

Court File No.: CV-22-00685200-00CL-00CL

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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and
in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as
amended*

B E T W E E N:

PRICEWATERHOUSECOOPERS INC.

(solely in its capacity as court-appointed receiver and manager of
Bridging Finance Inc. and certain related entities and investment funds)

Applicant

– and –

**NORTHERN CITADEL CAPITAL INC., ONE8ONE DAVENPORT INC.,
and 181 DAVENPORT RETAIL INC.**

Respondents

APPLICATION RECORD

August 8, 2022

Thornton Grout Finnigan LLP
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Toronto, ON M5K 1K7

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Lawyers for the Applicant

Court File No.: CV-22-00685200-00CL

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Respondents

APPLICATION RECORD

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TAB 1



Court File No.: CV-22_____-00CL

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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and
in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

B E T W E E N:

PRICEWATERHOUSECOOPERS INC.

(solely in its capacity as court-appointed receiver and manager of
Bridging Finance Inc. and certain related entities and investment funds)

Applicant

– and –

**NORTHERN CITADEL CAPITAL INC., ONE8ONE DAVENPORT INC.,
and 181 DAVENPORT RETAIL INC.**

Respondents

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following pages.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

☐ In person

☐ By telephone conference

☒ By video conference, via Zoom, the details of which will be provided by the Court

before Chief Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) on September 23, 2022 at 9:00 a.m., at Toronto, Ontario, in accordance with the changes to the Commercial List operations in light of the COVID-19 pandemic, and the regional and provincial Notices to the Profession effective April 19, 2022 and August 2, 2022, respectively. Please advise if you intend to attend the hearing by emailing Adam Driedger at adriedger@tgf.ca.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of*

Civil Procedure, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

| | | | |
|------|--------------------|-----------|--|
| Date | <u>09-AUG-2022</u> | Issued by | <u>Gurwinderjit Singh Brar</u> Local Registrar |
| | | | Digitally signed by Gurwinderjit Singh Brar Date: 2022.08.09 12:19:09 -04'00' |

Address of 330 University Avenue, 9th Floor
court office: Toronto ON M5G 1R7

TO: THIS HONOURABLE COURT

AND TO THE RESPONDENTS: NORTHERN CITADEL CAPITAL INC.
189 Forest Hill Road
Toronto, ON
M5P 2N3

ONE8ONE DAVENPORT INC.
125 Hazelton Avenue
Toronto, ON
M5R 2E4

181 DAVENPORT RETAIL INC.
125 Hazelton Avenue
Toronto, ON
M5R 2E4

APPLICATION

1. PricewaterhouseCoopers Inc., solely in its capacity as court-appointed receiver and manager of Bridging Finance Inc. (“**BFI**”) and certain related entities and investment funds (the “**Applicant**” or the “**Bridging Receiver**”) makes this Application for an Order (the “**Receivership Order**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), substantially in the form attached at Tab 3 of the Applicant’s application record, among other things:
 - (a) authorizing service of this Notice of Application and the materials filed in support of the Application via electronic mail and dispensing with further service thereof;
 - (b) appointing Richter Inc. (“**Richter**”) as receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the current and future assets, undertakings, and properties (the “**Property**”) of each of Northern Citadel Capital Inc. (“**Northern Citadel**”), One8One Davenport Inc. (“**One8One**”), and 181 Davenport Retail Inc. (“**181 Retail**” and together with Northern Citadel and One8One, the “**Respondents**”); and
 - (c) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE APPLICATION ARE:

Overview

2. All capitalized terms not expressly defined herein are defined in the Affidavit of Tyler Ray sworn August 8, 2022, located at Tab 2 of the Bridging Receiver’s Application Record (the “**Ray Affidavit**”).
3. By orders of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated April 30, 2021 (the “**Appointment Order**”), May 3, 2021 (the “**Additional Appointment Order**”), and May 14, 2021 (the “**Continuation Order**” and collectively, the “**Appointment Orders**”), PwC was appointed as the Bridging Receiver.

4. PwC was appointed as the Bridging Receiver pursuant to section 129 of the *Securities Act* R.S.O. 1990, c. S. 5, as amended (the “**Securities Act**”) upon application by the Ontario Securities Commission (the “**Commission**”) as a result of the Commission’s ongoing investigation into Bridging and certain related individuals and entities.
5. The Bridging Receiver was appointed to protect the interests of, and maximize value for, Bridging’s investors and the other stakeholders. There are approximately 26,000 Bridging investors (both retail and institutional) primarily located across Canada. As detailed in the Bridging Receiver’s various reports to the Court, Bridging’s investors are facing significant losses on their investments in the Bridging Funds.
6. One of the loans in Bridging’s portfolio is the Loan made by BFI on behalf of certain of the Bridging Funds to the Respondents and certain related entities. The Loan is currently past maturity and in default. On May 12, 2022, the Bridging Receiver issued the Demand Letters and BIA Notices to the Respondents. The Respondents have failed to make any payments in reduction of the Loan notwithstanding the maturity of the Loan and the issuance of the Demand Letters and the BIA Notices.
7. The Bridging Receiver also has significant concerns regarding certain events and transactions involving the Respondents, certain related entities, and the former principals of Bridging, some of which are described in the Ray Affidavit and summarized below.
8. The Bridging Receiver brings this application to appoint Richter as Receiver of the Respondents as part of its broader investigation into the affairs of Bridging and in an effort to minimize the losses that Bridging’s investors and other stakeholders will suffer as a result of the Loan. The appointment of an independent court officer as Receiver of the Respondents is required in these circumstances to investigate the financial situation and affairs of the Respondents and to realize on their assets (to the extent any such assets are available or recoverable) for the benefit of all stakeholders.

Corporate Information & Business of the Respondents

9. Each of the Respondents is a corporation incorporated under the laws of the Province of Ontario. The registered head office of Northern Citadel is located at 189 Forest Hill Road, Toronto, Ontario. The registered head office of both One8One and 181 Retail is located at 125 Hazelton Avenue, Toronto, Ontario.
10. Sam Mizrahi was listed as the sole director of each of the Respondents up until May 15, 2022. It appears that Sam Mizrahi was removed as a director of each of the Respondents effective as of May 15, 2022, three days after the Bridging Receiver delivered the Demand Letters and BIA Notices to the attention of Sam Mizrahi. Sam Mizrahi remains listed as the sole officer of each of the Respondents. Amanda Brown is now listed as the sole director of each of the Respondents. The Respondents developed and marketed the condominium project located at 181 Davenport Road, Toronto, Ontario (the “**181 Davenport Project**”).

The Loan Agreement & Advances

11. Pursuant to the Loan Agreement, BFI, as agent (in such capacity, the “**Agent**”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (collectively, the “**Lender**”) made available to Northern Citadel, Mizrahi Inc. (“**MI**”), and 2495159 Ontario Inc. (“**249 Ontario**”) and together with Northern Citadel and MI, the “**Borrower**”) a non-revolving term credit facility (the “**Loan**”) in the principal amount of \$41,412,501.00.
12. MI and 249 Ontario are not Respondents to this Application and no relief is being sought by the Bridging Receiver in respect of MI and 249 Ontario on this Application. MI and 249 Ontario were added as entities comprising the “Borrower” pursuant to the November 2016 Amendment. There is a dispute as to whether MI and 249 Ontario still comprise the “Borrower” under the Loan Agreement and have any continuing liability thereunder. The issue of whether MI and 249 Ontario still comprise the “Borrower” under the Loan Agreement and have any continuing liability thereunder is not being addressed in this application, but may be addressed by the Bridging Receiver at a later date.

13. Interest currently accrues on the Loan at the rate of 12% per annum. The Lender has received cash payments from the Borrower on only four occasions since the inception of the Loan in December 2014. All of those payments were received prior to expiry of the Term of the Loan on April 30, 2022.
14. As at June 30, 2022, the total amount owing by the Respondents to the Lender under the Loan is \$54,866,885.69, consisting of principal in the amount of \$17,054,655.33 and accrued and unpaid interest in the amount of \$37,812,230.36, together with all accrued costs to the date of payment.
15. The original purpose of the Loan was to finance a portion of Northern Citadel's equity in the 181 Davenport Project. The Bridging Receiver also understands that, as set out in the Loan Agreement, certain Loan advances were used to:
 - (a) fund cost overruns on the 181 Davenport Project;
 - (b) make improvements to the approximately 4,097 square foot unit (the "**Unit**") at the 181 Davenport Project to be used as a sales and presentation gallery for "The One" construction project located at 1 Bloor Street West, Toronto, Ontario (the "**1 Bloor Project**"). The Unit is owned by the Respondent 181 Retail; and
 - (c) fund 249 Ontario's purchase of the real property located at 14 Dundonald Street, Toronto, Ontario (the "**Dundonald Property**"). The Dundonald Property was subsequently conveyed in 2020 by 249 Ontario to the City of Toronto (the "**Dundonald Conveyance**") for the benefit of Mizrahi Development Group (The One) Inc. ("**The One**") and/or certain other entities involved in the development of the 1 Bloor Project. The Dundonald Property does not appear to have any connection to the 181 Davenport Project.
16. The Bridging Receiver does not have full and complete information regarding the apparent inability of the Respondents to repay the Indebtedness. The Bridging Receiver has not obtained complete financial disclosure from the Respondents.

Security & Guarantees

17. As security for all of the present and future indebtedness and obligations of the Respondents to the Lender under the Loan, each of the Respondents granted to the Agent and the Lender, among other things, security over all of its present and after-acquired property pursuant to separate general security agreements.
18. The Agent made a registration against 181 Retail pursuant to the PPSA on May 2, 2018. As permitted by the Loan Agreement, the Bridging Receiver, on behalf of the Agent and the Lender, made a PPSA registration against each of Northern Citadel and One8One on May 12, 2022 following the failure by the Borrower to repay the Loan upon expiry of the Term.
19. Pursuant to section 12.8 of the Original Loan Agreement, upon any Event of Default, the Lender may appoint a receiver or a receiver and manager of the Collateral.¹
20. The PPSA searches appended to the Ray Affidavit indicate that the only registration against each of Northern Citadel and One8One is the registration made by the Bridging Receiver on behalf of the Agent and the Lender. There are two registrations against 181 Retail. The first registration was made by KEB Hana Bank Canada and a subsequent registration was made by the Agent.

Events & Transactions Leading up to Application

21. As set out in detail in the Ray Affidavit, the Bridging Receiver has significant concerns regarding certain events and transactions involving the Respondents, certain related entities, and the former principals of Bridging, some of which are summarized below:

¹ “Collateral” is defined in the Original Loan Agreement to mean all of the Credit Parties’ rights, title and interests in and to the Assets and the Subsidiaries and all cash flow therefrom and all other property and assets subject to the Security. “Assets” is defined in the Original Loan Agreement to mean collectively all of the property, personal or real, and assets of the Credit Parties as of the date of the Original Loan Agreement, including, without limitation, the Property (defined as the 181 Davenport Project), or hereafter acquired or otherwise obtained by the Credit Parties in any manner whatsoever.

- (a) **1 Bloor Project & Conflicts of Interest.** The books and records of Bridging indicate that the 1 Bloor Project was indirectly owned by Sam Mizrahi, Jenny Coco, and Natasha Sharpe during the Applicable Period, which coincides with a substantial majority of the lifespan of the Loan. Jenny Coco and Natasha Sharpe are directors and indirect shareholders of BFI, and were also both members of BFI's credit committee. The Bridging Receiver has significant concerns regarding the potential conflicts of interest between Jenny Coco and Natasha Sharpe in their capacities as principals of Bridging and members of the BFI credit committee, and separately as indirect owners of the 1 Bloor Project.
- (b) **November 2016 Amendment & Accounts.** Pursuant to the November 2016 Amendment, the definition of "Borrower" was amended to include Northern Citadel, 249 Ontario, and MI. Leading up to the November 2016 Amendment, Bridging lacked sufficient collateral coverage for the Loan. In order to cover this shortfall, MI was added as a Borrower under the Loan and the Accounts (primarily comprised of the sales commissions owing to MI in connection with the 1 Bloor Project) were pledged in favour of the Lender. The Accounts formed a material proportion of the collateral subject to the Lender's security. On multiple occasions, the Credit Parties represented to Bridging that the estimated Loan repayments sourced through the 1 Bloor Project (by way of the Accounts) would exceed \$20 million in aggregate.
- (c) **Conveyance of Dundonald Property & July 2020 Partial Repayments.** Part of the November 2016 Advance was used to fund 249 Ontario's purchase of the Dundonald Property. The Dundonald Charge in the principal amount of \$15 million was granted by 249 Ontario as New Security for the Loan. The Dundonald Property was subsequently conveyed by 249 Ontario to the City of Toronto in 2020 for the benefit of the 1 Bloor Project. The purpose of the Dundonald Conveyance was to partially satisfy the 1 Bloor Project's municipal parkland obligations owing to the City of Toronto. 249 Ontario received approximately \$6.2 million in connection with the Dundonald Conveyance and directed payment of this amount to Bridging. Bridging agreed to discharge the Dundonald Charge notwithstanding that this amount was less than the \$15 million principal amount of the Dundonald Charge.

The Dundonald Property does not appear to have any connection to the 181 Davenport Project. The Bridging Receiver has significant concerns regarding the involvement of Jenny Coco and Natasha Sharpe in the original Dundonald Property acquisition (and the subsequent Dundonald Conveyance) as both principals of Bridging and part owners of the 1 Bloor Project.

- (d) **December 2020 Amendment & 2020 Bridging Audit.** The final amendment to the Loan Agreement was the December 2020 Amendment. The execution of the December 2020 Amendment was one day prior to the date of the audit opinion of Bridging Income Fund LP by KPMG. It appears that the December 2020 Amendment may have been executed to satisfy inquiries from KPMG regarding the status of the Loan and whether it was past due. The December 2020 Amendment was executed after a series of emails and phone calls between Graham Marr of BFI and Sam Mizrahi. As a result of those emails and phone calls, among other things, MI and 249 Ontario were removed from the subject line and signature block of the December 2020 Amendment. MI and 249 Ontario now take the position that this had the effect of extinguishing their continuing liability under the Loan (which would leave the Lender with little to no other sources of recovery for the Loan). The Bridging Receiver continues to investigate this matter.
- (e) **Communications since Commencement of Bridging Receivership.** The Bridging Receiver has engaged with the Credit Parties on multiple occasions in an effort to understand their financial position and formulate a repayment plan for the Loan. These efforts have been unsuccessful. The Respondents have largely failed to provide basic financial reporting required under the Loan Agreement and have failed to provide any plan for repayment of the Loan.
- (f) **Alleged Cerieco Secret Guarantee.** The Bridging Receiver has also become aware of an Alleged Secret Guarantee pursuant to which Sprott Bridging Income Fund LP allegedly guaranteed a loan (the “**Cerieco Loan**”) by Cerieco to Mizrahi Commercial (The One) LP in the amount of approximately \$213 million in connection with the construction of the 1 Bloor Project. The Bridging Receiver understands that Cerieco has filed a statement of claim (the “**Cerieco Claim**”)

claiming over \$200 million in damages against, among others, Sam Mizrahi, Jenny Coco, and certain entities related to the 1 Bloor Project in connection with the Cerieco Loan. The Cerieco Claim, among other things, alleges that Jenny Coco and Natasha Sharpe, on a confidential basis, effectively leveraged the balance sheet of Bridging Income Fund LP through the Alleged Secret Guarantee in order to obtain the Cerieco Loan for the 1 Bloor Project. The Bridging Receiver continues to investigate this matter and the documents and information related to the Cerieco Claim and the Alleged Secret Guarantee.

Event of Default & Demands

22. Pursuant to the Loan Agreement, the Term of the Loan expired on April 30, 2022. Pursuant to section 3.4 of the Original Loan Agreement, the principal amount of the Loan, together with accrued interest, is due and payable on the expiry of the Term.
23. The Respondents failed to repay the full amount outstanding under the Loan on the expiry of the Term, contrary to section 3.4 of the Original Loan Agreement (the “**Payment Default**”). The Payment Default is continuing as at the date hereof. The Bridging Receiver has not waived the Payment Default.
24. Pursuant to section 12.1(a) of the Original Loan Agreement, an Event of Default occurs if the Borrower fails to observe or perform any term, condition, covenant, or undertaking involving the payment of money under the Loan Agreement. Pursuant to section 12.2 of the Original Loan Agreement, a default referred to under section 12.1 shall not constitute an Event of Default unless, in the case of default in payment of money, it has continued for at least 10 days after the due date for payment.
25. On May 2, 2022 (the first business day after the expiry of the Term), counsel for the Bridging Receiver sent the Default Letter to the Respondents confirming the existence of the Payment Default and advising that, if the Payment Default continued for at least 10 days after the due date for payment, the Payment Default would constitute an Event of Default under the Loan Agreement.

26. Notwithstanding the Default Letter, the Respondents failed to make any payments in respect of the Indebtedness or otherwise provide the Bridging Receiver with a response regarding the Payment Default.
27. On May 12, 2022, the Bridging Receiver delivered the Demand Letters to each of the Respondents advising that the Payment Default has continued for at least 10 days after the due date for payment and therefore constitutes an Event of Default under the Loan Agreement. Pursuant to section 12.1 of the Original Loan Agreement, the Indebtedness is immediately due and payable upon the occurrence of an Event of Default. Accordingly, as set out in the Demand Letters, the Bridging Receiver demanded payment of the Indebtedness from each of the Respondents and enclosed a separate Notice of Intention to Enforce Security pursuant to section 244 of the BIA (collectively, the “**BIA Notices**”).
28. The 10-day notice period set out in the BIA Notices expired on May 22, 2022. As at the date hereof, the Respondents have failed to repay the Indebtedness.

Necessity for Appointment of Receiver

29. The appointment of the proposed Receiver over the Property of the Respondents is necessary and appropriate in the circumstances as a result of the following:
 - (a) pursuant to the Loan Agreement, the Borrower agreed to permanently repay the Loan on the expiry of the Term. The Respondents have failed to make any payments in respect of the Indebtedness notwithstanding the expiry of the Term;
 - (b) as a result of the Payment Default, which constitutes an Event of Default under the Loan Agreement, the Bridging Receiver, on behalf of the Lender, is contractually entitled under the Original Loan Agreement to seek the appointment of Richter as Receiver of the Property of the Respondents;
 - (c) the 10-day notice period set out in the BIA Notices has expired;
 - (d) the Bridging Receiver does not have full disclosure regarding the financial situation of the Respondents or the use of the principal advances of approximately \$35.5 million under the Loan. The appointment of the proposed Receiver, with the benefit of the investigatory powers set out in the proposed Receivership Order, will provide

the Court and the stakeholders of the Respondents with the means to investigate the use of the Loan proceeds and the financial situation of the Respondents;

- (e) the Bridging Receiver has significant concerns regarding the events and transactions summarized herein and more particularly described in the Ray Affidavit involving the Respondents, certain related entities, and the former principals of Bridging. The Bridging Receiver does not have full and complete information regarding these events and transactions. The appointment of the Receiver over the Respondents will assist in advancing the investigation into these matters and the Bridging Receiver's broader investigation into the affairs of Bridging; and
- (f) based on the limited reporting delivered to the Bridging Receiver and the Agent by the Respondents, it does not appear that the Respondents have assets of any meaningful value. The appointment of the proposed Receiver over the Property of the Respondents is necessary in the circumstances to determine if there are any assets available to satisfy the claims of the Lender and the other stakeholders of the Respondents and, if appropriate, to realize upon any such assets for the benefit of all stakeholders.

- 30. Richter has consented to act as Receiver, subject to obtaining a Receivership Order on terms that are satisfactory to Richter.
- 31. Rules 2.03, 3.02, 14.05(2), 16, 41 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194, Section 243(1) of the BIA and Section 101 of the CJA.
- 32. Such other grounds as counsel may advise and this Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this application:

- 1. the Ray Affidavit;
- 2. the consent of Richter to act as Receiver; and
- 3. such further and other evidence as counsel may advise and this Court may permit.

August 8, 2022

Thornton Grout Finnigan LLP
TD West Tower, Toronto-Dominion Centre
3200 – 100 Wellington Street West
Toronto, ON M5K 1K7

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Lawyers for the Applicant

IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended

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|--|--|---------|--|-------------|
| PRICEWATERHOUSECOOPERS INC. (solely in its capacity as court-appointed receiver and manager of Bridging Finance Inc. and certain related entities and investment funds) | | - and - | NORTHERN CITADEL CAPITAL INC., ONE80NORTH DAVENPORT INC., and 181 DAVENPORT RETAIL INC | Respondent: |
| Applicant | | | Court File No. CV-22-_____ -00CI | |
| | | | ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) | |
| | | | Proceedings commenced at Toronto, Ontario | |
| | | | NOTICE OF APPLICATION | |
| | | | Thornton Grout Finnigan LLP TD West Tower, Toronto-Dominion Centre 3200 –100 Wellington Street West Toronto, ON M5K 1K John L. Finnigan (LSO# 24040L) Email: jfinnigan@tgf.ca Grant B. Moffat (LSO# 32380L) Email: gmoffat@tgf.ca Adam Driedger (LSO# 77296F) Email: adriedger@tgf.ca Tel: 416-304-1616 Lawyers for the Applicant | |

SERVICE LIST
(as at August 8, 2022)

| | |
|----------------|--|
| TO: | <p>THORNTON GROUT FINNIGAN LLP TD West Tower, Toronto-Dominion Centre 100 Wellington Street West, Suite 3200 Toronto, ON M5K 1K7 Fax: (416) 304-1313</p> <p>John L. Finnigan (LSO# 24040L) Email: jfinnigan@tgf.ca Tel: (416) 304-0558</p> <p>Grant B. Moffat (LSO# 32380L) Email: gmoffat@tgf.ca Tel: (416) 304-0599</p> <p>Adam Driedger Email: adriedger@tgf.ca Tel.: (416) 304-1152</p> <p>Lawyers for the Applicant, PricewaterhouseCoopers Inc. in its capacity as Court-appointed receiver and manager of Bridging Finance Inc. and certain related entities and investment funds</p> |
| AND TO: | <p>MILLER THOMSON LLP 40 King Street West, Suite 5800 P.O. Box 1011 Toronto, ON M5H 3S1 Fax: (416) 595-8695</p> <p>Bobby Sachdeva Email: bsachdeva@millerthomson.com Tel: (416) 595-8592</p> <p>Kevin D. Sherkin Email: ksherkin@millerthomson.com Tel: (416) 597-6028</p> <p>Lawyers for the Respondents</p> |

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| AND TO: | <p>PRICEWATERHOUSE COOPERS INC. 18 York Street, Suite 2600 Toronto, ON M5J 0B2</p> <p>Greg Prince Email: gregory.n.prince@pwc.com Tel: (416) 814-5752</p> <p>Michael McTaggart Email: michael.mctaggart@pwc.com Tel: (416) 687-8924</p> <p>Christine Sinclair Email: christine.l.sinclair@pwc.com Tel: (416) 687-8938</p> <p>Tyler Ray Email: tyler.ray@pwc.com Tel: (416) 687-8200</p> <p>Court-appointed receiver and manager of Bridging Finance Inc. and certain related entities and investment funds</p> |
| AND TO: | <p>OSLER, HOSKIN & HARCOURT LLP 100 King Street West – Suite 6200 Toronto, ON M5K 1K8</p> <p>John MacDonald Email: jmacdonald@osler.com Tel: (416) 862-5672</p> <p>Blair McRadu Email: bmcradu@osler.com Tel: (416) 862-4204</p> <p>Lawyers for Richter Inc. as proposed Receiver</p> |

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| <p>AND TO:</p> | <p>RICHTER INC. 181 Bay Street, Suite 3320 Bay Wellington Tower Toronto, ON M5J 2T3</p> <p>Adam Sherman Email: asherman@richter.ca Tel: (416) 488-2345 ext. 2318</p> <p>Megha Sharma Email: msharma@richter.ca Tel: (416) 646-8378</p> <p>Proposed Receiver</p> |
| <p>AND TO:</p> | <p>KEB HANA BANK 627 Bloor Street West Toronto, ON M6G 1K8</p> <p>Theo Ikonomou Chief Compliance & Privacy Officer Email: t.ikonomou@hanafn.com Tel: (416) 227-5570 Fax: (416) 222-5822</p> <p>PPSA registrant with respect to 181 Davenport Retail Inc.</p> |
| <p>AND TO:</p> | <p>LAX O'SULLIVAN LISUS GOTTLIEB LLP Suite 2750, 145 King Street West Toronto, ON M5H 1J8</p> <p>Nadia Campion Email: ncampion@lolg.ca Tel: (416) 642-3134</p> <p>Matthew Law Email: mlaw@lolg.ca Tel: (416) 849-9050</p> <p>Lawyers for Mizrahi Inc. and 2495159 Ontario Inc.</p> |

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| AND TO: | DEPARTMENT OF JUSTICE (CANADA) Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1 Diane Winters Email: diane.winters@justice.gc.ca |
| AND TO: | HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE INSOLVENCY UNIT 6th Floor, 33 King Street West Oshawa, ON L1H 8H5 Leslie Crawford Tel: (905) 433-5657 Email: leslie.crawford@ontario.ca Insolvency Unit Email: insolvency.unit@ontario.ca |

EMAIL SERVICE LIST
(as at August 8, 2022)

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TAB 2

Court File No. CV-22-00685200-00CL

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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended,
and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3,
as amended*

B E T W E E N:

PRICEWATERHOUSECOOPERS INC.

(solely in its capacity as court-appointed receiver and manager of
Bridging Finance Inc. and certain related entities and investment funds)

Applicant

- and -

**NORTHERN CITADEL CAPITAL INC., ONE8ONE DAVENPORT INC.,
and 181 DAVENPORT RETAIL INC.**

Respondents

**AFFIDAVIT OF TYLER RAY
(Sworn August 8, 2022)**

I, Tyler Ray of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY
AS FOLLOWS:

I. INTRODUCTION

1. I am a Senior Manager at PricewaterhouseCoopers Inc. (“**PwC**”), the court-appointed receiver and manager (in such capacity, the “**Bridging Receiver**”) of Bridging Finance Inc. (“**BFI**”) and certain related entities and investment funds (collectively, “**Bridging**”). As such, I have knowledge of the matters deposed to herein, save where I have obtained information from others. Where I have obtained information from others, I have stated the source of that information and believe it to be true.

2. This affidavit is sworn in support of an application by the Bridging Receiver pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, for an order (the “**Receivership Order**”), substantially in the form located at Tab 3 of the Bridging Receiver’s Application Record, among other things:
 - (a) appointing Richter Inc. (“**Richter**”) as receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the current and future assets, undertakings, and properties (the “**Property**”) of each of Northern Citadel Capital Inc. (“**Northern Citadel**”), One8One Davenport Inc. (“**One8One**”), and 181 Davenport Retail Inc. (“**181 Retail**” and together with Northern Citadel and One8One, the “**Respondents**”); and
 - (b) such further and other relief as this Honourable Court may deem just.
3. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

II. BACKGROUND & APPOINTMENT OF THE BRIDGING RECEIVER

4. By orders of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated April 30, 2021 (the “**Appointment Order**”), May 3, 2021 (the “**Additional Appointment Order**”), and May 14, 2021 (the “**Continuation Order**” and collectively, the “**Appointment Orders**”), PwC was appointed as the Bridging Receiver. Copies of the Appointment Orders are attached hereto as **Exhibit “A”**.

5. PwC was appointed as the Bridging Receiver pursuant to section 129 of the *Securities Act* R.S.O. 1990, c. S. 5, as amended (the “**Securities Act**”) upon application by the Ontario Securities Commission (the “**Commission**”) as a result of the Commission’s ongoing investigation into Bridging and certain related individuals and entities. As reflected in the endorsement of Justice Hainey issued in connection with the Appointment Order (a copy of which is attached to the Appointment Order located at Exhibit “A”), the Court determined that, as required by section 129 of the Securities Act, the appointment of the Bridging Receiver was in the best interests of Bridging’s investors and will further the due administration of securities law in Ontario.
6. BFI is a privately held investment management firm that, prior to the appointment of the Bridging Receiver, offered alternative investment options to investors through the various Bridging investment funds managed by BFI (the “**Bridging Funds**”). Bridging would, among other things, raise capital from investors through the Bridging Funds for the purpose of making private debt loans to third-party borrowers. BFI would act as agent on behalf of the applicable Bridging Fund(s) that advanced funds to third-party borrowers.
7. The Bridging Receiver was appointed to protect the interests of, and maximize value for, Bridging’s investors and the other stakeholders. There are approximately 26,000 Bridging investors (both retail and institutional) primarily located across Canada. As detailed in the Bridging Receiver’s various reports to the Court, Bridging’s investors are facing significant losses on their investments in the Bridging Funds.
8. One of the loans in Bridging’s portfolio is the Loan (as defined and described in greater detail below) made by BFI on behalf of certain of the Bridging Funds to the Respondents

and certain related entities. The Loan is currently past maturity and in default. On May 12, 2022, the Receiver issued the Demand Letters and BIA Notices (each as defined below) to the Respondents. The Respondents have failed to make any payments in reduction of the Loan notwithstanding the maturity of the Loan and the issuance of the Demand Letters and the BIA Notices.

9. The Bridging Receiver is concerned that it does not have insight into the financial situation of the Respondents or the use of the principal advances of approximately \$35.5 million under the Loan. As of June 30, 2022, principal advances of \$17.1 million remain outstanding. The Bridging Receiver has significant concerns regarding the apparent inability of the Respondents to repay the Loan notwithstanding the significant amounts advanced thereunder.
10. The Bridging Receiver also has significant concerns regarding certain events and transactions involving the Respondents, certain related entities, and the former principals of Bridging, some of which are described below.
11. The Bridging Receiver brings this application to appoint Richter as Receiver of the Respondents as part of its broader investigation into the affairs of Bridging and in an effort to minimize the losses that Bridging's investors and other stakeholders will suffer as a result of the Loan. The appointment of an independent court officer as Receiver of the Respondents is required in these circumstances to investigate the financial situation and affairs of the Respondents and to realize on their assets (to the extent any such assets are available or recoverable) for the benefit of all stakeholders.

III. CORPORATE INFORMATION AND BUSINESS OF THE RESPONDENTS

12. According to the records maintained by the Ontario Ministry of Government and Consumer Services, each of Northern Citadel, One8One, and 181 Retail is a corporation incorporated under the laws of the Province of Ontario. The registered head office of Northern Citadel is located at 189 Forest Hill Road, Toronto, Ontario. The registered head office of both One8One and 181 Retail is located at 125 Hazelton Avenue, Toronto, Ontario. Copies of the corporate profile reports in respect of Northern Citadel, One8One, and 181 Retail are attached as **Exhibit “B”**.
13. Sam Mizrahi was listed as the sole director of each of the Respondents up until May 15, 2022. According to the foregoing corporate profile searches, Sam Mizrahi was removed as a director of each of the Respondents effective as of May 15, 2022, three days after the Bridging Receiver delivered the Demand Letters and BIA Notices to the attention of Sam Mizrahi. Sam Mizrahi remains listed as the sole officer of each of the Respondents. However, Amanda Brown is now listed as the sole director of each of the Respondents. The Respondents are in the real estate development business. The Bridging Receiver understands from the books and records of Bridging that the Respondents developed and marketed the condominium project located at 181 Davenport Road, Toronto, Ontario (the **“181 Davenport Project”**), which is described in greater detail below.

IV. THE LOAN AGREEMENT & ADVANCES

14. Pursuant to a loan agreement dated December 17, 2014 (the **“Original Loan Agreement”**), as amended by a first amending agreement dated February 24, 2015, a second amending agreement dated March 11, 2015, a third amending agreement dated April 10, 2015, a

fourth amending agreement dated November 27, 2015, a fifth amending agreement dated June 30, 2016, a sixth amending agreement dated November 30, 2016 (the “**November 2016 Amendment**”), a seventh amending agreement dated November 1, 2017 (the “**November 2017 Amendment**”), an eighth amending agreement dated May 2, 2018, and a ninth amending agreement dated December 31, 2020 (the “**December 2020 Amendment**” and collectively, the “**Loan Agreement**”), BFI, as agent (in such capacity, the “**Agent**”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (collectively, the “**Lender**”) made available to Northern Citadel, Mizrahi Inc. (“**MI**”), and 2495159 Ontario Inc. (“**249 Ontario**” and together with Northern Citadel and MI, the “**Borrower**”) a non-revolving term credit facility (the “**Loan**”) in the principal amount of \$41,412,501.00.

15. MI and 249 Ontario are not Respondents to this Application and no relief is being sought by the Bridging Receiver in respect of MI and 249 Ontario on this Application. MI and 249 Ontario were added as entities comprising the “Borrower” pursuant to the November 2016 Amendment. There is a dispute as to whether MI and 249 Ontario still comprise the “Borrower” under the Loan Agreement and have any continuing liability thereunder. Some of the issues related to that dispute are summarized below for the purposes of describing the history of the Loan and certain events leading up to this application in respect of which the Bridging Receiver has significant concerns. The issue of whether MI and 249 Ontario still comprise the “Borrower” under the Loan Agreement and have any continuing liability

thereunder is not being addressed in this application, but may be addressed by the Bridging Receiver at a later date.

16. Interest currently accrues on the Loan at the rate of 12% per annum. Based on the books and records of Bridging, the Lender has received cash payments from the Borrower on only four occasions since the inception of the Loan in December 2014.
17. According to the books and records of Bridging, as at June 30, 2022, the total amount owing by the Respondents to the Lender under the Loan is \$54,866,885.69, consisting of principal in the amount of \$17,054,655.33 and accrued and unpaid interest in the amount of \$37,812,230.36, together with all accrued costs to the date of payment (collectively, the **“Indebtedness”**).
18. The original purpose of the Loan was to finance a portion of Northern Citadel’s equity in the 181 Davenport Project¹. Based on Bridging’s records and certain reporting delivered by the Borrower to Bridging, the Bridging Receiver understands that construction of the 181 Davenport Project began in 2013 and initial occupancy occurred in February 2017. According to the books and records of Bridging, the closing of the sale of the last condominium unit at the 181 Davenport Project was in July 2020.

¹ A loan was originally made in 2012 from Bridging Capital Inc. (a precursor of BFI) to Northern Citadel in the principal amount of \$16,326,000.00 (the **“852 Loan”**). I understand Bridging Capital Inc. subsequently assigned its interest in the 852 Loan in 2013 to 8527504 Canada Inc. (**“852 Canada”**), a company controlled by Jenny Coco, Rock-Anthony Coco and Natasha Sharpe. I understand from the books and records of Bridging that the four principal advances made available by the Lender to the Borrower under the Loan between December 17, 2014 and April 10, 2015 were directed by the Borrower to 852 Canada to repay the 852 Loan. 852 Canada was dissolved on June 28, 2021, approximately two months after the appointment of the Bridging Receiver.

19. Based on the books and records of Bridging, the Bridging Receiver understands that certain Loan advances were also used to:

- (a) fund cost overruns on the 181 Davenport Project;
- (b) make improvements to the approximately 4,097 square foot unit (the “**Unit**”) at the 181 Davenport Project to be used as a sales and presentation gallery for “The One” construction project located at 1 Bloor Street West, Toronto, Ontario (the “**1 Bloor Project**”). The 1 Bloor Project is described in further detail below. The Unit is owned by the Respondent 181 Retail; and
- (c) fund 249 Ontario’s purchase of the real property located at 14 Dundonald Street, Toronto, Ontario (the “**Dundonald Property**”). According to the books and records of Bridging and public property records, the Dundonald Property was subsequently conveyed in 2020 by 249 Ontario to the City of Toronto (the “**Dundonald Conveyance**”) for the benefit of Mizrahi Development Group (The One) Inc. (“**The One**”) and/or certain other entities involved in the development of the 1 Bloor Project. Sam Mizrahi is listed as a director and officer of both 249 Ontario and The One. The Dundonald Property does not appear to have any connection to the 181 Davenport Project. The Dundonald Conveyance is described in greater detail below.

20. The following chart provides an overview of the principal advances made under the Loan according to the books and records of Bridging:

| Date | Principal Amount Advanced | Total Amount Outstanding | Purpose of Advance (as Stated in Loan Agreement) |
|-----------------------|----------------------------------|---------------------------------|---|
| December 17, 2014 | \$9,813,424.66 | \$9,813,424.66 | To finance a portion of the Borrower's equity in the 181 Davenport Project |
| February 24, 2015 | \$3,887,260.27 | \$13,931,204.70 | Not specified |
| March 11, 2015 | \$5,791,780.82 | \$19,742,836.10 | Not specified |
| April 10, 2015 | \$3,845,471.24 | \$23,647,459.67 | Not specified |
| November 30, 2016 | \$6,556,500.00 | \$35,827,750.68 | To fund legal fees, the work fee (\$56,500), improvements to the Unit (\$2,500,000), and the purchase of the Dundonald Property (\$4,000,000) |
| November 1, 2017 | \$5,584,750.00 | \$45,560,938.61 | To fund the work fee (\$84,750) and the completion of the 181 Davenport Project |
| Total Advances | \$35,479,186.99 | | |

21. The following chart provides an overview of the historical partial repayments made by the Borrower under the Loan according to the books and records of Bridging:

| Repayment Date | Repayment Amount | Total Amount Outstanding² | Description of Repayment |
|-----------------------|-------------------------|---|--|
| June 21, 2018 | (\$1,445,280.00) | \$47,387,620.18 | Commissions received by MI from the 1 Bloor Project and directed to the Lender |
| October 10, 2018 | (\$2,970,729.12) | \$46,356,160.16 | Receipt of proceeds from 181 Davenport Project unit |
| July 9, 2020 | (\$10,085,635.61) | \$47,082,092.86 | Repayment of advances related to the Unit (\$3.9 million) and Dundonald Property (\$6.2 million) |

² Total Amount Outstanding reflects the balance outstanding net of each Repayment Amount, plus any accrued interest between each Repayment Date.

| | | | |
|--|--------------------------|------------------------|---|
| July 27, 2020 | (\$3,922,886.93) | \$43,159,205.93 | Receipt of proceeds from sale of final 181 Davenport Project unit |
| Total Repayments | (\$18,424,531.66) | | |
| Add: Accrued Interest Since July 27, 2020 | | \$11,707,679.76 | |
| Total Amount Outstanding at June 30, 2022 | | \$54,866,885.69 | |

22. As described above, the total Indebtedness is approximately \$55 million. The Bridging Receiver does not have full and complete information regarding the apparent inability of the Respondents to repay the Indebtedness. The Bridging Receiver has not obtained complete financial disclosure from the Respondents.

V. SECURITY & GUARANTEES HELD BY BRIDGING

23. As security for all of the present and future indebtedness and obligations of Northern Citadel to the Lender under the Loan, Northern Citadel granted the Agent and the Lender, among other things, security over all of its present and after-acquired property pursuant to a General Security Agreement dated December 17, 2014 (the “**Northern Citadel GSA**”), a copy of which is attached hereto as **Exhibit “C”**.
24. Pursuant to section 5.1(d) of the Original Loan Agreement, upon the occurrence of an Event of Default (as defined in the Loan Agreement), which has not been remedied, the Lender is permitted to register its security interest in respect of all of the Credit Parties³ under the *Personal Property Security Act* (Ontario) (the “**PPSA**”). As described in greater

³ Credit Parties is defined in the Loan Agreement to mean the Borrower and the Guarantors (and includes each of the Respondents).

detail below, due to the Event of Default committed by the Respondents, which remains ongoing as at the date hereof, the Bridging Receiver, on behalf of the Agent and the Lender, made a registration pursuant to the PPSA against Northern Citadel on May 12, 2022. A copy of a certified PPSA search in respect of Northern Citadel current as of August 2, 2022 is attached hereto as **Exhibit “D”**.

25. The indebtedness and obligations of the Borrower under the Loan Agreement have been guaranteed on a joint and several basis by each of One8One⁴ and 181 Retail⁵ pursuant to a guarantee dated December 17, 2014 (the “**Guarantee**”). A copy of the Guarantee is attached as **Exhibit “E”**.
26. The obligations of One8One pursuant to the Guarantee are secured by, among other things, a security interest granted to the Lender in all of One8One’s present and after acquired property pursuant to a general security agreement dated December 17, 2014 (the “**One8One GSA**”), a copy of which is attached hereto as **Exhibit “F”**. As a result of the Event of Default committed by the Respondents, which remains ongoing as at the date hereof, the Bridging Receiver, on behalf of the Agent and the Lender, made a registration

⁴ The former One8One Davenport Inc. (Ontario Corporation Number: 1912202) (“**191 Ontario**”) amalgamated with Mizrahi Soaring Developments Inc. (Ontario Corporation Number: 1822736) (“**182 Ontario**”) on January 1, 2015 to create One8One Davenport Inc. (Ontario Corporation Number: 1927751), which is defined and referred to herein as “One8One”. Each of 191 Ontario and 182 Ontario is a “Guarantor” under the Guarantee and a “Debtor” under the One8One GSA (as herein defined). The Guarantee is binding on One8One as a successor to 191 Ontario and 182 Ontario pursuant to section 6.1 of the Guarantee. The One8One GSA is binding on One8One as a successor to 191 Ontario and 182 Ontario pursuant to section 5.8 of the GSA.

⁵ Pursuant to section 2 of the November 2016 Amendment, 181 Retail was added as a Guarantor of the Loan on a joint and several basis as though it were an original party to the Loan Agreement and the Existing Security (which is defined in the Loan Agreement to include, among other things, the Guarantee).

against One8One pursuant to the PPSA on May 12, 2022. A copy of a certified PPSA search in respect of One8One current as of August 2, 2022 is attached as **Exhibit “G”**.

27. The obligations of 181 Retail pursuant to the Guarantee are secured by, among other things, a security interest granted to the Lender in all of 181 Retail’s present and after acquired property pursuant to a general security agreement dated May 2, 2018 (the “**181 Retail GSA**”), a copy of which is attached hereto as **Exhibit “H”**. In accordance with section 14(a)(ii) of the November 2016 Amendment, the Agent made a registration against 181 Retail pursuant to the PPSA on May 2, 2018. A copy of a certified PPSA search in respect of 181 Retail current as of August 2, 2022 is attached hereto as **Exhibit “I”**.
28. Pursuant to section 12.8 of the Original Loan Agreement, upon any Event of Default, the Lender may appoint a receiver or a receiver and manager of the Collateral.⁶
29. Based on the PPSA searches referred to above, the only registration against each of Northern Citadel and One8One is the registration made by the Bridging Receiver on behalf of the Agent and the Lender. There are two registrations against 181 Retail. The first registration was made by KEB Hana Bank Canada (“**KEB**”) and a subsequent registration was made by the Agent.

⁶ “Collateral” is defined in the Original Loan Agreement to mean all of the Credit Parties’ rights, title and interests in and to the Assets and the Subsidiaries and all cash flow therefrom and all other property and assets subject to the Security. “Assets” is defined in the Original Loan Agreement to mean “collectively all of the property, personal or real, and assets of the Credit Parties as of the date of the Original Loan Agreement, including, without limitation, the Property [defined as the 181 Davenport Project], or hereafter acquired or otherwise obtained by the Credit Parties in any manner whatsoever”.

VI. EVENTS & TRANSACTIONS LEADING UP TO APPLICATION

30. The foregoing sections provided an overview of the Loan Agreement, the advances thereunder, and the security held by the Agent and the Lender. This section provides a more detailed chronology of certain events and transactions leading up to this application, in respect of which the Bridging Receiver has significant concerns. To provide necessary context regarding these events and transactions, this section also provides an overview of the ownership structure of the 1 Bloor Project based on the books and records of Bridging and the intertwined nature of the relationship between the former principals of Bridging, the Credit Parties, and the 1 Bloor Project. The Bridging Receiver continues to investigate these matters and is of the view that the appointment of an independent court officer over the Respondents is required to advance this investigation and maximize recoveries (if any) for the Respondents' stakeholders.

(i) 1 Bloor Project & Conflicts of Interest

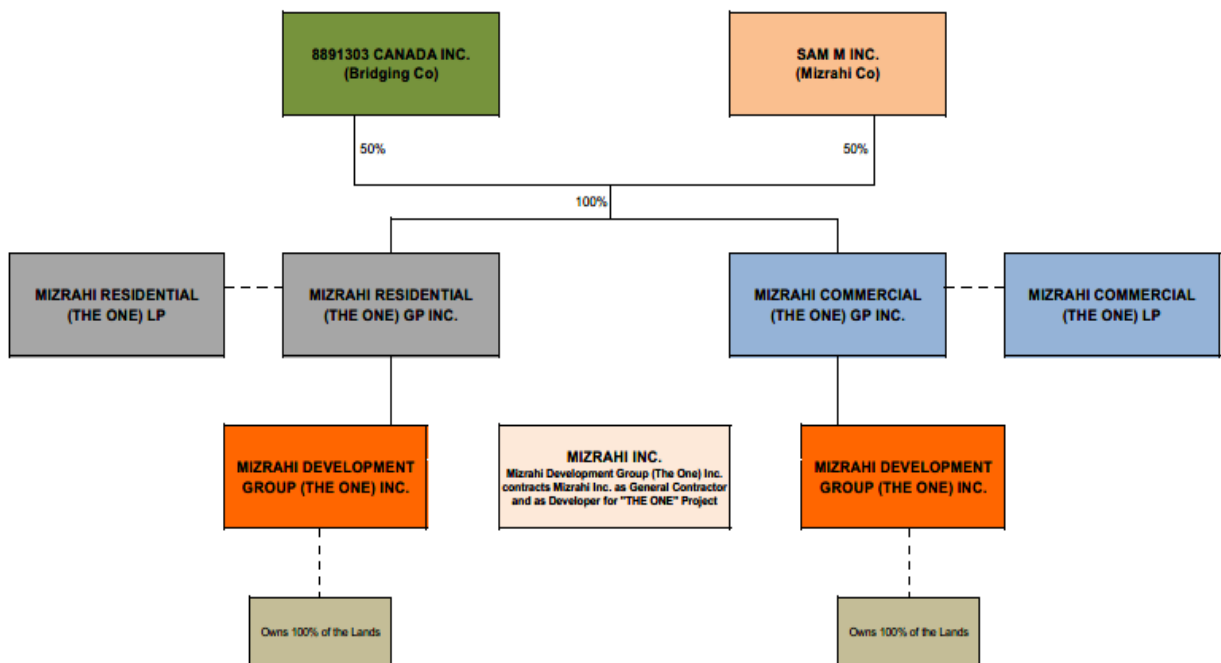
31. Although no relief is being sought in respect of the 1 Bloor Project, a brief overview of its ownership structure provides context for certain of the Bridging Receiver's concerns described below given the numerous ways in which the former principals of Bridging, the Credit Parties, and the 1 Bloor Project are connected.

32. The Bridging Receiver has obtained an organizational chart of the 1 Bloor Project that was emailed in 2017 from the Bridging file server⁷ (the "**2017 Organizational Chart**"), a copy

⁷ Prior to the migration to the current Office 365 email environment, Bridging maintained a backup of the exchange server ("**Backup Exchange**"). Multiple emails restored from the Backup Exchange were missing header information (i.e. email does not show the sender or recipient details), including an email that appears to have been sent by Roy Booth, Chief Financial Officer of the Coco Group on August 9, 2017. The body of the email indicates it was sent by

of which is attached hereto as **Exhibit “J”**. According to the 2017 Organizational Chart, the companies involved in developing the 1 Bloor Project include Mizrahi Residential (The One) LP (“**1 Bloor Residential LP**”), Mizrahi Residential (The One) GP Inc. (“**1 Bloor Residential GP**”), Mizrahi Commercial (The One) LP, Mizrahi Commercial (The One) GP Inc. (“**1 Bloor Commercial GP**”), The One, and MI. Corporate profile searches in respect of the foregoing entities are attached hereto as **Exhibit “K”**.

33. For ease of reference, a screenshot of the 2017 Organizational Chart is below:



Roy Booth and attached the referenced organizational chart. The Bridging Receiver could not locate copies of this email in the current Office 365 email environment, which would confirm the header information.

