16, 2018 and Penny J. dated December 3, 2018.
7. THIS COURT ORDERS that the Defendants shall pay costs to the Plaintiff in an amount to be determined.

-3-

8. THIS COURT ORDERS that the Order of Justice Hainey dated February 26, 2019 that is attached as Schedule "B" to this Order is revoked and replaced with this Order.

THIS ORDER BEARS INTEREST at the rate of 15 percent per annum beginning on March 4, 2019.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAR 14 2019

PER / PAR: 

SCHEDULE "A"

PCL J-1 SECT m1227 BLK J PLAN 66M1227, City of Toronto

PIN No. 06186-0033(LT)

SCHEDULE "B"

Court File No. CV-18-592726-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE

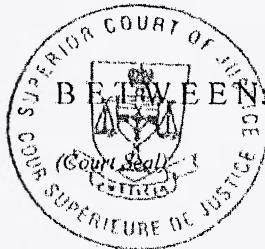
)

MONDAY, THE 26th

JUSTICE HAINY

)

DAY OF FEBRUARY, 2019



2449980 ONTARIO INC.

Plaintiff

and

3070 ELLESMORE DEVELOPMENTS INC., TONG LIU, LEMINE
INVESTMENT GROUP INC., LEMINE DEVELOPMENT CORP.,
CENTRAL PARK AJAX DEVELOPMENTS PHASE 1 INC., 9654372
CANADA INC., 9654488 CANADA INC., 9654461 CANADA INC.,
9617680 CANADA INC. and AJAX MASTER HOLDING INC.

Defendants

ORDER

THIS MOTION made by the Plaintiff to strike the Defendants' Statement of Defence and for judgment, was heard this day at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1R7.

ON READING the Amended Motion Record and Factum of the Plaintiff, and on hearing the submissions of counsel for the plaintiff and the submissions of Thomas Liu on behalf of the defendants,

-2-

1. THIS COURT ORDERS that the Statement of Defence of the Defendants dated April 9, 2019 is struck without leave to amend.

2. THIS COURT ORDERS that default judgment is granted against the Defendants.

3. THIS COURT ORDERS that the Defendants shall forthwith pay to the Plaintiff \$3.2 million.

4. THIS COURT ORDERS that paragraphs 2 and 3 of this Order are stayed for a period of 60 days.

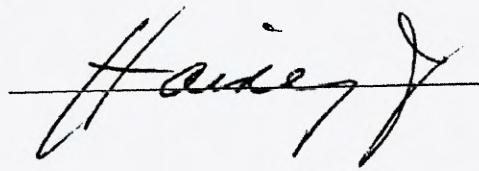
5. THIS COURT ORDERS that the Defendants, including 3070 Ellesmere Developments Inc., are enjoined from taking any steps to sell or otherwise encumber the property known municipally at 3070 Ellesmere Road in Scarborough, Ontario (the "Property"), which is more fully described in Schedule "A", and the Land Registrar for the Land Registry office of Metropolitan Toronto No. 66 & 64 shall be authorized to register this Order against title to the Property on Application by the Plaintiff.

6. THIS COURT ORDERS that the Defendants may bring a motion to vary paragraphs 1, 2 and 3 of this Order if, within 60 days, they comply strictly with the Orders of McEwen J. dated October 16, 2018 and Penny J. dated December 3, 2018.

7. THIS COURT ORDERS that the Defendants shall pay costs to the Plaintiff in an amount to be determined.

-3-

THIS ORDER BEARS INTEREST at the rate of 15 percent per annum beginning on
March 4, 2019.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAR 07 2019

PER / PAR: 

SCHEDEULE "A"

PCL J-1 SECT m1227 BLK J PLAN 66M1227, City of Toronto

PIN No. 06186-0033(LT)

2449980 ONTARIO INC. -and- 3070 ELLESmere DEVELOPMENTS INC. et al.
Plaintiff Defendants

Court File No. CV-18-592726-00CL

265

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

ORDER

ADAIR GOLDBLATT BIEBER LLP
95 Wellington Street West
Suite 1830, P.O. Box 14
Toronto ON M5J 2N7

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Lawyers for the Plaintiff

2449980 ONTARIO INC. -and- 3070 ELLISMERÉ DEVELOPMENTS INC. et al.
Plaintiff Defendants

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Tel: 416.351.2789
Fax: 647.689.2059

Lawyers for the Plaintiff

This is Exhibit "U" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Thomas Liu".

Commissioner for Taking Affidavits (or as may be)

Court File No. CV-18-00607231-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

MASTER *Brott*

)

THURSDAY, THE 25TH DAY
OF OCTOBER, 2018

B E T W E E N



XIUHONG DU, YUNDUAN CHEN and GUOHUA XU

Plaintiffs

- and -

LEMINE INVESTMENT GROUP INC., 3070 ELLESmere DEVELOPMENTS INC.,
JIN ZHI CHEN and TONG LIU a.k.a. THOMAS LIU

Defendants

ORDER

THIS MOTION made by the plaintiffs, without notice, for an order for leave to issue and register a certificate of pending litigation, was heard this day at the Toronto Courthouse, 393 University Avenue, Toronto.

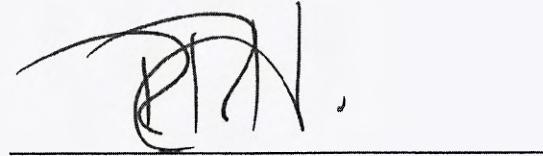
ON READING the affidavit of Xiuhong Du sworn October 18, 2018, factum of the plaintiffs dated October 23, 2018, book of authority of the plaintiffs dated October 23, 2018, and on hearing the submissions of counsel for the plaintiffs,

1. THIS COURT ORDERS that the plaintiffs be granted leave to issue and register a certificate of pending litigation against the title to a real property municipally known as 3070 Ellesmere Road, Scarborough, ON M1E 4C3, and more particularly described in Schedule "A" attached hereto.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

OCT 25 2018

PER / PAR: *lcl*



SCHEDULE "A"

PIN: 06186-0033 (LT)

Legal Description: PCL J-1 SECT M1227 BLK J PLAN 66M1227, CITY OF TORONTO

Municipal Address: 3070 Ellesmere Road, Scarborough, ON M1E 4C3

XIUHONG DU, *et al.* - and -

LEMINE INVESTMENT GROUP INC., *et al.*

Court File No. CV-18-00607231-
0000

**ONTARIO SUPERIOR
COURT OF JUSTICE**

Proceeding commenced at:
TORONTO

ORDER

HODDER, WANG LLP
Adelaide Place
181 University Avenue, Suite 2200
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Lawyers for the Plaintiffs

This is Exhibit "V" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Tong Liu".

Commissioner for Taking Affidavits (or as may be)

STALKING HORSE ASSET PURCHASE AGREEMENT

This Agreement made as of August 19, 2019, between:

3070 ELLESMORE DEVELOPMENTS INC.
(the "Vendor")

-and-

**CoStone Development Inc. and Campus Suites Inc., in partnership, in trust for an entity
to be formed**
(the "Purchaser")

WHEREAS the Vendor and Purchaser have agreed to enter into this Agreement to set forth the terms whereby the Purchaser has agreed to purchase, and the Vendor has agreed to sell, the property known municipally as 3070 Ellesmere Road in Toronto, Ontario and legally described in **Schedule "A"**, attached hereto (the "Property");

AND WHEREAS the Vendor intends to file a notice of intention to make a proposal ("NOI") under the *Bankruptcy and Insolvency Act* (the "BIA") and seek various relief from the Ontario Superior Court of Justice (Commercial List) (the "Court");

AND WHEREAS the Purchaser has agreed to act as a stalking horse bidder, subject to the terms and conditions in this Agreement, for the purpose of running a sale and investment solicitation process ("SISP") such that this Agreement may constitute a stalking horse bid for the Property;

AND WHEREAS the Vendor has requested financial assistance from the Purchaser to, among other things, fund the Vendor's BIA Proposal Proceedings. The Purchaser has agreed to allow the Vendor to utilize up to \$622,000.00 of the Deposit, unless agreed in writing by the Purchaser, subject to and in accordance with the terms of this Agreement;

AND WHEREAS in the event that this Agreement is selected as the Successful Bid in the SISP, the Purchaser has agreed to purchase the Property on the terms and subject to the conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and the sum of Two Dollars (\$2.00) paid by each of the Vendor and the Purchaser to the other and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties hereby agree and declare as follows:

**ARTICLE 1
INTERPRETATION****1.1 Definitions**

The terms defined herein shall have the following meanings, unless the context expressly or by necessary implication otherwise requires:

"Actual SRD" has the meaning ascribed thereto in Section 11.1 of **Schedule "E"**;

“Adjustments” means the adjustments to the Purchase Price provided for and determined pursuant to Sections 3.4 and 3.5;

“Administration Charge” means a charge granted against the Property pursuant to a Court order in the BIA Proposal Proceedings securing the professional fees and disbursements of the Vendor’s Solicitors and the Proposal Trustee and its counsel, to a maximum of \$500,000;

“Agreement” means this agreement of purchase and sale and the schedules attached hereto, as amended from time to time; **“Article”**, **“Section”** and **“Subsection”** mean and refer to the specified article, section and subsection of this Agreement;

“Approval and Vesting Order” has the meaning ascribed thereto in Section 4.1(d);

“Applicable Law” means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order that applies in whole or in part to such Person, property, transaction or event;

“Auction” has the meaning ascribed thereto in Section 4.1(a);

“Balance” has the meaning ascribed thereto in Section 3.1(b);

“BIA Proposal Proceedings” means the proceedings commenced by the Vendor under the BIA as a result of the filing of the NOI;

“Bid Deadline” means November 7, 2019 or such later date as established by the Proposal Trustee with the consent of the Purchaser;

“Bidding Procedures” means the bidding procedures for the SISP substantially in the form of **Schedule “D”** attached hereto;

“Break Fee” has the meaning ascribed thereto in Section 4.1(e)(ii);

“Business Day” means any day, other than a Saturday, Sunday or statutory holiday in Toronto, Ontario;

“Cash Flow Forecast” means the cash flow statement required to be filed by the Vendor in the BIA Proposal Proceedings pursuant to the BIA, as may be amended or supplemented from time to time;

“Claims” means all past, present and future claims, suits, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, legal fees on a solicitor and client basis, interest, demands and actions of any nature or kind whatsoever;

“Closing” means the closing and consummation of this Transaction, including without limitation the payment of the Purchase Price and the delivery of the Closing Documents, on the Closing Date at the offices of the Vendor’s Solicitors;

“Closing Date” means, unless otherwise agreed by the Parties, the tenth Business Day after the satisfaction or waiver of all conditions set out in Sections 5.1, 5.2 and 5.3;

“Closing Documents” means the agreements, instruments and other documents to be delivered by the Vendor to the Purchaser pursuant to Section 7.1 and the agreements, instruments and other documents to be delivered by the Purchaser to the Vendor pursuant to Section 7.2;

“Confidential Information” has the meaning ascribed thereto in Section 2.6(a);

“Court” has the meaning ascribed thereto in the recitals;

“Cure Period” means a period of three (3) Business Days commencing on the day that the Purchaser notifies the Vendor of an Interim Financing Event of Default;

“Deposit” has the meaning ascribed thereto in Section 3.2;

“DRA” has the meaning ascribed thereto in Section 7.4;

“Excluded Liabilities” has the meaning ascribed thereto in Section 2.2;

“Encumbrances” means all mortgages, pledges, charges, liens, writs, executions, debentures, hypothecs, liens, trust deeds, assignments by way of security, security interests, conditional sales contracts or other title retention agreements or similar interests or instruments charging, or creating a security interest in, the Property or any part thereof or interest therein including, without limitation, any agreements, options, easements, rights-of-way, restrictions, executions and any other encumbrances affecting the Property or any part thereof or interest therein;

“First Lien Lender Charge” means the charge registered as instrument number AT4343080 against the Property, as reflected on the parcel register for property identifier 06186-0033(LT);

“Governmental Authority” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal, any governmental agency, ministry, department, court (including the Court), Tribunal, commission, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government;

“Interim Financing Order” means an Order of the Court, in form and substance satisfactory to the Parties, among other things (i) giving full effect to and recognition of the Deposit as interim financing in the event that this Transaction does not close and the Purchaser is entitled to repayment of the Deposit, and (ii) granting the Interim Financing Charge;

“Interim Financing Charge” means the charge contemplated to be granted pursuant to the Interim Financing Order securing the Vendor’s obligation to repay the Deposit (plus accrued interest, if any) in accordance with this Agreement in priority to all other claims and encumbrances except for the Administration Charge and the First Lien Lender Charge;

"Interim Financing Event of Default" has the meaning ascribed thereto in Section 11.6 of Schedule "E";

"HST Indemnity and Undertaking" means the indemnity and undertaking substantially in the form attached as Schedule "C" to this Agreement;

"Material Variance" means in respect of any line item on the Cash Flow Forecast, a negative variance equal to or greater than 15% from the amount forecasted for such line item on the Cash Flow Forecast and the Vendor's actual amount received or incurred (as the case may be) for such line item as set out in the Actual SRD;

"NOI" has the meaning ascribed thereto in the recitals;

"Parties" means the Vendor and the Purchaser and **"Party"** means either one of them;

"Permitted Encumbrances" means the Encumbrances and instruments listed in Schedule "B" attached hereto;

"Person" includes individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities;

"Property" has the meaning ascribed thereto in the recitals;

"Proposal Trustee" means Crowe Soberman Inc.;

"Proposal Trustee's Certificate" means the certificate of the Proposal Trustee customarily attached as a schedule to the Approval and Vesting Order, among other things, certifying that all of the conditions to this Agreement have been satisfied and Closing has occurred;

"Purchase Price" means SIXTEEN MILLION DOLLARS (\$16,000,000.00);

"Purchaser's Solicitors" means EME Professional Corporation or such other firm or firms of solicitors or agents as are retained by the Purchaser from time to time and notice of which is provided to the Vendor;

"Qualified Bids" has the meaning ascribed thereto in the Bidding Procedures;

"Remediation Adjustment" has the meaning ascribed thereto in Section 3.4;

"Remediation Assessment" has the meaning ascribed thereto in Section 3.4;

"Remediation Notice" has the meaning ascribed thereto in Section 3.4(e);

"Remediation Threshold" has the meaning ascribed thereto in Section 3.4;

"Representative" means an officer, employee, agent, solicitor, consultant or other advisor or representative of either the Vendor or the Purchaser, as the context may require;

"Sale Hearing" has the meaning ascribed thereto in Section 4.1(a);

“**Sale Motion**” has the meaning ascribed thereto in Section 4.1(a);

“**SISP**” has the meaning ascribed thereto in the recitals;

“**Stalking Horse and Bidding Procedures Order**” means an order, in form and substance satisfactory to the Vendor and the Purchaser, each acting reasonably, among other things, (i) approving the execution of this Agreement by the Vendor as a “stalking horse” purchase agreement, including for greater certainty payment of the Break Fee, and (ii) the SISP and Bidding Procedures;

“**Successful Bid**” has the meaning ascribed thereto in the Bidding Procedures;

“**Successful Bidder**” has the meaning ascribed thereto in the Bidding Procedures;

“**Taxes**” means all taxes, HST, land transfer taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, excise, real property and personal property taxes, and any related interest, fines and penalties, imposed by any Governmental Authority, and whether disputed or not;

“**Transaction**” means the purchase and sale of the Property as contemplated by this Agreement;

“**Tribunal**” means any court (including a court of equity), arbitrator or arbitration panel and any other Governmental Authority, stock exchange, professional or business organization or association or other body exercising adjudicative, regulatory, judicial or quasi-judicial powers;

“**Vendor’s Solicitors**” means Cassels Brock & Blackwell LLP or such other firm or firms of solicitors or agents as are retained by the Vendor from time to time and notice of which is provided to the Purchaser;

1.2 Schedules

The following schedules attached hereto form part of this Agreement:

- Schedule A - Property
- Schedule B - Permitted Encumbrances
- Schedule C - HST Undertaking and Indemnity
- Schedule D - Bidding Procedures
- Schedule E - Interim Financing Terms

ARTICLE 2 AGREEMENT OF PURCHASE AND SALE

2.1 Purchase and Sale of Property

Subject to the terms and conditions of this Agreement, the Vendor hereby agrees to sell to the Purchaser, and the Purchaser agrees to purchase from the Vendor, the Property in consideration

of the payment of the Purchase Price, subject to adjustments in accordance with Sections 3.4 and 3.5. This Agreement shall be completed on the Closing Date at the offices of the Vendor's Solicitors subject to real property registrations being electronically effected at the applicable land titles office.

2.2 Excluded Liabilities

The Purchaser is not assuming, and shall not be deemed to have assumed any liabilities, obligations or commitments of the Vendor or of any other Person, whether known or unknown, fixed, contingent or otherwise, including any debts, Claims, liens, obligations, sureties, positive or negative covenants or other liabilities directly or indirectly arising out of or resulting from the Vendor's ownership of or interest in the Property and any business conducted by the Vendor, whether pursuant to this Agreement or as a result of the Transaction (collectively, the "**Excluded Liabilities**"). For greater certainty, the Excluded Liabilities shall include, but not be limited to, the following:

- (a) except as otherwise agreed in this Agreement, all Taxes payable by the Vendor arising with respect to any period prior to the Closing Date and all Taxes payable relating to any matters or assets other than Taxes expressly assumed by the Purchaser under this Agreement arising with respect to the period from and after the Closing Date. For greater certainty and notwithstanding the foregoing, the Purchaser shall be responsible for and pay any land transfer taxes payable on the transfer of the Property to the Purchaser;
- (b) any liability, obligation or commitment resulting from an Encumbrance that is not a Permitted Encumbrance; and
- (c) any liability, obligation or commitment in respect to Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Date.

2.3 Authorizations

The Vendor shall deliver to the Purchaser, within five (5) days after the date of execution of this Agreement, authorizations prepared by the Purchaser's Solicitors to governmental authorities necessary to permit the Purchaser to obtain information from the files of such governmental authorities provided said authorizations explicitly do not authorize or request any inspections with respect to the Property.

2.4 Purchaser Access

Subject to the provisions set out below in this Section 2.4, from and after the date of execution of this Agreement by both Parties and up to the Closing Date, the Purchaser and its agents, Representatives and employees shall have reasonable access to the Property during normal business hours from time to time, and, upon reasonable prior notice to the Proposal Trustee and the Vendor, at the Purchaser's sole risk and expense, for the purpose of making any of the Purchaser's inspections as in its discretion the Purchaser deems necessary or desirable, including soil tests and environmental audits; such access shall be done in a manner to minimize disruption, to the extent reasonably possible, to the use of the Property. The Purchaser and its consultants shall not conduct any invasive or intrusive inspections, investigations or tests, including boring or drilling of the Property, unless the scope of such work has been approved by the Vendor and the Proposal Trustee in writing, which approval shall not be unreasonably withheld or delayed, and any such invasive or intrusive inspections, investigations or tests shall, at the

Vendor's option, be done in the company of a Representative of the Vendor and the Vendor agrees to make a Representative available for this purpose. Any damage to the Property caused by such tests and inspections or caused in any way connected to the Purchaser's (or its agents', Representatives' and/or employees') entry upon the Property will be promptly repaired by the Purchaser, at the Purchaser's sole cost and expense. The Purchaser hereby indemnifies and saves the Vendor harmless from all Claims which the Vendor may suffer as a result of the said tests, inspections, or entry upon the Property.

2.5 Acknowledgement of Purchaser as to Condition of Property

The Purchaser acknowledges and agrees that, subject to the representations and warranties of the Vendor contained in Section 6.2:

- (a) on Closing, title to the Property shall be subject to the Permitted Encumbrances;
- (b) in entering into this Agreement, the Purchaser has relied and will continue to rely entirely and solely upon its own inspections and investigations with respect to the Property, including without limitation, the physical and environmental condition of the Property and a review of the documentation delivered or made available to the Purchaser pursuant to this Agreement, and the Purchaser acknowledges it is not relying on any information furnished by the Vendor or the Proposal Trustee or any other Person or entities on behalf of or at the direction of the Vendor or the Proposal Trustee in connection therewith; and
- (c) the Property is being purchased and assumed by the Purchaser on an "as is, where is" basis as of the Closing Date and without any express or implied agreement, representation or warranty of any kind whatsoever as to the title, condition, area, suitability for development, physical characteristics, profitability, availability of development charge credits, use or zoning, the existence of latent defects, any environmental matter, the quality thereof or as to the accuracy, currency or completeness of any information or documentation supplied or to be supplied in connection with the Property.