34. The 2017 Organizational Chart indicates that the 1 Bloor Project is effectively 50% owned by 8891303 Canada Inc. (“**889 Canada**”)⁸ and 50% owned by Sam M Inc. (“**SMI**”). The books and records of Bridging, including various emails, spreadsheets, and legal documents (some of which are referred to below), indicate that between approximately March 12, 2015 and December 30, 2020 (the “**Applicable Period**”):
- (a) Jenny Coco and related individuals indirectly owned 95% of the shares of 889 Canada (and therefore indirectly owned 47.5% of the 1 Bloor Project);
 - (b) Natasha Sharpe indirectly owned 5% of the shares of 889 Canada (and therefore indirectly owned 2.5% of the 1 Bloor Project); and
 - (c) Sam Mizrahi indirectly owned 100% of the shares of SMI (and therefore indirectly owned 50% of the 1 Bloor Project).
35. As described above, Sam Mizrahi is the sole officer (and was, up until May 15, 2022, three days after the delivery of the Demand Letters and the BIA Notices, the sole director) of the Respondents and Jenny Coco and Natasha Sharpe are directors and indirect shareholders of BFI⁹. Jenny Coco and Natasha Sharpe were also both members of BFI’s credit

⁸ The Bridging Receiver notes that 889 Canada amalgamated with 12787601 Canada Ltd. on March 13, 2021 to become 12823543 Canada Ltd. (“**128 Canada**”). The directors of 128 Canada are Jenny Coco, Rock-Anthony Coco, and Nina Coco. The directors of 889 Canada prior to the foregoing amalgamation were Jenny Coco and Rock-Anthony Coco. 128 Canada has the same registered head office as 889 Canada.

⁹ As of December 31, 2020 (the date of the last financial statement audit of BFI), I understand that BFI was 58.3% owned by 2693600 Ontario Inc. (“**Coco Holdco**”) and 41.7% owned by 2693602 Ontario Inc. (“**Sharpe Holdco**”). Coco Holdco was owned by 8156247 Canada Inc., an entity indirectly controlled by Jenny Coco and Rock-Anthony Coco. Sharpe Holdco was owned by 8156379 Canada Inc., an entity indirectly controlled by Natasha Sharpe. I understand that while the allocation of share ownership has changed between 2012 and April 30, 2021, Natasha Sharpe and Jenny Coco have been involved since Bridging’s founding in 2012.

committee, which was primarily responsible for the review and approval of loans made by BFI as agent on behalf of the Bridging Funds, including the Loan.

36. It is unclear whether the foregoing ownership structure remains in place. The books and records of Bridging do not contain information regarding the ownership of the 1 Bloor Project beyond the Applicable Period. However, it is notable that:

- (a) Sam Mizrahi is currently listed as the sole officer and director of SMI. A copy of a corporate profile search in respect of SMI is attached as **Exhibit “L”**;
- (b) Jenny Coco and Rock-Anthony Coco were listed as the sole directors of 889 Canada prior to its amalgamation with another entity to become 128 Canada. Jenny Coco, Rock-Anthony Coco, and Nina Coco are currently listed as the sole directors of 128 Canada. According to publicly filed corporation documents for 889 Canada dated February 26, 2021, Natasha Sharpe was removed as a director of 889 Canada on January 28, 2021. Copies of corporate profile searches in respect of 889 Canada and 128 Canada are attached as **Exhibit “M”**;
- (c) Sam Mizrahi and Jenny Coco are currently listed as the sole directors of 1 Bloor Commercial GP. Sam Mizrahi, Jenny Coco, Natasha Sharpe, and Rock-Anthony Coco are currently listed as the officers of 1 Bloor Commercial GP;
- (d) Sam Mizrahi, Jenny Coco, Natasha Sharpe, and Rock-Anthony Coco are listed as the directors and officers of 1 Bloor Residential GP; and

- (e) Sam Mizrahi and Jenny Coco are currently listed as the directors and officers of The One.

37. The Bridging Receiver has obtained various documents that establish the direct ownership of the 1 Bloor Project during the Applicable Period, including:

- (a) a Unanimous Shareholders Agreement for 1 Bloor Commercial GP dated July 25, 2014 between 889 Canada, SMI and 1 Bloor Commercial GP. This agreement provides that 889 Canada and SMI each own 50 common shares of 1 Bloor Commercial GP.¹⁰ As of the date of the agreement, 100 common shares had been issued. This indicates 889 Canada and SMI were each 50% owners of 1 Bloor Commercial GP at the time. A copy of this agreement is attached hereto as **Exhibit “N”**; and
- (b) a Limited Partnership Agreement for 1 Bloor Residential LP dated July 25, 2014 between 1 Bloor Residential GP, 889 Canada and Mizrahi Enterprises Inc. that sets out the partnership interests. This agreement stipulates that 889 Canada will hold 10 Class A1 Units in the partnership and Mizrahi Enterprises Inc. will hold 10 Class B Units in the partnership.¹¹ A total of 10 Class A1 Units and 10 Class B units in 1 Bloor Residential LP were outstanding as of the date of the agreement, indicating

¹⁰ Jenny Coco and Natasha Sharpe appear to have signed this agreement on behalf of each of 889 Canada and 1 Bloor Commercial GP. The copy of the agreement I have reviewed is not signed on behalf of SMI.

¹¹ Jenny Coco and Natasha Sharpe appear to have signed the agreement on behalf of each of 889 Canada and 1 Bloor Residential GP. The copy of the agreement I have reviewed is not signed on behalf of Mizrahi Enterprises Inc.

50% ownership by each of 889 Canada and Mizrahi Enterprises Inc. A copy of this agreement is attached hereto as **Exhibit “O”**.

38. I have reviewed an affidavit sworn by Sam Mizrahi on January 18, 2021 in the court file Khavari et al. v. Mizrahi et al., No. CV-15-11187-00CL. In that affidavit, Sam Mizrahi states “I am the President, owner and sole director of Mizrahi Enterprises Inc., and Sam M Inc.”¹²
39. Based on an email sent by Jenny Coco to Natasha Sharpe on October 24, 2015, the Bridging Receiver understands that 889 Canada was 95% owned by entities controlled by Jenny Coco and related individuals¹³ and 5% owned by 2333065 Ontario Inc. (“**233 Ontario**”), an entity controlled by Natasha Sharpe. More specifically, the spreadsheet attachment suggests that between August 20, 2014 and March 12, 2015, Natasha Sharpe invested \$1,507,500 into 889 Canada through 233 Ontario, which equates to an approximately 5% share¹⁴ of total capital invested into the company. A copy of this email and the spreadsheet attachment are attached hereto as **Exhibit “P”**.

¹² In the same affidavit, Sam Mizrahi states “The One Bloor West project is owned by Mizrahi Commercial (The One) GP Inc. [...], which is the general partner of Mizrahi Commercial (The One) LP”. He also states “I own 50% of [1 Bloor Commercial GP] through a company called Sam M. Inc. The remaining 50% is owned by 8891303 Canada Inc., a corporation controlled by my partner Jenny Coco”.

¹³ I understand from the October 24, 2015 spreadsheet attachment that the other entities invested in 889 Canada are companies controlled by relatives of Jenny Coco.

¹⁴ I have reviewed an email sent by Kevin Skells (listed at the time as Director, Finance of The Coco Group of Companies) to Natasha Sharpe on March 12, 2015. He notes that Natasha will “Invest \$101,137.72 into 8891303, the Yonge-Bloor venture. This will bring your [Natasha’s] investment up to 5%, or \$1,500,000.” This appears to corroborate the spreadsheet attachment sent by Jenny Coco to Natasha Sharpe on October 24, 2015. A copy of this email is attached as **Exhibit “NN”**.

40. It appears that Natasha Sharpe had a 5% ownership interest in 889 Canada as of March 12, 2015. I have reviewed internally prepared financial statements for 233 Ontario as at fiscal years ending 2015 through 2020¹⁵. For each year, the 233 Ontario financial statements note an asset of \$5 labelled as “Investment - 8891303 Canada Inc” or “Investment - 8891303” and \$1,507,495 labelled as “Loan Receivable - 8891303 Canada Inc.”.
41. On December 30, 2020, Jenny Coco emailed Natasha Sharpe in response to questions regarding the Dundonald Property, “allow me to remind you, both Sharpe and Coco were lenders of 181 Davenport and remain investors in THE ONE, both Mizrahi Developments.” A copy of this email is attached hereto as **Exhibit “Q”**. Based on this email and the documents and communications referred to above, it appears that Jenny Coco and Natasha Sharpe both held an ownership interest in the 1 Bloor Project together with Sam Mizrahi during the Applicable Period (which overlaps with a substantial majority of the time period of the Loan).
42. As noted above, the books and records of Bridging indicate that the ultimate beneficial ownership of the 1 Bloor Project during the Applicable Period was as follows:
- (a) 50% owned by Sam Mizrahi (through 100% indirect ownership of SMI);
 - (b) 47.5% owned by Jenny Coco and related individuals (through 95% indirect ownership of 889 Canada); and
 - (c) 2.5% owned by Natasha Sharpe (through 5% indirect ownership of 889 Canada).

¹⁵ Each financial statement is prepared as of December 31. While I note these files are stored on the Bridging servers, I have not been able to ascertain who prepared the documents.

43. It is unclear if these ownership percentages changed after December 2020, including as a result of the Alleged Secret Guarantee (as defined and described below). The Bridging Receiver has significant concerns regarding the potential conflicts of interest between Jenny Coco and Natasha Sharpe in their capacities as principals of Bridging and members of the Bridging credit committee, and separately as indirect owners of the 1 Bloor Project. The following sections highlight some of these concerns and provide a more detailed chronology of certain events and transactions leading up to this application.

(ii) November 2016 Amendment & the Accounts

44. Pursuant to the November 2016 Amendment, the maximum principal amount under the Loan was increased by \$6,556,500.00 to \$35,827,751.00. In addition, the Term was extended until the earlier of: (i) the first draw by The One under its construction loan facility for the 1 Bloor Project; and (ii) November 30, 2018. The definition of “Borrower” was amended to include Northern Citadel, 249 Ontario, and MI. The definition of “Guarantors” was amended to include 191 Ontario and 182 Ontario (the predecessor corporations to the Respondent One8One) and 181 Retail. The definition of “Obligors” was amended to include the Borrower, the Guarantors, Sam Mizrahi, and Mizrahi Enterprises Inc.

45. As described above, the Bridging Receiver understands that the primary purpose of the advance under the November 2016 Amendment (the “**November 2016 Advance**”) was to fund improvements to the Unit and 249 Ontario’s acquisition of the Dundonald Property. Jenny Coco and Natasha Sharpe arranged for 249 Ontario to obtain financing from the Lender pursuant to the November 2016 Amendment (for the ultimate benefit of the 1 Bloor

Project) after a third-party lender withdrew from providing a mortgage for the Dundonald Property.¹⁶

46. Natasha Sharpe approved the credit committee submission related to the November 2016 Amendment.
47. As part of the November 2016 Amendment, the Obligors agreed to cause the following security, among others, to be provided to the Lender (collectively, the “**New Security**”):
 - (a) a second ranking collateral charge against the Unit from 181 Retail in the amount of the principal amount of the Loan then outstanding plus \$5 million subject to a first mortgage in favour of a third-party lender (which I understand was subsequently provided by KEB);
 - (b) the 181 Retail GSA registered under the PPSA subject only to a prior registration in favour of the lender under the first mortgage;
 - (c) a security interest from MI in the Accounts¹⁷ not registrable until an Event of Default has occurred; and

¹⁶ I have reviewed a series of emails dated December 6, 2016, around the time of the closing of the November 2016 Amendment. Jenny Coco emailed Natasha Sharpe “Alternative financing shall need to be secured as we are unable to obtain from Coco.” Natasha Sharpe responded “I have thought about that and asked Sam to procure term sheets for mortgage financing. He is unable to find someone who can close in six days so I think the only alternative is for bridging to bridge to a new mortgage provider.” Jenny Coco responded “Precisely!”. A copy of this email chain is attached hereto as **Exhibit “OO”**.

¹⁷ “Accounts” is defined in the November 2016 Amendment to include 50% of all sales commissions, marketing and advertising fees, 100% of the reimbursement of all costs incurred in respect of the Presentation Gallery, including, without limitation, leasehold improvements and furniture, earned and actually received by Mizrahi Inc. from The One in connection with the 1 Bloor Project (as set out in the Budget) and 100% of the reimbursement of the parkland dedication costs in respect of the Dundonald Property as set out in the Budget.

- (d) a first charge against the Dundonald Property in the principal amount of \$15 million plus an assignment of rents (the “**Dundonald Charge**”).
48. The books and records of Bridging indicate that leading up to the November 2016 Amendment, Bridging lacked sufficient collateral coverage for the Loan. A submission prepared by Graham Marr, then VP, Business Development at BFI, presented to the Bridging credit committee in relation to the November 2016 Amendment, anticipated that there would be a shortfall on the collateral available from the 181 Davenport Project due to, among other things, construction delays, interest accruing on the Loan due to these delays, and a contractor strike in the summer of 2016. I note that both Natasha Sharpe and Jenny Coco (as members of the Bridging credit committee) received this submission by email.
49. In order to cover this shortfall, MI was added as a Borrower under the Loan and the Accounts (primarily comprised of the sales commissions owing to MI in connection with the 1 Bloor Project) were pledged in favour of the Lender until the Loan was indefeasibly repaid in full. Attached hereto as **Exhibit “R”** is an email from Sam Mizrahi to Natasha Sharpe and Graham Marr of Bridging dated November 19, 2016 wherein Sam Mizrahi states that MI would be added as a Borrower and pledge the Accounts to the Lender in order to “cover the delta shortfall of the current loan” and to “repay the shortfall and retire the outstanding debt shortfall of the 181 amounts”.
50. The definition of “Accounts” was amended pursuant to the November 2017 Amendment to increase the percentage of sales commissions pledged by MI to the Lender in connection

with the 1 Bloor Project from 50% to 100% (less certain costs).¹⁸ Natasha Sharpe and Jenny Coco both approved the credit committee submission related to the November 2017 Amendment.

51. At the time of the November 2017 Amendment, the books and records of Bridging suggest that the Loan was anticipated to be repaid from the following four key collateral sources:

- (a) approximately \$10 million from the sales of units on the top two floors of the 181 Davenport Project;
- (b) approximately \$25 million from the Accounts;
- (c) the proceeds of the Dundonald Property (in respect of which the Lender had a first mortgage in the principal amount of \$15 million); and
- (d) the sale of the Unit (in respect of which the Lender has a second mortgage in the principal amount of \$12 million).¹⁹

52. The books and records of Bridging indicate that the Accounts formed a material proportion of the collateral subject to the Lender's security after the November 2016 Amendment. On multiple occasions, the Credit Parties represented to Bridging that the estimated Loan

¹⁸ The definition of "Accounts" was amended pursuant to the November 2017 Amendment to include **100%** of all sales commissions, less payments made to any unaffiliated or related co-operating real estate brokers (provided said percentage does not exceed 50%), 50% of all marketing and advertising fees, 100% of the reimbursement of all costs incurred in respect of the Presentation Gallery, including, without limitation, leasehold improvements and furniture, earned and actually received by Mizrahi Inc. (which the Obligors represent and warrant is the entity entitled to such funds) from The One in connection with the 1 Bloor Project (as set out in the Budget) and 100% of the reimbursement of the parkland dedication costs in respect of the Dundonald Property as set out in the Budget.

¹⁹ The Respondents have advised the Bridging Receiver that the Agent agreed to discharge the second mortgage held by the Agent against the Unit prior to the appointment of the Bridging Receiver. Based on the books and records of Bridging, the Bridging Receiver is unaware of any written agreement to that effect.

repayments sourced through the 1 Bloor Project (by way of the Accounts) would exceed \$20 million in aggregate. For example, attached hereto as **Exhibit “S”** is an email sent by Sam Mizrahi on November 9, 2017 estimating 1 Bloor Project commissions as “\$24.45 Million”.

(iii) *Conveyance of Dundonald Property & July 2020 Partial Repayments*

53. As described above, one of the primary purposes of the November 2016 Advance was to fund 249 Ontario’s purchase of the Dundonald Property. The Dundonald Charge in the principal amount of \$15 million was granted by 249 Ontario as New Security for the Loan.
54. According to the books and records of Bridging, the Dundonald Property was conveyed by 249 Ontario to the City of Toronto in 2020 for the benefit of The One and/or certain other entities involved in the development of the 1 Bloor Project. As noted above, Sam Mizrahi is listed as a director and officer of both 249 Ontario and The One. The purpose of the Dundonald Conveyance was to partially satisfy the 1 Bloor Project’s municipal parkland obligations owing to the City of Toronto. Attached hereto as **Exhibit “T”** is an amended and restated section 37 agreement among The One, 249 Ontario, and the City of Toronto dated as of July 21, 2020. Attached hereto as **Exhibit “U”** is a copy of the parcel abstract in respect of the Dundonald Property.
55. I understand from the books and records of Bridging that The One and/or certain other entities involved in the development of the 1 Bloor Project paid 249 Ontario approximately \$6.2 million in connection with the Dundonald Conveyance (being the sum of the \$4 million originally advanced pursuant to the November 2016 Amendment, plus accrued and

outstanding interest on that particular advance). 249 Ontario directed payment of this amount to Bridging (the “**Dundonald Payment**”), after which Bridging agreed to discharge the Dundonald Charge notwithstanding that this amount was less than the \$15 million principal amount of the Dundonald Charge. Natasha Sharpe approved the credit committee submission allowing the discharge of the Dundonald Charge. The Dundonald Property does not appear to have any connection to the 181 Davenport Project.

56. In July 2020, the Credit Parties made a partial repayment of the Loan in the amount of \$10,085,635.61, which includes the Dundonald Payment (the “**First July 2020 Partial Repayment**”), comprised of the principal amounts originally advanced in respect of the Dundonald Property and the Unit, plus accrued and outstanding interest on that advance. Also in July 2020, the Credit Parties made a second partial repayment of the Loan in the amount of \$3,922,886.93 from the proceeds of sale of the final residential unit of the 181 Davenport Project (together with the First July 2020 Partial Repayment, the “**July 2020 Partial Repayments**”).
57. After the July 2020 Partial Repayments, the outstanding amount of the Loan was \$43,159,205.93. At this time, given that the Dundonald Property and the remaining units in the 181 Davenport Project had been sold, the two key remaining collateral sources for the Loan were the Accounts (which were estimated by Sam Mizrahi on November 9, 2017 as “24.45 Million”) and the Unit (in respect of which Bridging has a second charge in the principal amount of \$12 million). I have not reviewed a recent real-estate appraisal of the Unit, but understand from discussions with PwC’s Real Estate Advisory practice that there is likely limited value in the Unit above and beyond the first-ranking mortgage granted to

KEB in the principal amount of \$4.5 million. A copy of the parcel abstract in respect of the Unit is attached hereto as **Exhibit “V”**.

58. The Bridging Receiver has significant concerns regarding the involvement of Jenny Coco and Natasha Sharpe in the original Dundonald Property transaction (and the subsequent Dundonald Conveyance) as both principals of Bridging and part owners of the 1 Bloor Project. The Bridging Receiver continues to investigate these matters.

(iv) December 2020 Amendment & 2020 Bridging Audit

59. The final amendment to the Loan Agreement was the December 2020 Amendment. Pursuant to the December 2020 Amendment, the Loan maturity date was extended until April 30, 2022. As at December 31, 2020, each of Northern Citadel, One8One, Mizrahi Enterprises Inc., Mizrahi Soaring Developments Inc., and 181 Retail acknowledged and agreed that \$45,892,107.79 was outstanding under the Loan.²⁰
60. Although the December 2020 Amendment was dated as of December 31, 2020, the agreement itself was executed by the parties on March 30, 2021 and backdated to December 31, 2020 (being the fiscal year-end of the applicable Bridging Funds). The execution of the December 2020 Amendment was one day prior to the date of the audit opinion of Bridging Income Fund LP by KPMG LLP (“**KPMG**”).

²⁰ The December 2020 Amendment provides that “the Obligors acknowledge and agree that there is \$45,892,107.79 outstanding under the Loan and that they do not dispute their liability to the Lender on any ground whatsoever...”. The definition of “Obligors” under the Loan Agreement was amended pursuant to the November 2016 Amendment to include Northern Citadel, MI, 249 Ontario, Mizrahi Enterprises Inc., One8One, 181 Retail, and Sam Mizrahi. As described below, MI, 249 Ontario, and Sam Mizrahi were not included as signatories in the December 2020 Amendment. However, there is no provision in the December 2020 Amendment that expressly defines or amends the definition of “Obligors”.

61. On March 30, 2021, at 2:09 p.m.²¹, a representative of KPMG emailed Brian Champ (Portfolio Manager and Chief Risk Officer of BFI) saying “We are trying to wrap up Mizrahi. Can you provide us with support (agreement, communication) that Mizrahi loan is not past due. If not available, an explanation as to why there is no updated agreement.”. I note that prior to the execution of the December 2020 Amendment (providing an extension of the maturity date to April 30, 2022), the Loan appeared to have matured on November 30, 2018.
62. The following chain of correspondence between Graham Marr (then the President of BFI) and Sam Mizrahi leading up to the execution of the December 2020 Amendment provides some background on the circumstances surrounding the removal of MI and 249 Ontario from the subject line and signature block of the December 2020 Amendment. The email discussion is noted below, and the various drafts of the December 2020 Amendment are summarized in paragraph 63:
- (a) on March 10, 2021 at 9:14 a.m., Graham Marr emailed Sam Mizrahi a draft of the December 2020 Amendment and advised that “as discussed, we need to update our files for the 181 loan as we are at the tail end of our audit and they [KPMG] are asking us about this file. I have drafted a simple extension to the prior extension basically showing that the loan is not out of maturity ... Can you please review and sign back at your earliest convenience?”. A copy of this email and attachment are attached hereto as **Exhibit “W1”**;

²¹ All times in this section are noted in Eastern Time (ET) unless otherwise noted.

- (b) on March 10, 2021 at 10:17 a.m., Sam Mizrahi responded to Graham Marr saying “what was the last one we signed as this one seems different on the initial read. Can you send me the one we did last time”. It is unclear whether Graham Marr responded to this email. A copy of this email is attached hereto as **Exhibit “W2”**;
- (c) approximately three weeks later, on March 30, 2021 at 2:18 p.m. (one day before March 31, 2021, the date of the audit opinion of Bridging Income Fund LP by KPMG), Graham Marr forwarded his previous email, sent on March 10, 2021 at 9:14 a.m., saying to Sam Mizrahi “can you please call me as soon as you can”. The Bridging Receiver understands from the books and records of Bridging that KPMG had continued to follow up on the status of the Loan in order to finalize the 2020 audit. A copy of this email is attached as **Exhibit “X”**;
- (d) approximately 12 minutes later, on March 30, 2021 at 2:30 p.m., Graham Marr emailed Sam Mizrahi “As discussed” and attached a revised version of the December 2020 Amendment. The critical difference between this revised version and the version that was sent by Graham Marr to Sam Mizrahi 12 minutes prior is the removal of MI and 249 Ontario from the subject line and signature block. A copy of this email, the attachment, and a blackline comparison of the attachment to the previous version are attached as **Exhibit “Y”**;
- (e) on March 30, 2021 at 2:52 p.m., Graham Marr emailed Sam Mizrahi saying “Updated attached” and attached a further revised version of the December 2020 Amendment. In addition to the changes noted in paragraph 63 below, this version also struck out the clause stating “If there are any such claims for setoff, counter-

claim, damages or otherwise, they are hereby expressly released and discharged”.

A copy of this email, the attachment, and a blackline comparison of the attachment to the previous version are attached as **Exhibit “Z”**;

- (f) Sam Mizrahi sent an executed version to Graham Marr at 2:58 p.m. on March 30, 2021 saying “Attached. As discussed”. This version is consistent with the version sent by Graham Marr at 2:52 p.m. A copy of this email and attachment are attached as **Exhibit “AA”**;
- (g) on March 30, 2021 at 4:58 p.m., Graham Marr emailed Sam Mizrahi saying “I realized that it was dated November 30th and referencing a Dec 31 balance. I’ve redated that attached December 31 to be consistent. If u you (sic) could please sign back, many thanks”. A copy of this email and attachment are attached as **Exhibit “BB”**; and
- (h) on March 30, 2021 at 9:38 p.m.²², Sam Mizrahi sent a partially executed²³ version to Graham Marr saying “Please find attached. Wishing you a restful evening”. This version is consistent with the version sent by Graham Marr at 4:58 p.m. and appears to be the final version signed by Sam Mizrahi. A copy of this email and attachment are attached as **Exhibit “CC”**.

²² Brian Champ provided a version of the December 2020 Amendment to KPMG via email on March 30, 2021 at 9:15 p.m. This is 23 minutes prior to Sam Mizrahi providing Graham Marr with a partially executed copy dated December 31, 2020 (which Graham Marr then forwarded on to Brian Champ at 9:43 p.m.). The copy provided to KPMG by Brian Champ is dated December 31, 2020 and appears to be executed by Sam Mizrahi in all five signature blocks. As noted below, the final version sent by Sam Mizrahi is only executed in three of the signature blocks. The Bridging Receiver continues to investigate the discrepancies in these documents.

²³ Sam Mizrahi appears to have executed on behalf of Northern Citadel, One8One and Mizrahi Enterprises Inc. The signature blocks for Mizrahi Soaring Developments Inc. and 181 Retail are blank in this version.

63. The drafts of the December 2020 Amendment sent by Graham Marr are summarized as follows (emphases added):

| Time of Email attaching Draft Amendment | Date Listed on Draft Amendment | Borrowers included in Signature Block | Guarantors included in Signature Block | Obligors included in Signature Block |
|--|---------------------------------------|--|--|---|
| 9:14 a.m. on March 10, 2021 | November 30, 2020 | Northern Citadel, <u>MI, 249 Ontario</u> | One8One, Mizrahi Soaring Developments Inc., 181 Retail | Northern Citadel, <u>MI, 249 Ontario</u> , One8One, <u>Mizrahi Enterprises Inc.</u> , Mizrahi Soaring Developments Inc., 181 Retail, <u>Sam Mizrahi</u> |
| 2:18 p.m. on March 30, 2021 | November 30, 2020 | Northern Citadel, <u>MI, 249 Ontario</u> | One8One, Mizrahi Soaring Developments Inc., 181 Retail | Northern Citadel, <u>MI, 249 Ontario</u> , One8One, <u>Mizrahi Enterprises Inc.</u> , Mizrahi Soaring Developments Inc., 181 Retail, <u>Sam Mizrahi</u> |
| 2:30 p.m. on March 30, 2021 | November 30, 2020 | Northern Citadel | One8One, Mizrahi Soaring Developments Inc., 181 Retail | Northern Citadel, One8One, Mizrahi Soaring Developments Inc., 181 Retail, <u>Sam Mizrahi</u> |
| 2:52 p.m. on March 30, 2021 | November 30, 2020 | Northern Citadel | One8One, Mizrahi Soaring Developments Inc., 181 Retail | Northern Citadel, One8One, <u>Mizrahi Enterprises Inc.</u> , Mizrahi Soaring Developments Inc., 181 Retail |
| 4:58 p.m. on March 30, 2021 | December 31, 2020 | Northern Citadel | One8One, Mizrahi Soaring Developments Inc., 181 Retail | Northern Citadel, One8One, <u>Mizrahi Enterprises Inc.</u> , Mizrahi Soaring Developments Inc., 181 Retail |

64. As noted above, there is a dispute as to whether MI and 249 Ontario still comprise the “Borrower” under the Loan Agreement and have any continuing liability under the Loan. This dispute primarily relates to the December 2020 Amendment. In the subject line of the final version of the December 2020 Amendment, neither MI nor 249 Ontario are included in the definition of “Borrower”. These entities are also not included in the signature block.
65. The Bridging Receiver has investigated the circumstances leading up to the execution of the December 2020 Amendment and has conducted an examination of a key BFI employee under oath and an unsworn interview of another key BFI employee but still does not have full and complete information. The Bridging Receiver continues to investigate this matter.
66. MI is the party that provided a covenant to remit the Accounts to the Lender (in both the November 2016 Amendment and November 2017 Amendment). If it is determined that neither MI nor 249 Ontario have any continuing liability under the Loan, the Lender will have no recourse to the Accounts (the primary collateral for the Loan, estimated by Sam Mizrahi as “24.45 Million”) and will in all likelihood suffer a substantial shortfall on the Loan, to the detriment of Bridging’s investors whose funds were used to make advances under the Loan. It is unclear to the Bridging Receiver if any other sources of recovery would be available.
67. It is notable that on March 30, 2021 at 2:19 p.m., Graham Marr of BFI emailed Mark Kilfoyle (Chief Financial Officer and Chief Operating Officer of Mizrahi Developments) saying “our auditors are asking what the total commissions that Mizrahi is entitled to in respect of the sales from 1 Bloor. Can you please let me know at your earliest convenience what this rough number is? They are looking to sign off on our audit end of day today and

they are trying to finalize their review of the Mizrahi [sic] loan”. A copy of this email is attached as **Exhibit “DD”**.

68. On March 30, 2021 at 3:04 p.m., Mark Kilfoyle responded to Graham Marr, copying Sam Mizrahi, by saying “The rough number is \$24M less any third party commissions we will be required to pay on any sales”. A copy of this email is attached as **Exhibit “EE”**.

69. On March 30, 2021 at 3:06 p.m., the foregoing email from Mark Kilfoyle regarding the value of the Accounts to which MI was entitled was forwarded by Graham Marr to Brian Champ and then forwarded by Brian Champ to KPMG at 9:15 p.m. Copies of these emails are attached as **Exhibit “FF”**.

70. The Bridging Receiver does not have full and complete information as to why Mark Kilfoyle (with Sam Mizrahi copied) represented to Bridging (and, by extension, Bridging’s auditor) that the value of the Accounts was approximately “\$24M less any third party commissions” on the same day and during approximately the same time that MI was allegedly removed from the Loan Agreement as a Borrower pursuant to the December 2020 Amendment.

71. The appointment of the Receiver over the Respondents will assist in advancing the investigation into these matters.

(v) ***Communications since Commencement of Bridging Receivership Proceeding***

72. The Receivership Proceeding commenced on April 30, 2021, approximately one month after the execution of the December 2020 Amendment. The Bridging Receiver conducted

a strategic review of each loan in Bridging's portfolio and took steps to communicate with borrowers regarding, among other things, plans and timelines for repayment.

73. As part of this process, the Bridging Receiver engaged with the Credit Parties on multiple occasions in an effort to understand their financial position and formulate a repayment plan for the Loan. These efforts have been unsuccessful. As set out below, the Respondents have largely failed to provide basic financial reporting required under the Loan Agreement and have failed to provide any plan for repayment of the Loan.²⁴
74. The Credit Parties are required under the Loan Agreement to provide certain reporting to the Lender, including monthly cash flow projections in respect of the Borrower²⁵ and annual financial statements of the Borrower and each of the Subsidiaries²⁶ (including a balance sheet and statements of income and retained earnings), and any other information concerning the financial position and business operations of the Borrower (including, but not limited to, the supporting schedules to the financial statements) which the Lender may from time to time request, acting reasonably.²⁷
75. Since July 24, 2021, the Bridging Receiver has made multiple requests for certain documents and information in accordance with the reporting obligations under the Loan Agreement. In particular, the Bridging Receiver has requested: (i) a detailed accounting with respect to all amounts received by MI or any of the other Credit Parties in respect of

²⁴ As described below, MI and 249 Ontario have since taken the position that they are not required to deliver any financial reporting because they are no longer parties to the Loan Agreement and have no obligations thereunder.

²⁵ Pursuant to section 9.1(i)(ii) of the Original Loan Agreement.

²⁶ "Subsidiaries" is defined in the Loan Agreement to mean the Guarantors and any other subsidiary of such entities at any time or from time to time.

²⁷ Pursuant to section 9.1(m) of the Original Loan Agreement.

the Accounts; (ii) cash flow projections in respect of the Borrower; and (iii) financial statements and other general financial information in respect of each of the Credit Parties.

76. As of today's date, the Credit Parties have only provided the Bridging Receiver with the following reporting: (i) a spreadsheet setting out the outstanding amount under the Loan Agreement (which incorrectly reflected an \$8,000,000 reduction to the outstanding balance) and providing the total amount of sales commissions earned by MI in connection with the 1 Bloor Project, but without sufficient detail or accounting information in support of such amounts; (ii) an Altus report from 2020 concerning the 181 Davenport Project, which had previously been provided to Bridging in July 2020; and (iii) the 2019 unaudited financial statements of One8One.
77. Attached hereto as **Exhibit "GG"** is a chain of correspondence between the Bridging Receiver and the Credit Parties between July 24, 2021 and September 28, 2021 wherein the Bridging Receiver, among other things, requested the documents and information described above and noted that the failure to provide such documents and information would constitute a default under the Loan Agreement. The Bridging Receiver also requested a repayment plan for the Loan. The Bridging Receiver's requests have largely been refused or ignored and no repayment plan has been provided.
78. As such, on November 2, 2021, counsel for the Bridging Receiver delivered a letter (the "**November Letter**") to the Credit Parties requesting various reporting required under the Loan Agreement (the "**Reporting**") and noted that if the Credit Parties failed to provide the Reporting by November 16, 2021, the Bridging Receiver reserved its right to declare that a default occurred under section 12.1(b) of the Original Loan Agreement and, if such

default was not remedied within the 30 day period referenced in section 12.2 of the Original Loan Agreement, to declare that an Event of Default has occurred. A copy of the November Letter is attached as **Exhibit “HH”**.

79. After the delivery of the November Letter, the Bridging Receiver has engaged with counsel to MI and 249 Ontario regarding various issues, including the issue of whether MI and 249 Ontario continue to comprise the Borrower. MI and 249 Ontario have taken the position that they are not required to deliver any Reporting because they are no longer parties to the Loan Agreement and have no obligations thereunder. The Respondents failed to provide most of the Reporting and never provided a response to the November Letter.

80. The Bridging Receiver continues to have significant concerns regarding the failure of the Respondents to provide basic financial reporting or any plan to repay the Indebtedness.

(vi) ***Alleged Cerieco Secret Guarantee***

81. The Bridging Receiver has also become aware of an alleged agreement between Cerieco Canada Corp. (“**Cerieco**”) and Coco Paving Inc., Sprott Bridging Income Fund LP (the former name of Bridging Income Fund LP, one of the Bridging investment funds that comprises the Lender), Sam M. Inc. and The One, pursuant to which Sprott Bridging Income Fund LP allegedly guaranteed a loan (the “**Cerieco Loan**”) by Cerieco to Mizrahi Commercial (The One) LP in the amount of approximately \$213 million in connection with the construction of the 1 Bloor Project (the “**Alleged Secret Guarantee**”).

82. The Bridging Receiver understands that Cerieco has filed a statement of claim (the “**Cerieco Claim**”) claiming over \$200 million in damages against, among others, Sam

Mizrahi, Jenny Coco, and certain entities related to the 1 Bloor Project in connection with the Cerieco Loan. A copy of the Cerieco Claim is attached hereto as **Exhibit “II”**.

83. The Cerieco Claim, among other things, alleges that Jenny Coco and Natasha Sharpe, on a confidential basis, effectively leveraged the balance sheet of Bridging Income Fund LP through the Alleged Secret Guarantee in order to obtain the Cerieco Loan for the 1 Bloor Project. As noted above, it appears that the 1 Bloor Project was partly owned by Jenny Coco and Natasha Sharpe during the Applicable Period. Jenny Coco and Natasha Sharpe also remain listed as directors and/or officers of certain key entities involved in the development of the 1 Bloor Project.
84. On or about April 21, 2017, Sam Mizrahi sent an email²⁸ to Jenny Coco saying “The 5% share being given to Natasha is for Bridging/Sprott putting up its balance sheet and guarantees so that we can get rid of China in the next 18 month period we have with them and that would allow us as discussed to have full 100% ownership and you and I having 47.5% each and Natasha having 5%, respectively.” The Bridging Receiver continues to investigate whether this additional ownership share was ever provided to Natasha Sharpe, in either her personal capacity or to a corporate vehicle under her control. A copy of this email is attached hereto as **Exhibit “JJ”**.
85. The basis of the damages sought in the Cerieco Claim are that Coco Paving Inc. and Bridging Income Fund LP were improperly released from the Alleged Secret Guarantee in

²⁸ As previously noted, multiple emails restored from the Backup Exchange were missing header information (i.e. does not show the sender or recipient details). The Bridging Receiver has only obtained a copy of this email that was forwarded from Jenny Coco to Natasha Sharpe on or about April 21, 2017. I have not reviewed an original copy of the email that appears to have been sent from Sam Mizrahi to Jenny Coco on or about April 21, 2017.

May 2021. Cerieco is challenging the validity of the release of the Alleged Secret Guarantee.

86. The Bridging Receiver continues to investigate this matter and the documents and information related to the Cerieco Claim and the Alleged Secret Guarantee. The Bridging Receiver has significant concerns regarding the transactions and events described herein, particularly as it relates to the relationship between the former principals of Bridging, the Credit Parties, and the 1 Bloor Project.

VII. EVENT OF DEFAULT, DEMAND LETTERS AND BIA NOTICES

87. Pursuant to the Loan Agreement, the Term (as defined in the Loan Agreement) of the Loan expired on April 30, 2022. Pursuant to section 3.4 of the Original Loan Agreement, the principal amount of the Loan, together with accrued interest, is due and payable on the expiry of the Term.
88. The Respondents failed to repay the full amount outstanding under the Loan on the expiry of the Term, contrary to section 3.4 of the Original Loan Agreement (the “**Payment Default**”). The Payment Default is continuing as at the date hereof. The Bridging Receiver has not waived the Payment Default.
89. Pursuant to section 12.1(a) of the Original Loan Agreement, an Event of Default occurs if the Borrower fails to observe or perform any term, condition, covenant, or undertaking involving the payment of money under the Loan Agreement. Pursuant to section 12.2 of the Original Loan Agreement, a default referred to under section 12.1 shall not constitute

an Event of Default unless, in the case of default in payment of money, it has continued for at least 10 days after the due date for payment.

90. On May 2, 2022 (the first business day after the expiry of the Term), counsel for the Bridging Receiver sent a letter to the Respondents (the “**Default Letter**”) confirming the existence of the Payment Default and advising that, if the Payment Default continued for at least 10 days after the due date for payment, the Payment Default would constitute an Event of Default under the Loan Agreement. A copy of the Default Letter is attached hereto as **Exhibit “KK”**.
91. Notwithstanding the Default Letter, the Respondents failed to make any payments in respect of the Indebtedness or otherwise provide the Bridging Receiver with a response regarding the Payment Default.
92. On May 12, 2022, the Bridging Receiver delivered letters (collectively, the “**Demand Letters**”) to each of the Respondents advising that the Payment Default has continued for at least 10 days after the due date for payment and therefore constitutes an Event of Default under the Loan Agreement. Pursuant to section 12.1 of the Original Loan Agreement, the Indebtedness is immediately due and payable upon the occurrence of an Event of Default. Accordingly, as set out in the Demand Letters, the Bridging Receiver demanded payment of the Indebtedness from each of the Respondents and enclosed a separate Notice of Intention to Enforce Security pursuant to section 244 of the BIA (collectively, the “**BIA Notices**”). Copies of the Demand Letters and the BIA Notices are attached hereto as **Exhibit “LL”**.

93. The 10-day notice period set out in the BIA Notices expired on May 22, 2022. As at the date hereof, the Respondents have failed to repay the Indebtedness.

VIII. NECESSITY FOR THE APPOINTMENT OF A RECEIVER

94. The appointment of the proposed Receiver over the Property of the Respondents is necessary and appropriate in the circumstances as a result of the following:
- (a) pursuant to the Loan Agreement, the Borrower agreed to permanently repay the Loan on the expiry of the Term. The Respondents have failed to make any payments in respect of the Indebtedness notwithstanding the expiry of the Term;
 - (b) as a result of the Payment Default, which constitutes an Event of Default under the Loan Agreement, the Bridging Receiver, on behalf of the Lender, is contractually entitled under the Original Loan Agreement to seek the appointment of Richter as Receiver of the Property of the Respondents;
 - (c) the 10-day notice period set out in the BIA Notices has expired;
 - (d) the Bridging Receiver does not have full disclosure regarding the financial situation of the Respondents or the use of the principal advances of approximately \$35.5 million under the Loan. The appointment of the proposed Receiver, with the benefit of the investigatory powers set out in the proposed Receivership Order, will provide the Court and the stakeholders of the Respondents with the means to investigate the use of the Loan proceeds and the financial situation of the Respondents;
 - (e) the Bridging Receiver has significant concerns regarding the events and transactions described herein involving the Respondents, certain related entities,

and the former principals of Bridging. The Bridging Receiver does not have full and complete information regarding these events and transactions. The appointment of the Receiver over the Respondents will assist in advancing the investigation into these matters and the Bridging Receiver's broader investigation into the affairs of Bridging; and


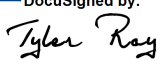
- (f) based on the limited reporting delivered to the Bridging Receiver and the Agent by the Respondents, it does not appear that the Respondents have assets of any meaningful value. The appointment of the proposed Receiver over the Property of the Respondents is necessary in the circumstances to determine if there are any assets available to satisfy the claims of the Lender and the other stakeholders of the Respondents and, if appropriate, to realize upon any such assets for the benefit of all stakeholders.

- 95. Richter has consented to act as Receiver, subject to obtaining a Receivership Order on terms that are satisfactory to Richter. A copy of Richter's consent to act as Receiver is attached as **Exhibit "MM"**.

IX. CONCLUSION

- 96. For the reasons set out above, the Bridging Receiver seeks the appointment of Richter as Receiver of the Respondents to protect the interests of the Lender and the other stakeholders of the Respondents on the terms of the draft Receivership Order located at Tab 3 of its Application Record.

97. This affidavit is sworn in support of the within application and for no other or improper purpose.

| | | | |
|--|--|--|--|
| <p>SWORN remotely via videoconference, by TYLER RAY stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 8th day of August 2022, in accordance with <i>O. Reg 431/20, Administering Oath or Declaration Remotely.</i></p>  | | | <p>DocuSigned by:  7C3ED508CD4B44B...</p> |
| <p>Commissioner for Taking Affidavits</p> <p>Adam Driedger (LSO# 77296F)</p> | | | <p>TYLER RAY</p> |

This is Exhibit “A” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

DSC

V.

BRIDGING FINANCE INC
et al

① I am satisfied that the order sought on this application is in the best interests of the investors and will further the due administration of Ontario Securities Law. The Motion is therefore granted on the terms of the attached Orders

Hainey J.

April 30, 2021

Court File No. CV-21-00661458-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

| | | |
|----------------|---|--------------------|
| THE HONOURABLE |) | FRIDAY, THE 30th |
| |) | |
| JUSTICE HAINEY |) | DAY OF APRIL, 2021 |

ONTARIO SECURITIES COMMISSION

Applicant

- and -

BRIDGING FINANCE INC., BRIDGING INCOME FUND LP, BRIDGING MID-MARKET DEBT FUND LP, SB FUND GP INC., BRIDGING FINANCE GP INC., BRIDGING INCOME RSP FUND, BRIDGING MID-MARKET DEBT RSP FUND, BRIDGING PRIVATE DEBT INSTITUTIONAL LP, BRIDGING REAL ESTATE LENDING FUND LP, BRIDGING SMA 1 LP, BRIDGING INFRASTRUCTURE FUND LP, BRIDGING MJ GP INC., BRIDGING INDIGENOUS IMPACT FUND, and BRIDGING FERN ALTERNATIVE CREDIT FUND

Respondents

Application under Section 129 of the *Securities Act*, R.S.O. 1990, c. S. 5, as amended

ORDER
(Appointment of Receiver)

THIS APPLICATION made without notice by the Ontario Securities Commission (the “**Applicant**” or the “**Commission**”) for an Order pursuant to section 129 of the *Securities Act* (Ontario), R.S.O. 1990, c. S. 5, as amended (the “**Securities Act**”), appointing PricewaterhouseCoopers Inc. (“**PwC**”) as receiver and manager (in such capacities, the “**Receiver**”), without security, of all of the assets, undertakings and properties of each of Bridging Finance Inc., Bridging Income Fund LP, Bridging Mid-Market Debt Fund LP, SB Fund GP Inc., Bridging Finance GP Inc., Bridging Income RSP Fund, Bridging Mid-Market Debt RSP Fund, Bridging Private Debt Institutional LP, Bridging Real Estate Lending Fund LP, Bridging

SMA 1 LP, Bridging Infrastructure Fund LP, Bridging MJ GP Inc., Bridging Indigenous Impact Fund, and Bridging Fern Alternative Credit Fund (collectively, the “**Respondents**”), was heard this day by Zoom videoconference due to the COVID-19 pandemic.

ON READING the affidavit of Daniel Tourangeau sworn April 29, 2021 and the Exhibits thereto (the “**Tourangeau Affidavit**”), the first supplemental affidavit of Daniel Tourangeau sworn April 30, 2021 and the Exhibits thereto, and the affidavit of Sandy McMurrich sworn April 29, 2021 and the Exhibits thereto, and on hearing the submissions of counsel for Applicant and on reading the consent of PwC to act as the Receiver,

APPOINTMENT OF RECEIVER

1. **THIS COURT ORDERS** that, pursuant to section 129 of the Securities Act, PwC is hereby appointed Receiver, without security, of all of the present and future assets, undertakings and properties of each of the Respondents, including all of the assets held in trust or required to be held in trust by or for each of the Respondents or by their lawyers, agents, or any other Person (as defined below), and all proceeds thereof (collectively, the “**Property**”). Without limiting the foregoing, “**Property**” shall include any present or future assets or funds held by Odyssey Trust Company as trustee for the benefit of Bridging Income RSP Fund, Bridging Mid-Market Debt RSP Fund, Bridging Indigenous Impact Fund, and Bridging Fern Alternative Credit Fund, and all proceeds thereof. In accordance with section 129(3) of the Securities Act, the period of the Receiver’s appointment shall not exceed 15 days from the date of this Order unless otherwise ordered by the Court.

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

- (b) to receive, preserve, and protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of each of the Respondents, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the businesses, or cease to perform any contracts of each of the Respondents;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of each of the Respondents, or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to each of the Respondents and to exercise all remedies of each of the Respondents in collecting such monies, including, without limitation, to enforce any security held by each of the Respondents;
- (g) to settle, extend or compromise any indebtedness owing to each of the Respondents;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of each the Respondents, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to each

of the Respondents, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
 - (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business as follows:
 - (i) without the approval of this Court, any exchange-traded securities or fixed income non-exchange traded securities held by any of the Respondents;
 - (ii) without the approval of this Court, any other Property of the Respondents in which consideration for the transaction does not exceed \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$2,000,000; and
 - (iii) with the approval of this Court in respect of any transaction in respect of the Property in which the consideration for the transaction or the aggregate consideration for all such transactions exceeds \$250,000 and \$2,000,000, respectively;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (iv) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

- (l) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver considers advisable;
- (m) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (n) to apply for any permits, licences, approvals or permissions as may be required by any governmental or regulatory authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of any of the Respondents;
- (o) to enter into agreements with any trustee in bankruptcy appointed in respect of any of the Respondents including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any of the Respondents;
- (p) to exercise any shareholder, partnership, joint venture or other rights which each of the Respondents may have;
- (q) to examine under oath any person the Receiver reasonably considers to have knowledge of the affairs of the Respondents, including, without limitation, any present or former director, officer, employee, or other person registered or previously registered with the Commission or subject to or formerly subject to the jurisdiction of the Commission or any other regulatory body respecting or having jurisdiction over the Property and the affairs of any of the Respondents;
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (s) in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other

Persons (as defined below), including the Respondents, and without interference from any other Person.

3. **THIS COURT ORDERS** that the Receiver may engage Thornton Grout Finnigan LLP as its legal counsel, notwithstanding that Thornton Grout Finnigan LLP has had an advisory role with respect to the Commission in connection with this proceeding.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Respondents; (ii) all of their current and former directors, officers, employees, partners, unit holders, persons registered or previously registered or subject or formerly subject to the jurisdiction of the Commission or any other regulatory body, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall forthwith deliver all such Property to the Receiver upon the Receiver’s request.

5. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not required, to take possession and control of any monies, funds, deposit instruments, securities, or other Property held by or in the name of any of the Respondents, or by any third party for the benefit of any of the Respondents.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Respondents, or the Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities

relating thereto, provided, however, that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure, provided that, for greater certainty, law firm trust ledgers requested by the Receiver pursuant to this Order are not subject to solicitor-client privilege and shall be produced to the Receiver.

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

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

NO ISSUANCE OR REDEMPTION OF UNITS

9. **THIS COURT ORDERS** that none of the Respondents shall: (i) issue any new units in any of the Respondents or any of the partnerships or investment funds controlled by any of the Respondents; or (ii) redeem any of the existing units in any of the Respondents or any of the partnerships or investment funds controlled by any of the Respondents.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY

11. **THIS COURT ORDERS** that no Proceeding against or in respect of the Respondents or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Respondents or the Property are hereby stayed and suspended pending further Order of this Court, provided that nothing herein shall prevent the commencement or continuation of any investigation or proceedings in respect of the Respondents, or any of them, by or before any regulatory authority, including, without limitation, the Commission and its enforcement staff.

NO EXERCISE OF RIGHTS OR REMEDIES

12. **THIS COURT ORDERS** that all rights and remedies against the Respondents, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended (the “**BIA**”), and further provided that nothing in this paragraph shall: (i) empower the Receiver or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on; (ii) exempt the Receiver or the Respondents from compliance with statutory or regulatory provisions relating to health, safety or

the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

RECEIVER TO HOLD FUNDS

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

provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

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

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated,

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

LIMITATION ON THE RECEIVER’S LIABILITY

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

RECEIVER’S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

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

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

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

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

INTERCOMPANY LENDING

27. **THIS COURT ORDERS** that the Receiver may cause any of the Respondents to make any payment to or on behalf of, or incur any obligation on behalf of, or discharge any obligation of, any of the other Respondents, or otherwise transfer value to, or for the benefit of, any of the other Respondents for the purpose of funding the Respondents' ongoing activities and the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures.

28. **THIS COURT ORDERS** that, to the extent any of the Respondents (in each case, an "Intercompany Lender") after the date of this Order makes any payment to or on behalf of, or incurs any obligation on behalf of, or discharges any obligation of, any other of the Respondents or otherwise transfers value to, or for the benefit of, any other of the Respondents (in each case, the "Borrowing Respondent"), such Intercompany Lender is hereby granted a charge (each, an "Intercompany Charge") on all of the Property of the Borrowing Respondent in the amount of such payment, obligation, or transfer of value. The Receiver shall take into account the amount of each Intercompany Charge granted by and to each Respondent to determine the net amount secured by each Intercompany Charge.

29. **THIS COURT ORDERS** that each Intercompany Charge shall rank subordinate to the Receiver's Charge and the Receiver's Borrowings Charge, but in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person in respect of the Property of the applicable Borrowing Respondent. For greater certainty, each Intercompany Charge shall rank *pari passu* with any other Intercompany Charge, as applicable.

PRIORITY OF CHARGES CREATED BY THIS ORDER

30. **THIS COURT ORDERS** that the priorities of the Receiver's Charge, the Receiver's Borrowings Charge, and the Intercompany Charges, as among them, shall be as follows:

- (a) First – Receiver’s Charge;
- (b) Second – Receiver’s Borrowings Charge; and
- (c) Third – Intercompany Charge.

SEALING

31. **THIS COURT ORDERS** that the Commission is authorized to redact any Personal Information (as defined below) contained in the Exhibits to the Tourangeau Affidavit (as so redacted, the “**Redacted Exhibits**”) and file with the Court the Tourangeau Affidavit with the Redacted Exhibits. “Personal Information” means information about an identifiable individual, including, but not limited to, the following: (i) social insurance number; (ii) driver’s license number; (iii) passport number; (iv) license plate number; (v) health plan number; (vi) date of birth; (vii) address (not including city or province); (viii) telephone number; and (ix) bank or trading account number (including a joint account). For greater certainty, “Personal Information” does not include an individual’s name or the title, contact information, or designation of an individual in a business, professional, or official capacity.

32. **THIS COURT ORDERS** that the Commission shall file with the Court the Tourangeau Affidavit without Exhibits pending filing of the Redacted Exhibits with the Court. The Commission shall file the Redacted Exhibits with the Court as soon as reasonably practicable.

33. **THIS COURT ORDERS** that the Commission is authorized to deliver the Tourangeau Affidavit containing the unredacted Exhibits to each of the following parties and its respective lawyers: the Respondents, the directors of the Respondent Bridging Finance Inc., the shareholders of the Respondent Bridging Finance Inc. and David Sharpe (each such party, a “**Recipient**”). Each Recipient shall keep the unredacted Exhibits to the Tourangeau Affidavit confidential and shall not disclose the unredacted Exhibits to the Tourangeau Affidavit to any other party without further order of the Court.

34. **THIS COURT ORDERS** that the unredacted Exhibits to the Tourangeau Affidavit shall be sealed, kept confidential, and shall not form part of the public record pending further Order of the Court.

SERVICE AND NOTICE

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

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

GENERAL

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

38. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Respondents, or any of them.

39. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or outside of Canada to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this

Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

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

42. **THIS COURT ORDERS** that the Receiver, its counsel and counsel for the Applicant may serve or distribute this Order, or any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the applicable Respondent's creditors or other interested parties and their advisors (if any). For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

43. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.



SCHEDULE "A"
RECEIVER'S CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that PricewaterhouseCoopers Inc., the receiver and manager (in such capacities, the "**Receiver**") of the assets, undertakings and properties of each of Bridging Finance Inc., Bridging Income Fund LP, Bridging Mid-Market Debt Fund LP, SB Fund GP Inc., Bridging Finance GP Inc., Bridging Income RSP Fund, Bridging Mid-Market Debt RSP Fund, Bridging Private Debt Institutional LP, Bridging Real Estate Lending Fund LP, Bridging SMA 1 LP, Bridging Infrastructure Fund LP, Bridging MJ GP Inc., Bridging Indigenous Impact Fund, and Bridging Fern Alternative Credit Fund (collectively, the "**Respondents**") acquired for, or used in relation to a business carried on by the Respondents, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the [DAY] day of April, 2021 (the "**Appointment Order**") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Appointment Order.

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

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

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

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

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

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

DATED the ____ day of _____, 20__.

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

Per: _____

Name:

Title:

Application under Section 129 of the *Securities Act*, R.S.O. 1990, c. S. 5, as amended

ONTARIO SECURITIES COMMISSION

- and -

BRIDGING FINANCE INC. *et al*

Applicant

Respondents

Court File No. CV-21-00661458-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto, Ontario

ORDER
(Appointment of Receiver)

Ontario Securities Commission
20 Queen Street West
20th Floor
Toronto, ON
M5H 3S8

Carlo Rossi (LSO# 59054T)
Email: CROSSI@osc.gov.on.ca
Tel: 416.204.8987

Counsel for the Ontario Securities Commission

OSC

v.

BRIDGINS FINANCE INC.
et al.

① I am satisfied that this
Motion made ex parte
should be granted on the
terms of the attached
Additional Appointment
Order.

Hanley J.

May 3, 2021

Court File No. CV-21-00661458-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

| | | |
|----------------|---|------------------|
| THE HONOURABLE |) | MONDAY, THE 3rd |
| |) | |
| JUSTICE HAINEY |) | DAY OF MAY, 2021 |

ONTARIO SECURITIES COMMISSION

Applicant

- and -

BRIDGING FINANCE INC., BRIDGING INCOME FUND LP, BRIDGING MID-MARKET DEBT FUND LP, SB FUND GP INC., BRIDGING FINANCE GP INC., BRIDGING INCOME RSP FUND, BRIDGING MID-MARKET DEBT RSP FUND, BRIDGING PRIVATE DEBT INSTITUTIONAL LP, BRIDGING REAL ESTATE LENDING FUND LP, BRIDGING SMA 1 LP, BRIDGING INFRASTRUCTURE FUND LP, BRIDGING MJ GP INC., BRIDGING INDIGENOUS IMPACT FUND, and BRIDGING FERN ALTERNATIVE CREDIT FUND

Respondents

IN THE MATTER OF AN APPLICATION UNDER SECTION 129 OF THE
 SECURITIES ACT (ONTARIO), R.S.O. 1990, c. S. 5, AS AMENDED

ADDITIONAL APPOINTMENT ORDER
(Appointment of Receiver)

THIS MOTION made without notice by PricewaterhouseCoopers Inc. ("PwC"), in its capacity as receiver and manager of the Respondents, for an Order pursuant to section 101 of the *Courts of Justice Act* (Ontario), R.S.O. 1990, c. C. 43, among other things, appointing PwC as receiver and manager (in such capacities, the "**Receiver**"). without security, of all of the assets, undertakings and properties of each of Bridging SMA 2 LP, Bridging SMA 2 GP Inc. and

Bridging Private Debt Institutional RSP Fund (collectively, the “**Additional Bridging Entities**”), was heard this day by Zoom videoconference due to the COVID-19 pandemic.

ON READING the First Report of the Receiver dated May 3, 2021 (the “**First Report**”), and the appendices thereto, and on hearing the submissions of counsel for Receiver,

APPOINTMENT OF RECEIVER

1. **THIS COURT ORDERS** that, pursuant to section 101 of the *Courts of Justice Act* (Ontario), R.S.O. 1990, c. C. 43, PwC is hereby appointed Receiver, without security, of all of the present and future assets, undertakings, and properties of each of the Additional Bridging Entities, including all of the assets held in trust or required to be held in trust by or for each of the Additional Bridging Entities or by their lawyers, agents, or any other person or entity, and all proceeds thereof (collectively, the “**Property**”) all in accordance with the provisions of the Order (the “**Appointment Order**”) of the Honourable Justice Hainey of the Ontario Superior Court of Justice (Commercial List) dated April 30, 2021 in Court File No. CV-21-00661458-00CL (the “**Receivership Proceeding**”). Without limiting the foregoing, “Property” shall include any present or future assets or funds held by Odyssey Trust Company as trustee for the benefit of Bridging Private Debt Institutional RSP Fund and all proceeds thereof.

2. **THIS COURT ORDERS** that, in accordance with the Appointment Order, the period of the Receiver’s appointment in respect of the Property of the Additional Bridging Entities shall not exceed 15 days from the date of the Appointment Order unless otherwise ordered by the Court.

3. **THIS COURT ORDERS** that the definition of “Respondents” in the Appointment Order is hereby amended to include the Additional Bridging Entities.

4. **THIS COURT ORDERS** that the style of cause and the title of the Receivership Proceeding is hereby amended to include the Additional Bridging Entities, substantially in the form attached hereto as Schedule “A”.

GENERAL

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

6. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Additional Bridging Entities, or any of them.

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

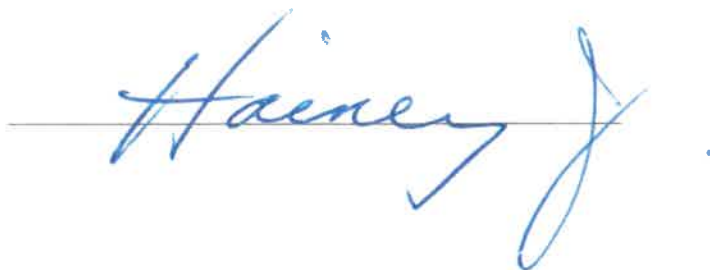
8. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is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

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

10. **THIS COURT ORDERS** that the Receiver, its counsel and counsel for the Applicant may serve or distribute this Order, or any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the applicable Respondent's creditors or other interested parties and their advisors (if any). For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the

meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

11. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

A handwritten signature in blue ink, appearing to read "Haines", is written over a horizontal line. The signature is stylized with a large, looped final stroke.

SCHEDULE "A"
AMENDED STYLE OF CAUSE AND TITLE OF PROCEEDING

Court File No. CV-21-00661458-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

ONTARIO SECURITIES COMMISSION

Applicant

- and -

BRIDGING FINANCE INC., BRIDGING INCOME FUND LP, BRIDGING MID-MARKET DEBT FUND LP, SB FUND GP INC., BRIDGING FINANCE GP INC., BRIDGING INCOME RSP FUND, BRIDGING MID-MARKET DEBT RSP FUND, BRIDGING PRIVATE DEBT INSTITUTIONAL LP, BRIDGING REAL ESTATE LENDING FUND LP, BRIDGING SMA 1 LP, BRIDGING INFRASTRUCTURE FUND LP, BRIDGING MJ GP INC., BRIDGING INDIGENOUS IMPACT FUND, BRIDGING FERN ALTERNATIVE CREDIT FUND, BRIDGING SMA 2 LP, BRIDGING SMA 2 GP INC., and BRIDGING PRIVATE DEBT INSTITUTIONAL RSP FUND

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 129 OF THE
SECURITIES ACT (ONTARIO), R.S.O. 1990, c. S. 5, AS AMENDED**

ONTARIO SECURITIES COMMISSION

- and -

BRIDGING FINANCE INC. *et al*

Applicant

Respondents

Court File No. CV-21-00661458-00CL

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

Proceedings commenced at Toronto, Ontario

ADDITIONAL APPOINTMENT ORDER

Thornton Groat Finnigan LLP
3200 – 100 Wellington Street West
Toronto, ON M5K 1K7

John L. Finnigan (LSO# 24040L)
Email: jffinnigan@tgf.ca

Grant B. Moffat (LSO# 32380L)
Email: gmoffat@tgf.ca

Adam Driedger (LSO# 77296F)
Email: adriedger@tgf.ca

Tel: 416-304-1616
Fax: 416-304-1313

Lawyers for the Receiver

OSC

v.

BRIDGING FINANCE INC
et al.

① I am satisfied that this motion, which is not opposed, should be granted on the terms of the attached Continuation Order.

Hainey J.

May 14, 2021

Court File No. CV-21-00661458-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE

)

FRIDAY, THE 14th

JUSTICE HAINEY

)

DAY OF MAY, 2021

)

ONTARIO SECURITIES COMMISSION

Applicant

- and -

BRIDGING FINANCE INC., BRIDGING INCOME FUND LP, BRIDGING MID-MARKET DEBT FUND LP, SB FUND GP INC., BRIDGING FINANCE GP INC., BRIDGING INCOME RSP FUND, BRIDGING MID-MARKET DEBT RSP FUND, BRIDGING PRIVATE DEBT INSTITUTIONAL LP, BRIDGING REAL ESTATE LENDING FUND LP, BRIDGING SMA 1 LP, BRIDGING INFRASTRUCTURE FUND LP, BRIDGING MJ GP INC., BRIDGING INDIGENOUS IMPACT FUND, BRIDGING FERN ALTERNATIVE CREDIT FUND, BRIDGING SMA 2 LP, BRIDGING SMA 2 GP INC., and BRIDGING PRIVATE DEBT INSTITUTIONAL RSP FUND

Respondents

IN THE MATTER OF AN APPLICATION UNDER SECTION 129 OF THE
 SECURITIES ACT (ONTARIO), R.S.O. 1990, c. S. 5, AS AMENDED

CONTINUATION ORDER

THIS MOTION made by the Ontario Securities Commission (the “**Applicant**” or the “**Commission**”) for an Order pursuant to section 129(4) of the *Securities Act* (Ontario), R.S.O. 1990, c. S. 5, as amended, continuing and extending the period of appointment of PricewaterhouseCoopers Inc. (“**PwC**”) as receiver and manager (in such capacities, the “**Receiver**”), without security, of all of the assets, undertakings, and properties (collectively, the

“**Property**”) of each of Bridging Finance Inc., Bridging Income Fund LP, Bridging Mid-Market Debt Fund LP, SB Fund GP Inc., Bridging Finance GP Inc., Bridging Income RSP Fund, Bridging Mid-Market Debt RSP Fund, Bridging Private Debt Institutional LP, Bridging Real Estate Lending Fund LP, Bridging SMA 1 LP, Bridging Infrastructure Fund LP, Bridging MJ GP Inc., Bridging Indigenous Impact Fund, Bridging Fern Alternative Credit Fund, Bridging SMA 2 LP, Bridging SMA 2 GP Inc., and Bridging Private Debt Institutional RSP Fund (collectively, the “**Respondents**”), until further Order of the Court all in accordance with the provisions of the Order (the “**Appointment Order**”) of the Honourable Justice Hainey dated April 30, 2021, as amended by the Order (the “**Additional Appointment Order**”) of the Honourable Justice Hainey dated May 3, 2021, was heard this day by Zoom videoconference due to the COVID-19 pandemic.

ON READING the affidavit of Daniel Tourangeau sworn April 29, 2021 and the Exhibits thereto, the first supplemental affidavit of Daniel Tourangeau sworn April 30, 2021 and the Exhibits thereto, the affidavit of Sandy McMurrich sworn April 29, 2021 and the Exhibits thereto, the First Report of the Receiver dated May 3, 2021, and the Second Report of the Receiver dated May 12, 2021 (the “**Second Report**”) and on hearing the submissions of counsel for Applicant, counsel for the Receiver, and those other parties listed on the counsel slip, no one else appearing although duly served as appears from the Affidavit of Service of Nicole Armanious sworn May 13, 2021, and on reading the consent of PwC to act as the Receiver.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Applicant’s notice of motion and motion record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

CONTINUATION OF APPOINTMENT

2. **THIS COURT ORDERS** that, pursuant to section 129(4) of the *Securities Act* (Ontario), R.S.O. 1990, c. S. 5, as amended, the Receiver’s appointment in respect of the Property of the Respondents shall continue until further Order of the Court in accordance with the provisions of the Appointment Order, as amended by the Additional Appointment Order.

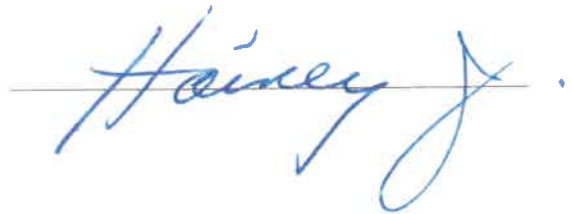
APPROVAL OF ACTIVITIES OF THE RECEIVER

3. **THIS COURT ORDERS** that the Second Report, and the activities, decisions, and conduct of the Receiver as set out therein, are hereby authorized and approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

GENERAL

4. **THIS COURT ORDERS** that the Receiver, its counsel and counsel for the Applicant may serve or distribute this Order, or any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the applicable Respondent's creditors or other interested parties and their advisors (if any). For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

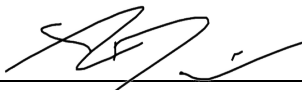
5. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.



Application under Section 129 of the *Securities Act*, R.S.O. 1990, c. S. 5, as amended

| ONTARIO SECURITIES COMMISSION | | - and - | BRIDGING FINANCE INC. <i>et al</i> |
|-------------------------------|--|---|------------------------------------|
| Applicant | | | Respondents |
| | | Court File No. CV-21-00661458-00CL | |
| | | ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) | |
| | | Proceedings commenced at Toronto, Ontario | |
| | | CONTINUATION ORDER | |
| | | Ontario Securities Commission 20 Queen Street West – 20 th Floor Toronto, ON M5H 3S8 | |
| | | Carlo Rossi (LSO# 59054T) Email: crossi@osc.gov.on.ca Tel: 416.204.8987 | |
| | | Adam Gottfried (LSO# 67044K) Email: agottfried@osc.gov.on.ca Tel: 416.263.7680 | |
| | | Counsel for the Ontario Securities Commission | |

This is Exhibit “B” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER



Ministry of Government and
Consumer Services

Profile Report

NORTHERN CITADEL CAPITAL INC. as of August 08, 2022

| | |
|-----------------------------------|---|
| Act | Business Corporations Act |
| Type | Ontario Business Corporation |
| Name | NORTHERN CITADEL CAPITAL INC. |
| Ontario Corporation Number (OCN) | 1860705 |
| Governing Jurisdiction | Canada - Ontario |
| Status | Active |
| Date of Incorporation | October 12, 2011 |
| Registered or Head Office Address | 189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Director(s)

| | |
|-----------------------------|----|
| Minimum Number of Directors | 1 |
| Maximum Number of Directors | 10 |

| | |
|---------------------|---|
| Name | Amanda BROWN |
| Address for Service | 189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3 |
| Resident Canadian | Yes |
| Date Began | May 11, 2022 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Officer(s)

Name

Position

Address for Service

Date Began

Sam MIZRAHI

President

189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

October 12, 2011

Name

Position

Address for Service

Date Began

Sam MIZRAHI

Secretary

189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

October 12, 2011

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Corporate Name History

Name

Effective Date

NORTHERN CITADEL CAPITAL INC.

October 12, 2011

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

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V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

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V. Quintanilla W.

Director/Registrar

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Document List

| Filing Name | Effective Date |
|--|------------------|
| CIA - Notice of Change PAF: Jeffrey HALMAN | May 15, 2022 |
| CIA - Initial Return PAF: JEFFREY A. HALMAN - OTHER | June 15, 2012 |
| BCA - Articles of Incorporation | October 12, 2011 |

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V. Quintanilla W.

Director/Registrar

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Ministry of Government and
Consumer Services

Profile Report

ONE8ONE DAVENPORT INC. as of August 08, 2022

| | |
|-----------------------------------|--|
| Act | Business Corporations Act |
| Type | Ontario Business Corporation |
| Name | ONE8ONE DAVENPORT INC. |
| Ontario Corporation Number (OCN) | 1927751 |
| Governing Jurisdiction | Canada - Ontario |
| Status | Active |
| Date of Amalgamation | January 01, 2015 |
| Registered or Head Office Address | 125 Hazelton Avenue, Toronto, Ontario, Canada, M5R 2E4 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Active Director(s)

| | |
|-----------------------------|----|
| Minimum Number of Directors | 1 |
| Maximum Number of Directors | 10 |

| | |
|---------------------|--|
| Name | Amanda BROWN |
| Address for Service | 125 Hazelton Avenue, Toronto, Ontario, Canada, M5R 2E4 |
| Resident Canadian | No |
| Date Began | May 11, 2022 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Active Officer(s)

Name

Position

Address for Service

Date Began

Sam MIZRAHI

President

126 Hazelton Avenue, Toronto, Ontario, Canada, M5R 2E5

January 01, 2015

Name

Position

Address for Service

Date Began

Sam MIZRAHI

Secretary

126 Hazelton Avenue, Toronto, Ontario, Canada, M5R 2E5

January 01, 2015

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Corporate Name History

Name

Effective Date

ONE8ONE DAVENPORT INC.

January 01, 2015

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V. Quintanilla W.

Director/Registrar

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Amalgamating Corporations

Corporation Name
Ontario Corporation Number

ONE8ONE DAVENPORT INC.
1912202

Corporation Name
Ontario Corporation Number

MIZRAHI SOARING DEVELOPMENTS INC.
1822736

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Director/Registrar

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Active Business Names

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V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

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V. Quintanilla W.

Director/Registrar

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Document List

| Filing Name | Effective Date |
|---|------------------|
| CIA - Notice of Change PAF: Jeffrey HALMAN | May 15, 2022 |
| Annual Return - 2019 PAF: REMY DEL BEL - OTHER | October 20, 2020 |
| Annual Return - 2017 PAF: REMY DELBELI - OTHER | January 23, 2019 |
| Annual Return - 2016 PAF: SAM MIZRAHI - DIRECTOR | July 10, 2017 |
| Annual Return - 2014 PAF: REMY DERBER - OTHER | August 10, 2015 |
| CIA - Initial Return PAF: MARTIN HOUSER - OTHER | January 19, 2015 |
| BCA - Articles of Amalgamation | January 01, 2015 |

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Ministry of Government and
Consumer Services

Profile Report

181 DAVENPORT RETAIL INC. as of August 08, 2022

| | |
|-----------------------------------|--|
| Act | Business Corporations Act |
| Type | Ontario Business Corporation |
| Name | 181 DAVENPORT RETAIL INC. |
| Ontario Corporation Number (OCN) | 2486749 |
| Governing Jurisdiction | Canada - Ontario |
| Status | Active |
| Date of Incorporation | October 13, 2015 |
| Registered or Head Office Address | 125 Hazelton Avenue, Toronto, Ontario, Canada, M5R 2E4 |

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V. Quintanilla W.

Director/Registrar

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Active Director(s)

| | |
|-----------------------------|----|
| Minimum Number of Directors | 1 |
| Maximum Number of Directors | 10 |

| | |
|---------------------|--|
| Name | Amanda BROWN |
| Address for Service | 125 Hazelton Avenue, Toronto, Ontario, Canada, M5R 2E4 |
| Resident Canadian | Yes |
| Date Began | May 11, 2022 |

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V. Quintanilla W.

Director/Registrar

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Active Officer(s)

Name

Position

Address for Service

Date Began

Sam MIZRAHI

President

189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

October 13, 2015

Name

Position

Address for Service

Date Began

Sam MIZRAHI

Secretary

189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

October 13, 2015

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Corporate Name History

Name

181 DAVENPORT RETAIL INC.

Effective Date

October 13, 2015

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Active Business Names

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Expired or Cancelled Business Names

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Document List

| Filing Name | Effective Date |
|---|------------------|
| CIA - Notice of Change PAF: Jeffrey HALMAN | May 15, 2022 |
| Annual Return - 2020 PAF: SAM MIZRAHI - DIRECTOR | April 04, 2021 |
| Annual Return - 2019 PAF: SAM MIZRAHI - DIRECTOR | July 12, 2020 |
| Annual Return - 2019 PAF: SAM MIZRAHI - DIRECTOR | May 10, 2020 |
| Annual Return - 2018 PAF: SAM MIZRAHI - OFFICER | April 28, 2019 |
| Annual Return - 2017 PAF: SAM MIZRAHI - OFFICER | April 28, 2019 |
| Annual Return - 2016 PAF: SAM MIZRAHI - DIRECTOR | April 28, 2019 |
| Annual Return - 2015 PAF: SAM MIZRAHI - DIRECTOR | April 28, 2019 |
| CIA - Initial Return PAF: MATI PAJO - OTHER | October 23, 2015 |
| BCA - Articles of Incorporation | October 13, 2015 |

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This is Exhibit “C” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

GENERAL SECURITY AGREEMENT

THIS AGREEMENT made as of the 17th day of December, 2014.

B E T W E E N:

**Northern Citadel Capital Inc.
Mizrahi Soaring Developments Inc.
One8One Davenport Inc.**

(hereinafter collectively called the “**Debtor**”)

and

**Bridging Finance Inc., as agent for
Sprott Bridging Income Fund LP**

(hereinafter called the “**Secured Party**”)

In consideration of the sum of One Dollar (\$1.00) now paid to it by the Secured Party, receipt of which is hereby acknowledged, and to secure the due payment and performance of all Obligations, the Debtor hereby agrees with the Secured Party and provides as follows:

ARTICLE 1 SECURITY

1.1 Charge

Subject to the exceptions set forth in Section 1.2, the Debtor hereby:

- (a) grants, sells, assigns, conveys, transfers, mortgages, pledges and charges, as and by way of fixed and specific mortgage, pledge and charge to and in favour of the Secured Party, and grants to the Secured Party a security interest in, all personal property of every nature and kind whatsoever and wheresoever situate now or at any time and from time to time owned by the Debtor, beneficially or otherwise, or in which or in respect of which the Debtor has any interest or rights of any kind, including, without limiting the generality of the foregoing, the following:
 - (i) All inventory of whatsoever kind and wheresoever situate now owned or hereafter acquired by the Debtor including without limiting the generality of the foregoing, goods for sale or lease or that have been leased; goods furnished or to be furnished under a contract of service; goods which are raw materials, work in process or materials used or consumed in a business or profession of the Debtor; goods used or procured for packing; finished goods; industrial growing crops, oil, gas and other minerals to be extracted; timber to be cut; and the young of animals after conception (“**Inventory**”);
 - (ii) All book accounts and book debts and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit, and advices of credit, which are now due, owing or accruing or growing due to or owned by or which may hereafter

become due, owing, accruing or growing due to or owned by the Debtor including but not limited to claims against the Crown and claims under insurance policies (“**Accounts**”);

- (iii) All machinery, equipment, tools, apparatus, plants, fixtures, furniture, vehicles, goods and other tangible personal property of whatsoever nature and kind, now owned or hereafter acquired by the Debtor other than Inventory (“**Equipment**”);
- (iv) All chattel paper now owned or hereafter acquired by the Debtor (“**Chattel Paper**”);
- (v) All warehouse receipts, bills of lading and other documents of title, whether negotiable or otherwise, now owned or hereafter acquired by the Debtor (“**Documents of Title**”);
- (vi) All present and future bills, notes and cheques (as such are defined pursuant to the *Bills of Exchange Act* (Canada)), and all other writings that evidence a right to the payment of money and that are of a type that in the ordinary course of business are transferred by delivery without any necessary endorsement or assignment (“**Instruments**”);
- (vii) All deeds, documents, writings, papers, books of accounts and other books evidencing or relating to Accounts, Chattel Paper, Instruments or Documents of Title or by which such are or may hereafter be secured, evidenced, acknowledged or made payable; and all contracts, securities, instruments and other rights and benefits in respect thereof;
- (viii) All present and future securities held by the Debtor or shares, options, rights, warrants, joint venture interests, interests in limited partnerships, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of the Debtor in property or in an enterprise or which constitute evidence of an obligation of an issuer,
 - (A) that are represented by security certificates in bearer form or registered form, or the transfer of which may be registered on books maintained for that purpose by or on behalf of the issuer,
 - (B) that are one of a class or series, or by their terms are divisible into a class or series, of shares, participations, interests or obligations, and
 - (C) that,
 - (i) are, or are of a type, dealt in or traded on securities exchanges or securities markets, or
 - (ii) are a medium for investment and by their terms expressly provides that it is a security for the purposes of the *Securities Transfer Act* (Ontario), 2006,

and includes: (a) shares or similar equity interests issued by a corporation, business trust or similar entity; (b) general or limited partnership interests or

other equivalents (regardless of how designated) of or in a partnership or limited partnership; and (c) and all substitutions therefor and dividends and income derived therefrom and all rights in respect thereof ("**Securities**");

- (ix) All present and after-acquired intangible property (save and except for Accounts) wherever situate and now or hereafter owned by the Debtor including, without limitation, all contractual rights, licenses, goodwill, patents, trademarks, tradenames, copyrights, other industrial designs and other industrial or intellectual property and undertaking of the Debtor and all other choses in action of the Debtor of every kind which now are, or which may at any time hereafter be, due or owing to or owned by the Debtor and all other intangible property of the Debtor which is not Accounts, Inventory, Chattel Paper, Documents of Title, Instruments, Money or Securities ("**Intangibles**");
- (x) All present and future money of the Debtor, whether authorized or adopted by the Parliament of Canada as part of its currency or any foreign government as part of its currency ("**Money**");
- (xi) All or any part of any present or future interest of the Debtor in present and after acquired investment property, including all Securities, Securities Accounts and Futures Accounts, all of the present and future security entitlements of the Debtor as an entitlement holder of such security entitlements, all of the present and future futures contracts of the Debtor as a futures customer in respect of such futures contracts, and all proceeds of any such property, where "**Futures Accounts**" means all of the present or future futures accounts maintained for the Debtor by a futures intermediary, including all futures contracts carried in such futures accounts and the agreements between the Borrower and the futures intermediary governing such futures accounts, and "**Securities Account**" means all of the present or future securities accounts maintained for the Debtor by a securities intermediary, including all of the financial assets credited to such securities accounts, all related securities entitlements and the agreements between the Debtor and the securities intermediary governing such securities accounts ("**Investment Property**");
- (xii) Any property in any form (including fixtures) derived directly or indirectly from any dealings with any property herein described (including all products and cash and non cash proceeds thereof); indemnification or compensation for any such property lost, destroyed, damaged or lawfully or unlawfully taken or injuriously affected; all increases, additions and accessions thereto and substitutions and replacements thereof;
- (xiii) All proceeds derived from the property, assets and undertaking of the Debtor referred to in this Section 1.1(a) including, without limitation, insurance proceeds and any other payment representing indemnity or compensation for loss of or damage thereto or the proceeds therefrom;
- (b) charges with payment to the Secured Party of all Obligations as and by way of a floating charge the whole of the undertaking of the Debtor and all of its property and assets, real and personal, movable and immovable, tangible and intangible, of every nature and kind whatsoever and wheresoever situate, both present and future (other than property and

assets from time to time effectively subjected to the fixed and specific mortgages and charges created hereby or by any instrument supplemental hereto).

1.2 Exceptions as to Leases

- (a) The last day of any term of years reserved by any lease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Debtor is excepted out of the Collateral, but the Debtor shall stand possessed of any such reversion upon trust to assign and dispose thereof as the Secured Party may direct. In addition, consumer goods now held or hereafter acquired by the Debtor and agreements that require the consent of a party other than the Debtor for the purposes of this Agreement are excepted out of the Collateral. Where the giving of a fixed and specific mortgage and charge on any real or personal property held by the Debtor under lease requires the consent of the lessor of such property, the giving of the fixed and specific mortgage and charge hereunder on such property shall not take effect until such consent is obtained or legally dispensed with but the suspension of the effect of the fixed and specific mortgage and charge on such property shall not affect the fixed and specific mortgage and charge on any other property of the Debtor.
- (b) Pursuant to this Agreement:
 - (i) To the extent that the creation of the security interest created hereby would constitute a breach of or default under, or permit the acceleration or termination of any agreement, right, licence or permit of the Debtor which constitutes Collateral (each, a "**Restricted Asset**"), the security interest created hereunder shall not attach to the Restricted Asset, but the Debtor shall, subject to paragraph (ii) below, hold its interest in the Restricted Asset in trust for the Secured Party, provided that, until the security interest created hereby has become enforceable, the Debtor shall be entitled to all proceeds arising under or in connection with the Restricted Asset.
 - (ii) To the extent that the creation of the trust in paragraph (i) above would constitute a breach or permit the acceleration or termination of any Restricted Asset, the security interest created hereunder shall not attach to the Restricted Asset, but the security interest created hereby will constitute a trust created in favour of the Secured Party pursuant to which the Debtor shall hold as trustee its interest in all proceeds arising under or in connection with the Restricted Asset in trust for the Secured Party, provided that until the security interest created hereby has become enforceable, the Debtor shall be entitled to receive all such proceeds.

1.3 Supplemental Indentures

The Debtor shall from time to time on demand by the Secured Party execute and deliver such further deeds or indentures supplemental hereto, which shall thereafter form part hereof, for the purpose of mortgaging to the Secured Party any property now owned or hereafter acquired by the Debtor and falling within the description of the Collateral, for correcting or amplifying the description of any property hereby mortgaged or intended so to be, or for any other purpose not inconsistent with the terms of this Agreement.

1.4 Continuing Security

This Agreement and any other security given with the Secured Party's consent in replacement thereof, substitution therefor or in addition thereto shall be held by the Secured Party as general and continuing security for due payment and performance of all Obligations, including without limitation all costs and amounts payable pursuant hereto and interest on the Obligations at the rate or rates applicable thereto in accordance with the prevailing agreement between the Secured Party and the Debtor. Any and all payments made at any time in respect of the Obligations and the proceeds realized from any Investment Property held therefor (including moneys realized from the enforcement of this Agreement) may be applied (and reapplied from time to time notwithstanding any previous application) to such part or parts of the Obligations as the Secured Party sees fit. The Secured Party may hold as additional security hereunder any increase or profits or other proceeds realized from the Collateral (including money) for such period of time as the Secured Party sees fit. The Debtor shall be accountable for any deficiency and the Secured Party shall be accountable for any surplus.

1.5 Notification

After an Event of Default has occurred and is continuing, the Secured Party may notify any debtor of the Debtor on an intangible, Chattel Paper, or Account, or any obligor on an instrument ("Account Debtor") to make all payments on Collateral to the Secured Party and the Debtor acknowledges that the proceeds of all sales, or any payments on or other proceeds of the Collateral, including but not limited to payments on, or other proceeds of, the Collateral received by the Debtor from any Account Debtor, whether before or after notification to such Account Debtor after default under this Security Agreement will be received and held by the Debtor in trust for the Secured Party and will be turned over to the Secured Party upon request and the Debtor will not commingle any proceeds of or payments on the Collateral with any of the Debtor's funds or property, but will hold them separate and apart.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1 General Representations and Warranties

The Debtor represents, warrants and covenants to and with the Secured Party as follows:

(a) Leases

With respect to each Lease now existing:

- (i) the copy of the Lease provided to the Secured Party contains the entire agreement between the Debtor, the lessor and any guarantor, surety or indemnitor respecting the subject matter and there have been no modifications, amendments or extensions thereto or thereof; and
- (ii) the Lease is in full force and effect and in good standing.

(b) Fixtures

None of the goods comprised in the Collateral are fixtures except any fixtures that are affixed or attached to the Premises.

(c) Consumer Goods

None of the Collateral now owned or hereafter acquired is now or shall at any time be consumer goods of the Debtor.

(d) Location of Collateral

All of the Collateral is situated at the addresses set out in Schedule "A".

2.2 Environmental Representations and Warranties

The Debtor represents, warrants and covenants to and with the Secured Party that, except as previously disclosed to the Secured Party:

- (a) The Collateral now complies and will at all times in future comply in all material respects with all Environmental Laws and Environmental Orders.
- (b) After due and diligent inquiry, it has been found that there is no Hazardous Substance on or in any of the Collateral.
- (c) There is no judicial or administrative proceeding or investigation pending and no Environmental Order has been issued or, to the best of the Debtor's knowledge, threatened concerning the possible violation of any Environmental Laws or Environmental Orders in relation to the Collateral.
- (d) No Hazardous Substance shall be brought on to or used in any part of the Collateral without the prior written consent of the Secured Party and any Hazardous Substance shall be transported, used and stored only in accordance with all Environmental Laws, other lawful requirements, prudent industrial standards including, without limitation, any published environmental standards of any applicable industry association and any requirements of applicable insurance policies.
- (e) The Debtor has created, properly organized and maintained all documentation and records concerning environmental matters as required by any Environmental Laws or Environmental Orders and will maintain such documentation and records at all times in future as aforesaid.
- (f) The Debtor has provided to the Secured Party any Environmental Assessment and related documentation concerning any of the Collateral in its possession or control and shall promptly provide to the Secured Party any such material as the Debtor may obtain in future.
- (g) The Debtor shall promptly notify the Secured Party if it:
 - (i) receives notice from any Governmental Authority of any violation or potential violation of any Environmental Laws or Environmental Orders, including the Release of a Hazardous Substance, which may have occurred or been committed or is about to occur or be committed;
 - (ii) receives notice that any administrative or judicial complaint or Environmental Order has been issued or filed or is about to be issued or filed against any of the

Occupants or their representatives alleging violations of any Environmental Laws or Environmental Orders or requiring the taking of any action in connection with any Hazardous Substance;

- (iii) learns of the enactment of any Environmental Laws or the issuance of any Environmental Orders which may have a material adverse effect on the Debtor or the Collateral; or
 - (iv) knows of or suspects that any Hazardous Substance has been brought on to any part of the Collateral or that there is any actual, threatened or potential Release of any Hazardous Substance on, from, in or under any part of the Collateral.
- (h) The Debtor hereby grants to the Secured Party and its employees and agents an irrevocable and non exclusive licence, subject to the rights of tenants, to enter any of the Premises to conduct testing and monitoring with respect to Hazardous Substances and to remove and analyze any Hazardous Substance at the cost and expense of the Debtor (which cost and expense shall be secured hereby).
- (i) The Debtor shall indemnify the Secured Party and hold the Secured Party harmless against and from all loss, costs, damages and expenses which the Secured Party may sustain, incur or be or become liable for by reason of or arising from the presence, clean up, removal or disposal of any Hazardous Substance referred to in this section or compliance with Environmental Laws or Environmental Orders relating thereto, including any clean up, decommissioning, restoration or remediation of the Collateral and other property (and this indemnification shall survive the satisfaction, release or extinguishment of the indebtedness secured hereby).

2.3 Title

The Debtor covenants with the Secured Party that, subject only to Permitted Encumbrances, it lawfully owns and is lawfully possessed of the Collateral and all property and assets indicated by the financial statements which it has delivered to the Secured Party to be owned by it and has good right and authority to mortgage and charge the same as provided for herein, free and clear of all Encumbrances (other than Permitted Encumbrances), and it will warrant and defend the title thereto as well as to any other property, rights and interests hereafter acquired by the Debtor. No person has any agreement or right or option to acquire any of such property (except under unfilled purchase orders accepted in the ordinary course of business for the sale of Inventory).

ARTICLE 3 COVENANTS OF THE DEBTOR

3.1 General Covenants

So long as this Agreement remains outstanding, the Debtor covenants and agrees as follows:

(a) To Pay Certain Debts

The Debtor shall punctually pay and discharge every obligation, failure to pay or discharge which might result in any lien or charge or right of distress, forfeiture, termination or sale or any other remedy being enforced against the Collateral (other than a Permitted Encumbrance) and provide to the Secured Party when required satisfactory

evidence of such payment and discharge, but the Debtor may, on giving the Secured Party such security (if any) as the Secured Party may require, refrain from paying or discharging any obligation so long as it contests in good faith its liability therefor.

(b) To Maintain Corporate Existence and Security

The Debtor shall:

- (i) diligently preserve all its rights, licences, powers, privileges, franchises and goodwill;
- (ii) observe and perform all of the Obligations and comply with all conditions under leases, licences and other agreements to which it is a party or upon or under which any of the Collateral is held;
- (iii) carry on and conduct its business in a proper and efficient and businesslike manner so as to preserve and protect the Collateral and income therefrom and in accordance with good business practices;
- (iv) keep proper books of account with correct entries of all transactions in relation to its business;
- (v) observe and conform to all valid requirements of law and of any Governmental Authority relative to the Collateral or the carrying on by the Debtor of its business;
- (vi) keep the Collateral in good condition and repair and if the Debtor neglects to keep the Collateral or any part of it in good condition and repair or commits or permits any act of waste to be committed in respect of it and if such neglect, commission or default continues for 30 days after written notice of it has been given by the Secured Party to the Debtor then the Secured Party may from time to time make such repairs as it in its sole discretion considers necessary and the Lender may add the cost of such repairs to the Loan and the Debtor shall reimburse the Secured Party for such costs forthwith upon demand;
- (vii) keep the Secured Party constantly informed in writing as to the location of the Collateral and the books of account and other records of the Debtor; and
- (viii) effect such registrations as may be required by the Secured Party from time to time to protect the security hereof.

(c) Leases

- (i) The Debtor shall at all times perform and discharge all of the lessee's covenants and obligations under any Lease.
- (ii) The Debtor will not without the written consent of the Secured Party terminate, surrender, amend, alter or vary the terms and conditions of the any Lease. Nor shall the Debtor, without the written consent of the Secured Party, waive performance by the landlord under any of the Leases or release any of the said landlords from any obligations under their respective Leases.

(d) To Furnish Proofs

The Debtor shall forthwith on the happening of any loss or damage furnish at its own expense all necessary proofs and do all necessary acts to enable the Secured Party to obtain payment of the insurance monies, which, in the sole discretion of the Secured Party, may be applied in reinstating the insured property or be paid to the Debtor or be applied in payment of the monies owing hereunder, whether due or not then due, or paid partly in one way and partly in another.

(e) Inspection by the Secured Party

Upon the occurrence of an Event of Default that is continuing, the Debtor shall allow any employees or authorized agents of the Secured Party at any reasonable time to enter the premises of the Debtor in order to inspect the Collateral and to inspect the books and records of the Debtor and make extracts therefrom, and shall permit the Secured Party prompt access to such other persons as the Secured Party may deem necessary or desirable for the purposes of inspecting or verifying any matters relating to any part of the Collateral or the books and records of the Debtor, provided that any information so obtained shall be kept confidential, save as required by the Secured Party in exercising its rights hereunder.

(f) Accounts

Subject to any Permitted Encumbrances thereon, Accounts shall be received by the Debtor in trust for the Secured Party; provided that as long as an Event of Default has not occurred the Debtor may collect and use the Accounts in the ordinary course of business.

(g) Delivery of Documents

Upon the occurrence of an Event of Default that is continuing, the Debtor shall deliver to the Secured Party promptly upon request:

- (i) Documents – any Chattel Paper, Instruments, certificated Securities and Documents of Title, and upon such delivery, where applicable, duly endorse the same for transfer in blank or as the Secured Party may direct; and
- (ii) Uncertificated Securities – any uncertificated Securities, including any registration and any further acts and things necessary for delivery of such uncertificated Securities to the Secured Party in accordance with the *Securities Transfer Act*, 2006.

(h) Transfer of Investment Property

Upon the occurrence of an Event of Default that is continuing, if the Collateral at any time includes an Investment Property, the Debtor will, if required by the Secured Party, transfer the Investment Property into the name of the Secured Party or the Secured Party's nominee and may appoint, or cause its nominee to appoint, the Debtor as proxy to vote concerning the Investment Property.

(i) Notice of Default

The Debtor will promptly give written notice to the Secured Party of the occurrence of any Event of Default or of any event which after notice or lapse of time would constitute an Event of Default.

(j) Not to Sell

The Debtor shall not, except as otherwise permitted hereunder, remove, destroy, lease, sell or otherwise dispose of any of the Collateral; provided that the Debtor may sell or otherwise dispose of Equipment which has become worn out or damaged or otherwise unsuitable for its purpose on condition that it shall substitute therefor, subject to the lien hereof and free from prior liens or charges, property of equal value so that the security hereby constituted shall not thereby be in any way reduced or impaired; and provided further that the Debtor may sell Inventory in the ordinary course of business and for the purpose of carrying on the same.

(k) Not to Make Certain Changes

The Debtor shall not without the prior written consent of the Secured Party remove any of the Collateral or any of the books of account or other records of the Debtor from the jurisdiction where presently located.

(l) Fixtures

The Debtor will not permit goods now or hereafter comprised in the Collateral to become fixtures unless they are, or are to be, affixed or attached to the Premises.

(m) Demolish Collateral

The Debtor will not demolish, remove or destroy any of the Collateral or any part or parts of it or cause or permit the demolition, or removal or destruction of it except in the ordinary course of business.

ARTICLE 4 EVENTS OF DEFAULT AND REMEDIES

4.1 Events of Default

The occurrence of any Event of Default under the Credit Agreement (as such term is defined in the Credit Agreement) shall constitute an Event of Default under this Agreement.

4.2 Consequences of an Event of Default

Upon the occurrence of an Event of Default, any obligation of the Secured Party to make further loans or advances or extend other credit to the Debtor shall immediately terminate and all Obligations and all monies secured hereby shall, at the option of the Secured Party, become forthwith due and payable whereupon the floating charge hereby created shall crystallize, all of the rights and remedies hereby conferred in respect of the Collateral shall become immediately enforceable and any and all additional and collateral securities for payment of this Agreement shall become immediately enforceable.

4.3 **Enforcement**

Upon the occurrence of any Event of Default, which is continuing, the Secured Party has the rights and remedies set out in the Credit Agreement, subject to the grace periods set out under Section 12.2 of the Credit Agreement.

4.4 **Disposition**

Without limiting the generality of the foregoing it shall be lawful for the Secured Party:

- (a) to make any sale, lease or other disposition of the Collateral either for cash or upon credit or partly for one and partly for the other upon such conditions as to terms of payment as it in its absolute discretion may deem proper;
- (b) to rescind or vary any contract for sale, lease or other disposition that the Secured Party may have entered into pursuant hereto and resell, release or redispense of the Collateral with or under any of the powers conferred herein; and
- (c) to stop, suspend or adjourn any sale, lease or other disposition from time to time and to hold the same as adjourned without further notice.

Upon any such sale, lease or other disposition the Secured Party shall be accountable only for money actually received by it. The Debtor shall be accountable for any deficiency and the Secured Party shall be accountable for any surplus. The Secured Party may deliver to the purchaser or purchasers of the Collateral or any part thereof good and sufficient conveyances or deeds for the same free and clear of any claim by the Debtor. The purchaser or lessee receiving any disposition of the Collateral or any part thereof need not inquire whether default under this Agreement has actually occurred but may as to this and all other matters rely upon a statutory declaration of an officer of the Secured Party, which declaration shall be conclusive evidence as between the Debtor and any such purchaser or lessee, and the purchaser or lessee need not look to the application of the purchase money, rent or other consideration given upon such sale, lease or other disposition, which shall not be affected by any irregularity of any nature or kind relating to the crystallizing or enforcing of the security hereof or the taking of possession of the Collateral or the sale, lease or other disposition thereof.