The Vendor shall have no obligations or responsibility to the Purchaser after Closing with respect to any matter relating to the Property or the condition thereof save as otherwise expressly provided in this Agreement. The provisions of this Section 2.5 shall not merge on, but shall survive, Closing.

2.6 Confidentiality

- (a) Until Closing (and in the event this Agreement is terminated for any reason other than its completion, then also from and after such termination), the Purchaser and its consultants, agents, advisors and solicitors shall keep confidential all information, documentation and records obtained from the Proposal Trustee or the Vendor or their respective consultants, agents, advisors or solicitors with respect to the Property as well as any information arising out of the Purchaser's access to the Vendor's records and its due diligence with respect thereto (collectively, the "**Confidential Information**"). The Purchaser shall not use any Confidential Information for any purposes not related to this Transaction or in any way detrimental to the Vendor.

Nothing herein contained shall restrict or prohibit the Purchaser from disclosing the Confidential Information to its consultants, agents, advisors and solicitors as long

as such parties provide a letter addressed to the Vendor agreeing to keep such information confidential or the Vendor receives such other assurances as are acceptable to it.

- (b) The Confidential Information referred to in this Section 2.6 shall not include:
 - (i) public information or information in the public domain at the time of receipt by the Purchaser or by its consultants, agents, advisors and solicitors;
 - (ii) information which becomes public through no fault or act of the Purchaser or its consultants, agents, advisors and solicitors;
 - (iii) information in the possession of the Purchaser not provided by the Vendor or its consultants, agents, advisors or solicitors; or
 - (iv) information required to be disclosed by law.
- (c) If this Agreement is terminated for any reason, the Purchaser shall promptly return to the Vendor all Confidential Information and similar material including all copies, and agrees to provide to the Vendor, at no cost to the Vendor, with copies of all written reports and documentation which set out the results of all tests, audits, inspections and investigations conducted by the Purchaser or its agents and representatives with respect to the Property.

ARTICLE 3 PURCHASE PRICE

3.1 Satisfaction of Purchase Price

The Purchase Price shall be paid by the Purchaser to the Proposal Trustee, in trust, as follows:

- (a) payment of the Deposit by way of wire transfer to the Proposal Trustee, in trust, in accordance with the payment schedule in Section 3.2; and
- (b) the balance of the Purchase Price, subject to adjustments pursuant to this Agreement (the “**Balance**”), shall be paid on the Closing Date by wire transfer to the Proposal Trustee.

3.2 Payment of Deposit

The Purchaser shall pay a deposit in the aggregate amount of \$1,600,000.00 (the “**Deposit**”) in accordance with the following payment schedule and such funds are to be utilized in accordance with the Cash Flow Forecast and shall be subject to the terms of Article 11 of Schedule “**E**”:

- (a) \$400,000.00 to the Vendor’s Solicitors, in trust, upon execution of this Agreement;
- (b) \$400,000.00 to the Proposal Trustee, in trust, upon the issuance of the Interim Financing Order and Stalking Horse and Bidding Procedures Order (the “**First Advance**”); and
- (c) \$800,000.00 to the Proposal Trustee, in trust, on or before the day that is seven (7) days before the Bid Deadline (the “**Second Advance**”). The Second Advance shall be held in trust by the Proposal Trustee and governed by Section 11.4 of Schedule “**E**”.

3.3 Use of Deposit

Provided the Vendor has satisfied the applicable conditions under this Agreement, up to \$622,000.00 of the Deposit may be utilized by the Vendor and Proposal Trustee to fund working capital costs and the costs of the BIA Proposal Proceedings in accordance with the Cash Flow Forecast. The use, release, commercial terms and security associated with the Deposit shall be governed by this Agreement, in particular the terms set out in **Schedule “E”**.

3.4 General Adjustments

Subject to those items referred to in Section 3.5, the adjustments (herein referred to as the **“Adjustments”**) shall include all realty taxes, local improvement rates and charges, water and assessment rates, utilities, utility deposits (including replacement letters of credit or letters of guarantee therefor, if applicable), and other adjustments established by usual practice in the City of Toronto for the purchase and sale of a similar unimproved Property in a similar sale process. In addition, the Adjustments shall include the other matters referred to in this Agreement which are stated to be the subject of adjustment and shall exclude the other matters in this Agreement which are stated not to be the subject of adjustment.

The Purchase Price shall be adjusted as at Closing. The Vendor shall prepare a statement of adjustments and deliver same with all supporting documentation to the Purchaser for its approval no later than five (5) Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be agreed upon by the Parties as of the Closing Date based on the best information available to the Parties at such time, each Party acting reasonably, and such estimate shall serve as a final determination. Unless otherwise provided in this Agreement, in no event shall the Purchaser be responsible for any charges, fees, Taxes, costs or other adjustments in any way relating to the period prior to the Closing Date or relating to the Excluded Liabilities or to any matters or assets other than the Property for the period from any after the Closing Date.

The Purchaser acknowledges that the Vendor is going to obtain an updated environmental status report (the **“Remediation Assessment”**) in connection with the Property. The Remediation Assessment shall be obtained from a company or firm selected by the Purchaser from a list of companies and/or firms provided by the Vendor. The Vendor shall provide the list, consisting of at least three (3) different companies and/or firms, to the Purchaser for the Remediation Assessment. Each of the provided companies or firms in the list for the Remediation Assessment shall be a reputable company or firm licensed in Ontario and such company or firm shall have (i) assessment experience in urban development and contamination in relation to sites dedicated to high rise development in the Greater Toronto Area; and (ii) sufficient insurance coverage for all potential liabilities. The Parties acknowledge and agree that if the Remediation Assessment establishes remediation costs that exceed \$2,000,000 (the **“Remediation Threshold”**) the Purchaser shall be entitled to adjust the Purchase Price downwards on a dollar for dollar basis for each dollar of cost above the Remediation Threshold (the **“Remediation Adjustment”**). The Remediation Adjustment is subject to the following stipulations:

- (a) the Vendor must obtain the Remediation Assessment within thirty (30) days of execution of this Agreement;
- (b) the Vendor must share a copy of the Remediation Assessment with the Purchaser within two (2) Business Days of the Vendor receiving its final version;

- (c) the Purchaser shall have ten (10) Business Days to review the Remediation Assessment and meet directly with the company that completes the Remediation Assessment to confirm the conclusions noted in the Remediation Assessment;
- (d) if the Purchaser disputes the conclusions noted in the Remediation Assessment it shall, within ten (10) days from the date that it received the Remediation Assessment, provide an alternative assessment.
- (e) no later than 55 days from the date of execution of this Agreement the Purchaser shall provide the Vendor with written notice of its Remediation Adjustment (the "**Remediation Notice**"). If the Purchaser does not submit its Remediation Notice within the prescribed time the Parties agree that the Purchaser shall have definitively waived its right to the Remediation Adjustment;
- (f) if the Remediation Adjustment noted in the Remediation Notice is \$1,000,000 or less, the Parties agree that the Purchase Price shall be adjusted and this Agreement shall be restated to reflect the amended Purchase Price. The Parties further agree that the Break Fee shall be reduced by the amount that is equal to 3% of the Remediation Adjustment. The Parties further agree that the Proposal Trustee shall immediately notify all interested purchasers that the Purchase Price and Break Fee have been reduced;
- (g) if the Remediation Adjustment noted in the Remediation Notice is more than \$1,000,000 the Parties agree that the Vendor shall have the right to:
 - (i) accept the Remediation Adjustment, in which case the protocol established in subsection 3.4(f) shall apply; or
 - (ii) reject the Remediation Adjustment, in which case the Vendor shall have the authority to terminate this Agreement. If the Vendor elects to terminate this Agreement pursuant to this subsection the Deposit, Break Fee and any other amounts due to the Purchaser shall be resolved in accordance with Schedule E, section 11.8(c) of this Agreement.
- (h) if the Remediation Assessment, or the alternative assessment as provided in Section 3.4(d), establishes remediation costs that exceed \$4,000,000, the Parties agree that the Purchaser may terminate this Agreement unilaterally and the Purchaser shall be entitled to repayment of the Deposit unconditionally. If this Agreement is terminated pursuant to this section 3.4 (h) and the Deposit is not repaid to the Purchaser promptly, the Purchaser may exercise any remedies provided in section 11.7 of Schedule E Interim Financing.

3.5 Realty Tax Appeals

The Vendor and the Purchaser hereby acknowledge and agree that in the event that there are any realty tax appeals for the calendar year prior to the calendar year in which the Closing Date occurs, the Vendor shall, at its option, be entitled to continue such appeals and any payment resulting therefrom shall be paid to the Proposal Trustee in Trust from the Purchaser or directly from the municipality. In the event there are realty tax appeals for the calendar year in which the Closing occurs, the Vendor may, at its option, continue such appeals and any payments received resulting therefrom shall be paid to the Proposal Trustee in Trust and Purchaser on a per diem basis determined by reference to the periods of the Vendor's and Purchaser's respective

ownership of the Property during such calendar year, after reimbursement to the Vendor's account of out-of-pocket costs relating to such appeals. The Purchaser agrees to co-operate with the Vendor with respect to all such appeals. To the extent the Purchaser receives any of the aforementioned payments from the taxing authority on or after the Closing Date, it shall forthwith pay the same to the Proposal Trustee in Trust for disposition in accordance with this Section 3.5. To the extent the Vendor receives any of the aforementioned payments on or after the Closing Date, it shall hold said payments in trust for the Purchaser and the Vendor as their respective interests are set out in this Section 3.5 and forthwith remit the Purchaser's share of such payments to the Purchaser.

ARTICLE 4 STALKING HORSE

4.1 Stalking Horse and Bidding Procedures Order; Vesting Order

- (a) On or before August 24, 2019, the Vendor shall file the NOI, and serve and file a motion with the Court (the "**Sale Motion**") seeking an Order approving: (i) the Stalking Horse and Bidding Procedures Order; (ii) the Interim Financing Order; (iii) the scheduling of an auction and sale hearing as contemplated by the Bidding Procedures (the "**Auction**" and "**Sale Hearing**", respectively); (iv) such other relief as may be required and is agreeable to the Parties and the Proposal Trustee, each acting reasonably.
- (b) This Agreement shall be deemed to be a Qualified Bid following waiver of the condition in 5.2(c) and the payment of the Second Advance.
- (c) The Proposal Trustee shall administer the SISP and shall be entitled to solicit bids until the Bid Deadline. For certainty, the Proposal Trustee shall be entitled to retain a real estate broker, hold discussions with bidders and control any other aspect of the SISP, provided that the Bid Deadline shall not be extended without the Purchaser's prior written consent (acting reasonably).
- (d) If the Proposal Trustee does not receive any Qualified Bids (other than this Agreement) by the Bid Deadline, and provided that all of the conditions to closing set out in Article 5 have been satisfied or waived by the applicable Party, the Vendor will close the Transaction with the Purchaser in accordance with this Agreement. The Vendor and Proposal Trustee shall use their commercially reasonable efforts to promptly file and serve a motion with the Court for an Order (the "**Approval and Vesting Order**") in form and substance satisfactory to the Vendor, the Proposal Trustee and the Purchaser, each acting reasonably, among other things, approving this Agreement and Transaction and vesting title to the Property in the Purchaser free and clear of all Encumbrances except for Permitted Encumbrances.
- (e) If the Proposal Trustee receives one or more Qualified Bids (other than this Agreement), the Proposal Trustee shall use its commercially reasonable efforts to conduct the Auction for the Property on or before November 14, 2019 in accordance with the Bidding Procedures. The Proposal Trustee shall have the right to accept any bid that it determines to be the most favourable as the Successful Bid. If the Purchaser is not the Successful Bidder, the Purchaser shall be entitled

to, and shall be paid, the following amounts from the proceeds of the transaction with the Successful Bidder:

- (i) repayment of the Deposit (plus accrued interest, if any); and
- (ii) subject to Section 4.2, a break fee equal to \$400,000 (the “**Break Fee**”).

(f) If the Purchaser is the Successful Bidder (pursuant to this Agreement or otherwise), the Purchaser shall provide any information and take such actions as may be reasonably requested by the Vendor or the Proposal Trustee to assist the Vendor and the Proposal Trustee in obtaining the Approval and Vesting Order and any other order of the Court reasonably necessary to consummate the Transaction. The Purchaser and the Vendor covenant to take, or cause to be taken, all commercially reasonable actions and to do, or cause to be done, all things necessary or proper, consistent with Applicable Law, to consummate and make effective the Transaction as soon as possible following the issuance of the Approval and Vesting Order, and, in any case, by the Closing Date.

(g) In the event that any third party seeks leave to appeal, or an appeal is taken or a stay pending appeal is requested with respect to the Stalking Horse and Bidding Procedures Order or the Approval and Vesting Order, the Vendor and Proposal Trustee shall promptly notify the Purchaser of such leave to appeal, appeal or stay request and shall promptly provide to the Purchaser a copy of the related notice(s) or order(s). The Vendor or Proposal Trustee shall also provide the Purchaser with written notice of any motion or application filed in connection with any leave to appeal or appeal from such orders.

4.2 Break Fee

If this Agreement is not the Successful Bid due to the Purchaser’s failure to satisfy the condition in Section 5.2(c), the Purchaser shall not be entitled to be paid the Break Fee.

ARTICLE 5 CONDITIONS

5.1 Mutual Conditions

The Parties’ respective obligation to complete this Transaction is subject to the satisfaction of, or compliance with, on or before the Closing Date, each of the following conditions precedent:

- (a) the Stalking Horse and Bidding Procedures Order shall have been issued and entered by the Court and shall not have been stayed, set aside, amended, varied, vacated or subject to a pending appeal or motion to amend, set aside, stay, vary or vacate the Stalking Horse and Bidding Procedures Order, and no order shall have been issued that restrains or prohibits the completion of the Transaction; and
- (b) on or before the Closing Date, provided that the Purchaser is the Successful Bidder, the Court shall have granted the Approval and Vesting Order and shall not have been stayed, set aside, amended, varied, vacated or subject to a pending appeal or motion to amend, set aside, stay, vary or vacate the Approval and Vesting Order shall be outstanding;

The foregoing conditions are for the benefit of both Parties and non-satisfaction or non-performance of any condition may only be waived by both Parties, in their sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the waiving Party may have. Any such waiver is only binding on a Party if it is made in writing and delivered forthwith, however neither party shall be able to delay or prevent Closing due to non-satisfaction of these mutual conditions due to a breach of this Agreement by that Party.

5.2 Vendor Closing Conditions

The Vendor's obligation to complete this Transaction is subject to the satisfaction of, or compliance with, on or before the Closing Date, each of the following conditions precedent:

- (a) all of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser have been complied with or performed in all material respects;
- (b) as of the Closing Date, the Purchaser shall have delivered, or caused to be delivered to the Vendor all other items referred to in Section 7.2;
- (c) on or before October 31, 2019, the Purchaser shall (i) have satisfied the Proposal Trustee that the Purchaser has obtained financing in an amount sufficient to pay the Balance of the Purchase Price, and (ii) pay the Proposal Trustee the Second Advance, to be held by the Proposal Trustee in trust as the Purchaser's deposit in accordance with the Stalking Horse Bidding Procedures; and
- (d) the Proposal Trustee shall have determined in accordance with the Bidding Procedures that this Agreement is the Successful Bid.

The above conditions are inserted for the sole benefit of the Vendor and may be waived in whole or in part by the Vendor by written notice to the Purchaser and the Proposal Trustee prior to Closing.

5.3 Purchaser Closing Condition

The Purchaser's obligation to complete this Transaction is subject to the satisfaction, of or compliance with, on or before the Closing Date, each of the following conditions precedent:

- (a) all of the terms, covenants and conditions of this Agreement to be complied with or performed by the Vendor have been complied with or performed in all material respects;
- (b) as of the Closing Date, the Vendor shall have delivered, or caused to be delivered to the Purchaser all other items referred to in Section 7.1;
- (c) all representations and warranties of the Vendor contained in this Agreement shall be true and correct as at the Closing Date with the same force and effect as if made at and as of such time; and
- (d) the Proposal Trustee shall have determined in accordance with the Bidding Procedures that this Agreement is the Successful Bid.

The above conditions are inserted for the sole benefit of the Purchaser and may be waived in whole or in part by the Purchaser by notice to the Vendor prior to Closing.

5.4 Non-Satisfaction of Conditions

If by Closing, the Vendor or the Purchaser, as applicable, having the benefit of the conditions set out in Sections 5.2 and 5.3 respectively, has not given notice to the other that any of such conditions has not been satisfied, such condition shall be deemed to have been waived. If the Vendor or the Purchaser, as applicable, does so notify the other, then this Agreement shall be terminated and null and void, subject to Section 9.2 and the Vendor's obligation to repay the Deposit (if applicable) under Article 11 of Schedule "E".

ARTICLE 6 – REPRESENTATIONS AND WARRANTIES

6.1 Purchaser's Representations

The Purchaser represents and warrants to and in favour of the Vendor that as of the date of this Agreement:

- (a) the Purchaser is a corporation validly existing under the laws of the Province of Ontario;
- (b) the Purchaser has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. Neither the execution of this Agreement nor the performance by the Purchaser of the Transaction will violate the Purchaser's constating documents, any agreement to which the Purchaser is bound, any judgment or order of a court of competent jurisdiction or any Governmental Authority, or any Applicable Law. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms; and
- (c) the Purchaser is or will be a registrant under Part IX of the ETA on the Closing Date.

6.2 Vendor's Representations

The Vendor hereby represents and warrants to and in favour of the Purchaser that as of the date of this Agreement:

- (a) the Vendor is a corporation validly existing under the laws of the Province of Ontario and, subject to obtaining the Stalking Horse and Bidding Procedures Order and the Approval and Vesting Order, the Vendor has the requisite power and authority to convey the Property, enter into this Agreement, and complete the Transaction;
- (b) subject to obtaining the Stalking Horse and Bidding Procedures Order and Approval and Vesting Order, the execution, delivery and performance of this Agreement by the Vendor does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority, except where failure to obtain such consent, approval, authorization or action, or to make such filing or notification, would not materially delay consummation by the Vendor of the Transaction;

- (c) subject to obtaining the Stalking Horse and Bidding Procedures Order, this Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding obligation of the Vendor and is enforceable against the Vendor in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar Applicable Laws relating to creditors' rights generally and subject to general principles of equity; and
- (d) the Vendor is not a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada).

ARTICLE 7

CLOSING DOCUMENTS

7.1 Vendor's Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Vendor shall execute or cause to be executed and shall deliver or cause to be delivered to the Purchaser's Solicitors the following:

- (a) a statutory declaration that the Vendor is not a non-resident pursuant to the terms of section 116 of the *Income Tax Act* of Canada;
- (b) a certificate of the Vendor executed by a senior officer of the Vendor to his or her knowledge (without personal liability) that the representations and warranties of the Vendor contained in Section 6.2 are true and accurate in all material respects as of the Closing Date;
- (c) an executed copy of the Proposal Trustee's Certificate; and
- (d) a copy of the issued Approval and Vesting Order.

All documentation shall be in form and substance acceptable to the Purchaser acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either the Vendor or the Purchaser than those expressly set forth in this Agreement.

7.2 Purchaser's Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Purchaser shall execute or cause to be executed and shall deliver or cause to be delivered to the Vendor's Solicitors the following:

- (a) the Balance of the Purchase Price;
- (b) an assumption of the Permitted Encumbrances (if any) and any specific assumptions of any of them to the extent specifically required thereunder;
- (c) the HST Undertaking and Indemnity; and
- (d) all other documents which are required by this Agreement or which the Vendor has reasonably requested on or before the Closing Date to give effect to this Transaction.

All documentation shall be in form and substance acceptable to the Vendor each acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either the Vendor or the Purchaser than those expressly set forth in this Agreement.