4.5 **Powers of Receiver**

Any Receiver appointed as aforesaid shall have the power without legal process:

- (a) to take possession of the Collateral or any part thereof wherever the same may be found;
- (b) to carry on the business of the Debtor or any part thereof in the name of the Debtor or of the Receiver; and
- (c) to exercise on behalf of the Secured Party all of the rights and remedies herein granted to the Secured Party,

and without in any way limiting the foregoing the Receiver shall have all the powers of a receiver appointed by a court of competent jurisdiction. Any Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Debtor, and the Secured Party shall not be in any way responsible for any misconduct or negligence on the part of any Receiver or any loss resulting therefrom.

4.6 Application of Moneys

All moneys actually received by the Secured Party or by the Receiver in enforcing the security of this Agreement shall be applied, subject to the proper claims of any other person:

- (a) first, to pay or reimburse the Secured Party and any Receiver the costs, charges, expenses and advances payable by the Debtor in accordance herewith;
- (b) second, in or toward the payment to the Secured Party of all other moneys owing hereunder or secured hereby in such order as the Secured Party in its sole discretion may determine; and
- (c) third, any surplus shall be paid to the Debtor or its assigns.

4.7 Powers of Directors and Officers

Upon the Secured Party declaring as aforesaid that the security hereof has become enforceable and crystallized or the Debtor receiving notice from the Secured Party of the taking of possession of any of the Collateral or of the appointment of a Receiver, all the powers, functions, rights and privileges of the directors and officers of the Debtor with respect to the property, business and undertaking of the Debtor shall cease except to the extent specifically continued at any time by the Secured Party in writing.

4.8 Limitations on Liability

Neither the provisions of this Agreement nor anything done under or pursuant to the rights, remedies and powers conferred upon the Secured Party and the Receiver, whether hereunder or otherwise, will render the Secured Party a mortgagee in possession. Neither the Secured Party nor any Receiver will be bound to collect, dispose of, realize, enforce or sell any Investment Property, Instruments, Chattel Paper or Intangibles (including any Accounts) comprised in the Collateral or to allow any such Collateral to be sold or disposed of, nor will it be responsible for any loss occasioned by any such sale or other dealing or for any failure to sell or so act, nor will it be responsible for any failure to take necessary steps to preserve rights against others in respect of such Collateral, nor will it be responsible for any loss occasioned by the failure to exercise any rights in respect of Collateral within the time limited for the exercise thereof. Neither the Secured Party nor the Receiver will be obligated to keep Collateral separate or identifiable.

ARTICLE 5 GENERAL

5.1 Definitions

As used herein the following expressions shall have the following meanings:

“**Affiliate**” has the meaning ascribed to such term in the *Business Corporations Act* (Ontario);

“**Business Day**” means any day except Saturday, Sunday or a statutory holiday within the Province of Ontario;

“**Capital Expenditure**” means any expenditure which would be chargeable to capital or fixed asset accounts and includes the total of all instalments of rental expressed to be payable during the whole term of each lease of personal property which would be classified as a capital lease;

“Collateral” means all property and assets of the Debtor, including without limitation, those property and assets specifically charged under Section 1.1(a) and subjected to the floating charge under Section 1.1(b) (except as excluded pursuant to Section 1.2);

“Credit Agreement” means the loan agreement made as of even date herewith among the Secured Party, as lender, [Holdco], as borrower and Mizrahi Development Group (145 Davenport) Inc., Mizrahi Development Group (185 Davenport) Inc., Mizrahi Soaring Developments Inc., One8One Davenport Inc., as guarantors;

“Encumbrance” has the meaning given to it in the Credit Agreement;

“Environmental Assessment” means any inquiry, investigation or report of the environmental condition of the Premises;

“Environmental Laws” has the meaning given to it in the Credit Agreement;

“Environmental Order” has the meaning given to it in the Credit Agreement;

“Event of Default” means any one or more of the events set out or referred to in Section 4.1;

“Governmental Authority” has the meaning given to it in the Credit Agreement;

“Hazardous Substance” has the meaning given to it in the Credit Agreement;

“Lease” means any lease (whether now existing, presently arising or created in future) whereby the Premises or any part thereof are demised and leased to the Debtor;

“Loan Documents” has the meaning given to it in the Credit Agreement;

“Obligations” has the meaning given to it in the Credit Agreement;

“Occupants” means the Debtor, its tenants and other occupants of any Premises;

“Permitted Encumbrances” has the meaning given to it in the Credit Agreement;

“Premises” means all lands and premises owned, leased or otherwise occupied by the Debtor from time to time, including, without limitation, those set out in Schedule “A”;

“Receiver” shall include one or more of a receiver, receiver manager or receiver and manager of all or a portion of the undertaking, property and assets of the Debtor appointed by the Secured Party pursuant to this Agreement or by or under any judgment or order of a court;

“Subsidiary” has the meaning given to it in the Credit Agreement.

5.2 **Interpretation**

- (a) **“This Agreement”, “hereto”, “hereby”, “hereunder”, “herein”,** and similar expressions refer to the whole of this Agreement and not to any particular Article, Section, subsection, paragraph, clause, subdivision or other portion hereof.
- (b) The expression **“not dealing at arm’s length”** has the meaning ascribed to it by the *Income Tax Act* (Canada).

- (c) Except as expressly provided herein, terms which are defined in the *Personal Property Security Act* (Ontario) shall have the same meaning where used herein.
- (d) Words importing the singular number only include the plural and vice versa and words importing gender shall include all genders and words importing persons include individuals, partnerships, corporations, trusts, unincorporated associations, joint ventures, Governmental Authorities and other entities.
- (e) All financial or accounting determinations, reports and statements provided for in this Agreement shall be made or prepared in accordance with generally accepted accounting principles applied in a consistent manner and shall be made and prepared on a consolidated basis.
- (f) The headings of the Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

5.3 **Governing Law**

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province Of Ontario (without regard to rules or principles relating to conflicts of laws) and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such Province and all courts competent to hear appeals therefrom.

Notwithstanding the foregoing: (1) the Secured Party shall have the right to bring any action or proceeding against the Debtor or the Collateral in the courts of any other jurisdiction the Secured Party deems necessary or appropriate in order to realize on the Collateral or other Security for the Obligations; and (2) each of the parties hereto acknowledges that any appeals from the courts described in the immediately preceding sentence may have to be heard by a court located outside those jurisdictions.

5.4 **Conflict**

In the event of a conflict or inconsistency between the provisions of this Agreement and the provisions of the Credit Agreement, the provisions of the Credit Agreement shall govern, it being understood that the purpose of this Agreement and all of the other Loan Documents is to add to, and not detract from, the rights granted to the Secured Party under the Loan Documents.

5.5 **Waiver**

No act or omission by the Secured Party in any manner whatever shall extend to or be taken to affect any provision hereof save only express waiver in writing. A waiver of default shall not extend to, or be taken in any manner whatsoever to affect the rights of the Secured Party with respect to, any subsequent default, whether similar or not. The Debtor waives every defence based upon any or all indulgences that may be granted by the Secured Party.

5.6 **Other Securities**

The rights of the Secured Party hereunder shall not be prejudiced nor shall the liabilities of the Debtor or of any other person be reduced in any way by the taking of any other security of any nature or kind whatsoever either at the time of execution of this Agreement or at any time hereafter.

5.7 **No Merger or Novation**

Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liability of the Debtor to pay the moneys hereby secured nor shall the same operate as a merger of any covenant herein contained or of any other Obligation, nor shall the acceptance of any payment or other security constitute or create any novation.

5.8 **Amalgamation**

The Debtor acknowledges that if it amalgamates with any other corporation or corporations (a) the Collateral and the lien created hereby shall extend to and include all the property and assets of each of the amalgamating corporations and the amalgamated corporation and to any property or assets of the amalgamated corporation thereafter owned or acquired, (b) the term, "Debtor", where used herein shall extend to and include each of the amalgamating corporations and the amalgamated corporation, and (c) the term, "Obligations", where used herein shall extend to and include the Obligations of each of the amalgamating corporations and the amalgamated corporation.

5.9 **Power of Attorney**

(i) Upon the occurrence of an Event of Default that is continuing, the Debtor hereby irrevocably constitutes and appoints the Secured Party and each of its officers holding office from time to time as the true and lawful attorneys of the Debtor with full power of substitution in the name of the Debtor, to do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Secured Party reasonably considers necessary or desirable to carry out the provisions and purposes of this Agreement or to exercise any of its rights and remedies hereunder and to enforce the Security Interest created hereunder, and to do all acts or things necessary to realize or collect the Proceeds, and the Debtor hereby ratifies and agrees to ratify all acts of any such attorneys taken or done in accordance with this Section. Without in any way limiting the generality of the foregoing, upon the occurrence of an Event of Default that is continuing, the Secured Party shall have the right to execute, for and in the name of the Debtor, all financing statements, financing change statements, conveyances, transfers, assignments, consents and other instruments as may be required for such purposes. This power of attorney shall not be revoked or terminated by any act or thing other than the termination of this Agreement pursuant to the terms hereunder.

(ii) The power of attorney granted hereby shall be coupled with an interest.

(iii) For greater certainty, the rights of the Secured Party under Section 5.9(i) may only be exercised by the Secured Party after the occurrence and during the continuance of an Event of Default.

5.10 **The Secured Party May Remedy Default**

If the Debtor fails to do anything hereby required to be done by it, the Secured Party may, but shall not be obliged to, do such thing and all sums thereby expended by the Secured Party shall be payable forthwith by the Debtor, shall be secured hereby and shall have the benefit of the lien hereby created, but no such performance by the Secured Party shall be deemed to relieve the Debtor from any default hereunder.

5.11 **Collections**

The Secured Party is entitled at any time whether or not an Event of Default has occurred hereunder to notify any account debtor or any obligor on an Instrument to make payment to the Secured

Party whether or not the Debtor was theretofore making collections on the Collateral and to take control of any proceeds to which the Secured Party is entitled.

5.12 **Purchase Money Security Interest**

The Debtor acknowledges that the security interest in any item of Collateral and its proceeds shall constitute a purchase money security interest to the extent it secures Obligations incurred by the Debtor to enable the Debtor to acquire rights in such Collateral. The Secured Party hereby reserves title to any item of Collateral which may be sold by the Secured Party to the Debtor until satisfaction of the Obligations as aforesaid.

5.13 **Taxes and Reserve Requirements**

In case the Secured Party is or becomes subject to any tax with respect to payments of principal, interest or other amounts by the Debtor hereunder or in respect of any of the Obligations (except for taxes on the overall net income of the Secured Party) or to any reserve or similar requirement against assets held by, or deposits in or for the account of, or loans by, an office of the Secured Party, or to any other condition with respect to this Agreement, and the result of any of the foregoing is to increase the cost to the Secured Party of making or maintaining any Obligation or to reduce the income receivable by the Secured Party in respect of any Obligation, then the Debtor shall pay to the Secured Party on demand that amount which shall compensate the Secured Party for such additional cost or reduction in income. A certificate of the Secured Party setting forth the amount of such additional compensation and the basis therefor shall be submitted by the Secured Party to the Debtor and shall be conclusive evidence, in the absence of manifest error, of such amount.

5.14 **Notices**

Any notice or other communication to be given by any party hereunder to another party shall be given or made pursuant to and in accordance with the terms and conditions of the Credit Agreement.

5.15 **Receipt**

The Debtor hereby acknowledges receipt of a true copy of this Agreement and a copy of the financing statement registered under the *Personal Property Security Act* (Ontario) in respect of the security created hereby.

5.16 **Successors and Assigns, etc.**

This Agreement and all its provisions shall enure to the benefit of the Secured Party, its successors and assigns, and shall be binding upon the Debtor, its successors and assigns, and every reference herein to a party hereto shall include such party's successors and assigns as if specifically named. Time shall be in all respects of the essence hereof.

IN WITNESS WHEREOF the Debtor has executed this Security Agreement on the 17th day of December, 2014.

NORTHERN CITADEL CAPITAL INC.

Per: 

Name: Sam Mizrahi

Title: President

I have the authority to bind the corporation

**MIZRAHI SOARING DEVELOPMENTS
INC.**

Per: 

Name: Sam Mizrahi

Title: President

I have the authority to bind the corporation

ONE8ONE DAVENPORT INC.

Per: 

Name: Sam Mizrahi

Title: President

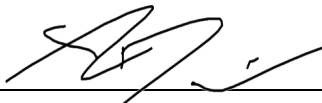
I have the authority to bind the corporation

SCHEDULE "A"

PREMISES

1. 145 Davenport Road Toronto, Ontario
2. 185 Davenport Road, Toronto, Ontario

This is Exhibit “D” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193038.47

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 1
(5792)

A145

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

TYPE OF SEARCH : BUSINESS DEBTOR

SEARCH CONDUCTED ON : NORTHERN CITADEL CAPITAL INC.

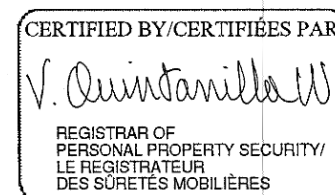
FILE CURRENCY : 02AUG 2022

ENQUIRY NUMBER 20220803193038.47 CONTAINS 3 PAGE(S), 1 FAMILY(IES).

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

THORNTON GROUT FINNIGAN LLP - ROXANA MANEA
100 WELLINGTON STREET WEST
TORONTO ON M5K 1K7

CONTINUED... 2



RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193038.47

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 2
(5793)

A146

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : NORTHERN CITADEL CAPITAL INC.
FILE CURRENCY : 02AUG 2022

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER
782932932

| CAUTION FILING | PAGE NO. | TOTAL OF PAGES | MOTOR VEHICLE SCHEDULE | REGISTRATION NUMBER | REGISTERED UNDER | REGISTRATION PERIOD |
|----------------|----------|----------------|------------------------|-------------------------|------------------|---------------------|
| | 001 | 1 | | 20220512 1557 1590 2178 | P PPSA | 5 |

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

03 NAME BUSINESS NAME NORTHERN CITADEL CAPITAL INC.

04 ADDRESS 189 FOREST HILL ROAD TORONTO ONTARIO CORPORATION NO. ON M5P 2N3

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

06 NAME BUSINESS NAME

07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / BRIDGING FINANCE INC., AS AGENT

09 LIEN CLAIMANT ADDRESS 77 KING STREET WEST, SUITE 2925 TORONTO ON M5K 1K7

| COLLATERAL CLASSIFICATION | | | | MOTOR VEHICLE | AMOUNT | DATE OF | NO FIXED |
|---------------------------|-------|-----------|-----------|---------------|--------|----------|---------------------------|
| CONSUMER | GOODS | INVENTORY | EQUIPMENT | ACCOUNTS | OTHER | INCLUDED | MATURITY OR MATURITY DATE |
| | X | X | X | X | X | X | |

11 YEAR MAKE MODEL V.I.N.

12 MOTOR VEHICLE

13 GENERAL
14 COLLATERAL
15 DESCRIPTION

16 REGISTERING THORNTON GROUT FINNIGAN LLP (GBM/AD)
17 AGENT ADDRESS 3200-100 WELLINGTON STREET WEST TORONTO ON M5K 1K7

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

CONTINUED... 3

CERTIFIED BY/CERTIFIÉES PAR
V. Quintanilla W.
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES

(crj1fv 05/2022)

Ontario A146

RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193038.47

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 3
(5794)

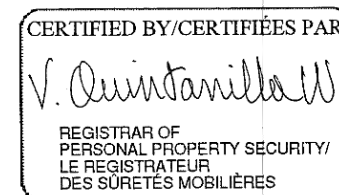
A147

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : NORTHERN CITADEL CAPITAL INC.
FILE CURRENCY : 02AUG 2022

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

| FILE NUMBER | REGISTRATION NUMBER | REGISTRATION NUMBER | REGISTRATION NUMBER | REGISTRATION NUMBER |
|-------------|-------------------------|---------------------|---------------------|---------------------|
| 782932932 | 20220512 1557 1590 2178 | | | |

1 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



(crj6 05/2022)

This is Exhibit “E” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

GUARANTEE

THIS GUARANTEE is made as of the 17th day of December, 2014.

WHEREAS pursuant to the terms and conditions of a loan agreement between Northern Citadel Capital Inc., as borrower (the "**Borrower**"), Mizrahi Soaring Developments Inc. and One8One Davenport Inc., as guarantors (the "Guarantors") and Bridging Finance Inc., as agent for Sprott Bridging Income Fund LP, as lender dated as of the date herein, as amended, modified, extended or renewed from time to time (the "**Loan Agreement**"), the Lender has agreed to make a loan in the sum of \$11,267,123.29 to the Borrower;

AND WHEREAS the Guarantors have agreed to provide the Lender with a joint and several guarantee of the obligations of the Borrower;

NOW THEREFORE THIS GUARANTEE WITNESSETH that in consideration of the premises and the covenants and agreements herein contained, the sum of \$2.00 now paid by the Lender to the Guarantors and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Guarantors covenant with the Lender as follows:

ARTICLE 1 **GUARANTEE**

1.1 Guarantee

The Guarantors, jointly and severally, hereby unconditionally and irrevocably guarantee payment of all the debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Borrower to the Lender or remaining unpaid by the Borrower to the Lender (hereinafter collectively referred to as the "**Obligations**"), together with interest thereon as provided in the Loan Agreement. The Guarantors acknowledge having received and reviewed a copy of the Loan Agreement and each of the other Security Documents (as defined in the Loan Agreement).

1.2 Indemnity

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

1.3 Primary Obligation

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

1.4 **Guarantee Absolute**

The liability of the Guarantors hereunder shall be absolute and unconditional and shall not be affected by:

- (a) any lack of validity or enforceability of any agreements between the Lender and any Borrower Entity (as hereinafter defined), including any of the Security Documents; any change in the time, manner or place of payment of or in any other term of such agreements or the failure on the part of any Borrower Entity to carry out any of its obligations under such agreements;
- (b) any impossibility, impracticability, frustration of purpose, illegality, force majeure or act of government;
- (c) the bankruptcy, winding-up, liquidation, dissolution or insolvency of any Borrower Entity or any party to any agreement to which the Lender is a party;
- (d) any lack or limitation of power, incapacity or disability on the part of any Borrower Entity or the Lender or of the directors, partners or agents thereof or any other irregularity, defect or informality on the part of any Borrower Entity in its obligations to the Lender, including any change in the name, constitution or legal form of any Borrower Entity or the Borrower's amalgamation with another corporation (in which case this Guarantee shall apply to the liabilities of the resulting legal entity, and the term "Borrower" shall include such resulting legal entity); or
- (e) any other law, regulation, order or other circumstance which might otherwise constitute a defence available to, or a discharge of, any Borrower Entity in respect of any or all of the Obligations, save due performance by the Borrower or the Guarantors.

(For the purpose of this Guarantee, "**Borrower Entity**" means the Borrower, each shareholder of the Borrower, each indemnifier (if any) and any other guarantor of all or part of the Indebtedness.)

ARTICLE 2 **DEALINGS WITH BORROWER AND OTHERS**

2.1 **No Release**

The liability of the Guarantors hereunder shall not be released, discharged, limited or in any way affected by anything done, suffered or permitted by the Lender in connection with any duties or liabilities of the Borrower to the Lender or any security therefor, including any loss of or in respect of any security received by the Lender from the Borrower or other Borrower Entity, whether or not such loss to the security resulted from any action or inaction, wilful, negligent or otherwise, on the part of the Lender. Without limiting the generality of the foregoing and without releasing, discharging, limiting or otherwise affecting in whole or in part the Guarantors' liability hereunder (whether as guarantor, indemnitor or primary obligor), without obtaining the consent of or giving notice to the Guarantors or any other Borrower Entity, the Lender may discontinue, reduce, increase or otherwise vary the credit of the Borrower and/or any other Borrower Entity in any manner whatsoever and may:

- (a) make any change in the time, manner or place of payment under, or in any other term of, any agreement between the Borrower and/or any other Borrower Entity and the Lender, or waive the failure on the part of the Borrower and/or any other Borrower Entity to carry out any of its obligations under any such agreement;

- (b) grant time, renewals, extensions, indulgences, releases and discharges to the Borrower and/or other Borrower Entity;
- (c) take or abstain from taking or enforcing securities or collateral from the Borrower and/or any other Borrower Entity or from perfecting securities or collateral of the Borrower and/or any other Borrower Entity;
- (d) accept compromises from the Borrower and/or any other Borrower Entity;
- (e) apply all money at any time received from the Borrower and/or any other Borrower Entity or from securities upon such part of the Obligations as the Lender may see fit or change any such application in whole or in part from time to time as the Lender may see fit; and
- (f) otherwise deal with the Borrower and/or any other Borrower Entity and all other persons and securities as the Lender may see fit.

2.2 **No Exhaustion of Remedies**

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

2.3 **Prima Facie Evidence**

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

2.4 **No Set-off**

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

ARTICLE 3 **CONTINUING GUARANTEE**

3.1 **Continuing Guarantee**

This Guarantee shall be a continuing guarantee of the Obligations and shall apply to and secure any ultimate balance due or remaining due to the Lender and shall not be considered as wholly or partially satisfied by the payment or liquidation at any time of any sum of money for the time being due or remaining unpaid to the Lender. This Guarantee shall continue to be effective or be reinstated even if at any time any payment of any of the Obligations is rendered unenforceable or is rescinded or must otherwise be returned by the Lender upon the occurrence of any action or event including the insolvency, bankruptcy or reorganization of the Borrower or otherwise, all as though such payment had not been made.

ARTICLE 4 **DEMAND**

4.1 **Demand**

The Lender shall be entitled to make demand upon the Guarantors at any time upon the occurrence of any Events of Default (as defined in the Loan Agreement) and upon such Event of Default

the Lender may treat all Obligations as due and payable and may forthwith collect from the Guarantors the total amount guaranteed hereunder whether or not such Obligations are yet due and payable at the time of demand for payment hereunder. The Guarantors shall make payment to the Lender of the total amount guaranteed hereunder forthwith after demand therefor is made to the Guarantors. The Guarantors shall pay all reasonable costs and expenses incurred by the Lender in enforcing this Guarantee.

4.2 **Interest**

In addition to the Obligations, the Guarantors shall pay interest to the Lender at the interest rate (established pursuant to the Loan Agreement) on the unpaid portion of all amounts payable by the Guarantors under this Guarantee, such interest to accrue from and including the date of demand by the Lender on the Guarantors.

ARTICLE 5 **ASSIGNMENT, POSTPONEMENT AND SUBROGATION**

5.1 **Assignment and Postponement**

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

5.2 **Subrogation**

The Guarantors will not be entitled to an interest in the Obligations by way of subrogation until the Obligations have been performed and paid in full.

ARTICLE 6 **GENERAL**

6.1 **Benefit of the Guarantee**

This Guarantee will enure to the benefit of the Lender and its respective successors and assigns and shall be binding upon the Guarantors and their personal representatives, executors, administrators, heirs, successors and permitted assigns, provided that the Guarantors may not assign their obligations hereunder without the prior written consent of the Lender, which consent may be arbitrarily withheld.

6.2 **Entire Agreement**

This Guarantee constitutes the entire agreement between the Guarantors and the Lender with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties except as expressly set forth herein. The Lender shall not be bound by any representations or promises made by the Borrower to the Guarantors, and possession of this Guarantee by the Lender shall be conclusive evidence against the Guarantors that the Guarantee was not delivered in escrow or pursuant to any agreement that it should not be effective until any condition precedent or subsequent has been complied with.

6.3 Amendments and Waivers

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

6.4 Severability

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

6.5 Notices

Any notice, demand, request, consent, agreement or approval (a "**Notice**") which may or is required to be given pursuant to this Guarantee shall be in writing and shall be sufficiently given or made if delivered personally upon the party for whom it is intended, or transmitted by email, or (except in the case of an actual or pending disruption of postal service) mailed by registered mail, and in the case of:

Each of the Guarantors, addressed as follows:

Mizrahi Soaring Developments Inc. and
One8One Davenport Inc.
189 Forest Hill Road
Toronto, Ontario
M5P 2N3

Attention: Sam Mizrahi, President
Email: sam@mizrahicorp.com

The Lender, addressed as follows:

Bridging Finance Inc.
77 King Street West
Suite 2925
Toronto, ON M5K 1K7

Attention: Natasha Sharpe, CEO & Chief Investment Officer
Email: nsharpe@bridgingfinance.ca

Any such Notice, if delivered personally or by email, shall be deemed to be delivered on the date of delivery thereof, or if mailed the fourth (4th) Business Day following the date of mailing. For the purposes hereof, personal delivery, including delivery by way of a courier service, shall be made by delivery to an officer, director or responsible employee of the entity for whom it is intended at its address set out above. If on the date of mailing or on or before such fourth (4th) Business Day thereafter there is a general interruption in the operation of postal service in Canada, Notices shall be delivered personally or by facsimile transmission. Each entity listed above may, from time to time, change its address or stipulate an address different from the address set out above by giving Notice thereof to each other entity listed above in the manner provided in this Section 6.5. For purposes hereof, "**Business Day**" means a day, excluding Saturday and Sunday, on which banks are open for commercial business in Toronto, Ontario.

6.6 Discharge

The Guarantors will not be discharged or released from any of their obligations hereunder except upon payment in full of the total amount guaranteed hereunder, together with any interest thereon as provided in Section 4.2.

6.7 Additional Security

This Guarantee is in addition to, and without prejudice to nor in substitution for, any security of any kind (including without limitation other guarantees) now or hereafter held by the Lender and any other rights or remedies that the Lender might have.

6.8 Governing Law

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

6.9 Executed Copy

Each of the Guarantors acknowledges receipt of a fully executed copy of this Guarantee.

IN WITNESS WHEREOF the Guarantors have executed this Guarantee as of the date first written above.

MIZRAHI SOARING DEVELOPMENTS INC.Per: 

Name: Sam Mizrahi

Title: President

I have authority to bind the Corporation

ONE8ONE DAVENPORT INC.Per: 

Name: Sam Mizrahi

Title: President

I have authority to bind the Corporation

This is Exhibit “F” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

GENERAL SECURITY AGREEMENT

THIS AGREEMENT made as of the 17th day of December, 2014.

B E T W E E N:

**Northern Citadel Capital Inc.
Mizrahi Soaring Developments Inc.
One8One Davenport Inc.**

(hereinafter collectively called the “**Debtor**”)

and

**Bridging Finance Inc., as agent for
Sprott Bridging Income Fund LP**

(hereinafter called the “**Secured Party**”)

In consideration of the sum of One Dollar (\$1.00) now paid to it by the Secured Party, receipt of which is hereby acknowledged, and to secure the due payment and performance of all Obligations, the Debtor hereby agrees with the Secured Party and provides as follows:

ARTICLE 1 SECURITY

1.1 Charge

Subject to the exceptions set forth in Section 1.2, the Debtor hereby:

- (a) grants, sells, assigns, conveys, transfers, mortgages, pledges and charges, as and by way of fixed and specific mortgage, pledge and charge to and in favour of the Secured Party, and grants to the Secured Party a security interest in, all personal property of every nature and kind whatsoever and wheresoever situate now or at any time and from time to time owned by the Debtor, beneficially or otherwise, or in which or in respect of which the Debtor has any interest or rights of any kind, including, without limiting the generality of the foregoing, the following:
 - (i) All inventory of whatsoever kind and wheresoever situate now owned or hereafter acquired by the Debtor including without limiting the generality of the foregoing, goods for sale or lease or that have been leased; goods furnished or to be furnished under a contract of service; goods which are raw materials, work in process or materials used or consumed in a business or profession of the Debtor; goods used or procured for packing; finished goods; industrial growing crops, oil, gas and other minerals to be extracted; timber to be cut; and the young of animals after conception (“**Inventory**”);
 - (ii) All book accounts and book debts and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit, and advices of credit, which are now due, owing or accruing or growing due to or owned by or which may hereafter

become due, owing, accruing or growing due to or owned by the Debtor including but not limited to claims against the Crown and claims under insurance policies (“**Accounts**”);

- (iii) All machinery, equipment, tools, apparatus, plants, fixtures, furniture, vehicles, goods and other tangible personal property of whatsoever nature and kind, now owned or hereafter acquired by the Debtor other than Inventory (“**Equipment**”);
- (iv) All chattel paper now owned or hereafter acquired by the Debtor (“**Chattel Paper**”);
- (v) All warehouse receipts, bills of lading and other documents of title, whether negotiable or otherwise, now owned or hereafter acquired by the Debtor (“**Documents of Title**”);
- (vi) All present and future bills, notes and cheques (as such are defined pursuant to the *Bills of Exchange Act* (Canada)), and all other writings that evidence a right to the payment of money and that are of a type that in the ordinary course of business are transferred by delivery without any necessary endorsement or assignment (“**Instruments**”);
- (vii) All deeds, documents, writings, papers, books of accounts and other books evidencing or relating to Accounts, Chattel Paper, Instruments or Documents of Title or by which such are or may hereafter be secured, evidenced, acknowledged or made payable; and all contracts, securities, instruments and other rights and benefits in respect thereof;
- (viii) All present and future securities held by the Debtor or shares, options, rights, warrants, joint venture interests, interests in limited partnerships, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of the Debtor in property or in an enterprise or which constitute evidence of an obligation of an issuer,
 - (A) that are represented by security certificates in bearer form or registered form, or the transfer of which may be registered on books maintained for that purpose by or on behalf of the issuer,
 - (B) that are one of a class or series, or by their terms are divisible into a class or series, of shares, participations, interests or obligations, and
 - (C) that,
 - (i) are, or are of a type, dealt in or traded on securities exchanges or securities markets, or
 - (ii) are a medium for investment and by their terms expressly provides that it is a security for the purposes of the *Securities Transfer Act* (Ontario), 2006,

and includes: (a) shares or similar equity interests issued by a corporation, business trust or similar entity; (b) general or limited partnership interests or

other equivalents (regardless of how designated) of or in a partnership or limited partnership; and (c) and all substitutions therefor and dividends and income derived therefrom and all rights in respect thereof ("**Securities**");

- (ix) All present and after-acquired intangible property (save and except for Accounts) wherever situate and now or hereafter owned by the Debtor including, without limitation, all contractual rights, licenses, goodwill, patents, trademarks, tradenames, copyrights, other industrial designs and other industrial or intellectual property and undertaking of the Debtor and all other choses in action of the Debtor of every kind which now are, or which may at any time hereafter be, due or owing to or owned by the Debtor and all other intangible property of the Debtor which is not Accounts, Inventory, Chattel Paper, Documents of Title, Instruments, Money or Securities ("**Intangibles**");
- (x) All present and future money of the Debtor, whether authorized or adopted by the Parliament of Canada as part of its currency or any foreign government as part of its currency ("**Money**");
- (xi) All or any part of any present or future interest of the Debtor in present and after acquired investment property, including all Securities, Securities Accounts and Futures Accounts, all of the present and future security entitlements of the Debtor as an entitlement holder of such security entitlements, all of the present and future futures contracts of the Debtor as a futures customer in respect of such futures contracts, and all proceeds of any such property, where "**Futures Accounts**" means all of the present or future futures accounts maintained for the Debtor by a futures intermediary, including all futures contracts carried in such futures accounts and the agreements between the Borrower and the futures intermediary governing such futures accounts, and "**Securities Account**" means all of the present or future securities accounts maintained for the Debtor by a securities intermediary, including all of the financial assets credited to such securities accounts, all related securities entitlements and the agreements between the Debtor and the securities intermediary governing such securities accounts ("**Investment Property**");
- (xii) Any property in any form (including fixtures) derived directly or indirectly from any dealings with any property herein described (including all products and cash and non cash proceeds thereof); indemnification or compensation for any such property lost, destroyed, damaged or lawfully or unlawfully taken or injuriously affected; all increases, additions and accessions thereto and substitutions and replacements thereof;
- (xiii) All proceeds derived from the property, assets and undertaking of the Debtor referred to in this Section 1.1(a) including, without limitation, insurance proceeds and any other payment representing indemnity or compensation for loss of or damage thereto or the proceeds therefrom;
- (b) charges with payment to the Secured Party of all Obligations as and by way of a floating charge the whole of the undertaking of the Debtor and all of its property and assets, real and personal, movable and immovable, tangible and intangible, of every nature and kind whatsoever and wheresoever situate, both present and future (other than property and

assets from time to time effectively subjected to the fixed and specific mortgages and charges created hereby or by any instrument supplemental hereto).

1.2 Exceptions as to Leases

- (a) The last day of any term of years reserved by any lease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Debtor is excepted out of the Collateral, but the Debtor shall stand possessed of any such reversion upon trust to assign and dispose thereof as the Secured Party may direct. In addition, consumer goods now held or hereafter acquired by the Debtor and agreements that require the consent of a party other than the Debtor for the purposes of this Agreement are excepted out of the Collateral. Where the giving of a fixed and specific mortgage and charge on any real or personal property held by the Debtor under lease requires the consent of the lessor of such property, the giving of the fixed and specific mortgage and charge hereunder on such property shall not take effect until such consent is obtained or legally dispensed with but the suspension of the effect of the fixed and specific mortgage and charge on such property shall not affect the fixed and specific mortgage and charge on any other property of the Debtor.
- (b) Pursuant to this Agreement:
 - (i) To the extent that the creation of the security interest created hereby would constitute a breach of or default under, or permit the acceleration or termination of any agreement, right, licence or permit of the Debtor which constitutes Collateral (each, a "**Restricted Asset**"), the security interest created hereunder shall not attach to the Restricted Asset, but the Debtor shall, subject to paragraph (ii) below, hold its interest in the Restricted Asset in trust for the Secured Party, provided that, until the security interest created hereby has become enforceable, the Debtor shall be entitled to all proceeds arising under or in connection with the Restricted Asset.
 - (ii) To the extent that the creation of the trust in paragraph (i) above would constitute a breach or permit the acceleration or termination of any Restricted Asset, the security interest created hereunder shall not attach to the Restricted Asset, but the security interest created hereby will constitute a trust created in favour of the Secured Party pursuant to which the Debtor shall hold as trustee its interest in all proceeds arising under or in connection with the Restricted Asset in trust for the Secured Party, provided that until the security interest created hereby has become enforceable, the Debtor shall be entitled to receive all such proceeds.

1.3 Supplemental Indentures

The Debtor shall from time to time on demand by the Secured Party execute and deliver such further deeds or indentures supplemental hereto, which shall thereafter form part hereof, for the purpose of mortgaging to the Secured Party any property now owned or hereafter acquired by the Debtor and falling within the description of the Collateral, for correcting or amplifying the description of any property hereby mortgaged or intended so to be, or for any other purpose not inconsistent with the terms of this Agreement.

1.4 Continuing Security

This Agreement and any other security given with the Secured Party's consent in replacement thereof, substitution therefor or in addition thereto shall be held by the Secured Party as general and continuing security for due payment and performance of all Obligations, including without limitation all costs and amounts payable pursuant hereto and interest on the Obligations at the rate or rates applicable thereto in accordance with the prevailing agreement between the Secured Party and the Debtor. Any and all payments made at any time in respect of the Obligations and the proceeds realized from any Investment Property held therefor (including moneys realized from the enforcement of this Agreement) may be applied (and reapplied from time to time notwithstanding any previous application) to such part or parts of the Obligations as the Secured Party sees fit. The Secured Party may hold as additional security hereunder any increase or profits or other proceeds realized from the Collateral (including money) for such period of time as the Secured Party sees fit. The Debtor shall be accountable for any deficiency and the Secured Party shall be accountable for any surplus.

1.5 Notification

After an Event of Default has occurred and is continuing, the Secured Party may notify any debtor of the Debtor on an intangible, Chattel Paper, or Account, or any obligor on an instrument ("Account Debtor") to make all payments on Collateral to the Secured Party and the Debtor acknowledges that the proceeds of all sales, or any payments on or other proceeds of the Collateral, including but not limited to payments on, or other proceeds of, the Collateral received by the Debtor from any Account Debtor, whether before or after notification to such Account Debtor after default under this Security Agreement will be received and held by the Debtor in trust for the Secured Party and will be turned over to the Secured Party upon request and the Debtor will not commingle any proceeds of or payments on the Collateral with any of the Debtor's funds or property, but will hold them separate and apart.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1 General Representations and Warranties

The Debtor represents, warrants and covenants to and with the Secured Party as follows:

(a) Leases

With respect to each Lease now existing:

- (i) the copy of the Lease provided to the Secured Party contains the entire agreement between the Debtor, the lessor and any guarantor, surety or indemnitor respecting the subject matter and there have been no modifications, amendments or extensions thereto or thereof; and
- (ii) the Lease is in full force and effect and in good standing.

(b) Fixtures

None of the goods comprised in the Collateral are fixtures except any fixtures that are affixed or attached to the Premises.

(c) Consumer Goods

None of the Collateral now owned or hereafter acquired is now or shall at any time be consumer goods of the Debtor.

(d) Location of Collateral

All of the Collateral is situated at the addresses set out in Schedule "A".

2.2 Environmental Representations and Warranties

The Debtor represents, warrants and covenants to and with the Secured Party that, except as previously disclosed to the Secured Party:

- (a) The Collateral now complies and will at all times in future comply in all material respects with all Environmental Laws and Environmental Orders.
- (b) After due and diligent inquiry, it has been found that there is no Hazardous Substance on or in any of the Collateral.
- (c) There is no judicial or administrative proceeding or investigation pending and no Environmental Order has been issued or, to the best of the Debtor's knowledge, threatened concerning the possible violation of any Environmental Laws or Environmental Orders in relation to the Collateral.
- (d) No Hazardous Substance shall be brought on to or used in any part of the Collateral without the prior written consent of the Secured Party and any Hazardous Substance shall be transported, used and stored only in accordance with all Environmental Laws, other lawful requirements, prudent industrial standards including, without limitation, any published environmental standards of any applicable industry association and any requirements of applicable insurance policies.
- (e) The Debtor has created, properly organized and maintained all documentation and records concerning environmental matters as required by any Environmental Laws or Environmental Orders and will maintain such documentation and records at all times in future as aforesaid.
- (f) The Debtor has provided to the Secured Party any Environmental Assessment and related documentation concerning any of the Collateral in its possession or control and shall promptly provide to the Secured Party any such material as the Debtor may obtain in future.
- (g) The Debtor shall promptly notify the Secured Party if it:
 - (i) receives notice from any Governmental Authority of any violation or potential violation of any Environmental Laws or Environmental Orders, including the Release of a Hazardous Substance, which may have occurred or been committed or is about to occur or be committed;
 - (ii) receives notice that any administrative or judicial complaint or Environmental Order has been issued or filed or is about to be issued or filed against any of the

Occupants or their representatives alleging violations of any Environmental Laws or Environmental Orders or requiring the taking of any action in connection with any Hazardous Substance;

- (iii) learns of the enactment of any Environmental Laws or the issuance of any Environmental Orders which may have a material adverse effect on the Debtor or the Collateral; or
 - (iv) knows of or suspects that any Hazardous Substance has been brought on to any part of the Collateral or that there is any actual, threatened or potential Release of any Hazardous Substance on, from, in or under any part of the Collateral.
- (h) The Debtor hereby grants to the Secured Party and its employees and agents an irrevocable and non exclusive licence, subject to the rights of tenants, to enter any of the Premises to conduct testing and monitoring with respect to Hazardous Substances and to remove and analyze any Hazardous Substance at the cost and expense of the Debtor (which cost and expense shall be secured hereby).
- (i) The Debtor shall indemnify the Secured Party and hold the Secured Party harmless against and from all loss, costs, damages and expenses which the Secured Party may sustain, incur or be or become liable for by reason of or arising from the presence, clean up, removal or disposal of any Hazardous Substance referred to in this section or compliance with Environmental Laws or Environmental Orders relating thereto, including any clean up, decommissioning, restoration or remediation of the Collateral and other property (and this indemnification shall survive the satisfaction, release or extinguishment of the indebtedness secured hereby).

2.3 **Title**

The Debtor covenants with the Secured Party that, subject only to Permitted Encumbrances, it lawfully owns and is lawfully possessed of the Collateral and all property and assets indicated by the financial statements which it has delivered to the Secured Party to be owned by it and has good right and authority to mortgage and charge the same as provided for herein, free and clear of all Encumbrances (other than Permitted Encumbrances), and it will warrant and defend the title thereto as well as to any other property, rights and interests hereafter acquired by the Debtor. No person has any agreement or right or option to acquire any of such property (except under unfilled purchase orders accepted in the ordinary course of business for the sale of Inventory).

ARTICLE 3 COVENANTS OF THE DEBTOR

3.1 **General Covenants**

So long as this Agreement remains outstanding, the Debtor covenants and agrees as follows:

(a) **To Pay Certain Debts**

The Debtor shall punctually pay and discharge every obligation, failure to pay or discharge which might result in any lien or charge or right of distress, forfeiture, termination or sale or any other remedy being enforced against the Collateral (other than a Permitted Encumbrance) and provide to the Secured Party when required satisfactory

evidence of such payment and discharge, but the Debtor may, on giving the Secured Party such security (if any) as the Secured Party may require, refrain from paying or discharging any obligation so long as it contests in good faith its liability therefor.

(b) To Maintain Corporate Existence and Security

The Debtor shall:

- (i) diligently preserve all its rights, licences, powers, privileges, franchises and goodwill;
- (ii) observe and perform all of the Obligations and comply with all conditions under leases, licences and other agreements to which it is a party or upon or under which any of the Collateral is held;
- (iii) carry on and conduct its business in a proper and efficient and businesslike manner so as to preserve and protect the Collateral and income therefrom and in accordance with good business practices;
- (iv) keep proper books of account with correct entries of all transactions in relation to its business;
- (v) observe and conform to all valid requirements of law and of any Governmental Authority relative to the Collateral or the carrying on by the Debtor of its business;
- (vi) keep the Collateral in good condition and repair and if the Debtor neglects to keep the Collateral or any part of it in good condition and repair or commits or permits any act of waste to be committed in respect of it and if such neglect, commission or default continues for 30 days after written notice of it has been given by the Secured Party to the Debtor then the Secured Party may from time to time make such repairs as it in its sole discretion considers necessary and the Lender may add the cost of such repairs to the Loan and the Debtor shall reimburse the Secured Party for such costs forthwith upon demand;
- (vii) keep the Secured Party constantly informed in writing as to the location of the Collateral and the books of account and other records of the Debtor; and
- (viii) effect such registrations as may be required by the Secured Party from time to time to protect the security hereof.

(c) Leases

- (i) The Debtor shall at all times perform and discharge all of the lessee's covenants and obligations under any Lease.
- (ii) The Debtor will not without the written consent of the Secured Party terminate, surrender, amend, alter or vary the terms and conditions of the any Lease. Nor shall the Debtor, without the written consent of the Secured Party, waive performance by the landlord under any of the Leases or release any of the said landlords from any obligations under their respective Leases.

(d) To Furnish Proofs

The Debtor shall forthwith on the happening of any loss or damage furnish at its own expense all necessary proofs and do all necessary acts to enable the Secured Party to obtain payment of the insurance monies, which, in the sole discretion of the Secured Party, may be applied in reinstating the insured property or be paid to the Debtor or be applied in payment of the monies owing hereunder, whether due or not then due, or paid partly in one way and partly in another.

(e) Inspection by the Secured Party

Upon the occurrence of an Event of Default that is continuing, the Debtor shall allow any employees or authorized agents of the Secured Party at any reasonable time to enter the premises of the Debtor in order to inspect the Collateral and to inspect the books and records of the Debtor and make extracts therefrom, and shall permit the Secured Party prompt access to such other persons as the Secured Party may deem necessary or desirable for the purposes of inspecting or verifying any matters relating to any part of the Collateral or the books and records of the Debtor, provided that any information so obtained shall be kept confidential, save as required by the Secured Party in exercising its rights hereunder.

(f) Accounts

Subject to any Permitted Encumbrances thereon, Accounts shall be received by the Debtor in trust for the Secured Party; provided that as long as an Event of Default has not occurred the Debtor may collect and use the Accounts in the ordinary course of business.

(g) Delivery of Documents

Upon the occurrence of an Event of Default that is continuing, the Debtor shall deliver to the Secured Party promptly upon request:

- (i) Documents – any Chattel Paper, Instruments, certificated Securities and Documents of Title, and upon such delivery, where applicable, duly endorse the same for transfer in blank or as the Secured Party may direct; and
- (ii) Uncertificated Securities – any uncertificated Securities, including any registration and any further acts and things necessary for delivery of such uncertificated Securities to the Secured Party in accordance with the *Securities Transfer Act*, 2006.

(h) Transfer of Investment Property

Upon the occurrence of an Event of Default that is continuing, if the Collateral at any time includes an Investment Property, the Debtor will, if required by the Secured Party, transfer the Investment Property into the name of the Secured Party or the Secured Party's nominee and may appoint, or cause its nominee to appoint, the Debtor as proxy to vote concerning the Investment Property.

(i) Notice of Default

The Debtor will promptly give written notice to the Secured Party of the occurrence of any Event of Default or of any event which after notice or lapse of time would constitute an Event of Default.

(j) Not to Sell

The Debtor shall not, except as otherwise permitted hereunder, remove, destroy, lease, sell or otherwise dispose of any of the Collateral; provided that the Debtor may sell or otherwise dispose of Equipment which has become worn out or damaged or otherwise unsuitable for its purpose on condition that it shall substitute therefor, subject to the lien hereof and free from prior liens or charges, property of equal value so that the security hereby constituted shall not thereby be in any way reduced or impaired; and provided further that the Debtor may sell Inventory in the ordinary course of business and for the purpose of carrying on the same.

(k) Not to Make Certain Changes

The Debtor shall not without the prior written consent of the Secured Party remove any of the Collateral or any of the books of account or other records of the Debtor from the jurisdiction where presently located.

(l) Fixtures

The Debtor will not permit goods now or hereafter comprised in the Collateral to become fixtures unless they are, or are to be, affixed or attached to the Premises.

(m) Demolish Collateral

The Debtor will not demolish, remove or destroy any of the Collateral or any part or parts of it or cause or permit the demolition, or removal or destruction of it except in the ordinary course of business.

ARTICLE 4 EVENTS OF DEFAULT AND REMEDIES

4.1 Events of Default

The occurrence of any Event of Default under the Credit Agreement (as such term is defined in the Credit Agreement) shall constitute an Event of Default under this Agreement.

4.2 Consequences of an Event of Default

Upon the occurrence of an Event of Default, any obligation of the Secured Party to make further loans or advances or extend other credit to the Debtor shall immediately terminate and all Obligations and all monies secured hereby shall, at the option of the Secured Party, become forthwith due and payable whereupon the floating charge hereby created shall crystallize, all of the rights and remedies hereby conferred in respect of the Collateral shall become immediately enforceable and any and all additional and collateral securities for payment of this Agreement shall become immediately enforceable.

4.3 **Enforcement**

Upon the occurrence of any Event of Default, which is continuing, the Secured Party has the rights and remedies set out in the Credit Agreement, subject to the grace periods set out under Section 12.2 of the Credit Agreement.

4.4 **Disposition**

Without limiting the generality of the foregoing it shall be lawful for the Secured Party:

- (a) to make any sale, lease or other disposition of the Collateral either for cash or upon credit or partly for one and partly for the other upon such conditions as to terms of payment as it in its absolute discretion may deem proper;
- (b) to rescind or vary any contract for sale, lease or other disposition that the Secured Party may have entered into pursuant hereto and resell, release or redispense of the Collateral with or under any of the powers conferred herein; and
- (c) to stop, suspend or adjourn any sale, lease or other disposition from time to time and to hold the same as adjourned without further notice.

Upon any such sale, lease or other disposition the Secured Party shall be accountable only for money actually received by it. The Debtor shall be accountable for any deficiency and the Secured Party shall be accountable for any surplus. The Secured Party may deliver to the purchaser or purchasers of the Collateral or any part thereof good and sufficient conveyances or deeds for the same free and clear of any claim by the Debtor. The purchaser or lessee receiving any disposition of the Collateral or any part thereof need not inquire whether default under this Agreement has actually occurred but may as to this and all other matters rely upon a statutory declaration of an officer of the Secured Party, which declaration shall be conclusive evidence as between the Debtor and any such purchaser or lessee, and the purchaser or lessee need not look to the application of the purchase money, rent or other consideration given upon such sale, lease or other disposition, which shall not be affected by any irregularity of any nature or kind relating to the crystallizing or enforcing of the security hereof or the taking of possession of the Collateral or the sale, lease or other disposition thereof.

4.5 **Powers of Receiver**

Any Receiver appointed as aforesaid shall have the power without legal process:

- (a) to take possession of the Collateral or any part thereof wherever the same may be found;
- (b) to carry on the business of the Debtor or any part thereof in the name of the Debtor or of the Receiver; and
- (c) to exercise on behalf of the Secured Party all of the rights and remedies herein granted to the Secured Party,

and without in any way limiting the foregoing the Receiver shall have all the powers of a receiver appointed by a court of competent jurisdiction. Any Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Debtor, and the Secured Party shall not be in any way responsible for any misconduct or negligence on the part of any Receiver or any loss resulting therefrom.

4.6 **Application of Moneys**

All moneys actually received by the Secured Party or by the Receiver in enforcing the security of this Agreement shall be applied, subject to the proper claims of any other person:

- (a) first, to pay or reimburse the Secured Party and any Receiver the costs, charges, expenses and advances payable by the Debtor in accordance herewith;
- (b) second, in or toward the payment to the Secured Party of all other moneys owing hereunder or secured hereby in such order as the Secured Party in its sole discretion may determine; and
- (c) third, any surplus shall be paid to the Debtor or its assigns.

4.7 **Powers of Directors and Officers**

Upon the Secured Party declaring as aforesaid that the security hereof has become enforceable and crystallized or the Debtor receiving notice from the Secured Party of the taking of possession of any of the Collateral or of the appointment of a Receiver, all the powers, functions, rights and privileges of the directors and officers of the Debtor with respect to the property, business and undertaking of the Debtor shall cease except to the extent specifically continued at any time by the Secured Party in writing.

4.8 **Limitations on Liability**

Neither the provisions of this Agreement nor anything done under or pursuant to the rights, remedies and powers conferred upon the Secured Party and the Receiver, whether hereunder or otherwise, will render the Secured Party a mortgagee in possession. Neither the Secured Party nor any Receiver will be bound to collect, dispose of, realize, enforce or sell any Investment Property, Instruments, Chattel Paper or Intangibles (including any Accounts) comprised in the Collateral or to allow any such Collateral to be sold or disposed of, nor will it be responsible for any loss occasioned by any such sale or other dealing or for any failure to sell or so act, nor will it be responsible for any failure to take necessary steps to preserve rights against others in respect of such Collateral, nor will it be responsible for any loss occasioned by the failure to exercise any rights in respect of Collateral within the time limited for the exercise thereof. Neither the Secured Party nor the Receiver will be obligated to keep Collateral separate or identifiable.

ARTICLE 5 GENERAL

5.1 **Definitions**

As used herein the following expressions shall have the following meanings:

“**Affiliate**” has the meaning ascribed to such term in the *Business Corporations Act* (Ontario);

“**Business Day**” means any day except Saturday, Sunday or a statutory holiday within the Province of Ontario;

“**Capital Expenditure**” means any expenditure which would be chargeable to capital or fixed asset accounts and includes the total of all instalments of rental expressed to be payable during the whole term of each lease of personal property which would be classified as a capital lease;

“Collateral” means all property and assets of the Debtor, including without limitation, those property and assets specifically charged under Section 1.1(a) and subjected to the floating charge under Section 1.1(b) (except as excluded pursuant to Section 1.2);

“Credit Agreement” means the loan agreement made as of even date herewith among the Secured Party, as lender, [Holdco], as borrower and Mizrahi Development Group (145 Davenport) Inc., Mizrahi Development Group (185 Davenport) Inc., Mizrahi Soaring Developments Inc., One8One Davenport Inc., as guarantors;

“Encumbrance” has the meaning given to it in the Credit Agreement;

“Environmental Assessment” means any inquiry, investigation or report of the environmental condition of the Premises;

“Environmental Laws” has the meaning given to it in the Credit Agreement;

“Environmental Order” has the meaning given to it in the Credit Agreement;

“Event of Default” means any one or more of the events set out or referred to in Section 4.1;

“Governmental Authority” has the meaning given to it in the Credit Agreement;

“Hazardous Substance” has the meaning given to it in the Credit Agreement;

“Lease” means any lease (whether now existing, presently arising or created in future) whereby the Premises or any part thereof are demised and leased to the Debtor;

“Loan Documents” has the meaning given to it in the Credit Agreement;

“Obligations” has the meaning given to it in the Credit Agreement;

“Occupants” means the Debtor, its tenants and other occupants of any Premises;

“Permitted Encumbrances” has the meaning given to it in the Credit Agreement;

“Premises” means all lands and premises owned, leased or otherwise occupied by the Debtor from time to time, including, without limitation, those set out in Schedule “A”;

“Receiver” shall include one or more of a receiver, receiver manager or receiver and manager of all or a portion of the undertaking, property and assets of the Debtor appointed by the Secured Party pursuant to this Agreement or by or under any judgment or order of a court;

“Subsidiary” has the meaning given to it in the Credit Agreement.

5.2 Interpretation

- (a) **“This Agreement”, “hereto”, “hereby”, “hereunder”, “herein”,** and similar expressions refer to the whole of this Agreement and not to any particular Article, Section, subsection, paragraph, clause, subdivision or other portion hereof.
- (b) The expression **“not dealing at arm’s length”** has the meaning ascribed to it by the *Income Tax Act* (Canada).

- (c) Except as expressly provided herein, terms which are defined in the *Personal Property Security Act* (Ontario) shall have the same meaning where used herein.
- (d) Words importing the singular number only include the plural and vice versa and words importing gender shall include all genders and words importing persons include individuals, partnerships, corporations, trusts, unincorporated associations, joint ventures, Governmental Authorities and other entities.
- (e) All financial or accounting determinations, reports and statements provided for in this Agreement shall be made or prepared in accordance with generally accepted accounting principles applied in a consistent manner and shall be made and prepared on a consolidated basis.
- (f) The headings of the Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

5.3 **Governing Law**

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province Of Ontario (without regard to rules or principles relating to conflicts of laws) and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such Province and all courts competent to hear appeals therefrom.

Notwithstanding the foregoing: (1) the Secured Party shall have the right to bring any action or proceeding against the Debtor or the Collateral in the courts of any other jurisdiction the Secured Party deems necessary or appropriate in order to realize on the Collateral or other Security for the Obligations; and (2) each of the parties hereto acknowledges that any appeals from the courts described in the immediately preceding sentence may have to be heard by a court located outside those jurisdictions.

5.4 **Conflict**

In the event of a conflict or inconsistency between the provisions of this Agreement and the provisions of the Credit Agreement, the provisions of the Credit Agreement shall govern, it being understood that the purpose of this Agreement and all of the other Loan Documents is to add to, and not detract from, the rights granted to the Secured Party under the Loan Documents.

5.5 **Waiver**

No act or omission by the Secured Party in any manner whatever shall extend to or be taken to affect any provision hereof save only express waiver in writing. A waiver of default shall not extend to, or be taken in any manner whatsoever to affect the rights of the Secured Party with respect to, any subsequent default, whether similar or not. The Debtor waives every defence based upon any or all indulgences that may be granted by the Secured Party.

5.6 **Other Securities**

The rights of the Secured Party hereunder shall not be prejudiced nor shall the liabilities of the Debtor or of any other person be reduced in any way by the taking of any other security of any nature or kind whatsoever either at the time of execution of this Agreement or at any time hereafter.

5.7 **No Merger or Novation**

Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liability of the Debtor to pay the moneys hereby secured nor shall the same operate as a merger of any covenant herein contained or of any other Obligation, nor shall the acceptance of any payment or other security constitute or create any novation.

5.8 **Amalgamation**

The Debtor acknowledges that if it amalgamates with any other corporation or corporations (a) the Collateral and the lien created hereby shall extend to and include all the property and assets of each of the amalgamating corporations and the amalgamated corporation and to any property or assets of the amalgamated corporation thereafter owned or acquired, (b) the term, "Debtor", where used herein shall extend to and include each of the amalgamating corporations and the amalgamated corporation, and (c) the term, "Obligations", where used herein shall extend to and include the Obligations of each of the amalgamating corporations and the amalgamated corporation.

5.9 **Power of Attorney**

(i) Upon the occurrence of an Event of Default that is continuing, the Debtor hereby irrevocably constitutes and appoints the Secured Party and each of its officers holding office from time to time as the true and lawful attorneys of the Debtor with full power of substitution in the name of the Debtor, to do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Secured Party reasonably considers necessary or desirable to carry out the provisions and purposes of this Agreement or to exercise any of its rights and remedies hereunder and to enforce the Security Interest created hereunder, and to do all acts or things necessary to realize or collect the Proceeds, and the Debtor hereby ratifies and agrees to ratify all acts of any such attorneys taken or done in accordance with this Section. Without in any way limiting the generality of the foregoing, upon the occurrence of an Event of Default that is continuing, the Secured Party shall have the right to execute, for and in the name of the Debtor, all financing statements, financing change statements, conveyances, transfers, assignments, consents and other instruments as may be required for such purposes. This power of attorney shall not be revoked or terminated by any act or thing other than the termination of this Agreement pursuant to the terms hereunder.

(ii) The power of attorney granted hereby shall be coupled with an interest.

(iii) For greater certainty, the rights of the Secured Party under Section 5.9(i) may only be exercised by the Secured Party after the occurrence and during the continuance of an Event of Default.

5.10 **The Secured Party May Remedy Default**

If the Debtor fails to do anything hereby required to be done by it, the Secured Party may, but shall not be obliged to, do such thing and all sums thereby expended by the Secured Party shall be payable forthwith by the Debtor, shall be secured hereby and shall have the benefit of the lien hereby created, but no such performance by the Secured Party shall be deemed to relieve the Debtor from any default hereunder.

5.11 **Collections**

The Secured Party is entitled at any time whether or not an Event of Default has occurred hereunder to notify any account debtor or any obligor on an Instrument to make payment to the Secured

Party whether or not the Debtor was theretofore making collections on the Collateral and to take control of any proceeds to which the Secured Party is entitled.

5.12 **Purchase Money Security Interest**

The Debtor acknowledges that the security interest in any item of Collateral and its proceeds shall constitute a purchase money security interest to the extent it secures Obligations incurred by the Debtor to enable the Debtor to acquire rights in such Collateral. The Secured Party hereby reserves title to any item of Collateral which may be sold by the Secured Party to the Debtor until satisfaction of the Obligations as aforesaid.

5.13 **Taxes and Reserve Requirements**

In case the Secured Party is or becomes subject to any tax with respect to payments of principal, interest or other amounts by the Debtor hereunder or in respect of any of the Obligations (except for taxes on the overall net income of the Secured Party) or to any reserve or similar requirement against assets held by, or deposits in or for the account of, or loans by, an office of the Secured Party, or to any other condition with respect to this Agreement, and the result of any of the foregoing is to increase the cost to the Secured Party of making or maintaining any Obligation or to reduce the income receivable by the Secured Party in respect of any Obligation, then the Debtor shall pay to the Secured Party on demand that amount which shall compensate the Secured Party for such additional cost or reduction in income. A certificate of the Secured Party setting forth the amount of such additional compensation and the basis therefor shall be submitted by the Secured Party to the Debtor and shall be conclusive evidence, in the absence of manifest error, of such amount.

5.14 **Notices**

Any notice or other communication to be given by any party hereunder to another party shall be given or made pursuant to and in accordance with the terms and conditions of the Credit Agreement.

5.15 **Receipt**

The Debtor hereby acknowledges receipt of a true copy of this Agreement and a copy of the financing statement registered under the *Personal Property Security Act* (Ontario) in respect of the security created hereby.

5.16 **Successors and Assigns, etc.**

This Agreement and all its provisions shall enure to the benefit of the Secured Party, its successors and assigns, and shall be binding upon the Debtor, its successors and assigns, and every reference herein to a party hereto shall include such party's successors and assigns as if specifically named. Time shall be in all respects of the essence hereof.

IN WITNESS WHEREOF the Debtor has executed this Security Agreement on the 17th day of December, 2014.

NORTHERN CITADEL CAPITAL INC.

Per: 

Name: Sam Mizrahi

Title: President

I have the authority to bind the corporation

**MIZRAHI SOARING DEVELOPMENTS
INC.**

Per: 

Name: Sam Mizrahi

Title: President

I have the authority to bind the corporation

ONE8ONE DAVENPORT INC.

Per: 

Name: Sam Mizrahi

Title: President

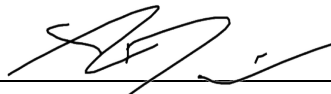
I have the authority to bind the corporation

SCHEDULE "A"

PREMISES

1. 145 Davenport Road Toronto, Ontario
2. 185 Davenport Road, Toronto, Ontario

This is Exhibit “G” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193103.74

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 1
(5795)

A175

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

TYPE OF SEARCH : BUSINESS DEBTOR

SEARCH CONDUCTED ON : ONE8ONE DAVENPORT INC.

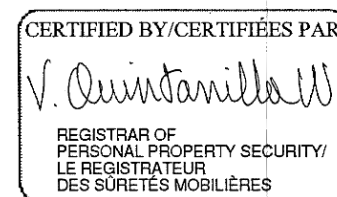
FILE CURRENCY : 02AUG 2022

ENQUIRY NUMBER 20220803193103.74 CONTAINS 3 PAGE(S), 1 FAMILY(IES).

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

THORNTON GROUT FINNIGAN LLP - ROXANA MANEA
100 WELLINGTON STREET WEST
TORONTO ON M5K 1K7

CONTINUED... 2



(crj6 05/2022)

Ontario A175

RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193103.74

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 2
(5796)

A176

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : ONE8ONE DAVENPORT INC.
FILE CURRENCY : 02AUG 2022

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER
782932905

| CAUTION FILING | PAGE NO. | TOTAL OF PAGES | MOTOR VEHICLE SCHEDULE | REGISTRATION NUMBER | REGISTERED UNDER | REGISTRATION PERIOD |
|----------------|----------|----------------|------------------------|-------------------------|------------------|---------------------|
| | 001 | 1 | | 20220512 1555 1590 2177 | P PPSA | 5 |

DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

DEBTOR
NAME

BUSINESS NAME

ONE8ONE DAVENPORT INC.

ONTARIO CORPORATION NO.

ADDRESS

125 HAZELTON AVENUE

TORONTO

ON M5R 2E4

DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

DEBTOR
NAME

BUSINESS NAME

ONTARIO CORPORATION NO.

ADDRESS

SECURED PARTY /
LIEN CLAIMANT

BRIDGING FINANCE INC., AS AGENT

ADDRESS

77 KING STREET WEST, SUITE 2925

TORONTO

ON M5K 1K7

COLLATERAL CLASSIFICATION

| CONSUMER GOODS | INVENTORY | EQUIPMENT | ACCOUNTS | OTHER | MOTOR VEHICLE INCLUDED | AMOUNT | DATE OF MATURITY OR | NO FIXED MATURITY DATE |
|----------------|-----------|-----------|----------|-------|------------------------|--------|---------------------|------------------------|
| X | X | X | X | X | X | | | |

YEAR MAKE

MODEL

V.I.N.

MOTOR
VEHICLE

GENERAL
COLLATERAL
DESCRIPTION

REGISTERING
AGENT

THORNTON GROUT FINNIGAN LLP (GBM/AD)

ADDRESS

3200-100 WELLINGTON STREET WEST

TORONTO

ON

M5K 1K7

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

CONTINUED...

3

CERTIFIED BY/CERTIFIÉES PAR

V. Quintanilla W.

REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES

(crj1fv 05/2022)

Ontario A176

RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193103.74

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 3
(5797)

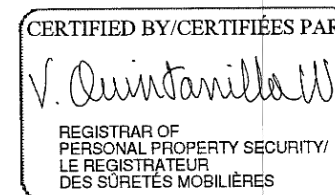
A177

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : ONE8ONE DAVENPORT INC.
FILE CURRENCY : 02AUG 2022

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.


| FILE NUMBER | REGISTRATION NUMBER | REGISTRATION NUMBER | REGISTRATION NUMBER | REGISTRATION NUMBER |
|-------------|-------------------------|---------------------|---------------------|---------------------|
| 782932905 | 20220512 1555 1590 2177 | | | |

1 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



(crj6 05/2022)

This is Exhibit “H” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

GENERAL SECURITY AGREEMENT

THIS AGREEMENT made as of the 2nd day of May, 2018.

BETWEEN:

181 Davenport Retail Inc.

(hereinafter called the "Debtor")

and

**Bridging Finance Inc., as agent for
Sprott Bridging Income Fund LP**

(hereinafter called the "Secured Party")

In consideration of the sum of One Dollar (\$1.00) now paid to it by the Secured Party, receipt of which is hereby acknowledged, and to secure the due payment and performance of all Obligations, the Debtor hereby agrees with the Secured Party and provides as follows:

ARTICLE 1 SECURITY

1.1 Charge

Subject to the exceptions set forth in Section 1.2, the Debtor hereby:

- (a) grants, sells, assigns, conveys, transfers, mortgages, pledges and charges, as and by way of fixed and specific mortgage, pledge and charge to and in favour of the Secured Party, and grants to the Secured Party a security interest in, all personal property of every nature and kind whatsoever and wheresoever situate now or at any time and from time to time owned by the Debtor, beneficially or otherwise, or in which or in respect of which the Debtor has any interest or rights of any kind, including, without limiting the generality of the foregoing, the following:
 - (i) All inventory of whatsoever kind and wheresoever situate now owned or hereafter acquired by the Debtor including without limiting the generality of the foregoing, goods for sale or lease or that have been leased; goods furnished or to be furnished under a contract of service; goods which are raw materials, work in process or materials used or consumed in a business or profession of the Debtor; goods used or procured for packing; finished goods; industrial growing crops, oil, gas and other minerals to be extracted; timber to be cut; and the young of animals after conception ("Inventory");
 - (ii) All book accounts and book debts and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit, and advices of credit, which are now due, owing or accruing or growing due to or owned by or which may hereafter become due, owing, accruing or growing due to or owned by the Debtor

including but not limited to claims against the Crown and claims under insurance policies ("**Accounts**");

- (iii) All machinery, equipment, tools, apparatus, plants, fixtures, furniture, vehicles, goods and other tangible personal property of whatsoever nature and kind, now owned or hereafter acquired by the Debtor other than Inventory ("**Equipment**");
- (iv) All chattel paper now owned or hereafter acquired by the Debtor ("**Chattel Paper**");
- (v) All warehouse receipts, bills of lading and other documents of title, whether negotiable or otherwise, now owned or hereafter acquired by the Debtor ("**Documents of Title**");
- (vi) All present and future bills, notes and cheques (as such are defined pursuant to the *Bills of Exchange Act* (Canada)), and all other writings that evidence a right to the payment of money and that are of a type that in the ordinary course of business are transferred by delivery without any necessary endorsement or assignment ("**Instruments**");
- (vii) All deeds, documents, writings, papers, books of accounts and other books evidencing or relating to Accounts, Chattel Paper, Instruments or Documents of Title or by which such are or may hereafter be secured, evidenced, acknowledged or made payable; and all contracts, securities, instruments and other rights and benefits in respect thereof;
- (viii) All present and future securities held by the Debtor or shares, options, rights, warrants, joint venture interests, interests in limited partnerships, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of the Debtor in property or in an enterprise or which constitute evidence of an obligation of an issuer,
 - (A) that are represented by security certificates in bearer form or registered form, or the transfer of which may be registered on books maintained for that purpose by or on behalf of the issuer,
 - (B) that are one of a class or series, or by their terms are divisible into a class or series, of shares, participations, interests or obligations, and
 - (C) that,
 - (i) are, or are of a type, dealt in or traded on securities exchanges or securities markets, or
 - (ii) are a medium for investment and by their terms expressly provides that it is a security for the purposes of the *Securities Transfer Act* (Ontario), 2006,

and includes: (a) shares or similar equity interests issued by a corporation, business trust or similar entity; (b) general or limited partnership interests or other equivalents (regardless of how designated) of or in a partnership or limited

partnership; and (c) and all substitutions therefor and dividends and income derived therefrom and all rights in respect thereof ("**Securities**");

- (ix) All present and after-acquired intangible property (save and except for Accounts) wherever situate and now or hereafter owned by the Debtor including, without limitation, all contractual rights, licenses, goodwill, patents, trademarks, tradenames, copyrights, other industrial designs and other industrial or intellectual property and undertaking of the Debtor and all other choses in action of the Debtor of every kind which now are, or which may at any time hereafter be, due or owing to or owned by the Debtor and all other intangible property of the Debtor which is not Accounts, Inventory, Chattel Paper, Documents of Title, Instruments, Money or Securities ("**Intangibles**");
- (x) All present and future money of the Debtor, whether authorized or adopted by the Parliament of Canada as part of its currency or any foreign government as part of its currency ("**Money**");
- (xi) All or any part of any present or future interest of the Debtor in present and after acquired investment property, including all Securities, Securities Accounts and Futures Accounts, all of the present and future security entitlements of the Debtor as an entitlement holder of such security entitlements, all of the present and future futures contracts of the Debtor as a futures customer in respect of such futures contracts, and all proceeds of any such property, where "**Futures Accounts**" means all of the present or future futures accounts maintained for the Debtor by a futures intermediary, including all futures contracts carried in such futures accounts and the agreements between the Borrower and the futures intermediary governing such futures accounts, and "**Securities Account**" means all of the present or future securities accounts maintained for the Debtor by a securities intermediary, including all of the financial assets credited to such securities accounts, all related securities entitlements and the agreements between the Debtor and the securities intermediary governing such securities accounts ("**Investment Property**");
- (xii) Any property in any form (including fixtures) derived directly or indirectly from any dealings with any property herein described (including all products and cash and non cash proceeds thereof); indemnification or compensation for any such property lost, destroyed, damaged or lawfully or unlawfully taken or injuriously affected; all increases, additions and accessions thereto and substitutions and replacements thereof;
- (xiii) All proceeds derived from the property, assets and undertaking of the Debtor referred to in this Section 1.1(a) including, without limitation, insurance proceeds and any other payment representing indemnity or compensation for loss of or damage thereto or the proceeds therefrom;
- (b) charges with payment to the Secured Party of all Obligations as and by way of a floating charge the whole of the undertaking of the Debtor and all of its property and assets, real and personal, movable and immovable, tangible and intangible, of every nature and kind whatsoever and wheresoever situate, both present and future (other than property and assets from time to time effectively subjected to the fixed and specific mortgages and charges created hereby or by any instrument supplemental hereto).

1.2 Exceptions as to Leases

- (a) The last day of any term of years reserved by any lease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Debtor is excepted out of the Collateral, but the Debtor shall stand possessed of any such reversion upon trust to assign and dispose thereof as the Secured Party may direct. In addition, consumer goods now held or hereafter acquired by the Debtor and agreements that require the consent of a party other than the Debtor for the purposes of this Agreement are excepted out of the Collateral. Where the giving of a fixed and specific mortgage and charge on any real or personal property held by the Debtor under lease requires the consent of the lessor of such property, the giving of the fixed and specific mortgage and charge hereunder on such property shall not take effect until such consent is obtained or legally dispensed with but the suspension of the effect of the fixed and specific mortgage and charge on such property shall not affect the fixed and specific mortgage and charge on any other property of the Debtor.
- (b) Pursuant to this Agreement:
 - (i) To the extent that the creation of the security interest created hereby would constitute a breach of or default under, or permit the acceleration or termination of any agreement, right, licence or permit of the Debtor which constitutes Collateral (each, a "**Restricted Asset**"), the security interest created hereunder shall not attach to the Restricted Asset, but the Debtor shall, subject to paragraph (ii) below, hold its interest in the Restricted Asset in trust for the Secured Party, provided that, until the security interest created hereby has become enforceable, the Debtor shall be entitled to all proceeds arising under or in connection with the Restricted Asset.
 - (ii) To the extent that the creation of the trust in paragraph (i) above would constitute a breach or permit the acceleration or termination of any Restricted Asset, the security interest created hereunder shall not attach to the Restricted Asset, but the security interest created hereby will constitute a trust created in favour of the Secured Party pursuant to which the Debtor shall hold as trustee its interest in all proceeds arising under or in connection with the Restricted Asset in trust for the Secured Party, provided that until the security interest created hereby has become enforceable, the Debtor shall be entitled to receive all such proceeds.

1.3 Supplemental Indentures

The Debtor shall from time to time on demand by the Secured Party execute and deliver such further deeds or indentures supplemental hereto, which shall thereafter form part hereof, for the purpose of mortgaging to the Secured Party any property now owned or hereafter acquired by the Debtor and falling within the description of the Collateral, for correcting or amplifying the description of any property hereby mortgaged or intended so to be, or for any other purpose not inconsistent with the terms of this Agreement.

1.4 Continuing Security

This Agreement and any other security given with the Secured Party's consent in replacement thereof, substitution therefor or in addition thereto shall be held by the Secured Party as general and continuing security for due payment and performance of all Obligations, including without limitation all

costs and amounts payable pursuant hereto and interest on the Obligations at the rate or rates applicable thereto in accordance with the prevailing agreement between the Secured Party and the Debtor. Any and all payments made at any time in respect of the Obligations and the proceeds realized from any Investment Property held therefor (including moneys realized from the enforcement of this Agreement) may be applied (and reapplied from time to time notwithstanding any previous application) to such part or parts of the Obligations as the Secured Party sees fit. The Secured Party may hold as additional security hereunder any increase or profits or other proceeds realized from the Collateral (including money) for such period of time as the Secured Party sees fit. The Debtor shall be accountable for any deficiency and the Secured Party shall be accountable for any surplus.

1.5 Notification

After an Event of Default has occurred and is continuing, the Secured Party may notify any debtor of the Debtor on an intangible, Chattel Paper, or Account, or any obligor on an instrument ("Account Debtor") to make all payments on Collateral to the Secured Party and the Debtor acknowledges that the proceeds of all sales, or any payments on or other proceeds of the Collateral, including but not limited to payments on, or other proceeds of, the Collateral received by the Debtor from any Account Debtor, whether before or after notification to such Account Debtor after default under this Security Agreement will be received and held by the Debtor in trust for the Secured Party and will be turned over to the Secured Party upon request and the Debtor will not commingle any proceeds of or payments on the Collateral with any of the Debtor's funds or property, but will hold them separate and apart.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1 General Representations and Warranties

The Debtor represents, warrants and covenants to and with the Secured Party as follows:

(a) Leases

With respect to each Lease now existing:

- (i) the copy of the Lease provided to the Secured Party contains the entire agreement between the Debtor, the lessor and any guarantor, surety or indemnitor respecting the subject matter and there have been no modifications, amendments or extensions thereto or thereof; and
- (ii) the Lease is in full force and effect and in good standing.

(b) Fixtures

None of the goods comprised in the Collateral are fixtures except any fixtures that are affixed or attached to the Premises.

(c) Consumer Goods

None of the Collateral now owned or hereafter acquired is now or shall at any time be consumer goods of the Debtor.

(d) Location of Collateral

All of the Collateral is situated at the addresses set out in Schedule "A".

2.2 Environmental Representations and Warranties

The Debtor represents, warrants and covenants to and with the Secured Party that, except as previously disclosed to the Secured Party:

- (a) The Collateral now complies and will at all times in future comply in all material respects with all Environmental Laws and Environmental Orders.
- (b) After due and diligent inquiry, it has been found that there is no Hazardous Substance on or in any of the Collateral.
- (c) There is no judicial or administrative proceeding or investigation pending and no Environmental Order has been issued or, to the best of the Debtor's knowledge, threatened concerning the possible violation of any Environmental Laws or Environmental Orders in relation to the Collateral.
- (d) No Hazardous Substance shall be brought on to or used in any part of the Collateral without the prior written consent of the Secured Party and any Hazardous Substance shall be transported, used and stored only in accordance with all Environmental Laws, other lawful requirements, prudent industrial standards including, without limitation, any published environmental standards of any applicable industry association and any requirements of applicable insurance policies.
- (e) The Debtor has created, properly organized and maintained all documentation and records concerning environmental matters as required by any Environmental Laws or Environmental Orders and will maintain such documentation and records at all times in future as aforesaid.
- (f) The Debtor has provided to the Secured Party any Environmental Assessment and related documentation concerning any of the Collateral in its possession or control and shall promptly provide to the Secured Party any such material as the Debtor may obtain in future.
- (g) The Debtor shall promptly notify the Secured Party if it:
 - (i) receives notice from any Governmental Authority of any violation or potential violation of any Environmental Laws or Environmental Orders, including the Release of a Hazardous Substance, which may have occurred or been committed or is about to occur or be committed;
 - (ii) receives notice that any administrative or judicial complaint or Environmental Order has been issued or filed or is about to be issued or filed against any of the Occupants or their representatives alleging violations of any Environmental Laws or Environmental Orders or requiring the taking of any action in connection with any Hazardous Substance;

- (iii) learns of the enactment of any Environmental Laws or the issuance of any Environmental Orders which may have a material adverse effect on the Debtor or the Collateral; or
- (iv) knows of or suspects that any Hazardous Substance has been brought on to any part of the Collateral or that there is any actual, threatened or potential Release of any Hazardous Substance on, from, in or under any part of the Collateral.
- (h) The Debtor hereby grants to the Secured Party and its employees and agents an irrevocable and non exclusive licence, subject to the rights of tenants, to enter any of the Premises to conduct testing and monitoring with respect to Hazardous Substances and to remove and analyze any Hazardous Substance at the cost and expense of the Debtor (which cost and expense shall be secured hereby).
- (i) The Debtor shall indemnify the Secured Party and hold the Secured Party harmless against and from all loss, costs, damages and expenses which the Secured Party may sustain, incur or be or become liable for by reason of or arising from the presence, clean up, removal or disposal of any Hazardous Substance referred to in this section or compliance with Environmental Laws or Environmental Orders relating thereto, including any clean up, decommissioning, restoration or remediation of the Collateral and other property (and this indemnification shall survive the satisfaction, release or extinguishment of the indebtedness secured hereby).

2.3 Title

The Debtor covenants with the Secured Party that, subject only to Permitted Encumbrances, it lawfully owns and is lawfully possessed of the Collateral and all property and assets indicated by the financial statements which it has delivered to the Secured Party to be owned by it and has good right and authority to mortgage and charge the same as provided for herein, free and clear of all Encumbrances (other than Permitted Encumbrances), and it will warrant and defend the title thereto as well as to any other property, rights and interests hereafter acquired by the Debtor. No person has any agreement or right or option to acquire any of such property (except under unfilled purchase orders accepted in the ordinary course of business for the sale of Inventory).

ARTICLE 3 COVENANTS OF THE DEBTOR

3.1 General Covenants

So long as this Agreement remains outstanding, the Debtor covenants and agrees as follows:

(a) To Pay Certain Debts

The Debtor shall punctually pay and discharge every obligation, failure to pay or discharge which might result in any lien or charge or right of distress, forfeiture, termination or sale or any other remedy being enforced against the Collateral (other than a Permitted Encumbrance) and provide to the Secured Party when required satisfactory evidence of such payment and discharge, but the Debtor may, on giving the Secured Party such security (if any) as the Secured Party may require, refrain from paying or discharging any obligation so long as it contests in good faith its liability therefor.

(b) To Maintain Corporate Existence and Security

The Debtor shall:

- (i) diligently preserve all its rights, licences, powers, privileges, franchises and goodwill;
- (ii) observe and perform all of the Obligations and comply with all conditions under leases, licences and other agreements to which it is a party or upon or under which any of the Collateral is held;
- (iii) carry on and conduct its business in a proper and efficient and businesslike manner so as to preserve and protect the Collateral and income therefrom and in accordance with good business practices;
- (iv) keep proper books of account with correct entries of all transactions in relation to its business;
- (v) observe and conform to all valid requirements of law and of any Governmental Authority relative to the Collateral or the carrying on by the Debtor of its business;
- (vi) keep the Collateral in good condition and repair and if the Debtor neglects to keep the Collateral or any part of it in good condition and repair or commits or permits any act of waste to be committed in respect of it and if such neglect, commission or default continues for 30 days after written notice of it has been given by the Secured Party to the Debtor then the Secured Party may from time to time make such repairs as it in its sole discretion considers necessary and the Lender may add the cost of such repairs to the Loan and the Debtor shall reimburse the Secured Party for such costs forthwith upon demand;
- (vii) keep the Secured Party constantly informed in writing as to the location of the Collateral and the books of account and other records of the Debtor; and
- (viii) effect such registrations as may be required by the Secured Party from time to time to protect the security hereof.

(c) Leases

- (i) The Debtor shall at all times perform and discharge all of the lessee's covenants and obligations under any Lease.
- (ii) The Debtor will not without the written consent of the Secured Party terminate, surrender, amend, alter or vary the terms and conditions of the any Lease. Nor shall the Debtor, without the written consent of the Secured Party, waive performance by the landlord under any of the Leases or release any of the said landlords from any obligations under their respective Leases.

(d) To Furnish Proofs

The Debtor shall forthwith on the happening of any loss or damage furnish at its own expense all necessary proofs and do all necessary acts to enable the Secured Party to obtain payment of the insurance monies, which, in the sole discretion of the Secured Party, may be applied in reinstating the insured property or be paid to the Debtor or be applied in payment of the monies owing hereunder, whether due or not then due, or paid partly in one way and partly in another.

(e) Inspection by the Secured Party

Upon the occurrence of an Event of Default that is continuing, the Debtor shall allow any employees or authorized agents of the Secured Party at any reasonable time to enter the premises of the Debtor in order to inspect the Collateral and to inspect the books and records of the Debtor and make extracts therefrom, and shall permit the Secured Party prompt access to such other persons as the Secured Party may deem necessary or desirable for the purposes of inspecting or verifying any matters relating to any part of the Collateral or the books and records of the Debtor, provided that any information so obtained shall be kept confidential, save as required by the Secured Party in exercising its rights hereunder.

(f) Accounts

Subject to any Permitted Encumbrances thereon, Accounts shall be received by the Debtor in trust for the Secured Party; provided that as long as an Event of Default has not occurred the Debtor may collect and use the Accounts in the ordinary course of business.

(g) Delivery of Documents

Upon the occurrence of an Event of Default that is continuing, the Debtor shall deliver to the Secured Party promptly upon request:

- (i) Documents – any Chattel Paper, Instruments, certificated Securities and Documents of Title, and upon such delivery, where applicable, duly endorse the same for transfer in blank or as the Secured Party may direct; and
- (ii) Uncertificated Securities – any uncertificated Securities, including any registration and any further acts and things necessary for delivery of such uncertificated Securities to the Secured Party in accordance with the *Securities Transfer Act*, 2006.

(h) Transfer of Investment Property

Upon the occurrence of an Event of Default that is continuing, if the Collateral at any time includes an Investment Property, the Debtor will, if required by the Secured Party, transfer the Investment Property into the name of the Secured Party or the Secured Party's nominee and may appoint, or cause its nominee to appoint, the Debtor as proxy to vote concerning the Investment Property.

(i) Notice of Default

The Debtor will promptly give written notice to the Secured Party of the occurrence of any Event of Default or of any event which after notice or lapse of time would constitute an Event of Default.

(j) Not to Sell

The Debtor shall not, except as otherwise permitted hereunder, remove, destroy, lease, sell or otherwise dispose of any of the Collateral; provided that the Debtor may sell or otherwise dispose of Equipment which has become worn out or damaged or otherwise unsuitable for its purpose on condition that it shall substitute therefor, subject to the lien hereof and free from prior liens or charges, property of equal value so that the security hereby constituted shall not thereby be in any way reduced or impaired; and provided further that the Debtor may sell Inventory in the ordinary course of business and for the purpose of carrying on the same.

(k) Not to Make Certain Changes

The Debtor shall not without the prior written consent of the Secured Party remove any of the Collateral or any of the books of account or other records of the Debtor from the jurisdiction where presently located.

(l) Fixtures

The Debtor will not permit goods now or hereafter comprised in the Collateral to become fixtures unless they are, or are to be, affixed or attached to the Premises.

(m) Demolish Collateral

The Debtor will not demolish, remove or destroy any of the Collateral or any part or parts of it or cause or permit the demolition, or removal or destruction of it except in the ordinary course of business.

ARTICLE 4 EVENTS OF DEFAULT AND REMEDIES

4.1 Events of Default

The occurrence of any Event of Default under the Credit Agreement (as such term is defined in the Credit Agreement) shall constitute an Event of Default under this Agreement.

4.2 Consequences of an Event of Default

Upon the occurrence of an Event of Default, any obligation of the Secured Party to make further loans or advances or extend other credit to the Debtor shall immediately terminate and all Obligations and all monies secured hereby shall, at the option of the Secured Party, become forthwith due and payable whereupon the floating charge hereby created shall crystallize, all of the rights and remedies hereby conferred in respect of the Collateral shall become immediately enforceable and any and all additional and collateral securities for payment of this Agreement shall become immediately enforceable.

4.3 **Enforcement**

Upon the occurrence of any Event of Default, which is continuing, the Secured Party has the rights and remedies set out in the Credit Agreement, subject to the grace periods set out under Section 12.2 of the Credit Agreement.

4.4 **Disposition**

Without limiting the generality of the foregoing it shall be lawful for the Secured Party:

- (a) to make any sale, lease or other disposition of the Collateral either for cash or upon credit or partly for one and partly for the other upon such conditions as to terms of payment as it in its absolute discretion may deem proper;
- (b) to rescind or vary any contract for sale, lease or other disposition that the Secured Party may have entered into pursuant hereto and resell, release or redispense of the Collateral with or under any of the powers conferred herein; and
- (c) to stop, suspend or adjourn any sale, lease or other disposition from time to time and to hold the same as adjourned without further notice.

Upon any such sale, lease or other disposition the Secured Party shall be accountable only for money actually received by it. The Debtor shall be accountable for any deficiency and the Secured Party shall be accountable for any surplus. The Secured Party may deliver to the purchaser or purchasers of the Collateral or any part thereof good and sufficient conveyances or deeds for the same free and clear of any claim by the Debtor. The purchaser or lessee receiving any disposition of the Collateral or any part thereof need not inquire whether default under this Agreement has actually occurred but may as to this and all other matters rely upon a statutory declaration of an officer of the Secured Party, which declaration shall be conclusive evidence as between the Debtor and any such purchaser or lessee, and the purchaser or lessee need not look to the application of the purchase money, rent or other consideration given upon such sale, lease or other disposition, which shall not be affected by any irregularity of any nature or kind relating to the crystallizing or enforcing of the security hereof or the taking of possession of the Collateral or the sale, lease or other disposition thereof.

4.5 **Powers of Receiver**

Any Receiver appointed as aforesaid shall have the power without legal process:

- (a) to take possession of the Collateral or any part thereof wherever the same may be found;
- (b) to carry on the business of the Debtor or any part thereof in the name of the Debtor or of the Receiver; and
- (c) to exercise on behalf of the Secured Party all of the rights and remedies herein granted to the Secured Party,

and without in any way limiting the foregoing the Receiver shall have all the powers of a receiver appointed by a court of competent jurisdiction. Any Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Debtor, and the Secured Party shall not be in any way responsible for any misconduct or negligence on the part of any Receiver or any loss resulting therefrom.

4.6 Application of Moneys

All moneys actually received by the Secured Party or by the Receiver in enforcing the security of this Agreement shall be applied, subject to the proper claims of any other person:

- (a) first, to pay or reimburse the Secured Party and any Receiver the costs, charges, expenses and advances payable by the Debtor in accordance herewith;
- (b) second, in or toward the payment to the Secured Party of all other moneys owing hereunder or secured hereby in such order as the Secured Party in its sole discretion may determine; and
- (c) third, any surplus shall be paid to the Debtor or its assigns.

4.7 Powers of Directors and Officers

Upon the Secured Party declaring as aforesaid that the security hereof has become enforceable and crystallized or the Debtor receiving notice from the Secured Party of the taking of possession of any of the Collateral or of the appointment of a Receiver, all the powers, functions, rights and privileges of the directors and officers of the Debtor with respect to the property, business and undertaking of the Debtor shall cease except to the extent specifically continued at any time by the Secured Party in writing.

4.8 Limitations on Liability

Neither the provisions of this Agreement nor anything done under or pursuant to the rights, remedies and powers conferred upon the Secured Party and the Receiver, whether hereunder or otherwise, will render the Secured Party a mortgagee in possession. Neither the Secured Party nor any Receiver will be bound to collect, dispose of, realize, enforce or sell any Investment Property, Instruments, Chattel Paper or Intangibles (including any Accounts) comprised in the Collateral or to allow any such Collateral to be sold or disposed of, nor will it be responsible for any loss occasioned by any such sale or other dealing or for any failure to sell or so act, nor will it be responsible for any failure to take necessary steps to preserve rights against others in respect of such Collateral, nor will it be responsible for any loss occasioned by the failure to exercise any rights in respect of Collateral within the time limited for the exercise thereof. Neither the Secured Party nor the Receiver will be obligated to keep Collateral separate or identifiable.

ARTICLE 5 GENERAL

5.1 Definitions

As used herein the following expressions shall have the following meanings:

“**Affiliate**” has the meaning ascribed to such term in the *Business Corporations Act* (Ontario);

“**Business Day**” means any day except Saturday, Sunday or a statutory holiday within the Province of Ontario;

“**Capital Expenditure**” means any expenditure which would be chargeable to capital or fixed asset accounts and includes the total of all instalments of rental expressed to be payable during the whole term of each lease of personal property which would be classified as a capital lease;

“Collateral” means all property and assets of the Debtor, including without limitation, those property and assets specifically charged under Section 1.1(a) and subjected to the floating charge under Section 1.1(b) (except as excluded pursuant to Section 1.2);

“Credit Agreement” means the loan agreement made as of even date herewith among the Secured Party, as lender, Northern Citadel Capital Inc., as borrower and Mizrahi Development Group (145 Davenport) Inc., Mizrahi Development Group (185 Davenport) Inc., Mizrahi Soaring Developments Inc., One8One Davenport Inc., as guarantors;

“Encumbrance” has the meaning given to it in the Credit Agreement;

“Environmental Assessment” means any inquiry, investigation or report of the environmental condition of the Premises;

“Environmental Laws” has the meaning given to it in the Credit Agreement;

“Environmental Order” has the meaning given to it in the Credit Agreement;

“Event of Default” means any one or more of the events set out or referred to in Section 4.1;

“Governmental Authority” has the meaning given to it in the Credit Agreement;

“Hazardous Substance” has the meaning given to it in the Credit Agreement;

“Lease” means any lease (whether now existing, presently arising or created in future) whereby the Premises or any part thereof are demised and leased to the Debtor;

“Loan Documents” has the meaning given to it in the Credit Agreement;

“Obligations” has the meaning given to it in the Credit Agreement;

“Occupants” means the Debtor, its tenants and other occupants of any Premises;

“Permitted Encumbrances” has the meaning given to it in the Credit Agreement;

“Premises” means all lands and premises owned, leased or otherwise occupied by the Debtor from time to time, including, without limitation, those set out in Schedule “A”;

“Receiver” shall include one or more of a receiver, receiver manager or receiver and manager of all or a portion of the undertaking, property and assets of the Debtor appointed by the Secured Party pursuant to this Agreement or by or under any judgment or order of a court;

“Subsidiary” has the meaning given to it in the Credit Agreement.

5.2 Interpretation

- (a) **“This Agreement”, “hereto”, “hereby”, “hereunder”, “herein”,** and similar expressions refer to the whole of this Agreement and not to any particular Article, Section, subsection, paragraph, clause, subdivision or other portion hereof.
- (b) The expression **“not dealing at arm’s length”** has the meaning ascribed to it by the *Income Tax Act* (Canada).

- (c) Except as expressly provided herein, terms which are defined in the *Personal Property Security Act* (Ontario) shall have the same meaning where used herein.
- (d) Words importing the singular number only include the plural and vice versa and words importing gender shall include all genders and words importing persons include individuals, partnerships, corporations, trusts, unincorporated associations, joint ventures, Governmental Authorities and other entities.
- (e) All financial or accounting determinations, reports and statements provided for in this Agreement shall be made or prepared in accordance with generally accepted accounting principles applied in a consistent manner and shall be made and prepared on a consolidated basis.
- (f) The headings of the Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

5.3 **Governing Law**

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province Of Ontario (without regard to rules or principles relating to conflicts of laws) and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such Province and all courts competent to hear appeals therefrom.

Notwithstanding the foregoing: (1) the Secured Party shall have the right to bring any action or proceeding against the Debtor or the Collateral in the courts of any other jurisdiction the Secured Party deems necessary or appropriate in order to realize on the Collateral or other Security for the Obligations; and (2) each of the parties hereto acknowledges that any appeals from the courts described in the immediately preceding sentence may have to be heard by a court located outside those jurisdictions.

5.4 **Conflict**

In the event of a conflict or inconsistency between the provisions of this Agreement and the provisions of the Credit Agreement, the provisions of the Credit Agreement shall govern, it being understood that the purpose of this Agreement and all of the other Loan Documents is to add to, and not detract from, the rights granted to the Secured Party under the Loan Documents.

5.5 **Waiver**

No act or omission by the Secured Party in any manner whatever shall extend to or be taken to affect any provision hereof save only express waiver in writing. A waiver of default shall not extend to, or be taken in any manner whatsoever to affect the rights of the Secured Party with respect to, any subsequent default, whether similar or not. The Debtor waives every defence based upon any or all indulgences that may be granted by the Secured Party.

5.6 **Other Securities**

The rights of the Secured Party hereunder shall not be prejudiced nor shall the liabilities of the Debtor or of any other person be reduced in any way by the taking of any other security of any nature or kind whatsoever either at the time of execution of this Agreement or at any time hereafter.

5.7 No Merger or Novation

Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liability of the Debtor to pay the moneys hereby secured nor shall the same operate as a merger of any covenant herein contained or of any other Obligation, nor shall the acceptance of any payment or other security constitute or create any novation.

5.8 Amalgamation

The Debtor acknowledges that if it amalgamates with any other corporation or corporations (a) the Collateral and the lien created hereby shall extend to and include all the property and assets of each of the amalgamating corporations and the amalgamated corporation and to any property or assets of the amalgamated corporation thereafter owned or acquired, (b) the term, "Debtor", where used herein shall extend to and include each of the amalgamating corporations and the amalgamated corporation, and (c) the term, "Obligations", where used herein shall extend to and include the Obligations of each of the amalgamating corporations and the amalgamated corporation.

5.9 Power of Attorney

(i) Upon the occurrence of an Event of Default that is continuing, the Debtor hereby irrevocably constitutes and appoints the Secured Party and each of its officers holding office from time to time as the true and lawful attorneys of the Debtor with full power of substitution in the name of the Debtor, to do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Secured Party reasonably considers necessary or desirable to carry out the provisions and purposes of this Agreement or to exercise any of its rights and remedies hereunder and to enforce the Security Interest created hereunder, and to do all acts or things necessary to realize or collect the Proceeds, and the Debtor hereby ratifies and agrees to ratify all acts of any such attorneys taken or done in accordance with this Section. Without in any way limiting the generality of the foregoing, upon the occurrence of an Event of Default that is continuing, the Secured Party shall have the right to execute, for and in the name of the Debtor, all financing statements, financing change statements, conveyances, transfers, assignments, consents and other instruments as may be required for such purposes. This power of attorney shall not be revoked or terminated by any act or thing other than the termination of this Agreement pursuant to the terms hereunder.

(ii) The power of attorney granted hereby shall be coupled with an interest.

(iii) For greater certainty, the rights of the Secured Party under Section 5.9(i) may only be exercised by the Secured Party after the occurrence and during the continuance of an Event of Default.

5.10 The Secured Party May Remedy Default

If the Debtor fails to do anything hereby required to be done by it, the Secured Party may, but shall not be obliged to, do such thing and all sums thereby expended by the Secured Party shall be payable forthwith by the Debtor, shall be secured hereby and shall have the benefit of the lien hereby created, but no such performance by the Secured Party shall be deemed to relieve the Debtor from any default hereunder.

5.11 Collections

The Secured Party is entitled at any time whether or not an Event of Default has occurred hereunder to notify any account debtor or any obligor on an Instrument to make payment to the Secured

Party whether or not the Debtor was theretofore making collections on the Collateral and to take control of any proceeds to which the Secured Party is entitled.