7.3 Registration and Other Costs

The Purchaser shall be responsible for and pay any land transfer taxes payable on the transfer of the Property, all registration fees payable in respect of registration by it of any documents on Closing (other than discharges of Encumbrances which are not Permitted Encumbrances, which shall be the responsibility of the Vendor prior to Closing) and all federal and provincial sales and other taxes payable by a purchaser upon or in connection with the conveyance or transfer of the Property. If the Purchaser does not or cannot execute and deliver the HST Undertaking and Indemnity, it shall pay to the Vendor all applicable goods and services and harmonized sales taxes applicable to the Purchase Price.

The Purchaser shall indemnify and save harmless the Vendor and its shareholders, directors, officers, employees, advisors and agents from all claims, actions, causes of action, proceedings, losses, damages, costs liabilities and expenses incurred, suffered or sustained as a result of a failure by the Purchaser:

- (a) to pay any federal, provincial or other taxes payable by the Purchaser in connection with the conveyance or transfer of the Property whether arising from a reassessment or otherwise, including provincial retail sales tax and goods and services tax, if applicable; and/or
- (b) to file any returns, certificates, filings, elections, notices or other documents required to be filed by the Purchaser with any federal, provincial or other taxing authorities in connection with the conveyance or transfer of the Property.

This Section 7.3 shall survive and not merge on Closing.

7.4 Escrow Closing and Registration

The Vendor and Purchaser covenant and agree to cause their respective solicitors to enter into a document registration agreement (the "DRA") to govern the electronic submission of the transfer/deed and the Approval and Vesting Order for the Property to the applicable Land Registry Office. The DRA shall outline or establish the procedures and timing for completing all registrations electronically and provide for all Closing Documents and closing funds to be held in escrow pending the submission of the transfer/deed to the Land Registry Office and its acceptance by virtue of it being assigned a registration number. The DRA shall also provide that if there is a problem with the Teraview electronic registration system which does not allow the Parties to electronically register all registration documents on Closing, the Closing Date shall be deemed to be extended until the next day when the said system is accessible and operating for the applicable Land Registry Office applicable to the Property.

ARTICLE 8
OPERATION UNTIL CLOSING

8.1 Operation Before Closing

From the date hereof until Closing, the Vendor shall operate and maintain the Property in accordance with usual sound business and management practices and will carry out all routine day-to-day repairs and maintenance thereof.

8.2 Damage Before Closing

The interest of the Vendor in and to the Property being purchased and acquired pursuant to the terms and conditions of this Agreement shall be at the risk of the Vendor until Closing. If any loss or damage occurs before Closing to the Property, the cost to repair of which is an amount that is in excess of twenty percent (20%) of the Purchase Price, as determined by the Vendor's arm's length, independent architect, engineer or other qualified expert, the Purchaser shall, within ten (10) days following written disclosure to the Purchaser by the Vendor of the loss or damage and the extent thereof, at its option, by written notice to the Vendor, elect either (i) to complete the purchase of the Property, in which event the Purchaser shall be entitled to the proceeds of insurance, if any, in respect of the loss or damage and the Vendor shall pay any deductibles in respect of such loss or damage and the Purchaser shall accept the Property subject to the applicable loss or damage, or (ii) not to complete the purchase of the Property, in which case this Agreement shall be deemed to be terminated and of no further force and effect (save for those provisions which provide for their survival) and the Deposit plus accrued interest shall become due and owing to the Purchaser and repaid in accordance with this Agreement.

If any loss or damage occurs before Closing to the Property, the cost to repair of which is an amount that is less than or equal to twenty percent (20%) of the Purchase Price as determined by the Vendor's arm's length, independent architect, engineer or other qualified expert, the Purchaser shall have no right to terminate this Agreement and shall accept the Property subject to the loss or damage, the Vendor shall pay any deductibles in respect of such loss or damage, the Purchaser shall be entitled to an assignment from the Vendor of all proceeds of insurance in respect of such loss or damage, and the Parties shall complete the within Transaction.

ARTICLE 9 TERMINATION

9.1 Termination

This Agreement may be validly terminated:

- (a) upon mutual written agreement of the Parties;
- (b) by either Party in accordance with Section 3.4(h);
- (c) by the Purchaser in accordance with Sections 5.3 or 8.2; or
- (d) by the Vendor in accordance with 5.2.

If this Agreement is terminated in accordance with this Section 9.1, the Deposit, together with all other amounts owing by the Vendor to the Purchaser under this Agreement (if any), shall be repaid in accordance with Article 11 of Schedule "E".

9.2 Termination Subject to Approval of Proposal Trustee

In the event that the Purchaser terminates this Agreement pursuant to Section 9.1(b), the Purchaser shall provide the Proposal Trustee and the Vendor with written notice of such termination and the specific default, issue or concern that the Purchaser is relying upon to terminate this Agreement. The Vendor shall have ten (10) Business Days to satisfy the specific default, issue or concern identified in the written termination. If the Proposal Trustee, in its sole discretion, concludes that the specific default, issue or concern has been addressed satisfactorily, the termination notice shall be definitively resolved and this Agreement shall be binding in all respects. If the Proposal Trustee, in its sole discretion, concludes that the specific default, issue or concern has not been addressed, and further concludes that the specific default, issue or concern is material to the Transaction, the Purchaser shall be authorized to crystalize the termination. The Purchase shall be entitled to apply to the Court to challenge the exercise of the Proposal Trustee's discretion pursuant to this Section 9.2.

ARTICLE 10 GENERAL

10.1 Gender and Number

Words importing the singular include the plural and vice versa. Words importing gender include all genders.

10.2 Captions and Table of Contents

The caption, headings and table of contents contained herein are for reference only and in no way affect this Agreement or its interpretation.

10.3 Obligations as Covenants

Each agreement and obligation of any of the Parties hereto in this Agreement, even though not expressed as a covenant, is considered for all purposes to be a covenant.

10.4 Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated in all respects as an Ontario contract.

10.5 Currency

All reference to currency in this Agreement shall be deemed to be reference to Canadian dollars.

10.6 Invalidity

If any immaterial covenant, obligation, agreement or part thereof or the application thereof to any Person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement or part thereof to any person, party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby. Each covenant, obligation and agreement in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

10.7 Amendment of Agreement

No supplement or modification of this Agreement shall be binding unless executed in writing by the Parties hereto in the same manner as the execution of this Agreement.

10.8 Time of the Essence

Time shall be of the essence of this Agreement.

10.9 Further Assurances

Each of the Parties hereto shall from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

10.10 Entire Agreement

This Agreement and any agreements, instruments and other documents herein contemplated to be entered into between, by or including the Parties hereto constitute the entire agreement between the Parties hereto pertaining to the agreement of purchase and sale provided for herein and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto, and there are no other warranties or representations and no other agreements between the Parties hereto in connection with the agreement of purchase and sale provided for herein except as specifically set forth in this Agreement or the Schedules attached hereto.

10.11 Waiver

No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided.

10.12 Solicitors as Agents and Tender

Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement may be given or delivered and accepted or received by the Purchaser's Solicitors on behalf of the Purchaser and by the Vendor's Solicitors on behalf of the Vendor and any tender of Closing Documents and the Balance may be made upon the Vendor's Solicitors and the Purchaser's Solicitors, as the case may be. The Vendor and Purchaser acknowledge and agree that insofar as the tender of any documents to be electronically registered is concerned, the tender of same will be deemed to be effective and proper when the solicitor for the party tendering has completed all steps required by Teraview in order to complete this Transaction that can be performed or undertaken by the tendering party's solicitor without the co-operation or participation of the other party's solicitor, and specifically when the tendering party's solicitor has electronically "signed" the transfer/deed and any other Closing Document, if any, to be electronically registered for completeness and granted access to the other party's solicitor to same, but without the necessity of the tendering party's solicitor actually releasing such documents to the other party's solicitor for registration.

10.13 Merger

Except as otherwise expressly set out herein, this Agreement shall merge with the Closing contemplated herein.

10.14 Successors and Assigns

All of the covenants and agreements in this Agreement shall be binding upon the Parties hereto and their respective successors and assigns and shall ensure to the benefit of and be enforceable by the Parties hereto and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement.

10.15 Assignment

The Purchaser shall not assign its rights and/or obligations hereunder to any other Person, at arm's length of the Purchaser, without the prior written consent of the Proposal Trustee, which consent may not be unreasonably withheld.

The Purchaser shall be able to assign its rights and/or obligations hereunder to any other Person at non-arm's length of the Purchaser, without the prior written consent of the Proposal Trustee.

10.16 Notice

Any notice, demand, approval, consent, information, agreement, offer, request or other communication (hereinafter referred to as a "Notice") to be given under or in connection with this Agreement shall be in writing and shall be given by personal delivery during regular business hours on any Business Day or by e-mail transmission or other electronic communication which results in a written or printed notice being given, addressed or sent as set out below or to such other address or electronic number as may from time to time be the subject of a Notice:

(a) Vendor (c/o Vendor's Solicitors):

Cassels Brock LLP
40 King St W, Suite 2100
Toronto, ON M5H 4A9

Attention: Larry Ellis

Email: lellis@casselsbrock.com

(b) Purchaser: CoStone Development Inc. and Campus Suites Inc., in partnership, in trust for an entity to be formed

Attention: Nan Eric Yu
E-mail: ey@costonegroup.com

and

Attention: Henry Morton
E-mail: henry@campussuites.com

and

Attention: Joel Etienne
Email: etiennelaw@rogers.com

Any Notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the date of such delivery and if sent by e-mail or other electronic communication with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the Business Day it was sent provided that it is prior to 5:00 p.m. on such day, and otherwise on the next following Business Day if sent after 5:00 p.m.

10.17 Planning Act of Ontario

This Agreement and the transactions reflected herein are subject to compliance with Section 50 of the *Planning Act* of Ontario.

10.18 No Registration of Agreement

The Purchaser shall not register this Agreement or any notice of this Agreement on title to the Property.

10.19 Commissions

The Vendor acknowledges that the real estate commissions and fees payable by the Vendor to the agents in respect of this Agreement shall be the sole responsibility of and payable by the Vendor.

10.20 Facsimiles/Counterparts

All Parties agree that this Agreement may be executed in counterpart and transmitted by telecopier or PDF and that the reproduction of signatures in counterpart and by way of telecopier or PDF will be treated as though such reproduction were executed originals and each party undertakes to provide the other with a copy of this Agreement bearing original signatures within a reasonable time after the date of execution.