5.12 Purchase Money Security Interest

The Debtor acknowledges that the security interest in any item of Collateral and its proceeds shall constitute a purchase money security interest to the extent it secures Obligations incurred by the Debtor to enable the Debtor to acquire rights in such Collateral. The Secured Party hereby reserves title to any item of Collateral which may be sold by the Secured Party to the Debtor until satisfaction of the Obligations as aforesaid.

5.13 Taxes and Reserve Requirements

In case the Secured Party is or becomes subject to any tax with respect to payments of principal, interest or other amounts by the Debtor hereunder or in respect of any of the Obligations (except for taxes on the overall net income of the Secured Party) or to any reserve or similar requirement against assets held by, or deposits in or for the account of, or loans by, an office of the Secured Party, or to any other condition with respect to this Agreement, and the result of any of the foregoing is to increase the cost to the Secured Party of making or maintaining any Obligation or to reduce the income receivable by the Secured Party in respect of any Obligation, then the Debtor shall pay to the Secured Party on demand that amount which shall compensate the Secured Party for such additional cost or reduction in income. A certificate of the Secured Party setting forth the amount of such additional compensation and the basis therefor shall be submitted by the Secured Party to the Debtor and shall be conclusive evidence, in the absence of manifest error, of such amount.

5.14 Notices

Any notice or other communication to be given by any party hereunder to another party shall be given or made pursuant to and in accordance with the terms and conditions of the Credit Agreement.

5.15 Receipt

The Debtor hereby acknowledges receipt of a true copy of this Agreement and a copy of the financing statement registered under the *Personal Property Security Act* (Ontario) in respect of the security created hereby.

5.16 Successors and Assigns, etc.

This Agreement and all its provisions shall enure to the benefit of the Secured Party, its successors and assigns, and shall be binding upon the Debtor, its successors and assigns, and every reference herein to a party hereto shall include such party's successors and assigns as if specifically named. Time shall be in all respects of the essence hereof.

IN WITNESS WHEREOF the Debtor has executed this Security Agreement on the May day of 2018

181 DAVENPORT RETAIL INC.

Per: 

Name: Sam Mizrahi

Title: President

I have authority to bind the corporation.

SCHEDULE "A"

PREMISES

1. 185 Davenport Road, Unit 100, Toronto, Ontario.

This is Exhibit "I" referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193124.26

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 1
(5798)

A198

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

TYPE OF SEARCH : BUSINESS DEBTOR

SEARCH CONDUCTED ON : 181 DAVENPORT RETAIL INC.

FILE CURRENCY : 02AUG 2022

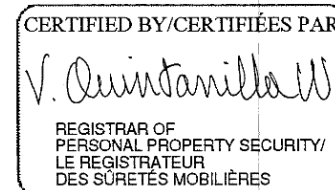
ENQUIRY NUMBER 20220803193124.26 CONTAINS 4 PAGE(S), 2 FAMILY(IES).

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

THORNTON GROUT FINNIGAN LLP - ROXANA MANEA
100 WELLINGTON STREET WEST
TORONTO ON M5K 1K7

CONTINUED...

2



(crfj6 05/2022)

RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193124.26

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 2
(5799)

A199

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 181 DAVENPORT RETAIL INC.
FILE CURRENCY : 02AUG 2022

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER
738868923

| CAUTION FILING | PAGE NO. OF | TOTAL PAGES | MOTOR VEHICLE SCHEDULE | REGISTRATION NUMBER | REGISTERED UNDER | REGISTRATION PERIOD |
|-------------------|----------------|----------------|---------------------------|-------------------------|---------------------|------------------------|
| | 001 | 1 | | 20180502 1010 1590 9149 | P PPSA | 10 |

| DATE OF BIRTH | FIRST GIVEN NAME | INITIAL | SURNAME |
|---------------|------------------|---------|---------|
|---------------|------------------|---------|---------|

DEBTOR
NAME

BUSINESS NAME

181 DAVENPORT RETAIL INC.

ONTARIO CORPORATION NO.

ADDRESS

189 FOREST HILL ROAD

TORONTO

ON M5P 2N3

| DATE OF BIRTH | FIRST GIVEN NAME | INITIAL | SURNAME |
|---------------|------------------|---------|---------|
|---------------|------------------|---------|---------|

DEBTOR
NAME

BUSINESS NAME

ONTARIO CORPORATION NO.

ADDRESS

SECURED PARTY /
LIEN CLAIMANT

KEB HANA BANK CANADA

ADDRESS

627 BLOOR STREET WEST

TORONTO

ON M6G 1K8

COLLATERAL CLASSIFICATION

| CONSUMER | MOTOR VEHICLE | AMOUNT | DATE OF | NO. FIXED | | | | |
|----------|---------------|-----------|----------|-----------|----------|----------|----|---------------|
| GOODS | INVENTORY | EQUIPMENT | ACCOUNTS | OTHER | INCLUDED | MATURITY | OR | MATURITY DATE |
| X | X | X | X | X | | | | X |

YEAR MAKE

MODEL

V.I.N.

MOTOR
VEHICLE

GENERAL
COLLATERAL
DESCRIPTION

GENERAL SECURITY AGREEMENT AND NOTICE OF ASSIGNMENT OF LEASES AND
RENTS - 185 DAVENPORT ROAD, UNIT 100, TORONTO, ONTARIO M5R 0C4

REGISTERING
AGENT

BALDWIN SENNECKE HALMAN LLP

ADDRESS

1320-25 ADELAIDE ST. E. VICTORIA BUILDIN TORONTO

ON M5C 3A1

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

CONTINUED...

3

CERTIFIED BY/CERTIFIÉES PAR

V. Quintanilla W.
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES

(ej1fv 05/2022)

Ontario A199

RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193124.26

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 3
(5800)

A200

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 181 DAVENPORT RETAIL INC.
FILE CURRENCY : 02AUG 2022

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER
738875151

01 CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD
001 1 20180502 1050 1590 9164 P PPSA 5

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME
03 NAME BUSINESS NAME 181 DAVENPORT RETAIL INC.

04 ADDRESS 189 FOREST HILL ROAD TORONTO ONTARIO CORPORATION NO. ON M5P 2N3

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME
06 NAME BUSINESS NAME

07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / BRIDGING FINANCE INC., AS AGENT
09 LIEN CLAIMANT

09 ADDRESS 77 KING ST. WEST, SUITE 2925 TORONTO ON M5K 1K7

10 COLLATERAL CLASSIFICATION
CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO. FIXED
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE
X X X X X

11 MOTOR YEAR MAKE MODEL V.I.N.
12 VEHICLE

13 GENERAL
14 COLLATERAL
15 DESCRIPTION

16 REGISTERING CHAITONS LLP (DB/56680)
17 AGENT

17 ADDRESS 5000 YONGE STREET, 10TH FLOOR TORONTO ON M2N 7E9

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

CONTINUED... 4

CERTIFIED BY/CERTIFIÉES PAR

V. Quintanilla W.
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTREUR
DES SÛRETÉS MOBILIÈRES

(crjfv 05/2022)

Ontario A200

RUN NUMBER : 215
RUN DATE : 2022/08/03
ID : 20220803193124.26

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 4
(5801)

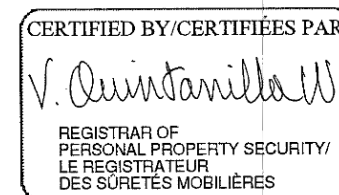
A201

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 181 DAVENPORT RETAIL INC.
FILE CURRENCY : 02AUG 2022

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

| FILE NUMBER | REGISTRATION NUMBER | REGISTRATION NUMBER | REGISTRATION NUMBER | REGISTRATION NUMBER |
|-------------|-------------------------|---------------------|---------------------|---------------------|
| 738868923 | 20180502 1010 1590 9149 | | | |
| 738875151 | 20180502 1050 1590 9164 | | | |

2 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



(crj6 05/2022)

This is Exhibit “J” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.

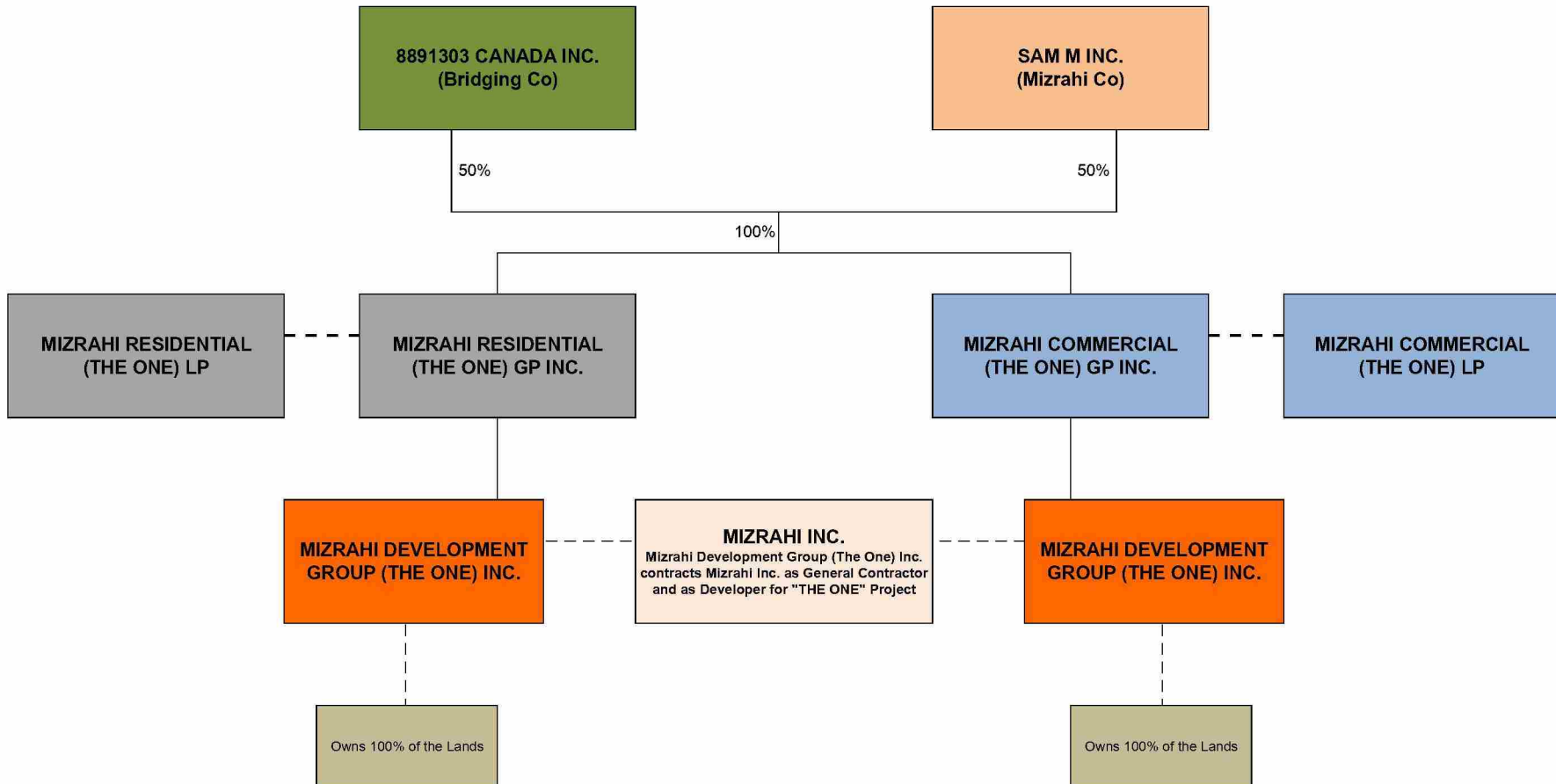


A Commissioner for taking affidavits

ADAM DRIEDGER

A203

THE ONE - STRUCTURE



A203

This is Exhibit “K” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

Profile Report

MIZRAHI INC. as of August 08, 2022

| | |
|-----------------------------------|--|
| Act | |
| Type | |
| Name | |
| Ontario Corporation Number (OCN) | |
| Governing Jurisdiction | |
| Status | |
| Date of Incorporation | |
| Registered or Head Office Address | |

Business Corporations Act
Ontario Business Corporation
MIZRAHI INC.
1713728
Canada - Ontario
Active
October 16, 2006
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfilm format.

1
10

Sam MIZRAHI
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3
Yes
October 16, 2006

V. Quintanilla W.

A206

| Name | Position | Address for Service | Date Began |
|------|----------|---------------------|------------|
|------|----------|---------------------|------------|

Sam MIZRAHI
President
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3
October 16, 2006

Name
Position
Address for Service
Date Began

Sam MIZRAHI
Secretary
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3
October 16, 2006

Name
Position
Address for Service
Date Began

Sam MIZRAHI
Treasurer
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3
October 16, 2006

Name
Position
Address for Service
Date Began

Sam MIZRAHI
Vice-President
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3
October 18, 2007

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Name

Effective Date

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Name

THE ONE

291125573

October 21, 2019

October 20, 2024

V. Quintanilla W.

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

| | |
|--------------------------------------|----------------------|
| Name | MIZRAHICORP |
| Business Identification Number (BIN) | 220179741 |
| Status | Inactive - Expired |
| Registration Date | February 16, 2012 |
| Expired Date | February 15, 2017 |
| Name | MIZRAHI DEVELOPMENTS |
| Business Identification Number (BIN) | 260117254 |
| Status | Inactive - Expired |
| Registration Date | February 02, 2016 |
| Expired Date | February 01, 2021 |
| Name | MIZRAHI METAL |
| Business Identification Number (BIN) | 180612061 |
| Status | Inactive - Expired |
| Registration Date | June 04, 2008 |
| Expired Date | June 03, 2013 |
| Name | MIZRAHI DESIGN/BUILD |
| Business Identification Number (BIN) | 170073191 |
| Status | Inactive - Expired |
| Registration Date | January 18, 2007 |
| Expired Date | January 16, 2017 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Document List

| Filing Name | Effective Date |
|---|-------------------|
| Archive Document Package | December 24, 2021 |
| Annual Return - 2020 PAF: SAM MIZRAHI - DIRECTOR | May 16, 2021 |
| Annual Return - 2019 PAF: SAM MIZRAHI - DIRECTOR | June 14, 2020 |
| Annual Return - 2018 PAF: SAM MIZRAHI - DIRECTOR | May 26, 2019 |
| Annual Return - 2017 PAF: SAM MIZRAHI - DIRECTOR | May 20, 2018 |
| Annual Return - 2016 PAF: SAM MIZRAHI - DIRECTOR | May 21, 2017 |
| CIA - Notice of Change PAF: SAM MIZRAHI - DIRECTOR | December 09, 2016 |
| Annual Return - 2015 PAF: SAM MIZRAHI - DIRECTOR | May 22, 2016 |
| Annual Return - 2014 PAF: SAM MIZRAHI - DIRECTOR | April 18, 2015 |
| Annual Return - 2013 PAF: SAM MIZRAHI - DIRECTOR | May 03, 2014 |
| Annual Return - 2012 PAF: SAM MIZRAHI - DIRECTOR | April 27, 2013 |
| Annual Return - 2011 PAF: SAM MIZRAHI - DIRECTOR | May 02, 2012 |
| Annual Return - 2010 PAF: SAM MIZRAHI - DIRECTOR | April 30, 2011 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

| | |
|--|-------------------|
| Annual Return - 2009 PAF: SAM MIZRAHI - DIRECTOR | May 08, 2010 |
| Annual Return - 2008 PAF: SAM MIZRAHI - DIRECTOR | July 11, 2009 |
| Annual Return - 2006 PAF: SAM MIZRAHI - DIRECTOR | March 16, 2008 |
| Annual Return - 2007 PAF: SAM MIZRAHI - DIRECTOR | March 16, 2008 |
| CIA - Notice of Change PAF: JEFFREY A. HALMAN - OTHER | November 21, 2007 |
| CIA - Initial Return PAF: JEFFREY A. HALMAN - OTHER | December 09, 2006 |
| BCA - Articles of Incorporation | October 16, 2006 |

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Profile Report

MIZRAHI DEVELOPMENT GROUP (THE ONE) INC. as of August 08, 2022

| | |
|-----------------------------------|---|
| Act | Business Corporations Act |
| Type | Ontario Business Corporation |
| Name | MIZRAHI DEVELOPMENT GROUP (THE ONE) INC. |
| Ontario Corporation Number (OCN) | 2425627 |
| Governing Jurisdiction | Canada - Ontario |
| Status | Active |
| Date of Incorporation | July 08, 2014 |
| Registered or Head Office Address | 189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfilm format.

Active Director(s)

Minimum Number of Directors 1
Maximum Number of Directors 10

Name Virginia Jenny COCO
Address for Service 362 Russell Hill Road, Toronto, Ontario, Canada, M4V 2T9
Resident Canadian Yes
Date Began December 17, 2014

Name Sam MIZRAHI
Address for Service 189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3
Resident Canadian Yes
Date Began July 08, 2014

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Officer(s)

| | |
|----------------------------|--|
| Name | Virginia Jenny COCO |
| Position | Vice-President |
| Address for Service | 362 Russell Hill Road, Toronto, Ontario, Canada, M4V 2T9 |
| Date Began | December 17, 2014 |

| | |
|----------------------------|---|
| Name | Sam MIZRAHI |
| Position | President |
| Address for Service | 189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3 |
| Date Began | July 25, 2014 |

| | |
|----------------------------|---|
| Name | Sam MIZRAHI |
| Position | Secretary |
| Address for Service | 189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3 |
| Date Began | July 25, 2014 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Corporate Name History

Name

Effective Date

MIZRAHI DEVELOPMENT GROUP (THE ONE) INC.
July 08, 2014

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Name

THE ONE

241210848

December 22, 2014

December 20, 2024

V. Quintanilla W.

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Document List

| Filing Name | Effective Date |
|---|------------------|
| CIA - Notice of Change PAF: SAM MIZRAHI - DIRECTOR | January 29, 2015 |
| CIA - Notice of Change PAF: CHRIS TURNEY - OTHER | October 22, 2014 |
| CIA - Initial Return PAF: CHRIS TURNEY - OTHER | October 17, 2014 |
| BCA - Articles of Incorporation | July 08, 2014 |

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.



Ministry of Government and
Consumer Services

Profile Report

MIZRAHI RESIDENTIAL (THE ONE) LP as of August 08, 2022

| | |
|--------------------------------------|---|
| Act | Limited Partnerships Act |
| Type | Extra-Provincial Limited Partnership |
| Firm Name | MIZRAHI RESIDENTIAL (THE ONE) LP |
| Governing Jurisdiction | Canada - Manitoba |
| Business Identification Number (BIN) | 240857730 |
| Declaration Status | Inactive - Withdrawal of EPLP |
| Declaration Date | September 03, 2014 |
| Expiry Date | September 02, 2019 |
| Inactive Date | September 20, 2017 |
| Principal Place of Business | 189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3 |
| Activity (NAICS Code) | [Not Provided] - [Not Provided] |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Number of General Partners

1

Partner 1

MIZRAHI RESIDENTIAL (THE ONE) GP INC.

2425880

Ontario Business Corporation

189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

V. Quintanilla W.

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Firm Name History

Name

Effective Date

MIZRAHI RESIDENTIAL (THE ONE) LP
September 03, 2014

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Active Business Names

This entity does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

This entity does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Document List

Filing Name

Effective Date

LPA - Withdrawal - Other Jurisdiction

September 20, 2017

LPA - File a Declaration of an Extra-Provincial Limited Partnership

September 03, 2014

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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MIZRAHI RESIDENTIAL (THE ONE) GP INC. as of August 08, 2022

| | |
|-----------------------------------|--|
| Act | Business Corporations Act |
| Type | Ontario Business Corporation |
| Name | MIZRAHI RESIDENTIAL (THE ONE) GP INC. |
| Ontario Corporation Number (OCN) | 2425880 |
| Governing Jurisdiction | Canada - Ontario |
| Status | Active |
| Date of Incorporation | July 09, 2014 |
| Registered or Head Office Address | 125 Hazelton Avenue, Toronto, Ontario, Canada, M5R 2E4 |

V. Quintanilla W.

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

1
10

Natasha SHARPE
182 Crescent Road, Toronto, Ontario, Canada, M4W 1V3
Yes
July 25, 2014

V. Quintanilla W.

the report
A227

| Name | Position | Address for Service | Date Began |
|------|----------|---------------------|------------|
|------|----------|---------------------|------------|

Rock Anthony COCO
Vice-President
10 Bellair Street, 1205, Toronto, Ontario, Canada, M5R 3T8
July 25, 2014

Name
Position
Address for Service
Date Began

Virginia Jenny COCO
Vice-President
362 Russell Hill Road, Toronto, Ontario, Canada, M4V 2T9
July 25, 2014

Name
Position
Address for Service
Date Began

Sam MIZRAHI
President
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3
July 25, 2014

Name
Position
Address for Service
Date Began

Natasha SHARPE
Secretary
182 Crescent Road, Toronto, Ontario, Canada, M4W 1V3
July 25, 2014

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Name

Effective Date

July 09, 2014

V. Quintanilla W.

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

This corporation does not have any active business names registered under the Business Names Act in Ontario.

V. Quintanilla W.

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Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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| Filing Name | Effective Date |
|---|------------------|
| Annual Return - 2020 PAF: SAM MIZRAHI - DIRECTOR | May 16, 2021 |
| Annual Return - 2019 PAF: SAM MIZRAHI - DIRECTOR | May 16, 2021 |
| CIA - Initial Return PAF: SAM MIZRAHI - DIRECTOR | October 17, 2014 |
| BCA - Articles of Incorporation | July 09, 2014 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

Director/Registrar

A232



MIZRAHI COMMERCIAL (THE ONE) LP as of August 08, 2022

Limited Partnerships Act
Ontario Limited Partnership
MIZRAHI COMMERCIAL (THE ONE) LP
241004332
Active
October 17, 2014
October 15, 2024
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3
[Not Provided] - [Not Provided]

V. Quintanilla W.

A233

General Partners

Number of General Partners 1

Partners

Partner 1

Name

MIZRAHI COMMERCIAL (TEH ONE) GP INC.

Ontario Corporation Number (OCN)

2425879

Entity Type

Ontario Business Corporation

Registered or Head Office Address

189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Name

Effective Date

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V. Quintanilla W.

Director/Registrar

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Active Business Names

This entity does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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This entity does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

V. Quintanilla W.

A237

Document List

| Filing Name | Effective Date |
|--|--------------------|
| Renewal of an Ontario Limited Partnership Declaration | September 11, 2019 |
| LPA - File a Declaration of an Ontario Limited Partnership | October 17, 2014 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Profile Report

MIZRAHI COMMERCIAL (THE ONE) GP INC. as of August 08, 2022

| | |
|-----------------------------------|--|
| Act | Business Corporations Act |
| Type | Ontario Business Corporation |
| Name | MIZRAHI COMMERCIAL (THE ONE) GP INC. |
| Ontario Corporation Number (OCN) | 2425879 |
| Governing Jurisdiction | Canada - Ontario |
| Status | Active |
| Date of Incorporation | July 09, 2014 |
| Registered or Head Office Address | 125 Hazelton Avenue, Toronto, Ontario, Canada, M5R 2E4 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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1
10

Sam MIZRAHI
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3
Yes
July 09, 2014

V. Quintanilla W.

the report

A240

Active Officer(s)

| | |
|----------------------------|--|
| Name | Rock Anthony COCO |
| Position | Vice-President |
| Address for Service | 949 Wilson Avenue, Toronto, Ontario, Canada, M3K 1G2 |
| Date Began | February 06, 2015 |
| Name | Virginia Jenny COCO |
| Position | Vice-President |
| Address for Service | 362 Russell Hill Road, Toronto, Ontario, Canada, M4V 2T9 |
| Date Began | July 25, 2014 |
| Name | Sam MIZRAHI |
| Position | President |
| Address for Service | 189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3 |
| Date Began | July 25, 2014 |
| Name | Natasha SHARPE |
| Position | Vice-President |
| Address for Service | 182 Crescent Road, Toronto, Ontario, Canada, M4W 1V3 |
| Date Began | December 17, 2014 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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This corporation does not have any active business names registered under the Business Names Act in Ontario.

V. Quintanilla W.

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Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

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V. Quintanilla W.

Director/Registrar

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| Filing Name | Effective Date |
|---|-------------------|
| Annual Return - 2020 PAF: SAM MIZRAHI - DIRECTOR | May 16, 2021 |
| Annual Return - 2019 PAF: SAM MIZRAHI - DIRECTOR | May 16, 2021 |
| CIA - Notice of Change PAF: CHRIS TURNEY - OTHER | February 10, 2015 |
| CIA - Notice of Change PAF: CHRISTOPHER TURNEY - OTHER | January 29, 2015 |
| CIA - Notice of Change PAF: SAM MIZRAHI - DIRECTOR | January 29, 2015 |
| CIA - Notice of Change PAF: CHRIS TURNEY - OTHER | October 22, 2014 |
| CIA - Initial Return PAF: SAM MIZRAHI - DIRECTOR | October 17, 2014 |
| BCA - Articles of Incorporation | July 09, 2014 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

Director/Registrar

the report
A245

This is Exhibit “L” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

Profile Report

SAM M INC. as of August 08, 2022

| | |
|-----------------------------------|--|
| Act | |
| Type | |
| Name | |
| Ontario Corporation Number (OCN) | |
| Governing Jurisdiction | |
| Status | |
| Date of Incorporation | |
| Registered or Head Office Address | |

Business Corporations Act
Ontario Business Corporation
SAM M INC.
2425689
Canada - Ontario
Active
July 08, 2014
189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Active Director(s)

| | |
|-----------------------------|----|
| Minimum Number of Directors | 1 |
| Maximum Number of Directors | 10 |

| | |
|---------------------|---|
| Name | Sam MIZRAHI |
| Address for Service | 189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3 |
| Resident Canadian | Yes |
| Date Began | July 08, 2014 |

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Active Officer(s)

Name

Position

Address for Service

Date Began

Sam MIZRAHI

President

189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

July 08, 2014

Name

Position

Address for Service

Date Began

Sam MIZRAHI

Secretary

189 Forest Hill Road, Toronto, Ontario, Canada, M5P 2N3

July 08, 2014

Certified a true copy of the record of the Ministry of Government and Consumer Services.

V. Quintanilla W.

Director/Registrar

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Name

July 08, 2014

Effective Date

V. Quintanilla W.

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This corporation does not have any active business names registered under the Business Names Act in Ontario.

V. Quintanilla W.

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This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

V. Quintanilla W.

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Document List

| Filing Name | Effective Date |
|---|----------------|
| CIA - Initial Return PAF: SAM MIZRAHI - DIRECTOR | June 21, 2017 |
| BCA - Articles of Incorporation | July 08, 2014 |

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

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V. Quintanilla W.

Director/Registrar

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This is Exhibit “M” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER



Government
of Canada

Gouvernement
du Canada

A255

[Canada.ca](#) → [Innovation, Science and Economic Development Canada](#) → [Corporations Canada](#)
→ [Search for a Federal Corporation](#)

Federal Corporation Information - 889130-3

⚠ Beware of scams and other suspicious activities. See [Corporations Canada's alerts](#).

i Note

This information is available to the public in accordance with legislation (see [Public disclosure of corporate information](#)).

Order copies of corporate documents

Corporation Number

889130-3

Business Number (BN)

812251171RC0001

Corporate Name

8891303 CANADA INC.

Status

Inactive - Amalgamated into [12823543 Canada Ltd.](#)
on 2021-03-13

Governing Legislation

Canada Business Corporations Act - 2014-05-18

[Order a Corporate Profile](#) [[View PDF Sample](#)] [[View HTML Sample](#)].
[PDF Readers](#)

Registered Office Address

A255

A256

949
Wilson Avenue
Toronto ON M3K 1G2
Canada

Note

Active CBCA corporations are required to update this information within 15 days of any change. A corporation key is required. If you are not authorized to update this information, you can either contact the corporation or contact Corporations Canada. We will inform the corporation of its reporting obligations.

Directors

Minimum 1

Maximum 10

Rock-Anthony Coco
10 Bellair Street
Suite 1205
Toronto ON M5R 3T8
Canada

Jenny Virginia Coco
120 Warren Road
Toronto ON M4V 2S1
Canada

Note

Active CBCA corporations are required to update director information (names, addresses, etc.) within 15 days of any change. A corporation key is required. If you are not authorized to update this information, you can either contact the corporation or contact Corporations Canada. We will inform the corporation of its reporting obligations.

Annual Filings

Anniversary Date (MM-DD)

A256

05-18

A257

Date of Last Annual Meeting

2020-05-21

Annual Filing Period (MM-DD)

05-18 to 07-17

Type of Corporation

Non-distributing corporation with 50 or fewer shareholders

Status of Annual Filings

2020 - Filed

2019 - Filed

2018 - Filed

Corporate History

Corporate Name History

2014-05-18 to Present

8891303 CANADA INC.

Certificates and Filings**Certificate of Incorporation**

2014-05-18

[Order copies of corporate documents](#)[Start New Search](#)[Return to Search Results](#)**Date Modified:**

2022-05-18

A257



Corporate Profile / Profil corporatif

Date and time of Corporate Profile (YYYY-MM-DD) 2022-08-08 3:48 PM (AAAA-MM-JJ) Date et heure du Profil corporatif

CORPORATE INFORMATION

RENSEIGNEMENTS CORPORATIFS

Corporate name

Dénomination

12823543 Canada Ltd.

Corporation number

1282354-3

Numéro de société ou d'organisation

Business number

812251171RC0002

Numéro d'entreprise

Governing legislation

Régime législatif

Canada Business Corporations Act (CBCA) - 2021-03-13

Loi canadienne sur les sociétés par actions (LCSA) - 2021-03-13

Status

Statut

Active

Active

REGISTERED OFFICE ADDRESS

ADRESSE DU SIÈGE

949 Wilson Avenue
Toronto ON M3K 1G2
Canada

ANNUAL FILINGS

DÉPÔTS ANNUELS

Anniversary date (MM-DD)

03-13

(MM-JJ) Date anniversaire

Filing period (MM-DD)

03-13 to/au 05-12

(MM-JJ) Période de dépôt

Status of annual filings

Statut des dépôts annuels

Filed 2022 Déposé

Date of last annual meeting (YYYY-MM-DD)

2022-03-13

(AAAA-MM-JJ) Date de la dernière assemblée annuelle

Type

Type

Non-distributing corporation with 50 or fewer shareholders

Société n'ayant pas fait appel au public et comptant 50 actionnaires ou moins

| DIRECTORS | | ADMINISTRATIVE |
|--------------------------|---|----------------|
| Minimum number | 1 | Nombre minimal |
| Maximum number | 4 | Nombre maximal |
| Current number | 3 | Nombre actuel |
| Jenny Virginia Coco Coco | 949 Wilson Avenue, Toronto ON M3K 1G2, Canada | |
| Nina Onoria Coco | 949 Wilson Avenue, Toronto ON M3K 1G2, Canada | |
| Rock-Anthony Coco | 949 Wilson Avenue, Toronto ON M3K 1G2, Canada | |

| CORPORATE HISTORY | | HISTORIQUE CORPORATIF |
|---|---|-----------------------|
| Corporate name history (YYYY-MM-DD) | (AAAA-MM-JJ) Historique de la dénomination | |
| 2021-03-13 to present / à maintenant | 12823543 Canada Ltd. | |
| Certificates issued (YYYY-MM-DD) | (AAAA-MM-JJ) Certificats émis | |
| Certificate of Amalgamation Corporations amalgamated | 2021-03-13 Certificat de fusion Corporations amalgamated 12787601 12787601 Canada Ltd. 8891303 8891303 CANADA INC. | |
| Amendments details are only available for amendments effected after 2010-03-20. Some certificates issued prior to 2000 may not be listed. | Seuls les renseignements concernant les modifications effectuées après 2010-03-20 sont disponibles. Certains certificats émis avant 2000 pourraient ne pas être listés. | |
| Documents filed (YYYY-MM-DD) | (AAAA-MM-JJ) Documents déposés | |

| | |
|---|--|
| The Corporate Profile sets out the most recent information filed with and accepted by Corporations Canada as of the date and time set out on the Profile. | Le Profil corporatif fait état des renseignements fournis et acceptés par Corporations Canada à la date et à l'heure indiquées dans le profil. |
|---|--|

This is Exhibit “N” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

**UNANIMOUS SHAREHOLDERS AGREEMENT
FOR
MIZRAHI COMMERCIAL (THE ONE) GP INC.**

July 25, 2014

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UNANIMOUS SHAREHOLDERS AGREEMENT

THIS UNANIMOUS SHAREHOLDERS AGREEMENT is dated as of the 25th day of July, 2014,

BETWEEN:

8891303 CANADA INC., a corporation existing under the Federal laws of Canada

("Bridging")

- and -

SAM M INC., a corporation existing under the laws of the Province of Ontario

("Mizrahi Co")

- and -

MIZRAHI COMMERCIAL (THE ONE) GP INC., a corporation existing under the laws of the Province of Ontario

(the "Corporation")

RECITALS:

- A. Bridging and Mizrahi Co are, as at the date hereof, the owners, beneficially and of record, of all of the issued and outstanding shares in the capital of the Corporation;
- B. Bridging and Mizrahi Co are limited partners of the Partnership (as defined below) of which the Corporation is the general partner; and
- C. The parties hereto are entering into this Agreement in order to make arrangements regarding the management and organization of the business and affairs of the Corporation and to grant to each other certain rights and obligations with respect to the ownership of the shares in the capital of the Corporation;

NOW THEREFORE THIS AGREEMENT WITNESSETH that, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE 1

INTERPRETATION

1.1 Definitions.

As used in this Agreement (including the Schedules attached hereto), the following words and phrases shall have the following meanings, respectively:

- (a) **"Accountant"** means the firm of Ernst & Young LLP or such others appointed from time to time under this Agreement as the accountants of the Corporation;
- (b) **"Act"** means the *Canada Business Corporations Act* (Ontario);
- (c) **"Affiliate"** means, with respect to any Person, any other Person, directly or indirectly, Controlling, Controlled by or under common Control with such Person;
- (d) **"Agreement"** means this unanimous shareholders agreement, including the schedules hereto, in each case as they may be amended, modified or supplemented from time to time;
- (e) **"Arbitration Notice"** has the meaning given to it in Section 9.2;
- (f) **"Arm's Length"** has the meaning given to it in the *Income Tax Act* (Canada);
- (g) **"Board of Directors"** means the board of directors of the Corporation from time to time;
- (h) **"Bond Issuer"** has the meaning given to it in the Partnership Agreement;
- (i) **"Business"** means the business of acting as the general partner of the Partnership currently and hereafter carried out by the Corporation;
- (j) **"Business Day"** means any day other than a Saturday, a Sunday or a statutory holiday in the Province of Ontario;
- (k) **"Class A1 Limited Partner", "Class A2 Limited Partner" and "Class B Limited Partner"** have the respective meanings given thereto in the Partnership Agreement;
- (l) **"Class A1 Units" and "Class B Units"** have the respective meanings given thereto in the Partnership Agreement;
- (m) **"Commercial Approved Budget"** has the meaning given to it in the Partnership Agreement;
- (n) **"Commercial Construction Management Agreement"** has the meaning given to it in the Partnership Agreement;

- (o) **"Commercial Development Management Agreement"** has the meaning given to it in the Partnership Agreement;
- (p) **"Commercial Development Manager"** has the meaning given to it in the Partnership Agreement;
- (q) **"Commercial Initial Budget"** has the meaning given to it in the Partnership Agreement;
- (r) **"Commercial Project"** has the meaning given to it in the Partnership Agreement;
- (s) **"Control"** as used with respect to any Person, means the possession, directly or indirectly, through one or more intermediaries or otherwise, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting or other securities, by contract or in any other manner whatsoever; and the terms **"Controlling"**, **"Controlled by"** and **"under common Control with"** have corresponding meanings;
- (t) **"Construction Loan"** and **"Development Loan"** have the respective meanings given thereto in the Partnership Agreement;
- (u) **"Development Lender"** has the meaning given to it in the Partnership Agreement;
- (v) **"Director"** means a director of the Corporation;
- (w) **"Distributable Cash"** has the meaning given to it in the Partnership Agreement;
- (x) **"GAAP"** means generally accepted accounting principles in Canada in effect at the time being referred to;
- (y) **"Indemnatee"** means each and every individual who, at any time from and after the date hereof, is a Director or officer of the Corporation, together with their heirs, executors, administrators, estate trustees and other legal personal representatives of such individual;
- (z) **"Lien"** means any mortgage, charge, pledge, hypothecation, security interest, assignment, encumbrance, lien (statutory or otherwise), title retention agreement or arrangement, restrictive covenant or and any other encumbrances of any nature;
- (aa) **"Mizrahi"** means Sam Mizrahi, an individual resident in the Province of Ontario;
- (bb) **"Mizrahi Offer"** has the meaning given to it in the Partnership Agreement
- (cc) **"Net Income"** and **"Net Loss"** have the respective meanings given thereto in the Partnership Agreement;
- (dd) **"Office Component"** has the meaning given to it in the Partnership Agreement;

- (ee) **"Partnership"** means Mizrahi Commercial (The One) LP, a limited partnership established pursuant to the Partnership Agreement;
- (ff) **"Partnership Agreement"** means the limited partnership agreement dated as of the date hereof, between the Corporation, as general partner, Bridging, as Class A1 Limited Partner, the Class A2 Limited Partners party thereto and Mizrahi Enterprises Inc., as Class B Limited Partner, in respect of the business and affairs of the Partnership, as same may be amended, modified or supplemented from time to time;
- (gg) **"Permitted Transferee"** means:
 - (i) in relation to Bridging, any one or more of its Affiliates, and
 - (ii) in relation to Mizrahi Co, any one or more of (A) Mizrahi, (B) a trust Controlled by Mizrahi and whose the sole beneficiaries are any one or more of Mizrahi, Mizrahi's spouse, Mizrahi's children (natural or adopted), and any other direct lineal descendant of Mizrahi, and (C) a corporation Controlled by Mizrahi and whose sole shareholders are any one or more of Mizrahi, Mizrahi's spouse, Mizrahi's children (natural or adopted), and any other direct lineal descendant of Mizrahi;
- (hh) **"Person"** means an individual, corporation, body corporate, partnership, joint venture, association, trust or unincorporated organization or any trustee, executor, administrator or other legal representative;
- (ii) **"Properties"** has the meaning given to it in the Commercial Development Management Agreement;
- (jj) **"Purchase Agreements"** means the purchase and sale agreements in respect of the Properties entered into pursuant to the Purchase Nominee Agreement (as such term is defined in the Partnership Agreement);
- (kk) **"Retail Component"** has the meaning given to it in the Partnership Agreement;
- (ll) **"Shares"** means the common shares in the capital of the Corporation, as amended, reclassified, subdivided, consolidated or otherwise changed from time to time, and **"Share"** means any one of the Shares, individually;
- (mm) **"Shareholders"** means, collectively, Bridging and Mizrahi Co, and any Permitted Transferee thereof or other Person who acquires Shares in accordance with the provisions of this Agreement;
- (nn) **"Substantial Completion"** has the meaning given to it in the Partnership Agreement;
- (oo) **"Title Nominee"** has the meaning given to it in the Partnership Agreement; and

- (pp) **"Transfer"** includes any sale, exchange, assignment, transfer, gift, donation, bequest, disposition, granting of Lien or other arrangement of any nature or kind whatsoever howsoever effected (whether directly or indirectly) by which possession, legal title or beneficial ownership passes, actually or contingently, from one Person to another, or to the same Person in a different capacity, whether or not voluntary and whether or not for value, and the words **"Transferred"**, **"Transferring"** and other words of similar import shall have corresponding meaning.

1.2 Interpretation Not Affected by Headings.

The division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular section, subsection or other portion hereof. Unless otherwise expressly indicated in this Agreement, any reference which is made in this Agreement to an "Article", "Section" or "Subsection", means and refers to the Article, Section or Subsection of this Agreement so referenced.

1.3 Currency.

All dollar amounts expressed in this Agreement are expressed in Canadian dollars and all payments contemplated by this Agreement shall be made in Canadian funds.

1.4 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the Federal Laws of Canada applicable therein and this Agreement shall in all respects be treated as an Ontario contract. Subject to Section 9.2, the parties hereto irrevocably attorn to the jurisdiction of the courts of the Province of Ontario to resolve any dispute which may arise among them concerning this Agreement and the subject matters hereof.

1.5 Extended Meanings.

In this Agreement, unless the context otherwise requires, words importing the singular number include the plural and vice versa and words importing the masculine gender include the feminine and neuter genders and vice versa. The term "including" means "including without limitation".

1.6 Time of Essence.

Time shall be of the essence of every provision of this Agreement.

1.7 Calculations in Accordance with GAAP.

Every calculation and other determination for accounting purposes required to be made pursuant to this Agreement shall be made in accordance with GAAP for private entities in Canada, consistently applied.

1.8 Severability.

Any provision of this Agreement which is invalid, prohibited or unenforceable in any jurisdiction for any reason whatsoever shall, as to such jurisdiction only, be ineffective and severable from this Agreement to the extent of such invalidity, prohibition or unenforceability but such invalidity, prohibition or unenforceability shall not invalidate or otherwise affect the remaining provisions of this Agreement nor shall it affect the validity or enforceability of such provision in any other jurisdiction.

1.9 Calculation of Time Periods.

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 date 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 immediately following Business Day.

1.10 Statutory Instruments.

Any references in this Agreement to any statute, law, by-law, rule, regulation, order or act of any governmental or regulatory authority shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto.

1.11 Incorporation of Schedules.

The following schedules are attached to and incorporated by reference into this Agreement:

Schedule "A" - Form of Counterpart and Acknowledgment

ARTICLE 2
IMPLEMENTATION OF AGREEMENT

2.1 Shareholder Covenants.

Each Shareholder covenants and agrees that it shall vote or cause to be voted the Shares owned by it to accomplish and give effect to the terms and conditions of this Agreement and that such Shareholder shall otherwise act in accordance with the provisions and intent of this Agreement.

2.2 Covenant by the Corporation.

The Corporation consents to the terms of this Agreement and hereby covenants with each of the other parties hereto that it will at all times during the term of this Agreement be governed by the terms and provisions hereof in carrying on its business and affairs.

2.3 Unanimous Shareholders Agreement To Prevail.

If any conflict shall appear between the provisions of this Agreement and the articles, by-laws or other organizational documents of the Corporation or any resolutions of the Directors or

shareholders of the Corporation, the provisions of this Agreement shall govern and prevail and the parties hereto shall cause such meetings to be held and shall exercise their vote and influence so as to cause such articles, by-laws or other organizational documents or resolutions to be amended or repealed to the extent necessary to resolve any such conflict in such manner so that the provisions of this Agreement shall at all times prevail.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Shareholders.

Each Shareholder, severally and not jointly, represents and warrants to each of the other parties to this Agreement that:

- (a) such Shareholder is the registered and beneficial owner of the Shares as is set forth opposite such Shareholder's name below:

| Shareholder | Number of Shares |
|--------------------|-------------------------|
| Bridging | 50 Common Shares |
| Mizrahi Co | 50 Common Shares |

- (b) the Shares and other securities of the Corporation now, or which hereafter may be, owned by such Shareholder are held by such Shareholder free and clear of any and all Liens, except those Liens created pursuant to this Agreement;
- (c) except as provided for in this Agreement, no Person has any contract, agreement, option or other right (actual or inchoate) for the purchase of any Shares or other securities of the Corporation now, or which hereafter may be, owned by such Shareholder;
- (d) such Shareholder has executed and delivered this Agreement, and this Agreement is valid, binding and enforceable against such Shareholder in accordance with its terms;
- (e) the execution and delivery of this Agreement by such Shareholder and such Shareholder's performance of its obligations hereunder does not contravene any contract, agreement or indenture to which such Shareholder is a party or by which such Shareholder is bound;
- (f) if such Shareholder is a corporation, partnership, limited partnership or other entity, such Shareholder also represents and warrants that:
- (i) it is validly existing under the laws of its jurisdiction of formation,
- (ii) it has the power and authority to own its property and assets and to enter

into and perform its obligations under this Agreement,

- (iii) the execution and delivery of this Agreement by it has been duly authorized by all requisite action, and
- (iv) the execution and delivery of this Agreement by it and the performance of its obligations hereunder does not contravene its constituent documents; and
- (g) in the case of Mizrahi Co only, Mizrahi Co is Controlled by a Permitted Transferee of Mizrahi Co.

3.2 Representations and Warranties of the Corporation.

The Corporation represents and warrants to each of the other parties to this Agreement that:

- (a) the authorized capital of the Corporation consists of an unlimited number of common shares (defined herein as Shares), of which one hundred (100) Shares are issued and outstanding as at the date hereof and registered in the names of those Persons set out in Section 3.1(a);
- (b) the Shares listed in Section 3.1(a) are issued and outstanding as fully paid and non-assessable;
- (c) except as provided for in this Agreement, as at the date hereof, no Person has any contract, agreement, option or other right (actual or inchoate) with the Corporation providing for the purchase, subscription or issuance of any of the issued or unissued shares in the capital or other securities of the Corporation;
- (d) it has executed and delivered this Agreement, and this Agreement is valid, binding and enforceable against the Corporation in accordance with its terms;
- (e) the execution and delivery of this Agreement by the Corporation and the Corporation's performance of its obligations hereunder does not contravene any contract, agreement or undertaking to which the Corporation is a party or by which the Corporation is bound;
- (f) the Corporation is validly existing under the laws of the Province of Ontario;
- (g) the Corporation has the power and authority to own its property and assets and to enter into and perform its obligations under this Agreement;
- (h) the execution and delivery of this Agreement by the Corporation has been duly authorized by all requisite corporate action; and
- (i) the execution and delivery of this Agreement by the Corporation and the performance of the Corporation's obligations hereunder does not contravene its constituent documents.

3.3 Survival.

The representations and warranties of the parties contained in this Article 3 shall survive the execution and delivery of this Agreement and shall be deemed to be continuing with respect to each party until it ceases to be bound by the provisions of this Agreement.

ARTICLE 4 MANAGEMENT OF THE CORPORATION

4.1 Board of Directors.

The Shareholders agree to cause such meetings of the Corporation to be held, votes cast, resolutions passed, by-laws enacted, documents executed and all things and acts done to ensure the following continuing arrangements regarding the Board of Directors:

- (a) subject to Sections 4.4 and 4.5, the business and affairs of the Corporation shall be managed by a board of directors which shall, subject to as set forth herein, consist of four (4) individuals, of whom:
 - (i) three (3) shall be the nominees of Bridging and such nominees shall initially be Virginia Jenny Coco, Rock Anthony Coco and Natasha Sharpe, and
 - (ii) one (1) shall be the nominee of Mizrahi Co and such nominee shall be Mizrahi;
- (b) Bridging may remove any nominee Director of Bridging by notice to such Director, Mizrahi Co and to the Corporation. Any vacancy occurring on the Board of Directors by reason of the death, disqualification, inability to act, resignation or removal of any Director nominee of Bridging shall be filled promptly by a further nominee of Bridging so as to maintain a Board of Directors consisting of the number of nominees specified in Section 4.1(a)(i). The Directors will not transact any business or exercise any of their powers or functions until such vacancy is filled, except to elect or appoint the new Director and to carry on the business of the Corporation in the ordinary course. If a replacement Director is not elected or appointed within seven (7) Business Days because Bridging has failed to nominate a replacement, then, notwithstanding any other provision of this Agreement, the Directors then in office are entitled to transact business and exercise all of the powers and functions of the Directors;
- (c) prior to both: (i) Substantial Completion of the Commercial Project, and (ii) the occupancy of at least seventy-five percent (75%) of the leasable square footage of the Retail Component and the Office Component, Mizrahi shall be the only nominee Director of Mizrahi Co and if a vacancy occurs on the Board of Directors by reason of the death, disqualification, inability to act or resignation of Mizrahi, then Mizrahi Co shall cease to be entitled to a nominee on the Board of Directors and the number of individuals constituting the Board of Directors shall

be reduced accordingly; and

- (d) following both: (i) Substantial Completion of the Commercial Project, and (ii) the occupancy of at least seventy-five percent (75%) of the leasable square footage of the Retail Component and the Office Component, subject to the prior written approval of Bridging (such approval not to be unreasonably withheld or delayed): (iii) Mizrahi Co may remove Mizrahi as the nominee Director of Mizrahi Co by notice to such Director, Bridging and to the Corporation, and (iv) any vacancy occurring on the Board of Directors by reason of the death, disqualification, inability to act, resignation or removal of Mizrahi shall be filled promptly by a further nominee of Mizrahi Co so as to maintain a Board of Directors consisting of the number of nominees specified in Section 4.1(a)(ii). In any such case, the Directors will not transact any business or exercise any of their powers or functions until such vacancy is filled, except to elect or appoint the new Director and to carry on the business of the Corporation in the ordinary course. If a replacement Director is not elected or appointed within seven (7) Business Days because Mizrahi Co has failed to nominate a replacement, then, notwithstanding any other provision of this Agreement, the Directors then in office are entitled to transact business and exercise all of the powers and functions of the Directors.