[The remainder of this page has been intentionally left blank.]

IN WITNESS WHEREOF the Vendor and Purchaser have executed this Agreement as of the day and year first above written.

3070 ELLESMORE DEVELOPMENTS INC.

By: _____

Name: Tong Liu
Title: Director

By: _____

Name:
Title:

I/We have authority to bind the Corporation.

COSTONE DEVELOPMENT INC.

By: _____

Name: Eric Yu
Title:

I/We have authority to bind the Corporation.

CAMPUS SUITES INC.

By: _____

Name: Henry Morton
Title:

I/We have authority to bind the Corporation.

IN WITNESS WHEREOF the Vendor and Purchaser have executed this Agreement as of the day and year first above written.

3070 ELLESMORE DEVELOPMENTS INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

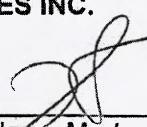
I/We have authority to bind the Corporation.

COSTONE DEVELOPMENT INC.

By: 
Name: Nan (Eric) Yu
Title: Chairman

I/We have authority to bind the Corporation.

CAMPUS SUITES INC.

By: 
Name: Henry Morton
Title: ASO

I/We have authority to bind the Corporation.

SCHEDULE A
MUNICIPAL ADDRESS AND LEGAL DESCRIPTION

Municipal Address: 3070 Ellesmere Road, Toronto, Ontario

Legal Description: Parcel J-1 Section M1227 Block J Plan 66M-1227, City of Toronto, being the whole of PIN 06186-0033 (LT)

SCHEDULE B
PERMITTED ENCUMBRANCES

[To be confirmed prior to Approval and Vesting Order]

SCHEDULE C
HST UNDERTAKING AND INDEMNITY

TO: 3070 ELLESMORE DEVELOPMENTS INC. (the "Vendor")

AND TO: •

RE: The Vendor's sale to CoStone Development Inc. and Campus Suites Inc., in partnership, in trust for an entity to be formed (the "Purchaser") of the property legally described as Parcel J-1 Section M1227 Block J Plan 66M-1227, City of Toronto, being the whole of PIN 06186-0033 (LT) (the "Property")

The undersigned hereby declares, certifies, and agrees as follows:

1. The Purchaser is purchasing the Property as principal for its own account and same is not being purchased by the Purchaser as an agent, trustee or otherwise on behalf of or for another person.
2. The Purchaser is registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) (the "Act") for the collection and remittance of goods and services tax ("HST"); its registration number is _____ and such registration is in good standing and has not been revoked.
3. The Purchaser shall be liable, shall self-assess and remit to the appropriate governmental authority all HST which is payable under the Act in connection with the transfer of the Property, all in accordance with the Act.
4. The Purchaser shall indemnify and save harmless the Vendor from and against any and all HST, penalties, costs and/or interest which may become payable by or assessed against the Vendor as a result of any failure by the Purchaser to comply with the provisions of this declaration.

The undersigned acknowledges and agrees that the foregoing declaration shall survive and not merge upon closing of the above-described transaction.

Dated at _____ this _____ day of August, 2019.

COSTONE DEVELOPMENT INC.

By: _____

Name: Nan Eric Yu
Title: Authorized Signatory
I have authority to bind the Corporation.

CAMPUS SUITES INC.

By: _____

Name: Henry Morton

Title: Authorized Signatory

I have authority to bind the Corporation.

SCHEDULE D STALKING HORSE BIDDING PROCEDURES

A. The Vendor intends to file a notice of intention to make a proposal ("NOI") under the *Bankruptcy and Insolvency Act* (the "BIA") with the Ontario Superior Court of Justice (Commercial List) (the "Court");

B. The Vendor has received an offer to purchase the land municipally known as 3070 Ellesmere Road in Scarborough, Ontario (the "Property") pursuant to an agreement of purchase and sale (the "Purchase Agreement") with CoStone Development Inc. and Campus Suites Inc., in partnership, in trust for an entity to be formed (the "Stalking Horse Bidder") in accordance with these Stalking Horse Bidding Procedures dated with effect at ●, 2019.

C. The Vendor wishes to maximize proceeds of sale for the Property, and the Stalking Horse Bidder agreed that the Purchase Agreement will stand as first qualified bid (subject to the terms in the Purchase Agreement) in a "stalking horse" auction sale process, provided that the Stalking Horse Bidder reserves the right to claim the Break Fee (as defined below) in the event that an Alternate Purchaser purchases the Property pursuant to the Bidding Procedures.

1. Bidding Procedures

On or about ●, 2019, the Vendor obtained an Order of the Court approving: (a) the Vendor entering into the Purchase Agreement with the Stalking Horse Bidder dated as of ●, 2019; (b) the payment of a Break Fee pursuant to the Purchase Agreement; and (c) these Stalking Horse Bidding Procedures ("Bidding Procedures") for the solicitation of offers (each a "Bid") for the acquisition of the Property, understanding that the Stalking Horse Bid shall constitute the first Qualified Bid for the purposes of acquiring the Property in accordance with the Purchase Agreement.

All references to currency in these Bidding Procedures are reference to Canadian Dollars unless otherwise stated.

All terms with initial capitals that are not otherwise defined in these Bidding Procedures are as defined in the Purchase Agreement.

2. Property for Sale

The Vendor may solicit superior offers to that in the Purchase Agreement for the Property. Interested parties requesting information about the qualification process and information in connection with their due diligence, should contact Hans Rizarri of Crowe Soberman Inc. at Hans.Rizarri@CroweSoberman.com.

3. Bidding Deadlines

All Bids must be submitted in accordance with the terms of these Bidding Procedures so that they are actually received by each of the Notice Parties (as defined below) no later than 10:00 a.m. (Eastern Daylight time) on November 7, 2019 (the "Bid Deadline"). A Bid received after the Bid

Deadline shall not constitute a Qualified Bid (as defined below). Written copies of each Bid shall be delivered by the applicable deadline to:

- (a) the Proposal Trustee, Crowe Soberman Inc., Attn: Hans Rizarri, Email: Hans.Rizarri@CroweSoberman.com; and
- (b) Counsel to the Vendor, Cassels Brock & Blackwell LLP, Attn: Larry Ellis, E-mail: lellis@casselsbrock.com;

(collectively, the "**Notice Parties**".)

Each Bid shall be delivered to all Notice Parties at the same time.

4. Designation as Qualified Bidder

To participate in an Auction (as defined below), a party submitting a Bid for the Property (a "**Bidder**") must submit a Bid that satisfies each of the following conditions (a "**Qualified Bid**"), as determined by the Proposal Trustee in its discretion and in consultation with the Vendor:

- (a) Written Submission of Modified Purchase Agreement and Commitment to Close
Bidders (other than the Stalking Horse Bidder) must submit a Bid by the Bid Deadline in the form of an executed mark-up of the Purchase Agreement (each a "**Modified Purchase Agreement**") reflecting such Bidder's proposed changes to the Purchase Agreement (together with a redlined version of the Modified Purchase Agreement against the Purchase Agreement), which shall include such terms as set out hereafter, and a written and binding commitment to close on the terms and conditions set forth therein.
- (b) Qualified Bid Value
A Bid must be equal to or greater than Purchase Price (being \$16,000,000), plus the Break Fee (being \$400,000 plus HST if applicable) and plus \$100,000 (which amount is equal to the First Overbid Increment, as defined herein).
- (c) Irrevocable
Each Bid shall be irrevocable until (i) November 18, 2019, in the event that the Qualified Bid is determined to be the Successful Bid; and (ii) November 18, 2019, in the event that the Qualified Bid is determined to be the Back-up Bid (as defined below) (each, the "**Commitment Date**"), as applicable.

(d) Contingencies

A Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other contingencies associated with a Bid may not, in aggregate, be materially more burdensome than those set forth in the Purchase Agreement, as determined by the Proposal Trustee in consultation with the Vendor.

(e) Financing Sources and Evidence of Financial Ability to Close

A Bid must identify the actual Bidder and beneficial and legal owners of the Bidder and contain written evidence of a commitment for financing or other evidence of the ability to consummate the sale on or before the Closing Date satisfactory to the Proposal Trustee, in consultation with the Vendor, with appropriate contact information for such financing sources.

(f) No Fees Payable to Qualified Bidder

A Bid may not request or entitle the Qualified Bidder (other than the Stalking Horse Bidder) to any break fee, expense reimbursement, or similar type of payment.

(g) Deposit

Each Bid must be accompanied by a deposit (each, a “**Deposit**”) in an amount equal 10% of the purchase price contained in the Modified Purchase Agreement, which shall be paid to the Proposal Trustee by the Bid Deadline, to be held in trust in accordance with these Bidding Procedures.

(h) Non-cash Consideration

Bids may not include non-cash consideration, such as promissory notes, earn-outs, publicly traded equities or other equity consideration;

A Bidder submitting a Qualified Bid is a “**Qualified Bidder**”. Subject to Section satisfying the condition in Section 5.2(c) of the Purchase Agreement, the Stalking Horse Bidder shall be deemed to be a Qualified Bidder and the Purchase Agreement shall be deemed to be a Qualified Bid, and a third-party beneficiary of these Bidding Procedures with standing to object to the Proposal Trustee’s implementation of these Bidding Procedures.

5. Due Diligence

Subject to the provisions set out below in this Section 5, Qualified Bidders and their agents, representatives and employees shall have reasonable access to the Property during normal business hours from time to time, and, upon reasonable prior notice to the Proposal Trustee and the Vendor, at the Qualified Bidder's sole risk and expense, for the purpose of making any of the Qualified Bidder's inspections as in its discretion the Qualified Bidder deems necessary or desirable, including soil tests and environmental audits; such access shall be done in a manner to minimize disruption, to the extent reasonably possible, to the use of the Property. Qualified Bidders and their consultants shall not conduct any invasive or intrusive inspections, investigations or tests, including boring or drilling of the Property, unless the scope of such work has been approved by the Vendor and the Proposal Trustee in writing, which approval shall not be unreasonably withheld or delayed, and any such invasive or intrusive inspections, investigations or tests shall, at the Vendor's option, be done in the company of a representative of the Vendor and the Vendor agrees to make a representative available for this purpose. Any damage to the Property caused by such tests and inspections or caused in any way connected to a Qualified Bidder's (or its agents', representatives' and/or employees') entry upon the Property will be promptly repaired by the Qualified Bidder, at the Qualified Bidder's sole cost and expense.