4.2 Meetings of the Board of Directors.

- (a) A quorum for a meeting of the Board of Directors shall be all of the Directors then in office, namely, for greater certainty, as at the date hereof and subject to as set forth herein, the three nominees of Bridging and the nominee of Mizrahi Co. No meeting of the Directors shall continue with the transaction of business in the absence of a quorum; provided that, if at any meeting of Directors (in this Article 4, the "**Original Director Meeting**") a quorum shall not be present by reason only of the fact that one or more required nominee Director(s) of a Shareholder, as provided by this Section 4.2(a), are absent, then, notwithstanding anything herein contained, the Directors present at such meeting may call a supplementary meeting (in this Article 4, the "**Supplementary Director Meeting**") of the Board of Directors on not less than five (5) Business Days' notice to each Director, which notice shall be limited to the business set out in the notice of the Original Director Meeting. Subject to the Act, if the Director(s) who did not attend the Original Director Meeting do not attend the Supplementary Director Meeting, the Directors attending the Supplementary Director Meeting shall constitute a quorum for the transaction of the business referred to in the notice of the Original Director Meeting.
- (b) Unless notice thereof shall have been waived in writing by an individual entitled to such notice, notice of each meeting of the Board of Directors shall be in writing given to each Director at least five (5) Business Days in advance thereof and shall contain sufficient particulars of all items of business to be dealt with thereat.
- (c) Subject to Sections 4.2(a) and 4.4, all decisions of the Board of Directors shall be determined by the unanimous vote of the Directors present at a meeting of the

Board of Directors duly called and held. No Director shall be entitled to a second, extra or casting vote. In the case of a deadlock arising in respect of any matter to be decided, such matter shall be deemed to have been defeated and not approved.

- (d) Subject to the Act, a Director may participate in a meeting of Directors by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting. A Director so participating in a meeting is deemed for the purposes of the Act and this Agreement to be present at that meeting. A consent pursuant to this Section 4.4(d) may be given before or after the meeting to which it relates and may be a "blanket" consent, relating to all meetings of the Directors.

4.3 Meetings of the Shareholders.

- (a) A quorum for a meeting of Shareholders shall be all of the Shareholders of the Corporation, namely Bridging and Mizrahi Co. No meeting of the Shareholders shall continue with the transaction of business in the absence of a quorum; provided that, if at any meeting of Shareholders (in this Article 4, the "**Original Shareholder Meeting**") a quorum shall not be present by reason only of the fact that one or more required Shareholders, as provided by this Section 4.3(a), are absent, then, notwithstanding anything herein contained, the Shareholders present at such meeting may call a supplementary meeting (in this Article 4, the "**Supplementary Shareholder Meeting**") of the Shareholders on not less than fifteen (15) Business Days' notice to each Shareholder, which notice shall be limited to the business set out in the notice of the Original Shareholder Meeting. Subject to the Act, if the Shareholders who did not attend the Original Shareholder Meeting do not attend the Supplementary Shareholder Meeting, the Shareholders attending the Supplementary Shareholder Meeting shall constitute a quorum for the transaction of the business referred to in the notice of the Original Shareholder Meeting.
- (b) Decisions of the Shareholders shall be effective only if approved (i) unanimously by all Shareholder at a meeting of Shareholders duly called for such purpose, or (ii) by written resolution signed by all of the Shareholders. In the case of a deadlock arising in respect of any matter to be decided, such matter shall be deemed to have been defeated and not approved.

4.4 Bridging Approvals.

Without the prior written approval of Bridging, none of the following matters shall be authorized, approved or implemented in respect of the Corporation:

Fundamental Changes:

- (a) any amendment or change to the articles or by-laws of the Corporation;

- (b) the taking or institution of any proceedings for the winding up, reorganization or dissolution of the Corporation;
- (c) the making of an assignment for the benefit of any creditors of the Corporation;
- (d) the amalgamation, consolidation, merger of, or the entering into of any agreement to amalgamate, consolidate or merge with respect to, the Corporation, or the continuance of the Corporation, or a corporate reorganization of the Corporation of any kind;
- (e) the sale, exchange or other disposition of all or substantially all of the assets of the Corporation;
- (f) any material change in the Business or the taking of any action which may lead to or result in such material change;
- (g) any change to the fiscal year of the Corporation;

Share Capital:

- (h) the purchase or redemption by the Corporation of any Shares;
- (i) the declaration, payment or setting aside for payment of any dividend or other distribution on or in respect of any Shares or any other securities of the Corporation;
- (j) any change in the number of issued and outstanding Shares or any increase or reduction in the capitalization of the Corporation, including, without limitation, by way of any split, conversion or exchange of Shares;
- (k) the issuance or allotment of Shares or other securities of the Corporation or the granting of any right, option or privilege to acquire any Shares or other securities of the Corporation;
- (l) any Transfer of Shares or other securities of the Corporation, except as provided in Section 5.2;

Financial Matters:

- (m) the incurring of any voluntary indebtedness for borrowed money by the Corporation, other than (i) as provided for in the Partnership Agreement, and (ii) in the ordinary course of business of the Corporation and the Partnership;
- (n) the guarantee or indemnification by the Corporation for the debts or obligations of any Person, other than in respect of the Partnership and the Title Nominee;
- (o) the granting of any Lien on the assets of the Corporation, other than (i) in favour of the lender under the Construction Loan, (ii) in favour of the Development

Lender pursuant to the Development Loan, (iii) in favour of Tarion Warranty Corporation, (iv) in favour of the Bond Issuer, and (v) in the ordinary course of the business of the Corporation and the Partnership;

- (p) any change in the Accountant;

Non-Arm's Length Matters:

- (q) except as provided in this Agreement and in the Partnership Agreement, entering into by the Corporation of any contract, agreement or arrangement (including the payment of any fee) with or to: (i) any Shareholder, director or officer of the Corporation, (ii) any Affiliate of any Shareholder, director or officer of the Corporation, or (iii) any Person who does not deal at Arm's Length with any Shareholder, director or officer of the Corporation or who any Shareholder, director or officer of the Corporation has an interest in;

Material Agreements and Actions:

- (r) subject to Section 4.5, any matter or decision requiring the approval of the "Owner" under the Commercial Development Management Agreement;
- (s) approval of the Commercial Initial Budget;
- (t) approval of the Commercial Approved Budget;
- (u) any action or inaction that would result in any additional or increased liability, indebtedness or obligation for costs or expenses on the part of the General Partner or the Partnership in excess of the amount(s) provided therefor in the Commercial Approved Budget, except for costs associated with the acquisition of the Properties;
- (v) the material terms of the leases of all retail units of the Commercial Project;
- (w) any increase or change in the Commercial Approved Budget;
- (x) the general terms and conditions of the Purchase Agreements;
- (y) subject to Section 4.5, any matter or decision requiring the approval of the "Owner" under the Commercial Construction Management Agreement;
- (z) (i) any amendment, supplement, other modification to any of the Purchase Agreements, the Commercial Construction Management Agreement, the Commercial Development Management Agreement or the Partnership Agreement, (ii) any waiver of any provision of any such agreement (including, without limitation, any waiver of any condition to closing in any of the Purchase Agreements), and (iii) any action to terminate or surrender or note any party in default with respect to any such agreement, save and except to the extent expressly delegated to the applicable service provider under the Commercial

Development Management Agreement and the Commercial Construction Management Agreement;

- (aa) the determination regarding if the Commercial Development Manager has taken steps to remedy any breach on its part under the Commercial Development Management Agreement and the decision if the Commercial Development Manager is working diligently to complete such remedial steps;
- (bb) entering into, amending or modifying in any material respect or terminating any lease or use and occupancy agreement with respect to portions of the Commercial Project;
- (cc) entering into, amending or modifying in any material respect or terminating any contract for the servicing, operation, maintenance and repair of the Properties other than any contract which is terminable upon not less than thirty (30) days prior written notice from the Corporation, without penalty;
- (dd) any material matter or decision out of the ordinary course relating to the Corporation as "general partner" under the Partnership Agreement, including, without limitation:
 - (i) the subdivision of the Class A Units into additional Class A1 Units and Class A2 Units,
 - (ii) the acceptance of (i) additional capital contributions from the Class A1 Limited Partner from time to time, including the timing and amount thereof, and (ii) Class A2 Limited Partners from time to time, including the dollar amount of the capital contribution to be made by each such additional Class A2 Limited Partner,
 - (iii) the determination of Net Income and Net Loss,
 - (iv) the determination of Distributable Cash and the timing for distributions thereof,
 - (v) confirming satisfaction of all conditions to the transfer by a limited partner of its units under the Partnership Agreement or refusing a transfer by a limited partner of its units under the Partnership Agreement,
 - (vi) obtaining the Construction Loan and all matters related to obtaining the Construction Loan,
 - (vii) obtaining the Development Loan and all matters related to obtaining the Development Loan,
 - (viii) delivering the Mizrahi Offer,
 - (ix) exercising the general power of attorney granted to the Corporation, as

general partner, and

- (x) all matters and decisions referred to in Sections 9.2(e), 9.2(m), 9.2(n), 9.2(r) and 9.2(s) of the Partnership Agreement; and

Decisions Relating to the Partnership and the Title Nominee:

- (ee) the taking of any action described in 4.4(r) to 4.4(dd) above for and on behalf of the Partnership and/or the Title Nominee.

No party to this Agreement shall take or fail to take any action which would cause or otherwise result in the Corporation breaching any of the provisions of this Section 4.4.

Notwithstanding anything to the contrary in this Section 4.4, the prior written approval of Bridging under this Section 4.4 in respect of any matter described in this Section 4.4 shall be deemed to have been given and made if and to the extent that such matter has been approved by the Board of Directors at a meeting of Directors duly called and held and at which at least two Bridging nominee Directors were present and approved such matter.

4.5 Bridging Authority.

The powers of the Directors to manage any action or make any decision on behalf of the Corporation regarding the termination of the Commercial Development Management Agreement by the "Owner" pursuant to Section 7.1 thereof, or the termination of the Commercial Construction Agreement by the "Owner" pursuant to Part 7 thereof, including, without limitation, the power to pass resolutions in connection with the foregoing, are hereby terminated, and Bridging alone shall have the sole power and authority to take any action or decision on behalf of the Corporation regarding the termination of the Commercial Development Management Agreement by the "Owner" pursuant to Section 7.1 thereof or the termination of the Commercial Construction Agreement by the "Owner" pursuant to Part 7 thereof.

4.6 Officers.

The officers of the Corporation are as follows and shall hold the following offices:

| Name | Office |
|---------------------|----------------|
| Mizrahi | President |
| Natasha Sharpe | Secretary |
| Virginia Jenny Coco | Vice President |
| Rock-Anthony Coco | Vice President |

and the Board of Directors, at any time and from time to time, may remove any officer as it sees fit and appoint such additional and other officers as it sees fit.

4.7 Indemnity of Indemnitees.

- (a) Subject to Section 4.7(c), to the fullest extent permitted by all then applicable Laws, the Corporation shall indemnify and save harmless each Indemnitee from and against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by an Indemnitee in respect of any civil, criminal, administrative, investigative or other proceeding in which an Indemnitee is involved as a result of her or him having acted as a Director or an officer of the Corporation.
- (b) Subject to Section 4.7(c), to the fullest extent permitted by all then applicable Laws, the Corporation shall, subject to the receipt of the approval of a court of competent jurisdiction, indemnify and save harmless each Indemnitee from and against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by an Indemnitee in respect of an action by or on behalf of the Corporation or other Person to procure a judgment in favour of the Corporation in which an Indemnitee is involved as a result of her or him having acted as a Director or an officer of the Corporation.
- (c) The Corporation shall not indemnify an Indemnitee unless: (i) the Indemnitee acted honestly and in good faith with a view to the best interests of the Corporation; and (ii) if the matter is a criminal or administrative action or proceeding that is enforced by a monetary penalty, the Indemnitee had reasonable grounds for believing that his conduct was lawful.
- (d) The Corporation may, by decision of the Board of Directors, advance moneys to an Indemnitee for the costs, charges and expenses of a proceeding referred to in Sections 4.7(a) and 4.7(b); provided that, the Indemnitee shall repay the moneys so advanced if the conditions set out in Section 4.7(c) have not been satisfied.
- (e) Any Person who is within the definition of "Indemnitee" at the time of any action or inaction in connection with the Corporation shall be entitled to the benefits of this Section 4.7 as an "Indemnitee" with respect thereto, regardless of whether such Person continues to be within the definition of "Indemnitee" at the time of such Indemnitee's claim for indemnification or exculpation hereunder or any amendment of the terms hereof.

4.8 Conduct of Parties to this Agreement.

The parties hereto covenant and agree that they shall from time to time do all such acts and things as they are respectively capable of doing (including exercising their votes and influence), and refrain from doing such acts and things, as may be necessary or desirable, so that:

- (a) the Directors and the officers of the Corporation act in the best interests of the Corporation so as to develop and maintain, to the best of their respective abilities, the business, assets and undertaking of the Corporation as an ongoing and viable business;

- (b) with respect to all matters requiring authorization by the Shareholders or the Directors, the Shareholders and the Directors, as applicable, take all reasonable action to reach a decision with respect to any such matter in a responsible manner and as expeditiously as is reasonably possible under the circumstances and otherwise in accordance with the terms of this Agreement; and
- (c) the Shareholders, Directors and the officers of the Corporation shall do all such acts and things as are contemplated and provided for in this Agreement and as are necessary to affect the same.

4.9 Keeping of, and Access to, Records.

- (a) There shall be kept for the Corporation proper books of account and records and entries shall be made therein of all financial transactions and other matters and things pertaining to its assets, liabilities, obligations, business and operations which are entered into books of account and business records in accordance with good business practices and GAAP.
- (b) Each Shareholder and its duly authorized agents and representatives shall be entitled to have access to, and to inspect, all such books of accounts and records of the Corporation during normal business hours and they shall also be entitled, at their own expense, to obtain copies of such books of account and records to the extent reasonably required for their own tax and accounting purposes.

4.10 Records Confidential.

Each Shareholder acknowledges that all records, material and information pertaining to the Corporation and/or the Partnership obtained by it are and shall remain the exclusive property of the Corporation or the Partnership, as the case may be. Each Shareholder, during the term of this Agreement and thereafter, shall keep in the strictest confidence, not disclose and not use, without the consent of the Corporation or the other Shareholder, all non-public information pertaining to or concerning the Corporation and/or the Partnership including all budgets, forecasts, analyses, financial results, costs, margins, wages and salaries, bids and other business activities, all supplier and customer lists, all non-public intellectual property and know-how, documentation including standard terms and agreements and all other information not generally known outside the Corporation or the Partnership, as the case may be.

4.11 Exemption from Audit Requirement.

The Shareholders agree that the Corporation shall dispense with the requirement under the Act to appoint an auditor, unless required by a lender to the Corporation or the Partnership, as the case may be.

4.12 Fiscal Year.

The fiscal year of the Partnership shall end on December 31 in each year, until changed by a resolution of the Board of Directors and subject to Section 4.4(g).

4.13 Business and Purpose.

The business and purpose of the Corporation shall be the Business.

4.14 Execution of Instruments.

- (a) Deeds, transfers, assignments, contracts and any other documents of the Corporation, may be signed as follows: by a Vice-President (i.e., Jenny Coco or Rock Antony Coco), together with another Vice-President (i.e., Jenny Coco or Rock Antony Coco) or the Secretary (i.e., Natasha Sharpe). Notwithstanding the foregoing, the Board of Directors may by unanimous decision of all of the Directors at any time or times direct the manner in which and the person or persons by whom any particular deed, transfer, assignment, contract or other document, or any class of deeds, transfers, assignments, contracts or other documents, shall be signed.
- (b) Upon the approval of the Commercial Approved Budget by both the Board of Directors and Bridging pursuant to Section 4.4(t) and unless any one or more of the events described in Section 6.10(a) of the Partnership Agreement have occurred, Mizrahi, in his capacity as a director and officer of the Corporation, shall be permitted to act as the sole signatory of the Corporation in connection with the execution of all deeds, transfers, assignments, contracts, leases and other documents entered into by the Corporation (on its own behalf or in its capacity as the general partner of the Partnership) in the ordinary course of business, including, without limitation, in respect of the pre-development, development, marketing, construction (including demolition of existing buildings), completion, sale of units and lease of the Commercial Project or any portion thereof, and the payment of any expenses previously approved by the Cost Consultant and provided for in the Commercial Approved Budget. In addition, the foregoing authorization shall include signing authority under any banking arrangements, accounts or facilities for the Corporation or the Partnership so long any payments being made are in accordance with the Commercial Approved Budget and approved by the Cost Consultant.

ARTICLE 5

RESTRICTIONS ON TRANSFER

5.1 Transfer Restrictions.

No Shares or other securities of the Corporation shall, directly or indirectly, be Transferred: (a) except in accordance with, and as permitted by, this Agreement, or (b) without the prior approval of the Board of Directors and the prior written approval of Bridging.

5.2 Permitted Transferees.

Notwithstanding the provisions of Section 5.1, each Shareholder shall be permitted and entitled to Transfer, without consent and upon written notice to the Board of Directors, some or all of its

Shares or other securities to a Permitted Transferee of such Shareholder (for greater certainty, without being subject to the provisions of Article 6 or Article 7, as applicable).

5.3 Permitted Transferee to be bound by Agreement.

No permitted Transfer of Shares or other securities of the Corporation to a Permitted Transferee pursuant to Section 5.2 shall be effective unless and until such Permitted Transferee executes and delivers a counterpart and acknowledgment to this Agreement, substantially in the form attached hereto as Schedule "A", and agreeing therein to remain a Permitted Transferee for so long as such Permitted Transferee shall have any registered or beneficial interest in any Shares or other securities of the Corporation. In the event of any such Transfer to a Permitted Transferee: (a) the transferring Shareholder shall remain a party to this Agreement; (b) the transferring Shareholder hereby covenants to take such actions as may be necessary to cause the Permitted Transferee to at all times fully and faithfully perform and discharge its obligations under this Agreement and to comply with the terms and conditions of this Agreement; and (c) the transferring Shareholder shall at all times after such Transfer be jointly and severally liable with the Permitted Transferee for the performance and discharge the Permitted Transferee's obligations under this Agreement and compliance by the Permitted Transferee with the terms and conditions of this Agreement.

5.4 Transfer in contravention of Agreement.

Any Transfer of Shares or other securities of the Corporation contrary to the provisions of this Agreement shall be deemed to be null and void and of no force and effect and the Corporation shall not be required: (a) to Transfer on its books any Shares, nor (b) to treat as the owner of the Shares, or otherwise to accord voting or dividend rights to, any purported transferee to whom the Shares have been Transferred in contravention of this Agreement.

ARTICLE 6

PURCHASE OF SHARES OF MIZRAHI CO

6.1 Purchase Notice.

If the Class B Limited Partner commits a default under the Partnership Agreement and, pursuant to the terms of the Partnership Agreement, as a result the General Partner causes all (but not less than all) of the Class B Units owned by the Class B Limited Partner to be redeemed (in this Article 6, the "**Class B Redemption**"), then Bridging shall, contemporaneously with the delivery of the Redemption Notice (as such term is defined in the Partnership Agreement) or shortly thereafter, also send a notice in writing to Mizrahi Co (in this Article 6, the "**Purchase Notice**") advising Mizrahi Co that Bridging shall purchase all (but not less than all) of the Shares owned by Mizrahi Co pursuant to this Article 6.

6.2 Effect of Purchase Notice.

The delivery of the Purchase Notice shall require Mizrahi Co to sell to Bridging, and Bridging shall purchase from Mizrahi Co, all (but not less than all) of the Shares owned by Mizrahi Co for

the price and in accordance with the provisions of this Article 6 and Article 8.

6.3 Certain Purchase and Sale Provisions.

For any purchase and sale of the Shares of Mizrahi Co made pursuant to this Article 6:

- (a) the purchase price for the Shares of Mizrahi Co shall be equal to One Dollar (\$1) per Share, it being acknowledged and agreed that in such purchase and sale event, consideration for the direct or indirect economic interest of Mizrahi Co (a.k.a. the Class B Limited Partner) in the equity of the Commercial Project shall be realized on the redemption of the Class B Units of the Class B Limited Partner;
- (b) the closing of such purchase and sale transaction shall take place at the offices of legal counsel for the Partnership on the date of the closing of the Class B Redemption as prescribed under the Partnership Agreement; and
- (c) the closing of the transaction of such purchase and sale shall be effected in accordance with the general sale provisions of Article 8.

ARTICLE 7

SALE OF SHARES OF BRIDGING

7.1 Sale Notice.

If, pursuant to the terms of the Partnership Agreement, the Class A1 Limited Partner is set to complete the sale of all (but not less than all) of the Class A1 Units owned by the Class A1 Limited Partner (in this Article 7, the "**Class A1 Sale**"), then Bridging shall send a notice in writing to Mizrahi Co (in this Article 7, the "**Sale Notice**") advising Mizrahi Co that Bridging shall sell all (but not less than all) of the Shares owned by Bridging to Mizrahi Co pursuant to this Article 7.

7.2 Effect of Sale Notice.

The delivery of the Sale Notice shall require Mizrahi Co to purchase from Bridging, and Bridging to sell to Mizrahi Co, all (but not less than all) of the Shares owned by Bridging for the price and in accordance with the provisions of this Article 7 and Article 8.

7.3 Certain Purchase and Sale Provisions.

For any purchase and sale of the Shares of Bridging made pursuant to this Article 8:

- (a) the purchase price for the Shares of Bridging shall be equal to One Dollar (\$1) per Share, it being acknowledged and agreed that in such purchase and sale event, consideration for the direct or indirect economic interest of Bridging (a.k.a. the Class A Limited Partner) in the equity of the Commercial Project shall be realized on the sale of the Class A1 Units of the Class A1 Limited Partner;

- (b) the closing of such purchase and sale transaction shall take place at the offices of legal counsel for the Partnership on the date of the closing of the Class A1 Sale, as may be prescribed under the Partnership Agreement; and
- (c) the closing of the transaction of such purchase and sale shall be effected in accordance with the general sale provisions of Article 8.

ARTICLE 8

PROCEDURE FOR SALE OF SHARES

8.1 Application of Sale Provisions.

The provisions of this Article 8 shall apply to any sale of Shares pursuant to Article 6 and Article 7, as applicable.

8.2 Definitions.

For the purpose of this Article 8, the following terms shall have the following definitions:

- (a) **"Date of Closing"** means the date of closing of the purchase and sale of the Shares provided for in Article 6 and Article 7, as applicable;
- (b) **"Purchase Price"** means the purchase price to be paid for the Purchased Shares;
- (c) **"Purchased Shares"** means the Shares to be purchased and sold;
- (d) **"Purchaser"** means the party purchasing Shares;
- (e) **"Time of Closing"** means 10:00 o'clock a.m. (Eastern Standard Time) or such other time on the Date of Closing as may be agreed to by the parties in the subject transaction; and
- (f) **"Vendor"** means the party selling Shares.

8.3 Obligations of Vendor.

At or prior to the Time of Closing, the Vendor shall:

- (a) assign and transfer to the Purchaser the Purchased Shares and deliver the certificate(s) representing the Purchased Shares duly endorsed for transfer to the Purchaser or as directed by it;
- (b) do all things required in order to deliver good and marketable title to the Purchased Shares to the Purchaser free and clear of any Liens whatsoever;
- (c) deliver to the Corporation signed resignations of the Vendor and its nominees, if any, as Directors, officers and employees of the Corporation, as the case may be; and

- (d) either provide the Purchaser with evidence reasonably satisfactory to the Purchaser that the Vendor is not then a non-resident of Canada within the meaning of the *Income Tax Act* (Canada) or provide the Purchaser with a certificate pursuant to subsection 116(2) of the *Income Tax Act* (Canada) with a certificate limit in an amount not less than the Purchase Price for the Purchased Shares.

8.4 Release of Guarantees etc.

If, at the Time of Closing, the Vendor or any other Person for and on behalf of the Vendor, shall have any guarantees, indemnities, security, covenants or pledges lodged with or granted in favour of any Person to secure any indebtedness, liability or obligation of the Corporation, then the Corporation shall use its reasonable commercial efforts to deliver up or cause to be delivered up to the Vendor or cancel or cause to be cancelled all of such guarantees, indemnities, security, covenants or pledges at the Time of Closing or deliver an indemnity in writing in respect thereof, in form reasonably satisfactory to counsel for the Vendor, acting reasonably.

8.5 Repayment of Debts.

If, at the Time of Closing, the Corporation is indebted to the Vendor in an amount recorded on the books of the Corporation and verified by the Accountant, the Corporation shall repay such amount to the Vendor at the Time of Closing. If, at the Time of Closing, the Vendor is indebted to the Corporation in an amount recorded on the books of the Corporation and verified by the Accountant, the Vendor shall repay such amount to the Corporation at the Time of Closing.

8.6 Payment of Purchase Price.

Unless otherwise agreed by the Vendor and the Purchaser or permitted by this Agreement, the Purchase Price shall be paid by the Purchaser in full by cash or bank draft at the Time of Closing.

8.7 Non-Compliance with Conditions.

If at the Time of Closing (a) the Purchased Shares are not free and clear of all Liens, or (b) evidence or a certificate referred to in Section 8.3(d) is not provided, the Purchaser may, without prejudice to any other rights which it may have, purchase the Purchased Shares subject to such Liens or in the absence of such evidence or certificate, and, in that event, the Purchaser shall, at the Time of Closing, (c) assume all obligations and liabilities with respect to such Liens, or (d) make the payment of tax required under Section 116 of the *Income Tax Act* (Canada), if any; and in each such case the amount so assumed or paid, as the case may be, shall be satisfied by deducting such amount from the Purchase Price payable at the Time of Closing, and, if the Purchase Price is insufficient to cover such amount, such amount shall be paid by the Vendor to the Purchaser on demand.

8.8 Non-Completion by Vendor.

- (a) If, at the Time of Closing, the Vendor fails to complete the purchase and sale of the Purchased Shares hereunder, the Purchaser shall have the right, without

prejudice to any other rights which it may have, to make payment of the Purchase Price payable to the Vendor at the Time of Closing by depositing such amount to the credit of the Vendor in the main branch of the Corporation's bankers in the City of Toronto. Such deposit shall constitute valid and effective payment of such amount to the Vendor irrespective of any action the Vendor may have taken to transfer or grant a Lien on the Purchased Shares. If the Purchase Price has been so paid, then from and after the date of deposit, the purchase and sale of the Purchased Shares hereunder shall be deemed to have been fully completed and all right, title, benefit and interest, both at law and in equity in and to the Purchased Shares shall conclusively be deemed to have been transferred to and become vested in the Purchaser and all right, title, benefit and interest, both at law and in equity, in and to the Purchased Shares of the Vendor or of any transferee or assignee of the Vendor shall cease. The Purchaser shall also have the right to execute and deliver, on behalf of and in the name of the Vendor, such deeds, transfers, unit certificates, resignations and other documents that may be necessary to complete the purchase and sale of the Purchased Shares hereunder and the Vendor irrevocably appoints the Purchaser or its designee as its attorney in that behalf in accordance with the *Powers of Attorney Act* (Ontario), with no restriction or limitation in that regard and declaring that this power of attorney may be exercised during any subsequent legal incapacity on its part. Such appointment and power of attorney, being coupled with an interest, shall not be revoked by the insolvency, bankruptcy, death, incapacity, dissolution, liquidation or other termination of the existence of the Vendor, and the Vendor hereby ratifies and confirms and agrees to ratify and confirm all that the Purchaser may lawfully do or cause to be done by virtue of such appointment and power. The power of attorney granted in this Section 8.8(a) is not intended to be a continuing power of attorney within the meaning of, and governed by, the *Substitute Decisions Act* (Ontario), or any similar power of attorney under equivalent legislation in any of the provinces or territories of Canada (in this Article 8, a "CPOA"). The execution of this Agreement shall not terminate any such CPOA granted by the Vendor previously and shall not be terminated by the execution of a CPOA by the Vendor in the future, and the Vendor hereby agrees not to take any action which would result in the termination of the power of attorney hereby granted.

- (b) The Vendor shall be entitled to receive the amount deposited with the Corporation's bankers pursuant to Section 8.8(a) together with the releases and indemnities to which it may be entitled pursuant to this Agreement on delivery to the Purchaser of the documents referred to in Section 8.3 and in compliance with all other provisions of this Agreement.

8.9 Consents.

The Parties acknowledge that the completion of the purchase and sale of the Purchased Shares hereunder shall be subject, in any event, to the receipt of all necessary governmental and regulatory consents and approvals to the transfer of Shares contemplated thereby.

ARTICLE 9
MISCELLANEOUS

9.1 Term of Agreement.

This Agreement shall take effect on the date hereof and shall terminate on the earlier of:

- (a) the date on which one Person becomes the registered and beneficial owner of all the Shares;
- (b) the date this Agreement is terminated by written agreement of all of the parties hereto; or
- (c) the date upon which the Corporation is wound up, liquidated or dissolved, whether voluntarily or involuntarily.

Notwithstanding the termination of this Agreement, the following provisions of this Agreement shall survive the termination of this Agreement and continue to be binding on the parties hereto: Sections 4.7 and 4.10 and the general provisions of this Article 9, as applicable. The termination of this Agreement shall have no effect upon any obligation of a party hereto to make a payment for any Shares purchased pursuant to the provisions of this Agreement or to pay any other amounts owing by it under this Agreement prior to the date of such termination.

9.2 Arbitration Proceedings.

In the event of any dispute, claim, question or difference between or among any parties relating to any matter, covenant, commitment or agreement provided for or contained in this Agreement, any party may by written notice (the "**Arbitration Notice**") to the other party or parties, require same to be settled by arbitration pursuant to and in accordance with the provisions of the *Arbitrations Act*, 1991 (Ontario). Any arbitration commenced pursuant to this Section 9.2 shall be based on the following:

- (a) the arbitration tribunal shall consist of one arbitrator appointed by mutual agreement of the parties involved who is qualified by education and training to pass upon the particular matter to be decided, or in the event of failure to agree within ten (10) Business Days, either party may apply to the Superior Court of Justice of Ontario under the *Arbitrations Act*, 1991 (Ontario) to appoint the arbitrator;
- (b) the arbitrator shall be instructed that time is of the essence in proceeding with his/her determination of any dispute, claim, question or difference and, in any event, the arbitration award must be rendered within thirty (30) days of the submission of such dispute to arbitration;
- (c) the arbitration shall take place in the City of Toronto, Ontario;
- (d) the law to be applied in connection with the arbitration shall be the laws of the Province of Ontario, including its conflict of law rules;

- (e) in its arbitration award, the arbitrator may award any remedy for any breach of this Agreement that might have been awarded by the Superior Court of Justice of Ontario except where the remedy for such breach has been expressly limited by this Agreement;
- (f) the arbitration award shall be given in writing and shall be final and binding on the parties, not subject to any appeal on a matter of law, a matter of fact, or a matter of mixed fact and law pursuant to the *Arbitrations Act*, 1991 (Ontario);
- (g) the arbitration award shall deal with the question of costs of arbitration and all matters related thereto;
- (h) judgment upon the award rendered may be entered in any court of competent jurisdiction, or, application may be made to such court for a judicial recognition of the award or an order of enforcement thereof, as the case may be; and
- (i) nothing herein will prevent the party who gave the Arbitration Notice from applying for injunctive relief pending such arbitration proceeding.

9.3 Legend on Certificates.

All certificates evidencing securities of the Corporation, including, without limitation, the Shares, shall have the following legend endorsed thereon forthwith after the execution of this Agreement:

"The securities represented by this certificate are subject to a Unanimous Shareholders Agreement dated as of the 25th day of July, 2014, between the Corporation and its shareholders, as the same may be amended or restated from time to time."

9.4 Notices.

All notices, requests, demands or other communications by the terms hereof required or permitted to be given by one party to another shall be given in writing and shall be delivered in person, transmitted by facsimile or similar means of recorded electronic communication with receipt confirmed (if a facsimile number or other form of electronic communication address is provided below) addressed as follows:

- (a) to Bridging at:

c/o Bridging Finance Inc.
77 King Street West, Suite 2925, P.O. Box 322
Toronto, Ontario M5K 1K7

Attention: Ms. Natasha Sharpe
Telephone: (416) 777-1601
Email: nsharpe@bridgingfinance.ca

with a copy to:

Coco Paving Inc.
949 Wilson Avenue
Toronto, Ontario
M3K 1G2

Attention: Ms. Virginia Jenny Coco
Facsimile: (416) 633-6765
Email: jcoco@cocogroup.com

and with a copy to:

Fogler, Rubinoff LLP
77 King Street West, Suite 3000
Toronto, Ontario M5K 1G8

Attention: Mr. Ian Kady
Telephone: (416) 941-8809
Email: ikady@foglers.com

(b) to Mizrahi Co at:

Sam M Inc.
189 Forest Hill Road
Toronto, Ontario M5P 2N3

Attention: Sam Mizrahi
Telephone: (416) 818-5288
Email: Sam@MizrahiCorp.Com

(c) to the Corporation at:

Mizrahi Commercial (The One) GP Inc.
189 Forest Hill Road
Toronto, Ontario M5P 2N3

Attention: President and Vice President
Telephone: (416) 818-5288 and (416) 633-6765
Email: Sam@MizrahiCorp.Com and jcoco@cocogroup.com

Any such notice or other communication shall be deemed to have been given and received, if sent by personal delivery, upon delivery, if transmitted by telecopier number or similar means of recorded electronic communication, upon the completion of its transmission. Any party may at any time change its address for service and/or telecopier number or similar means of recorded electronic communication from time to time by giving notice to the other parties hereto in accordance with this Section 9.4.

9.5 Further Assurances.

The parties hereto shall sign such further and other documents, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their votes and influence, do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part thereof.

9.6 Enurement and Assignment.

Except as specifically contemplated herein, no party to this Agreement may assign, transfer or otherwise dispose of this Agreement or all or any part of its rights or obligations or any interest in this Agreement without the prior written consent of all of the other parties hereto. Subject to the foregoing, this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, legal representatives, administrators, successors and permitted assigns, as the case may be.

9.7 Confidentiality.

The parties hereto agree that the terms and conditions of this Agreement are and shall remain confidential and shall not be disclosed by any party hereto to any Person without the prior written consent of the Corporation. Notwithstanding the foregoing, the parties hereto agree that the terms and conditions of this Agreement may be disclosed to such party's professional advisors in connection with the provision of professional services to such party, provided such advisors are advised of the confidential nature of such terms and conditions and agree to act in accordance with the terms and conditions of this Agreement. The parties hereto may also disclose such terms and conditions of this Agreement as they may become legally compelled to do so, and in such event, shall provide written notice of such disclosure to the other parties.

9.8 Waiver.

No party to this Agreement shall be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing, and then such waiver shall be limited to the circumstances set forth in such written waiver. No failure or delay on the part of a party in exercising any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver by a party of a default shall operate against such party as a waiver of such default unless made in writing and signed.

9.9 Entire Agreement and Amendment.

This Agreement constitutes the entire agreement between the parties hereto with respect to all of the matters herein. This Agreement shall not be amended, altered or qualified except by an instrument in writing signed by all of the parties hereto.

9.10 Joint Negotiation and Drafting.

The parties hereto acknowledge and confirm that they have participated jointly in the negotiation and drafting of this Agreement and that any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against a party hereto by virtue of the authorship of this Agreement, as the case may be, shall not apply to the construction and interpretation of this Agreement (or any provision of this Agreement).

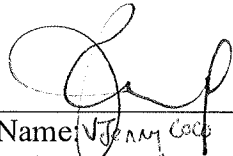
9.11 Counterparts.

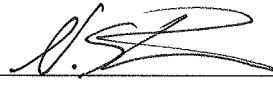
This Agreement may be executed in several counterparts, by original or PDF or facsimile signature, each of which so executed shall be deemed to be an original and such counterparts together shall be deemed to be the same instrument and shall be deemed to be executed as of the date first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first shown above.

8891303 CANADA INC.

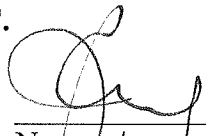
Per: 
 Name: V. Sharpe
 Title: A.S.O.

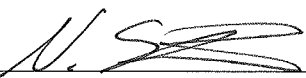
Per: 
 Name: U. SHARPE
 Title: SECRETARY
We have authority to bind the corporation

SAM M INC.

Per: _____
 Name: _____
 Title: _____
I have authority to bind the corporation

MIZRAHI COMMERCIAL (THE ONE) GP INC.

Per: 
 Name: V. Sharpe
 Title: Vice-President

Per: 
 Name: U. SHARPE
 Title: Secretary
We have authority to bind the corporation

SCHEDULE "A"
Form of Counterpart and Acknowledgment

COUNTERPART AND ACKNOWLEDGEMENT

TO: MIZRAHI COMMERCIAL (THE ONE) GP INC. (the "Corporation")

AND TO: EACH OTHER PARTY TO THE BELOW-MENTIONED UNANIMOUS SHAREHOLDERS AGREEMENT

RE: Unanimous Shareholders Agreement dated as of the 25th day of July, 2014, between the Corporation and the shareholders of the Corporation, as the same may be amended, restated or supplemented from time to time (the "Shareholders Agreement")

Capitalized terms not otherwise defined herein shall have the respective meanings ascribed to them in the Shareholders Agreement.

The undersigned hereby:

1. acknowledges receipt of a copy of the Shareholders Agreement;
2. agrees to be bound by the terms of the Shareholders Agreement as a party to the Shareholders Agreement and as a shareholder of the Corporation, and shall be entitled to all benefits and obligations of a Shareholder pursuant to the Shareholders Agreement, as fully and effectively as though the undersigned had executed an original copy of the Shareholders Agreement together with the other parties to the Shareholders Agreement;
3. agrees to remain a Permitted Transferee for so long as it shall have any registered or beneficial interest in any Shares or other securities of the Corporation; and
4. this Counterpart and Acknowledgment forms part of the Shareholders' Agreement.

IN WITNESS WHEREOF the undersigned has executed this Counterpart and Acknowledgment this: _____.

Witness



This is Exhibit “O” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

LIMITED PARTNERSHIP AGREEMENT
FOR
MIZRAHI RESIDENTIAL (THE ONE) LP

July 25, 2014

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LIMITED PARTNERSHIP AGREEMENT

THIS LIMITED PARTNERSHIP AGREEMENT is dated as of the 25th day of July, 2014,

BETWEEN:

MIZRAHI RESIDENTIAL (THE ONE) GP INC., a corporation existing under the laws of the Province of Ontario

(the "**General Partner**")

- and -

8891303 CANADA INC., a corporation existing under the Federal laws of Canada

(the "**Class A1 Limited Partner**")

- and -

MIZRAHI ENTERPRISES INC., a corporation existing under the laws of the Province of Ontario

(the "**Class B Limited Partner**", and together with the Class A1 Limited Partner, collectively, the "**Limited Partners**")

WHEREAS:

- A. The General Partner and the Limited Partners wish to establish a limited partnership pursuant to the Act (as defined below) and the laws of the Province of Manitoba for the purposes of acquiring the Properties (as defined below) and constructing, developing and operating the Residential Project (as defined below); and
- B. The parties hereto wish to set forth their rights and liabilities in respect of the Partnership (as defined below);

NOW THEREFORE THIS AGREEMENT WITNESSETH that, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions.

As used in this Agreement (including the Schedules attached hereto), the following words and phrases shall have the following meanings, respectively:

- (a) **"Accountant"** means the firm of Ernst & Young LLP or such others appointed from time to time under this Agreement as the accountants of the Partnership;
- (b) **"Act"** means *The Partnership Act* (Manitoba) and all regulations thereunder;
- (c) **"Affiliate"** means, with respect to any Person, any other Person, directly or indirectly, Controlling, Controlled by or under common Control with such Person;
- (d) **"Agreement"** means this limited partnership agreement, including the schedules hereto, in each case as they may be amended, modified or supplemented from time to time;
- (e) **"Arm's Length"** has the meaning given to it in the ITA;
- (f) **"Assignment and Transfer Form"** has the meaning given to it in Section 6.3(a);
- (g) **"Attributable Partner Expense"** has the meaning given to it in Section 7.11(b)(i);
- (h) **"BNRA"** means *The Business Names Registration Act* (Manitoba);
- (i) **"Bond Issuer"** means Aviva Insurance Company of Canada;
- (j) **"Business Day"** means any day other than a Saturday, Sunday or other day which is a statutory holiday in the Province of Manitoba or the Province of Ontario;
- (k) **"Capital Account"** has the meaning given to it in Section 7.1;
- (l) **"Capital Contribution"** means the Class A1 Capital Contributions or the Class B Capital Contributions of a Limited Partner, as applicable;
- (m) **"Certificate"** means a certificate evidencing ownership of any LP Units, in the form set out in Schedule "A", issued in accordance with this Agreement;
- (n) **"Class A1 Capital Contribution"** means the amount of cash which the Class A1 Limited Partner has contributed to the Partnership in payment of the subscription price of the Class A1 Units issued to the Class A1 Limited Partner from time to time;
- (o) **"Class A1 Units"** has the meaning given to it in Section 4.1(a)(i);
- (p) **"Class B Capital Contribution"** means the amount of cash which the Class B Limited Partner has contributed to the Partnership in payment of the subscription price of the Class B Units issued to the Class B Limited Partner from time to time;
- (q) **"Class B Proportionate Share of the Residential Project Valuation Amount"** has the meaning given to it in Section 6.11(c);
- (r) **"Class B Units"** has the meaning given to it in Section 4.1(a)(iii);

- (s) **"Confidential Information"** means the confidential information concerning or otherwise relating to the Partnership, including, without limitation, its financial statements, accounts, and non-public financial information; provided that, "Confidential Information" shall not include any of the foregoing which: (i) is in the public domain; (ii) is generally known throughout the industry in which the Partnership operates; or (iii) becomes available to the general public or other businesses generally; in each case of (i), (i) and (iii), otherwise than as the result of the breach by a Partner or by any of the employees of, or consultants and independent contractors to, the Partnership of their respective obligations of confidentiality to the Partnership, including as provided herein;
- (t) **"Construction Loan"** has the meaning given to it in Section 5.5(b);
- (u) **"Control"** as used with respect to any Person, means the possession, directly or indirectly, through one or more intermediaries or otherwise, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting or other securities, by contract or in any other manner whatsoever; and the terms **"Controlling"**, **"Controlled by"** and **"under common Control with"** have corresponding meanings;
- (v) **"Cost Consultant"** has the meaning given to it in the Residential Development Management Agreement (i.e., Altus Group Limited);
- (w) **"Declaration"** means the declaration in respect of the Partnership filed or to be filed in accordance with the Act and the BNRA, as such declaration may be amended, supplemented, or otherwise modified from time to time in accordance with the Act and the BNRA;
- (x) **"Development Lender"** has the meaning given to it in Section 5.7(a);
- (y) **"Development Loan"** has the meaning given to it in Section 5.7(a);
- (z) **"Disposition"** means the sale, transfer, assignment or other disposition of (i) the Residential Component or a material portion thereof, (ii) the Parking Component, or a material portion thereof, and (iii) if applicable, the Hotel Component, or a material portion thereof, other than, in each case, as security pursuant to a Lien permitted by this Agreement;
- (aa) **"Distributable Cash"** means, at any date of determination, the aggregate of proceeds received by the Partnership (or by the General Partner on behalf of the Partnership) as at such date in respect of the following:
 - (i) the Disposition of the Residential Component, the Parking Component, or, if applicable, the Hotel Component,
 - (ii) any insurance in respect of the Residential Component, the Parking Component, or, if applicable, the Hotel Component,

- (iii) any expropriation of any portion of the Residential Component, the Parking Component, or, if applicable, the Hotel Component,
- (iv) any financing of the Residential Component, the Parking Component or, if applicable, the Hotel Component;
- (v) all receipts of an income nature or a capital nature, including all rents, interest, and other revenues from the Residential Component, the Parking Component and, if applicable, the Hotel Component; and
- (vi) the amount of all Capital Contributions,

less the aggregate of all amounts which are required to be paid by the Partnership (or by the General Partner on behalf of the Partnership) or for which the Partnership (or the General Partner on behalf of the Partnership) is then liable on account of:

- (vii) expenses of the Partnership in accordance with the Residential Initial Budget or the Residential Approved Budget, as the case may be (including expenses on account of realty taxes) accrued as at such date, other than as accounted for in the Reserve,
 - (viii) all mortgage and other non-contingent liabilities and obligations of any and every nature and kind whatsoever of the Partnership (and whether on account of principal, interest, financing fees or otherwise) as at such date, other than as accounted for in the Reserve,
 - (ix) Third Party costs incurred in connection with the matters in (i), (ii), (iii) and (iv) of this Section 1.1(aa), as the case may be, and
 - (x) any Reserve;
- (bb) **"DM Reports"** has the meaning given to it in Section 8.3;
- (cc) **"Extra-Ordinary Resolution"** means:
- (A) a resolution passed at a duly constituted meeting of the Partnership by the affirmative vote of: (1) the Class A1 Limited Partner, and (2) the Class B Limited Partner, or
 - (B) a written resolution signed in one or more counterparts by (1) the Class A1 Limited Partner, and (2) the Class B Limited Partner;
- (dd) **"Fair Market Value"** means the price determined in an open and unrestricted market between informed prudent parties, acting at Arm's Length and under no compulsion to act, expressed in terms of money or money's worth;

- (ee) "**Fiscal Year**" means the fiscal year of the Partnership determined pursuant to this Agreement;
- (ff) "**Former General Partner**" has the meaning given to it in Section 9.10;
- (gg) "**GAAP**" means generally accepted accounting principles in Canada in effect at the time being referred to;
- (hh) "**General Partner**" means Mizrahi Residential (The One) GP Inc. and any other duly appointed and designated general partner of the Partnership under this Agreement;
- (ii) "**GP Unit**" has the meaning given to it in Section 4.1(b);
- (jj) "**Hotel Component**" means the component of the Residential Project comprised of the space that may be constructed for hotel uses.
- (kk) "**Incapacitated**" means, in respect of Mizrahi, the condition: (i) where Mizrahi becomes unable, by reason of illness, disease, mental or physical disability or incapacity, to perform his duties as principal of the Residential Development Manager and/or the Residential Construction Manager for a period of one hundred and twenty (120) days in the aggregate during any period of three hundred and sixty-five (365) consecutive calendar days, or (ii) where Mizrahi has been declared by a court of competent jurisdiction to be mentally incompetent and such declaration has not been revoked within thirty (30) days of such declaration;
- (ll) "**Income Tax Act**" or "**ITA**" means the *Income Tax Act* (Canada);
- (mm) "**Land Transfer Tax**" means Ontario, Toronto and other real property and land transfer taxes and land registration fees and charges, and any similar taxes, fees and charges, whether imposed on a registered or unregistered transaction;
- (nn) "**Lien**" means any mortgage, charge, pledge, hypothecation, security interest, assignment, encumbrance, lien (statutory or otherwise), title retention agreement or arrangement, restrictive covenant or and any other encumbrances of any nature;
- (oo) "**Limited Partner**" means each of the Class A1 Limited Partner and the Class B Limited Partner so long as it owns any LP Units and any other Person who acquires any LP Units in accordance with the terms of this Agreement, and "**Limited Partners**" means the Limited Partner, collectively;
- (pp) "**LP Unit**" has the meaning given to it in Section 4.1(a)(iii);
- (qq) "**Mizrahi**" means Sam Mizrahi, an individual resident in the Province of Ontario;
- (rr) "**Net Income**" or "**Net Loss**" means, respectively, the net income or net loss of the Partnership in respect of the period then being referred to for accounting purposes as determined by the General Partner in accordance with GAAP;

- (ss) **"New General Partner"** has the meaning given to it in Section 9.10;
- (tt) **"Ordinary Resolution"** means:
 - (A) a resolution passed at a duly constituted meeting of the Partnership by the affirmative vote of the Class A1 Limited Partner, or
 - (B) a written resolution signed by the Class A1 Limited Partner;
- (uu) **"Parking Component"** means the component of the Residential Project comprising the parking spaces intended for the Residential Component and, if applicable, the Hotel Component and not the commercial office or retail project;
- (vv) **"Partner"** means any of the General Partner or a Limited Partner; and **"Partners"** means the General Partner and the Limited Partners, collectively;
- (ww) **"Partnership"** means the limited partnership created by this Agreement, and known as "Mizrahi Residential (The One) LP";
- (xx) **"Permitted Transferee"** means:
 - (i) in relation to the Class A1 Limited Partner, any one or more of (A) its Affiliates, or (B) at any time following the date on which the Class A1 Limited Partner has satisfied its obligations to purchase all of the Class A1 Units as contemplated in each Subscription and Power of Attorney Form delivered by the Class A1 Limited Partner from time to time, any Third Party, and
 - (ii) in relation to the Class B Limited Partner, any one or more of (A) Mizrahi, (B) a trust Controlled by Mizrahi and whose the sole beneficiaries are any one or more of Mizrahi, Mizrahi's spouse, Mizrahi's children (natural or adopted), and any other direct lineal descendant of Mizrahi, and (C) a corporation Controlled by Mizrahi and whose sole shareholders are any one or more of Mizrahi, Mizrahi's spouse, Mizrahi's children (natural or adopted), and any other direct lineal descendant of Mizrahi;
- (yy) **"Person"** means an individual, corporation, body corporate, partnership, joint venture, association, trust or unincorporated organization or any trustee, executor, administrator or other legal representative;
- (zz) **"Power of Attorney"** means the power of attorney duly executed in the form set out in the Subscription and Power of Attorney Form or such similar form as is acceptable to the General Partner;
- (aaa) **"Pre-Capitalization Income or Loss"** has the meaning given to it in Section 7.11(b)(i);

- (bbb) "**Prime**" means the commercial lending rate of interest which the Partnership's bank quotes, in Toronto, as the reference rate of interest (commonly known as "prime") for the purposes of determining the rate of interest that it charges to its commercial customers for loans in Canadian funds;
- (ccc) "**Properties**" has the meaning given to it in the Residential Development Management Agreement;
- (ddd) "**Purchase Nominee Agreement**" means the Nominee Agreement Re Purchase Agreements made as of the 22nd day of May, 2014 between the Class A1 Limited Partner and Mizrahi Real Estate Group Inc.;
- (eee) "**Register**" means the register of Partners required to be maintained by the General Partner or Registrar and Transfer Agent in accordance with Article 12;
- (fff) "**Registrar and Transfer Agent**" means the registrar and transfer agent appointed by the General Partner pursuant to Section 11.1;
- (ggg) "**Reserve**" means any amount deemed by the General Partner to be necessary as a reserve to cover expenses of the Partnership in accordance with the Residential Initial Budget or the Residential Approved Budget, as the case may be, and to preserve the capital of the Partnership;
- (hhh) "**Residential Component**" means the component of the Residential Project comprising the space for residential condominium uses;
- (iii) "**Residential Approved Budget**" has the meaning given to it in the Residential Development Management Agreement;
- (jjj) "**Residential Construction Management Agreement**" has the meaning given to it in the Residential Development Management Agreement;
- (kkk) "**Residential Construction Manager**" means Mizrahi Inc. and includes its successors and permitted assigns under the Residential Construction Management Agreement;
- (lll) "**Residential Development Management Agreement**" means the Residential Development Management Agreement made as of the date hereof between the Partnership, as owner of the Residential Project, and the Residential Development Manager, as manager, with respect to the development of the Residential Project, as same may be amended, modified or supplemented from time to time;
- (mmm) "**Residential Development Manager**" means Mizrahi Inc. and includes its successors and permitted assigns under the Residential Development Management Agreement;
- (nnn) "**Residential Initial Budget**" has the meaning given to it in the Residential Development Management Agreement;

- (ooo) "**Residential Project**" means the residential project, including residential components and, if applicable, hotel components, together with any parking components intended for the residential project and not a commercial retail or office project, to be constructed on the Properties;
- (ppp) "**Residential Project Valuation Amount**" has the meaning given to it in Section 6.11(c);
- (qqq) "**Residential Project Costs**" means all costs and expenses (including reasonable legal fees and disbursements) in connection with: (i) the assembly and acquisition of the Properties, including reasonable due diligence costs and expense and interest costs and lender fees incurred in connection with the purchase of the Properties, (ii) the Residential Project soft costs included in the Residential Initial Budget or the Residential Approved Budget, as the case may be, and (iii) the development of the Residential Project in accordance with the Residential Initial Budget or the Residential Approved Budget, as the case may be, and is not otherwise funded by the Construction Loan;
- (rrr) "**Shareholders Agreement**" means the Unanimous Shareholders Agreement of even date herewith among the Class A1 Limited Partner, the Class B Limited Partner, as shareholders, and the General Partner, governing the business and affairs and ownership of the shares of the General Partner, as same may be amended, modified or supplemented from time to time;
- (sss) "**Subscription and Power of Attorney Form**" means the form of subscription form and power of attorney form required to be completed and delivered upon subscription for LP Units;
- (ttt) "**Subsequent Declaration**" means a declaration supplemental to the Declaration and filed pursuant to the Act and the BNRA;
- (uuu) "**Substantial Completion**" has the meaning given to it in the Residential Development Management Agreement;
- (vvv) "**Substituted Limited Partner**" means a Limited Partner admitted to the Partnership upon the Transfer of a LP Unit or LP Units from a transferring Limited Partner;
- (www) "**Takeout Financing**" has the meaning given to it in Section 5.5(d);
- (xxx) "**Tarion**" means Tarion Warranty Corporation;
- (yyy) "**Third Party**" means a Person who is at Arm's Length to, and is not an Affiliate of, the Partnership, the General Partner or the Class A1 Limited Partner;
- (zzz) "**Title Nominee**" means Mizrahi Development Group (The One) Inc., a corporation existing under the laws of the Province of Ontario;

- (aaaa) "**Time of Closing**" means 10:00 o'clock a.m. (local time) or such other time on the relevant closing date or redemption date as may be agreed to by the parties in the subject transaction;
- (bbbb) "**Total Project**" means the Residential Project, and a commercial project, including retail, and, if applicable, office and related parking components, to be constructed on the Properties; and
- (cccc) "**Transfer**" includes any sale, exchange, assignment, transfer, gift, donation, bequest, disposition, granting of Lien or other arrangement of any nature or kind whatsoever howsoever effected (whether directly or indirectly) by which possession, legal title or beneficial ownership passes, actually or contingently, from one Person to another, or to the same Person in a different capacity, whether or not voluntary and whether or not for value, and the words "**Transferred**", "**Transferring**" and other words of similar import shall have corresponding meanings.