6. Due Diligence by Vendor

Each Qualified Bidder shall comply with all requests for additional information by the Proposal Trustee or Vendor regarding such Bidder and its contemplated transaction. Failure by a Bidder to comply in a timely manner with requests for additional information may be a basis for the Proposal Trustee, in consultation with the Vendor, to determine that the Bidder is not a Qualified Bidder.

7. Auction

An auction ("Auction") shall be held to determine the highest and/or best Bid with respect to the Property, only if a Qualified Bid (other than the Stalking Horse Bid) is received by the Bid Deadline.

If no such Qualified Bid is received by the Bid Deadline, then the Auction shall not take place and the Vendor shall proceed to close the Transaction with the Stalking Horse Bidder in accordance with the Purchase Agreement.

If a Qualified Bid is received in accordance with these Bidding Procedures, the Auction shall be conducted according to the following procedures:

(a) Participation at Auction

Only Qualified Bidders are eligible to participate at the Auction. The Stalking Horse Bidder is a Qualified Bidder and eligible to participate at the Auction. Only the Proposal Trustee and the authorized representatives (including counsel and other advisors) of each of the Qualified Bidders and the Vendor, will be permitted to attend at the Auction.

The bidding at the Auction shall begin with the highest Qualified Bid (the “**Opening Bid**”) and each subsequent round of bidding shall continue in minimum increments of at least the Minimum Overbid Increment (as defined below).

(b) Proposal Trustee to Conduct Auction

The Proposal Trustee, in consultation with the Vendor, shall direct and preside over the Auction. At the start of the Auction, the Proposal Trustee shall provide the terms of the Opening Bid to all participating Qualified Bidders at the Auction and a blackline of the Opening Bid to the Purchase Agreement. The determination of which Qualified Bid constitutes the Opening Bid shall take into account any factors the Proposal Trustee, in consultation with the Vendor, reasonably deems relevant to the value of the Qualified Bid to the Proposal Trustee (in consultation with the Vendor), including, among other things, the following: (i) the amount and nature of the consideration; (ii) the ability of the Qualified Bidder to close the proposed transaction; (iii) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (iv) purchase-price adjustments, if any; (v) the impact of the contemplated transaction on any actual or potential litigation; (vi) the net economic effect of any changes from the Purchase Agreement, if any, contemplated by the contemplated transaction documents (the “**Contemplated Transaction Documents**”); (viii) the net after-tax consideration to be received by the Vendor; and (ix) such other considerations as the Proposal Trustee deems relevant in its business judgment (collectively, the “**Bid Assessment Criteria**”).

(c) Overbids

All Bids made after the Opening Bid shall be Overbids (as defined below) and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders that are participating in the Auction.

(d) Procedure by Which the Stalking Horse Bidder Outbids Overbids

In order to outbid any Overbid, the Stalking Horse Bidder need not resubmit any Modified Purchase Agreement or additional Purchase Agreements, rather the Stalking Horse Bidder is entitled (i) to effect increases in its Bid by increasing, in accordance with the terms set out herein, the Purchase Price set out in the Purchase Agreement with all other terms and conditions of the Purchase Agreement remaining unchanged; or (ii) amend any of the terms and conditions of the Purchase Agreement in its discretion, including, without limitation, an increase of the Purchase Price.

(e) Terms of Overbids

- (i) **First Overbid Increment.** If Purchaser is the Stalking Horse Bidder, the first Overbid shall be made in the increment of at least \$100,000.00 (the “**First Overbid Increment**”);
- (ii) **Subsequent Minimum Overbid Increment.** Any Overbid shall be made in increments of at least \$100,000.00 (the “**Minimum Overbid Increment**”). The amount of the Purchase Price of any Overbid shall not be less than the bid leading a particular round (the “**Round Leading Bid**”);
- (iii) **Minimum Terms are the same as for Qualified Bids.** Except as modified herein, an Overbid must comply with the conditions for a Qualified Bid set forth above, except that the Bid Deadline will not apply. Any Overbid made by a Qualified Bidder must remain open and is binding on the Qualified Bidder until the Commitment Date.

(f) Ability to Close

To the extent not previously provided (which shall be determined by the Proposal Trustee in consultation with the Vendor), a Qualified Bidder submitting an Overbid must submit, as part of its Overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Proposal Trustee) demonstrating such Qualified Bidder's ability to close the transaction proposed by such Overbid.

(g) Announcing Overbids

At the start of each round of bidding, the Proposal Trustee shall announce the material terms of the Round Leading Bid, and the resulting benefit to the Vendor based on, among other things, the Bid Assessment Criteria.

(h) Adjournments to Consider Overbids

The Proposal Trustee, in consultation with the Vendor, shall have the right, in its business judgment, to make one or more adjournments of the Auction to, among other things: (a) facilitate discussions between the Proposal Trustee, Vendor and individual Qualified Bidders; (b) allow individual Qualified Bidders to consider how

they wish to proceed; (c) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (d) give Qualified Bidders the opportunity to provide the Proposal Trustee with such additional evidence as it may require, in its business judgment, to determine that the Qualified Bidder has obtained all required internal corporate approvals, has sufficient internal resources or has received sufficient funding commitments to consummate the proposed transaction at the prevailing Overbid amount.

(i) Transcripts

The Proposal Trustee shall maintain a transcript of the Opening Bid and all Overbids made and announced at the Auction, including the Successful Bid and the Back-up Bid.

(j) Closing the Auction

Upon conclusion of the bidding, the Auction shall be closed, and Proposal Trustee shall (i) immediately review the final Overbid of each remaining Qualified Bidder on the Bid Assessment Criteria, (ii) identify the highest and/or best Overbid or Opening Bid (the "**Successful Bid**" and the entity or entities submitting such Successful Bid, the "**Successful Bidder**"), and the next highest and/or best Overbid, Opening Bid, or Purchase Agreement, after the Successful Bid (the "**Back-up Bid**" and the entity or submitting such Back-up Bid, the "**Back-up Bidder**"), and advise remaining Qualified Bidders of such determination.

8. Consent to Jurisdiction as Condition to Bid

All Qualified Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Court and waived any right to challenge the construction and enforcement of the Bidder's Contemplated Transaction Documents, as applicable. Qualified Bidders (other than the Stalking Horse Bidder) shall not be deemed third party beneficiaries of these Bidding Procedures and shall not have standing to object to the Proposal Trustee's implementation thereof.

9. Sale Hearing

A motion for a hearing to approve the sale of Property to the Successful Bidder shall be filed with the Court within ten (10) days of the conclusion of the Auction for a Court hearing to be no later than November 30, 2019 (the "**Approval Hearing**"). The Vendor will be deemed to have accepted the Successful Bid only when the Successful Bid has been approved by the Court.

Following the approval of the sale to the Successful Bidder at the Approval Hearing, if such Successful Bidder fails to consummate the sale in accordance with the terms and conditions of the Contemplated Transaction Documents of the Successful Bidder, the Proposal Trustee shall be authorized, but not required, to deem the Back-up Bid, as disclosed at the Approval Hearing, as the Successful Bid, subject to approval of the Court, which approvals may be sought by the Vendor on a conditional basis at the Approval Hearing.

10. Stalking Horse Break Fee

Subject to the terms of the Purchase Agreement, in the event that the Stalking Horse Bidder is not the Successful Bidder, immediately following closing of the sale to such Alternate Purchaser, the Purchase Agreement shall be terminated, the Stalking Horse Bidder shall be entitled to be paid its Deposit (plus accrued interest, if any) and the Break Fee (\$400,000, plus HST if applicable) shall be paid to the Stalking Horse Bidder from the proceeds of the transaction contemplated by the Successful Bid in accordance with the terms of the Purchase Agreement.

11. "As Is, Where Is"

The sale of the Property pursuant to these Bidding Procedures shall be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Vendor, its agents or estate except to the extent as expressly stated in the Purchase Agreement or the Contemplated Transaction Documents of another Successful Bidder. The Stalking Horse Bidder and each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Property prior to making its offer, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Property in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Property, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or (a) in the case of the Stalking Horse Bidder, the Purchase Agreement or Overbid by the Stalking Horse Bidder; or (b) in the case of any other Successful Bidder, the Contemplated Transaction Documents of such Qualified Bidder.

12. Return or Application of Deposit

The Deposits of all Qualified Bidders shall be held in a non-interest-bearing account unless otherwise agreed between the parties. Deposits of all Qualified Bidders, other than the Stalking Horse Bidder, the Successful Bidder and the Back-up Bidder, shall be returned to such Qualified Bidders two (2) Business Days after the selection of the Successful Bidder and Back-up Bidder (if any). The Deposit of the Back-up Bidder shall be held in an interest-bearing account until two (2) Business Days after the closing of the transaction contemplated by the Successful Bid, and thereafter returned to the Back-up Bidder. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Vendor shall be entitled to retain the Deposit of the Successful Bidder as part of its damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-up Bidder, the Deposit of the Back-up Bidder shall be applied to the purchase price of the transaction contemplated by the purchase agreement of the Back-up Bidder at closing.

13. Modifications and Reservations

Subject to the Stalking Horse and Bidding Procedures Order, the Proposal Trustee, in consultation with the Vendor, shall have the right to adopt such other rules for these Bidding Procedures (including rules that may depart from those set forth herein), that in its reasonable business judgment will better promote the goals of these Bidding Procedures.

Prior to or during the Auction, the Proposal Trustee may adopt such additional rules for the Auction that will better promote the goals of the Auction and that are not inconsistent with the provisions of these Bidding Procedures and the Stalking Horse and Bidding Procedures Order.

The Proposal Trustee may reject any Bid (except the Purchase Agreement) at any time before entry of an order of the Court approving a Successful Bid, that is (a) inadequate or insufficient; (b) not in conformity with the requirements of the BIA or these Bidding Procedures (as may be modified in accordance with the provisions hereof); or (c) contrary to the best interests of the Vendor, its estate and its creditors.

Schedule E
Interim Financing

ARTICLE 11 DEPOSIT / INTERIM FINANCING

11.1 Reporting Obligations

At least five (5) Business Days prior to the Bid Deadline, the Vendor, with the assistance of the Proposal Trustee shall prepare and provide, in form and substance satisfactory to the Purchaser, acting reasonably: (i) if determined necessary by the Purchaser in its sole discretion, an updated Cash Flow Forecast covering the period from the end of the previous Cash Flow Forecast through and until the date that the stay of proceedings granted in the BIA Proposal Proceedings will expire (taking into account any anticipated motion by the Vendor seeking to extend the stay of proceedings); and (ii) a statement of actual receipts and disbursements setting out the actual receipts and disbursements of each line item in the Cash Flow Forecast and identifying any Material Variances (the "Actual SRD").

11.2 Use of Deposit

Subject to the terms and conditions contained in this Agreement, up to \$622,000.00 of the Deposit can be utilized by the Vendor and the Proposal Trustee in accordance with the Cash Flow Forecast.

11.3 Release of First Advance

The First Advance may not to be utilized in accordance with the Cash Flow Forecast unless the Purchaser has provided the Proposal Trustee with written confirmation that the following conditions have been satisfied or waived (the "First Advance Release Conditions"):

- (a) the Vendor shall have filed the NOI and shall be in compliance with its obligations under the BIA and any orders of the Court granted in the BIA Proposal Proceedings;
- (b) no Interim Financing Event of Default shall have occurred that is continuing and has not been waived by the Purchaser;
- (c) the Cash Flow Forecast shall have been filed in the BIA Proposal Proceedings;
- (d) the Court shall have issued the Interim Financing Order, which shall not have been stayed, vacated, varied, amended or appealed and no application to stay, vacate, vary or append the Interim Financing Order shall have been filed in a court of competent jurisdiction that is pending and no party shall have sought to appeal the Interim Financing Order;
- (e) the Stalking Horse and Bidding Procedures Order shall have been issued and it shall not have been stayed, vacated, varied, amended or appealed and no application to stay, vacate, vary or append the Stalking Horse and Bidding Procedures Order shall have been filed that is pending and no party shall have sought to appeal the Stalking Horse and Bidding Procedures Order;
- (f) the Purchaser, acting reasonably, shall have approved the Cash Flow Forecast; and

- (g) the Vendor shall not be in breach of any term of this Agreement.

11.4 Second Advance

The Proposal Trustee shall hold the Second Advance in trust pending selection of the Successful Bid. The Second Advance shall be dealt with in accordance with the following:

- (a) if the Purchaser is not the Successful Bidder, the Second Advance shall be repaid in accordance with Section 12 of the Bidding Procedures; or
- (b) if the Purchaser is the Successful Bidder, the Second Advance shall be applied against the Purchase Price in accordance with Section 11.8(a) of this Schedule "E".

11.5 Interest

Upon the triggering of the Vendor's repayment obligations under Section 11.8(a) of this Schedule "E", interest on the first \$400,000.00 of the Deposit owing by the Vendor to the Purchaser under this Agreement shall accrue at the rate of 12% per annum until indefeasibly repaid in full. For the avoidance of doubt, the Second Advance will not accrue interest.

Notwithstanding any provision of this Agreement, the Vendor shall not be obliged to make any payment of interest to the Purchaser hereunder in excess of an amount or rate that would be prohibited by law or would receipt in a receipt by the Purchaser of interest rate a criminal rate (as such terms are construed under the *Criminal Code* (Canada)).

11.6 Interim Financing Events of Default

The occurrence of any of the following events shall be an event of default (each an "**Interim Financing Event of Default**"):

- (a) the Vendor fails or neglects to observe, perform or pay any obligation to the Purchaser existing under this Agreement;
- (b) any amount of the Deposit and the Break Fee, if applicable, payable to the Purchaser under this Agreement becomes due and owing by the Vendor and the amount is not paid promptly by the Vendor to the Purchaser;
- (c) the stay of proceedings granted by virtue of filing the NOI (as extended from time to time with the prior written consent of the Purchaser) expires without being extended or the BIA Proposal Proceedings are dismissed or terminated or the Vendor becomes subject to an involuntary proceeding under the BIA or any Person applies for an order appointing a receiver or receiver manager over any of the Vendor's property that is secured by the charge granted under the Interim Financing Order;
- (d) the entry of an order staying, amending, reversing vacating or otherwise modifying, in each case without the prior written consent of the Purchaser, Article 4 of this Agreement, the Interim Financing Order or any other order granted by the Court in the BIA Proposal Proceedings;
- (e) a Successful Bid is not selected on or before November 30, 2019;

- (f) any amount becomes due and owing by the Vendor that, if not paid, would have priority to the repayment of the Deposit and such amount is not paid by the Vendor when due and payable; or
- (g) any Cash Flow Report identifies a Material Variance that the Purchaser has not waived.

11.7 Remedies

Upon the occurrence of an Interim Financing Event of Default, unless such Interim Financing Event of Default is rectified prior to the expiry of the Cure Period, the Purchaser may (but is not obligated to):

- (a) declare as immediately due and owing all of the Vendor's obligations to the Purchaser under this Agreement;
- (b) take any and all steps in the Purchaser's sole discretion to enforce its rights as a secured creditor under the Interim Financing Charge, including, without limitation the appointment of a receiver;
- (c) refuse to authorize any further use of the Deposit, including, without limitation, the withdrawal of any previous authorization provided by the Purchaser to use the Deposit; or
- (d) take any other step that, in the Purchaser's opinion (in its sole discretion), is necessary or desirable to protect or enforce its rights under this Agreement, Interim Financing Charge granted pursuant to the Interim Financing Order or Applicable Law.

11.8 Repayment

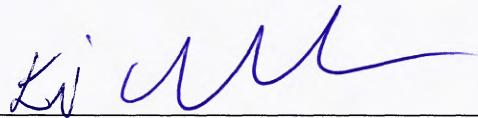
The Vendor's obligation to repay the Deposit (plus accrued interest) and, if applicable, the Break Fee, shall arise according to the following:

- (a) if the Purchaser is not the Successful Bidder, the Vendor shall repay, from the proceeds of the transaction with the bid that is selected as the Successful Bid, the Deposit (plus accrued interest) and the Break Fee. For greater certainty, no further notice shall be required to be delivered by the Purchaser to the Vendor to trigger the Vendor's repayment obligations under this Subparagraph 11.8(a);
- (b) if the Purchaser is the Successful Bidder, the Deposit shall be credited against the Purchase Price;
- (c) if the Purchaser is the Successful Bidder and does not close the Transaction as a result of a breach of this Agreement by the Purchaser, the Purchaser shall immediately forfeit the Deposit and the Vendor shall have no further obligations to the Purchaser; or
- (d) subject to Section 11.8(a), if the Purchaser terminates this Agreement in accordance with Section 9.1(b) and the Proposal Trustee confirms the basis for the termination in accordance with Section 9.2 of this Agreement, the Purchaser shall be entitled to repayment of the Deposit (plus accrued interest).

11.9 Security

The Vendor's obligation to repay the Deposit (plus accrued interest) shall be secured by the Interim Financing Charge granted pursuant to the Interim Financing Order, together with any other security reasonably required by the Purchaser.

This is Exhibit "W" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.



Commissioner for Taking Affidavits (or as may be)

3070 Ellesmere Developments Inc. (the "Company")
 Projected Statement of Cash Flow
 For the period from August 26 to December 30, 2019
 (In Canadian Dollars)

		Week ending:																				
		September			October			November			December											
		26-Aug-19	2-Sep-19	9-Sep-19	16-Sep-19	23-Sep-19	30-Sep-19	7-Oct-19	14-Oct-19	21-Oct-19	28-Oct-19	4-Nov-19	11-Nov-19	18-Nov-19	25-Nov-19	2-Dec-19	9-Dec-19	16-Dec-19	23-Dec-19	30-Dec-19	Total	
Receipts																						
Sales Proceeds	1																					
DIP Financing																						
Total Receipts																						
Disbursements																						
Rent	2	8,000																				
Project Fees & Interest																						
Soft Cost & Fees																						
Professional fees																						
Cassells																						
CRO																						
Trustee																						
Trustee's lawyer																						
Total Disbursements																						
Net Cash Flow																						
DIP Facility Balance																						
Opening Balance																						
Net Cash Flow																						
Ending Balance																						

Notes:

1. Receipt related to the deposit paid related to the sale of 3070 Ellesmere Road land
2. Rent payment is based on new lease \$800 per month
3. Assumes no interest will be paid to the secured creditor.

CERTIFICATION

THE PURPOSE of this Statement of Projected Cash flow is to provide creditors with sufficient information to make an informed decision regarding the Proposal, and to fully disclose to the Trustee and the Official Receiver, the state of 3070 Ellesmere Developments Inc. financial affairs. This Statement of Projected Cash flow is prepared pursuant to the requirements of sections 50(4)(2)(e) and 50(6)(a) of the Bankruptcy and Insolvency Act and solely for that purpose.

Dated this 28th day of August 2019

X
Per: Thomas Liu, ASO

Dated this 28th of August 2019

CROWE SOBERMAN INC.
Licensed Insolvency Trustee Acting in re: Proposal of Kimberly Court Developments Inc.

Per: Graeme Hamilton, LIT,CIRP

This is Exhibit "X" referred to in the Affidavit of Tong (Thomas) Liu sworn August 29, 2019.

A handwritten signature in blue ink, appearing to read "Thomas Liu".

Commissioner for Taking Affidavits (or as may be)



Industry Canada

Office of the Superintendent
of Bankruptcy Canada

Industrie Canada

Bureau du surintendant
des faillites Canada

District of Ontario
 Division No. 09 - Toronto
 Court No. 31-2547832
 Estate No. 31-2547832

In the Matter of the Notice of Intention to make a
proposal of:

3070 ELLESmere DEVELOPMENTS INC.
Insolvent Person

CROWE SOBERMAN INC.
Licensed Insolvency Trustee

Date of the Notice of Intention: August 20, 2019

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforesigned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*.

Pursuant to subsection 69(1) of the Act, all proceedings against the aforesigned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: August 21, 2019, 11:00

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 3070 ELLESMERE DEVELOPMENTS INC.

District of: Ontario
Division No.: 09-Toronto
Court No.: 31-2547836
Estate No.: 31-2547835

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

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Lawyers for 3070 Ellesmere Developments Inc.