1.2 Interpretation Not Affected by Headings.

The division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular section, subsection or other portion hereof. Unless otherwise expressly indicated in this Agreement, any reference which is made in this Agreement to an "Article", "Section" or "Subsection", means and refers to the Article, Section or Subsection of this Agreement so referenced.

1.3 Currency.

All dollar amounts expressed in this Agreement are expressed in Canadian dollars and all payments contemplated by this Agreement shall be made in Canadian funds.

1.4 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the Federal Laws of Canada applicable therein and this Agreement shall in all respects be treated as an Ontario contract. The parties hereto irrevocably attorn to the jurisdiction of the courts of the Province of Ontario to resolve any dispute which may arise among them concerning this Agreement and the subject matters hereof.

1.5 Extended Meanings.

In this Agreement, unless the context otherwise requires, words importing the singular number include the plural and vice versa and words importing the masculine gender include the feminine and neuter genders and vice versa. The term "including" means "including without limitation".

1.6 Time of Essence.

Time shall be of the essence of every provision of this Agreement.

1.7 Calculations in Accordance with GAAP.

Every calculation and other determination for accounting purposes (e.g., Net Income and Net Loss) required to be made pursuant to this Agreement shall be made in accordance with GAAP for private entities in Canada, consistently applied.

1.8 Severability.

Any provision of this Agreement which is invalid, prohibited or unenforceable in any jurisdiction for any reason whatsoever shall, as to such jurisdiction only, be ineffective and severable from this Agreement to the extent of such invalidity, prohibition or unenforceability but such invalidity, prohibition or unenforceability shall not invalidate or otherwise affect the remaining provisions of this Agreement nor shall it affect the validity or enforceability of such provision in any other jurisdiction.

1.9 Calculation of Time Periods.

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 date 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 immediately following Business Day.

1.10 Statutory Instruments.

Any references in this Agreement to any statute, law, by-law, rule, regulation, order or act of any governmental or regulatory authority shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto.

1.11 Incorporation of Schedules.

The following schedules are attached to and incorporated by reference into this Agreement:

- | | | |
|--------------|---|------------------------------|
| Schedule "A" | - | Form of Certificate |
| Schedule "B" | - | Assignment and Transfer Form |

ARTICLE 2
THE PARTNERSHIP

2.1 Formation.

The General Partner, the Class A1 Limited Partner and the Class B Limited Partner hereby form a limited partnership pursuant to provisions of the Act and pursuant to the terms of this

Agreement effective upon the filing of the Declaration. The rights and obligations of the Partners shall be as provided in the Act, except as otherwise provided herein. The Partnership shall continue until terminated in accordance with the provisions of this Agreement.

2.2 Name.

The name of the Partnership shall be "Mizrahi Residential (The One) LP" or such other name or names as the General Partner may from time to time deem appropriate to comply with the laws of the jurisdictions in which the Partnership may carry on business.

2.3 Principal Place of Business.

The principal place of business of the Partnership shall be 189 Forest Hill Road Toronto, Ontario M5P 2N3 or such other address as the General Partner may from time to time designate in written notice to the Limited Partners and effect by way of filing a subsequent Declaration. If required by law, a registered office shall be maintained in the Province of Manitoba at such location as the General Partner may from time to time designate.

2.4 Duration.

The Partnership shall continue until it is terminated in accordance with the provisions of this Agreement.

2.5 Fiscal Year.

The fiscal year of the Partnership shall end on December 31 in each year unless changed by the General Partner.

ARTICLE 3 **BUSINESS**

3.1 Business of the Partnership.

The Partnership has been formed for the purpose of: (a) acquiring the Properties for the purposes of developing the Residential Project; and (b) constructing, developing, and operating the Residential Project and otherwise maximizing the value of the Residential Project, including, if applicable, a Disposition of the Residential Project or one more of the components thereof. The Partnership may also engage in such other necessary or related activities as the General Partner deems advisable in order to carry on the principal business of the Partnership.

3.2 Restrictions upon Business.

The Partnership shall not carry on business in any jurisdiction in which, in the opinion of counsel to the Partnership, compliance with the laws of that jurisdiction applicable to the Partnership will not permit the liability of the Limited Partners to be limited to the same extent that such Limited Partners enjoy limited liability under the laws of the Province of Manitoba, unless the General Partner has taken all steps which may be required by the laws of that jurisdiction for the Limited Partners to benefit from such limited liability.

ARTICLE 4
PARTNERSHIP INTEREST AND UNITS

4.1 Partnership Interests.

- (a) The interests of the Limited Partners in the Partnership shall be initially divided into, consist of and be represented by:
- (i) ^{TEN (10) of us} ▶ Class A1 units (the "**Class A1 Units**");
 - (ii) ^{TEN (10) of us} an aggregate of ▶ (▶) additional Class A1 Units, which Class A1 Units the Partnership shall be authorized to issue upon the approval of the General Partner and the approval of the Class A1 Limited Partner by Ordinary Resolution.
 - (iii) Ten (10) Class B units (the "**Class B Units**", and, together with the Class A1 Units collectively, the "**LP Units**").

Each LP Unit represents an undivided interest in the Partnership.

- (b) The interest of the General Partner in the Limited Partnership shall consist of and be represented by a single unit (the "**GP Unit**"). The General Partner is not entitled to vote at any meetings of the Limited Partners, in its capacity as general partner.

4.2 Attributes of LP Units.

The LP Units shall have the following attributes:

- (a) except as provided for herein, no LP Unit shall have any preference, conversion, exchange, pre-emptive or redemption rights over any other LP Unit;
- (b) the Class A1 Limited Partner shall be entitled to one vote per Class A1 Unit in respect of all matters to be decided by the Limited Partners and no decision shall be approved in respect of the Limited Partners or binding on the Limited Partners unless such decision has been approved by the Class A1 Limited Partner. Except for any Extra Ordinary Resolution, the holder of the Class B Units shall not have the right to vote at any meetings of the Limited Partners but shall have the right to attend and receive notice of any meetings of the Limited Partners;
- (c) no LP Unit may be divided or split into fractions and the Partnership shall not issue fractional LP Units; and
- (d) each LP Unit shall be a "security" for the purposes of the *Securities Transfer Act*, 2006 (Ontario).

4.3 Certificates.

- (a) The General Partner shall deliver or cause to be delivered to each Limited Partner a Certificate specifying the number of LP Units held by such Limited Partner.
- (b) Each Certificate must be signed by an authorized signatory of the General Partner.
- (c) A Certificate may be sent through the mail by registered prepaid mail or delivered to the order of the Limited Partner and neither the General Partner nor any registrar and transfer agent appointed by the General Partner will be liable for any loss by a Limited Partner that results from the loss of a Certificate by reason that it is so sent.
- (d) LP Units may only be registered in the name of a single entity, unless the General Partner decides otherwise.
- (e) Where a Limited Partner claims that its Certificate has been defaced, lost, apparently destroyed or wrongfully taken, the General Partner shall issue a new Certificate in substitution for the original Certificate if the Limited Partner files with the General Partner a form of proof of loss and, at the option of the General Partner, an indemnity bond each in form and, in the case of the indemnity bond, in amount, satisfactory, in the opinion of the General Partner, to protect the General Partner and the Partnership from any loss, cost or damage that they may incur or suffer by complying with the request to issue a new Certificate and if the Limited Partner satisfies such other reasonable requirements as are imposed by the General Partner.

ARTICLE 5 CAPITAL CONTRIBUTIONS & FINANCING

5.1 Initial Contributions.

- (a) On the date of this Agreement, the General Partner shall contribute Ten Dollars (\$10.00) in connection with its purchase of the GP Unit and the issuance of such GP Unit is hereby authorized and approved. *TEN (10) [Signature]*
- (b) On the date of this Agreement, the Class A1 Limited Partner shall execute and deliver a Subscription and Power of Attorney Form for ► (►) Class A1 Units representing a ► Dollar (\$►) Class A1 Capital Contribution, for a subscription price of One Dollar (\$1.00) per Class A1 Unit, and the issuance of such Class A1 Units is hereby authorized and approved. *TEN (10) [Signature]*
- (c) On the date of this Agreement, the Class B Limited Partner shall execute and deliver a Subscription and Power of Attorney Form for Ten (10) Class B Units representing a Ten Dollar (\$10.00) Class B Capital Contribution, for a subscription price of One Dollar (\$1.00) per Class B Unit, and the issuance of such Class B Units is hereby authorized and approved.

5.2 Class A Capital Contributions.

The General Partner may accept additional offers to subscribe for Class A1 Units from the Class A1 Limited Partner from time to time up to the maximum number of authorized Class A1 Units at the applicable time, for a subscription price of One Dollar (\$1.00) per Class A1 Unit. In connection with any such offer to subscribe for Class A1 Units, the Class A1 Limited Partner shall be required to complete, execute and deliver to, or to the order of, the General Partner: (i) a Subscription and Power of Attorney Form, and (ii) such other documents that the General Partner requires for the issuance of such additional Class A1 Units to comply with all applicable laws. The General Partner shall file such amendments to the Declaration, as necessary, in accordance with the Act to reflect such additional Class A1 Capital Contributions.

5.3 Additional Class A1 Capital Contributions.

From time to time during the term of this Agreement as and when requested by the General Partner in writing, with respect to any Subscription and Power of Attorney Form that has been entered into by the Class A1 Limited Partner after the date hereof for the purchase of additional Class A1 Units, the Class A1 Limited Partner shall purchase, for a subscription price of One Dollar (\$1.00) per Class A1 Unit, that number of Class A1 Units requested by the General Partner in writing and set forth in any such additional Subscription and Power of Attorney Form, subject to the maximum number of Class A1 Units that the Class A1 Limited Partner has agreed to purchase in any such additional Subscription and Power of Attorney Form. In exchange for each such Class A1 Capital Contribution from time to time, the Class A1 Limited Partner shall receive one (1) Class A1 Unit per One Dollar (\$1.00) of Class A1 Capital Contribution made.

5.4 Land Transfer Tax.

Each Limited Partner shall be responsible for compliance with all provisions of applicable law relating to filing Land Transfer Tax returns and other documents and payment of Land Transfer Tax in connection with the acquisition of LP Units by such Limited Partner as may be applicable, and for ensuring compliance by Persons with direct or indirect interests in such Limited Partner with such matters as required by applicable law. Where applicable, each Limited Partner shall provide to the General Partner on request evidence satisfactory to the General Partner of compliance with the foregoing obligations.

5.5 Funding of Costs.

The Partnership shall fund all of its expenses and liabilities in accordance with the Residential Initial Budget or the Residential Approved Budget, as the case may be:

- (a) from its own cash on hand and other assets, including cash on hand from the Class A1 Capital Contributions made pursuant to Sections 5.1, 5.2, and 5.3;
- (b) by borrowing funds from a reputable financial institution(s) in accordance with Section 5.6 for the purpose of funding the construction of the Residential Project and, if applicable, the Total Project (the "**Construction Loan**");

- (c) by borrowing the Development Loan from the Development Lender pursuant to Section 5.7 for the purpose of funding the Residential Project and the Residential Project Costs and, if applicable, other Total Project costs in excess of the Class A1 Capital Contributions and other cash on hand; and
- (d) as and when available, the refinancing of the Construction Loan and the Development Loan (commonly referred to in the industry in which the Partnership operates as "Takeout Financing") ("**Takeout Financing**").

Notwithstanding anything to the contrary in the foregoing, it is hereby acknowledged and agreed that the Partnership shall first apply the proceeds from the Class A1 Capital Contributions made pursuant to Sections 5.1, 5.2, and 5.3 to repay the Class A1 Limited Partner for all of its costs and expenses incurred pursuant to the Purchase Nominee Agreement.

5.6 Construction Loan.

The General Partner shall select the reputable financial institution from whom the Construction Loan will be borrowed for the purposes of funding the construction of the Residential Project and, if applicable, the Total Project and the terms and conditions of the Construction Loan and the General Partner shall, if required, obtain such debt upon the security of the assets of the Partnership, the General Partnership and the Title Nominee in connection with obtaining the Construction Loan.

5.7 Development Loan.

- (a) The General Partner, for and on behalf of the Partnership, shall and does hereby retain the Class A1 Limited Partner to arrange, on a "best efforts basis", a loan or series of loans (the "**Development Loan**") from those Person(s) determined by the Class A1 Limited Partner (the "**Development Lender**", which Person or Persons may be or include an Affiliate of the Class A1 Limited Partner) to the Partnership to fund the Residential Project Costs and other costs related to the Residential Project and, if applicable, the Total Project in excess of the Class A1 Capital Contributions and other cash on hand of the Partnership. The terms of such engagement between the Partnership and the Class A1 Limited Partner shall be set forth in written engagement letter to be entered into between the Partnership and the Class A1 Limited Partner (or an Affiliate thereof), such agreement to be in a form and substance satisfactory to the General Partner and the Class A1 Limited Partner. It is hereby acknowledged, agreed, confirmed and approved by the Partners that the terms of such engagement shall include (i) a fee payable to the Class A1 Limited Partner on successful completion of the Development Loan, in an amount not greater than ten percent (10%) (and which fee, for greater certainty, shall not be duplicate of any fee payable to the Class A1 Limited Partner or any Affiliate or in connection any similar services provided to the owner of the balance of the Total Project) of the amount of the Development Loan, and (ii) that all reasonable costs and expenses of the Class A1 Limited Partner in connection with arranging and obtaining the Development Loan

(including reasonable legal fees and disbursements) shall be reimbursed by the Partnership.

- (b) The terms and conditions of the Development Loan shall be satisfactory to the General Partner and the Class A1 Limited Partner. If so satisfactory, the General Partner, for and on behalf of the Partnership, shall obtain the Development Loan and, if required and in connection therewith, the General Partner shall be permitted to grant a Lien on the Residential Project in favour of the Development Lender (or a collateral agent on its behalf), which Lien shall be subordinate to any Lien granted on the Residential Project and in favour of (i) the lender under Construction Loan, (ii) Tarion, and (iii) the Bond Issuer.

5.8 Allocation of Construction Loan and Development Loan

If applicable, the General Partner shall, acting reasonably and in good faith, allocate the expenses and liabilities of the Construction Loan and the Development Loan, including the fee payable to the Class A1 Limited Partner as provided in Section 5.7(a), as between the Partnership in connection with the Residential Project, on the one hand, and the owner of the balance of the Total Project, on the other.

5.9 No Other Obligation to Fund.

For greater certainty, from and after the date hereof, except as provided for in Section 5.1 and 5.3 hereof, no Limited Partner shall have any obligation whatsoever to make any Capital Contributions to the Partnership, or loan or advance any money to the Partnership, or provide any guarantee, post any security or make any other financial commitment in respect of the Partnership.

ARTICLE 6

TRANSFER OF UNITS

6.1 Restriction on Transfer.

No Transfer by any Limited Partner of any of its LP Units to any Person shall be permitted except as explicitly permitted under this Article 6.

6.2 Permitted Transfer of LP Units by Limited Partners.

Subject to Sections 6.3 and 6.4, any or all of the LP Units of a Limited Partner may be Transferred by a Limited Partner:

- (a) to any Permitted Transferee of such Limited Partner; and
- (b) to any bona fide lender to the Partnership pursuant to a mortgage, charge, pledge or hypothecation; provided that: (i) the consent of the General Partner shall be first had and obtained, which consent may be unreasonably withheld, and (ii) the mortgagee, chargee or pledgee agrees by written instrument delivered to the General Partner and accepted by the General Partner that such mortgage, charge,

pledge or hypothecation (including enforcement thereunder) is subject to the terms of this Agreement and any Transfer of any Units pursuant to an enforcement of such mortgage, charge, pledge or hypothecation must be a Transfer that has otherwise complies with this Article 6.

6.3 Conditions to Transfer.

No Transfer by a Limited Partner of its LP Units pursuant to Section 6.2 shall be effective unless and until the following conditions have been satisfied:

- (a) Assignment and Transfer Form: the transferring Limited Partner shall have delivered to the General Partner or the Registrar and Transfer Agent a duly completed and executed assignment and transfer form naming the transferee of the LP Units, in the form of Schedule "B" attached hereto (the "**Assignment and Transfer Form**");
- (b) Transferee Bound: the transferee shall have agreed in writing to be bound by the terms of this Agreement and to assume the obligations of the transferring Limited Partner under this Agreement in respect of the LP Units being transferred by executing the Assignment and Transfer Form;
- (c) Delivery of Endorsed Certificate: the transferring Limited Partner shall have delivered to the General Partner or to the Registrar and Transfer Agent the Certificate representing the LP Units to be Transferred, duly endorsed for transfer, and where the Certificate is lost or destroyed at the time of transfer, the provisions of Section 4.3(e) apply;
- (d) Certified Documents: where either the transferor or the transferee is a corporation, partnership, limited partnership or other entity, the transferor or the transferee shall have delivered such certified copies of resolutions, extracts of by-laws, articles or other constituent documents of the transferor or the transferee as the General Partner may reasonably require;
- (e) Income Tax Releases: the transferring Limited Partner shall have delivered such releases for income tax purposes, if any, as may be required by the General Partner, acting reasonably;
- (f) Compliance with Laws: the Transfer complies with all applicable laws, including applicable securities laws;
- (g) Transfer Costs: the transferring Limited Partner shall have provided payment of such costs and expenses, including reasonable legal fees, as are incurred by the General Partner and the Partnership in respect of completing the Transfer;
- (h) Land Transfer Tax Requirements: the transferee shall have acknowledged the transferee's obligations to file any required Land Transfer Tax returns and pay any applicable Land Transfer Tax in connection with the Transfer of LP Units and the transferee shall have agreed to reimburse the General Partner or the Partnership,

as applicable, for any valuation costs incurred for purposes of providing information to the transferee in connection with Land Transfer Tax; and

- (i) Consents: all required consents to such Transfer, including all Third Party consents, shall have been obtained in writing and delivered as required.

Upon compliance with these conditions, the General Partner will record in the Register the name, address, number of LP Units and Capital Contribution of the transferee, issue a Certificate in the name of the transferee for the number of LP Units acquired and record and file such other information as is required to be recorded and filed in each jurisdiction in which the Partnership carries on business and the transferee will become bound as a Limited Partner and will be entitled to all the rights and subject to all of the obligations of a Limited Partner under the provisions of this Agreement. No Transfer of a LP Unit relieves the transferor Limited Partner from any obligations to the Partnership incurred prior to the transfer becoming effective. In circumstances where less than all of the LP Units of a Limited Partner are Transferred, the General Partner shall cause a new certificate representing the balance of the LP Units retained by the transferring Limited Partner to be issued to the transferring Limited Partner.

6.4 General Partner May Refuse Transfer.

The General Partner has the right to deny a Transfer of LP Units made pursuant to Section 6.2 for any one or more of the following reasons:

- (a) Non-Resident: the transferee is a "non-resident" within the meaning of the ITA;
- (b) Dissolution: the proposed Transfer of Units is more than ten (10) days after the sending of the notice of dissolution of the Partnership as provided herein;
- (c) Protection of the Partnership: the Transfer of LP Units will result in a Lien upon or against the property of the Partnership or any portion thereof;
- (d) Reputation: the transferee has been convicted of an indictable offence involving moral turpitude, including, without limitation, theft, fraud, embezzlement, forgery, misappropriation or wilful misapplication or an offence of a similar character involving dishonest acts and as a result of such conviction the admission of such transferee to the Partnership is likely to negatively impact the value of the Partnership's assets; and
- (e) No Breach: the Transfer of LP Units will not result in the transferee being in breach of any representation, warranty or covenant made on the part of the transferor in this Agreement at the time of the completion of the Transfer.

6.5 Limited Partner Ceasing to be Resident.

If a Limited Partner becomes a "non-resident" of Canada within the meaning of the ITA it shall, prior to becoming a non-resident and unless it has otherwise completed a permitted Transfer of its LP Units hereunder, be required to transfer its LP Units to a Permitted Transferee of such Limited Partner that is not a "non-resident" of Canada within the meaning of the ITA, failing

which such Limited Partner shall, effective immediately prior to such Limited Partner becoming a "non-resident", be deemed to have withdrawn from, and shall cease to be a Limited Partner of, the Partnership and all of its LP Units and all contributions of capital and entitlement to distributions in respect thereof, shall be irrevocably forfeited for no consideration.

6.6 Transfer by General Partner.

The General Partner shall not Transfer in whole or in part the GP Unit or its legal or beneficial interest in the Partnership without the written approval of the Limited Partners by Ordinary Resolution.

6.7 Non-recognition of Trusts or Beneficial Interests.

No Person will be recognized by the Partnership or any Partner as holding any LP Unit in trust, and the Partnership and Partners shall not be bound to see to the execution of any trust, express, implied or constructive or to ascertain or enquire whether any Transfer of any LP Unit or interest therein by a Limited Partner or its personal representatives is authorized by such trust, charge, pledge or equity or to recognize any Person as having any interest therein except an absolute right to the entirety of the LP Unit of the Limited Partner registered as holder of such LP Unit.

6.8 Liability after Transfer of a Unit.

- (a) Subject to Section 6.8(b), when a transferee of any LP Unit has become a Substituted Limited Partner, the transferor of that LP Unit will be relieved of all other liabilities under this Agreement relating to such LP Unit to the extent permitted by law and the transferee will assume all such liabilities, provided that no transfer shall relieve the transferor from any obligations to the Partnership incurred prior to the transfer becoming effective and not expressly discharged to the satisfaction of the Partnership thereafter.
- (b) In the case of: (i) a Transfer of Class A1 Units by the Class A1 Limited Partner to an Affiliate thereof, or (ii) a Transfer of Class B Units by the Class B Limited Partner to a Permitted Transferee thereof, in each case, the following shall apply: (A) the transferor Limited Partner covenants to take such actions as may be necessary to cause such Affiliate or such Permitted Transferee, as applicable, to at all times fully and faithfully perform and discharge its obligations under this Agreement and to comply with the terms and conditions of this Agreement; and (B) the transferor Limited Partner shall at all times after such Transfer be jointly and severally liable with such Affiliate or such Permitted Transferee for the performance and discharge such Affiliate's or such Permitted Transferee's obligations, as applicable, under this Agreement and compliance by it with the terms and conditions of this Agreement, as applicable. For greater certainty, this Section 6.8(b) shall not apply to a Transfer by the Class A1 Limited Partner to a Permitted Transferee thereof who is a Third Party.

6.9 Class B Limited Partner Right of First Offer.

- (a) If the General Partner (including in connection with any dissolution or liquidation of the Partnership pursuant to Section 15.1) desires to sell (i) the Residential Component or any material portion thereof, (ii) the Parking Component or any material portion thereof, or (iii) if applicable, the Hotel Component or any material portion thereof (in this Section 6.9, such Component, the "**Offered Portion**"), the terms of which sale have been approved by the Class A1 Limited Partner, the General Partner shall deliver to the Class B Limited Partner, by notice in writing, an offer (in this Section 6.9, the "**Mizrahi Offer**"), containing all fundamental terms upon which the Partnership would be willing to sell the Offered Portion to the Class B Limited Partner or its Affiliate (in this Section 6.9, the "**Mizrahi Offeree**"). The General Partner shall act at the direction of the Class A1 Limited Partner in carrying the terms of this Section 6.9.
- (b) The Mizrahi Offeree shall have a period of ten (10) days from the date the Mizrahi Offer is received (in this Section 6.9, the "**Mizrahi Offer Period**") to accept the Mizrahi Offer in writing.
- (c) If the Mizrahi Offer is accepted by the Mizrahi Offeree during the Mizrahi Offer Period, the Partnership and the Mizrahi Offeree shall, within thirty (30) days of the expiry of the Mizrahi Offer Period, use commercially reasonable efforts to enter into a purchase and sale agreement for the Offered Portion on the terms and conditions of the Mizrahi Offer and complete the purchase and sale of the Offered Portion within sixty (60) days of the expiry of the Mizrahi Offer Period.
- (d) If (i) the Mizrahi Offer is not accepted by the Mizrahi Offeree during the Mizrahi Offer Period, or (ii) the Partnership and the Mizrahi Offeree do not enter into a purchase and sale agreement for the Offered Portion within the thirty (30) day period referred to in Section 6.9(c) above, or (iii) if the Partnership and the Mizrahi Offeree do not complete the purchase and sale of the Offered Portion within the sixty (60) day period referred to Section 6.9(c) above, then the Partnership shall be entitled, within a period of one hundred and eighty (180) days after the expiry of the Mizrahi Offer Period, to enter into an agreement (in this Section 6.9, the "**Third Party Mizrahi Offer**") to sell the Offered Portion to a Third Party (in this Section 6.9, the "**Buyer**"), which Third Party Mizrahi Offer shall provide for a price not less than the price set forth in the Mizrahi Offer and other terms not more favourable to the Buyer than the terms and conditions contained in the Mizrahi Offer.
- (e) If a Third Party Mizrahi Offer is not entered into within the one hundred and eighty (180) day period referred to above, or if a Third Party Mizrahi Offer is entered into within such one hundred and eighty (180) day period but the sale of the Offered Portion pursuant to such Third Party Mizrahi Offer is not completed within sixty (60) days following the originally scheduled closing date set out in the Third Party Mizrahi Offer, no sale of the Offered Portion shall be made without the Partnership again complying with the terms of this Section 6.9.

- (f) It is acknowledged and agreed that the rights in favour of the Class B Limited Partner set out in this Section 6.9 shall be void and of no force or effect forthwith upon the occurrence of any of the following: (i) the occurrence of any one or more of the events described in Section 6.10(a); or (ii) the Class B Limited Partner or its Permitted Transferee no longer owns any LP Units.

6.10 Redemption of the Class B Units of the Class B Limited Partner.

- (a) If:
- (i) the Residential Development Management Agreement is terminated in accordance with Section 7.1 thereof;
 - (ii) the Residential Construction Management Agreement is terminated in accordance with Part 7 thereof, or
 - (iii) Mizrahi dies or becomes Incapacitated at any time prior to Substantial Completion of the Residential Project, or
 - (iv) the Class B Limited Partner is no longer owned and Controlled by a Permitted Transferee of the Class B Limited Partner for any other reason, or
 - (v) the Class B Limited Partner commits (A) a material breach of any of the provisions of this Agreement amounting to fraud or other financial malfeasance (e.g., misappropriation of funds) and such default is not remedied within five (5) days after written notice thereof has been given to the Class B Limited Partner by the Class A1 Limited Partner or the General Partner, or (B) a material breach of any of the provisions of this Agreement other than as set forth in Section 6.10(a)(v)(A) and such default is not remedied within twenty (20) days after written notice thereof has been given to the Class B Limited Partner by the Class A1 Limited Partner or the General Partner, or
 - (vi) Sam M Inc. (or its permitted transferee under the Shareholders Agreement) commits (A) a material breach of any of the provisions of the Shareholders Agreement amounting to fraud or other financial malfeasance (e.g., misappropriation of funds) and such default is not remedied within five (5) days after written notice thereof has been given to the Class B Limited Partner by the Class A1 Limited Partner or the General Partner, or (B) a material breach of any of the provisions of the Shareholders Agreement other than as set forth in Section 6.10(a)(vi)(A) and such default is not remedied within twenty (20) days after written notice thereof has been given to Sam M Inc. by the Class A1 Limited Partner or the General Partner;

in each case, the General Partner shall have the right (but not the obligation) to cause the Partnership to redeem all (but not less than all) of the Class B Units

owned by the Class B Limited Partner (including its Permitted Transferees) (in this Section 6.10, the "**Class B Redemption Option**"), and the General Partner shall have the right to exercise the Class B Redemption Option by sending to Class B Limited Partner a notice in writing to that effect (in this Section 6.10, the "**Class B Redemption Notice**") within the ninety (90) day period following the date of the event set forth in Section 6.10(a) giving rise to the Class B Redemption Option (in this Section 6.10, the "**Class B Redemption Period**"). The General Partner shall act at the direction of the Class A1 Limited Partner in carrying out the terms of this Section 6.10, including, without limitation, in determining the Class B Proportionate Share of the Residential Project Valuation Amount pursuant to Section 6.11 and all matters related thereto.

- (b) If, prior to the expiration of the Class B Redemption Period, the General Partner delivered a Class B Redemption Notice to the Class B Limited Partner, the Partnership shall redeem all (but not less than all) of the Class B Units owned by the Class B Limited Partner in accordance with the provisions of this Section 6.10.
- (c) For any redemption of the Class B Units of the Class B Limited Partner made pursuant to this Section 6.10:
 - (i) the redemption amount payable to the Class B Limited Partner for the redemption of all (but not less than all) of its Class B Units (in this Section 6.10, the "**Class B Redemption Amount**") shall be equal to the Class B Proportionate Share of the Residential Project Valuation Amount;
 - (ii) the Class B Redemption Amount shall be paid to the Class B Limited Partner out of Distributable Cash available following the Disposition of any or all of the Residential Component, the Parking Component and, if applicable, the Hotel Component; provided that, for the purposes of this Section 6.10(c)(ii), a Disposition of the Residential Component, the Parking Component and, if applicable, the Hotel Component shall be deemed to have occurred, and the Class B Redemption Amount shall be paid to the Class B Limited Partner, no later than thirty (30) days after the Partnership completes a Takeout Financing;
 - (iii) if the redemption of the Class B Units is made pursuant to the event specified in Section 6.10(a)(iii), then the unpaid portion of the Class B Redemption Amount shall bear interest commencing from the Class B Redemption Date until paid at a rate of Prime per annum. For greater certainty, if the redemption of the Class B Units is made pursuant to any event specified in Section 6.10(a) other than in Section 6.10(a)(iii), no unpaid portion of the Class B Redemption Amount shall bear any interest;
 - (iv) such redemption shall take place at the offices of legal counsel for the Partnership on the date (in this Section 6.10, the "**Class B Redemption Date**") which is the earlier of: (A) (60) days following the expiration of

the Class B Redemption Period; and (B) fifteen (15) days after the Class B Proportionate Share of the Residential Project Valuation Amount is finally determined in accordance with Section 6.11;

- (v) at the Time of Closing on the Class B Redemption Date, the General Partner shall cause the Partnership to deliver an unsecured promissory note of the Partnership in the amount of the Class B Redemption Amount against presentation and surrender by the Class B Limited Partner of the certificate(s) representing the Class B Units and delivery by the Class B Limited Partner to the General Partner of good and marketable title to the Class B Units, free and clear of any Liens whatsoever;
- (vi) upon delivery of the promissory note referenced in Section 6.10(c)(v) above, the Class B Units shall be redeemed and the rights of the Class B Limited Partner under this Agreement shall terminate, except as provided herein;
- (vii) if, at the Time of Closing on the Class B Redemption Date, the Class B Limited Partner is indebted to the Partnership in an amount recorded on the books of the Partnership and verified by the Accountant, such indebtedness shall be repaid from the Class B Redemption Amount and the amount so satisfied shall reduce the Class B Redemption Amount in order of maturity; provided that, if the total amount of such indebtedness exceeds the Class B Redemption Amount, the Class B Limited Partner shall repay in full all of such excess indebtedness at the Time of Closing on the Class B Redemption Date;
- (viii) if, at the Time of Closing on the Class B Redemption Date, the Partnership is indebted to the Class B Limited Partner in an amount recorded on the books of the Partnership and verified by the Accountant, such indebtedness shall be satisfied and repaid in full at the Time of Closing on the Class B Redemption Date; provided that, if and to the extent that such indebtedness relates to indebtedness under the Residential Development Management Agreement and/or the Residential Construction Management Agreement, then notwithstanding the foregoing, such indebtedness shall be satisfied as provided for in such agreements; and
- (ix) if the Class B Limited Partner fails to complete the redemption of the Class B Units hereunder, the General Partner shall have the right, without prejudice to any other rights which it may have, to deliver the promissory note referenced in Section 6.10(c)(v) above to legal counsel for the Partnership and thereafter to make payment on account of the Class B Redemption Amount by depositing such amount to the credit of Class B Limited Partner in the main branch of the Partnership's bankers in the City of Toronto. Upon the delivery of the promissory note referenced in Section 6.10(c)(v) above as aforesaid, then from and after the date of delivery, the redemption of the Class B Units hereunder shall be deemed

to have been fully completed. The General Partner shall also have the right to execute and deliver, on behalf of and in the name of the Class B Limited Partner, such deeds, transfers, unit certificates, resignations and other documents that may be necessary to complete the redemption of the Class B Units hereunder and the Class B Limited Partner irrevocably appoints the General Partner or its designee as its attorney in that behalf with no restriction or limitation in that regard and declaring that this power of attorney may be exercised during any subsequent legal incapacity on its part.

6.11 Determination of Residential Project Valuation Amount.

- (a) If the General Partner has delivered a Class B Redemption Notice (as defined in Section 6.10) to the Class B Limited Partner pursuant to Section 6.10, then, the General Partner shall commence the process of determining the Residential Project Valuation Amount by first initiating an appraisal to determine the Fair Market Value of the Residential Project as at the last day of the month prior to the delivery of the Class B Redemption Notice (in this Section 6.11, the "**Appraisal**").
- (b) The General Partner shall, within ten (10) days of delivering the Class B Redemption Notice, retain the Cost Consultant to complete the Appraisal. If the Cost Consultant shall be unable or unwilling to so act, then within fifteen (15) days following the receipt by the General Partner of the advice that the Cost Consultant is unable or unwilling to so act, the General Partner and the Class B Limited Partner whose LP Units are to be redeemed shall mutually agree upon and appoint another duly qualified and independent appraiser to complete the Appraisal; provided that, if the identity of such other duly qualified and independent appraiser is not agreed to within such fifteen (15) day period, each of the General Partner and the Class B Limited Partner shall appoint its own appraiser by written notice to the other within ten (10) days after such fifteen (15) day period, and if either of them does not appoint an appraiser within such ten (10) period day, then the appraiser appointed by the other of them shall be the sole real estate appraiser for the Residential Project. If two real estate appraisers are appointed, then the appraised value for the Residential Project shall be the average of such two appraisers' appraisals. All real estate appraisers appointed pursuant to this Section 6.11(b) (including the Cost Consultant) shall be AACI (Accredited Appraiser Canadian Institute) qualified real estate appraisers. The General Partner shall instruct the Cost Consultant or such other real estate appraiser(s) to provide such real estate appraisal(s) to the Partnership within thirty (30) days of their engagement. If there is only one appraiser, the costs and expenses of the Appraisal shall be borne by the Partnership. If both the General Partner and the Class B Limited Partner have appointed an appraiser, each such party shall bear the costs and expenses of the appraiser appointed by such party.
- (c) Upon completion of the Appraisal, the General Partner shall, within ten (10) days of completion of such Appraisal, complete and provide to the Class B Limited

Partner a written statement setting forth the determination of the Residential Project Valuation Amount, the Class B Proportionate Share of the Residential Project Valuation Amount. In this Agreement:

"Residential Project Valuation Amount" shall be equal to the result of the following: (i) the Fair Market Value of the Residential Project as at the last day of the month prior to the delivery of the Class B Redemption Notice (for greater certainty, being the amount determined by the Appraisal) less (ii) the amount of all of the outstanding indebtedness and liabilities of the Partnership as at the last day of the month prior to the delivery of the Class B Redemption Notice;

"Class B Proportionate Share of the Residential Project Valuation Amount" shall be equal to the amount of money the Class B Limited Partner would be entitled to receive as at the last day of the month prior to the delivery of the Class B Redemption Notice if the dollar amount equal to the Residential Project Valuation Amount had been distributed to the Class B Limited Partner after applying the "waterfall" of priorities to such notional distribution as set forth in Section 7.5; and

- (d) Within seven (7) days after receiving the determination of the Residential Project Valuation Amount and the Class B Proportionate Share of the Residential Project Valuation Amount, the Class B Limited Partner shall deliver a written notice to the General Partner indicating whether it objects in good faith to any aspect of such determinations (other than the determination of the Fair Market Value of the Residential Project in accordance with Section 6.11(b)) (in this Section 6.11, the **"Objection Notice"**). The Objection Notice shall set out the reasons for the objection as well as the amount in dispute and reasonable details of the calculation of such amount. If the Class B Limited Partner does not object to any aspect of such calculations, the Class B Limited Partner may notify the General Partner in writing to that effect (in this Section 6.11, the **"Acceptance Notice"**). If the Class B Limited Partner does not deliver an Objection Notice or an Acceptance Notice to the General Partner within the seven (7) day period referred to above, the Class B Limited Partner shall be deemed to have delivered an Acceptance Notice to the General Partner on the last day of such seven (7) day period.
- (e) The General Partner shall give the Class B Limited Partner and its accountants sufficient access to the working papers necessary to enable such party to fully review the determinations and the basis on which they were prepared. The General Partner and the Class B Limited Partner shall attempt to resolve all of the items in dispute set out in any Objection Notice within seven (7) days of receipt of the Objection Notice by the General Partner. Any items in dispute not resolved within such seven (7) day period shall be referred within seven (7) days thereafter by the General Partner to an independent auditor (in this Section 6.11, the **"Independent Auditor"**) to be mutually agreed by the General Partner and the Class B Limited Partner; provided that, if such parties fail to mutually agree on an independent auditor within such seven (7) day period, any such party may apply

to the Superior Court of Justice in Toronto, Ontario, to have such Independent Auditor appointed. The Independent Auditor shall act as expert and not as arbitrator and shall be required to determine the items in dispute that have been referred to it as soon as reasonably practicable but in any event not later than thirty (30) days after the date of referral of the dispute. In making its determination, the Independent Auditor shall only consider the issues in dispute placed before it. The General Partner and the Class B Limited Partner shall provide or make available, and ensure that its accountants provide or make available, all documents and information and working papers in its and their possession or under its and their control as are reasonably required by the Independent Auditor to make its determination. The determination of the Independent Auditor shall be final and binding on the parties, absent manifest error, and the Residential Project Valuation Amount, and the Class B Proportion Share of the Residential Project Valuation Amount shall be the amount(s) calculated in accordance with such determination.

- (f) The costs and expenses of the Independent Auditor shall be born equally by the Partnership and the Class B Limited Partner.

6.12 Drag-Along Right.

- (a) As used in this Section 6.12, "**Takeout Offer**" means a bona fide offer in writing made by a Third Party pursuant to which such Third Party offers to purchase all (but not less than all) of the LP Units owned by all of the Limited Partners and the purchase price for the LP Units is expressed in a dollar amount and payable either in cash or by a promissory note(s) of the Third Party's own make and issue or by a combination of cash and such promissory note(s).
- (b) If at any time and from time to time, a Takeout Offer is received or solicited by the Partnership, the General Partner or the Class A1 Limited Partner which the Class A1 Limited Partner wishes to accept, then the General Partner shall send a notice in writing (in this Section 6.12, the "**Drag-Along Notice**") to the Class B Limited Partner which notice shall attach a copy of the Takeout Offer. The General Partner shall act at the direction of the Class A1 Limited Partner in carrying out the terms of this Section 6.12.
- (c) The Drag-Along Notice shall be subject to the right of first refusal in favour of the Class B Limited Partner made in respect of all (but not less than all) of the Class A1 Units of the Class A1 Limited Partner, as more particularly set out in Section 6.13
- (d) Subject to the Class B Limited Partner exercising its right of first refusal pursuant to Section 6.13, the Class B Limited Partner hereby waives, to the extent permitted by applicable Law, all rights to object to or dissent from such Takeout Offer and hereby agrees to consent to and raise no objections against such Takeout Offer. In addition, the Class B Limited Partner hereby agrees to cooperate fully in any such Takeout Offer and not to take any action prejudicial to

or inconsistent with such Takeout Offer. Without limiting the generality of the foregoing, the Class B Limited Partner hereby agrees:

- (i) to vote its LP Units to approve the terms of any such Takeout Offer and such matters ancillary thereto as may be necessary in the judgment of the General Partner and/or the Class A1 Limited Partner to effect such Takeout Offer;
 - (ii) to waive any appraisal or dissenters' rights that the Class B Limited Partner would have with respect to such Takeout Offer; and
 - (iii) to execute and deliver all related documentation and take such other action in support of such Takeout Offer as shall reasonably be requested by the General Partner and/or the Class A1 Limited Partner in order to carry out the terms and provision of this Section 6.12.
- (e) Subject to the Class B Limited Partner exercising its right of first refusal pursuant to Section 6.13, and in addition to Section 6.12(d), the delivery of the Drag-Along Notice shall require the Class B Limited Partner to sell all (but not less than all) of their LP Units to the Third Party pursuant and on the same terms and conditions contained in such Takeout Offer and in accordance with this Section 6.12. The delivery of the Drag-Along Notice by the General Partner to the Class B Limited Partner shall result in each of the Class B Limited Partner being deemed to have agreed to sell, and they shall sell, all (but not less than all) of the LP Units owned by them to the Third Party that made the Takeout Offer at the same time and as part of the same closing as the sale of the LP Units owned by the Class A1 Limited Partner to such Third Party on the terms and conditions contained in the Takeout Offer in respect of which the Drag-Along Notice had been sent. The aggregate consideration receivable by the Limited Partners shall be allocated among the Limited Partners on the basis of their relative entitlement to such consideration based on the "waterfall" of priorities as set forth in Section 7.5 as of the date of the closing of the Takeout Offer;
- (f) Subject to the Class B Limited Partner exercising its right of first refusal pursuant to Section 6.13, if, after the delivery of a Drag-Along Notice, the Class B Limited Partner fails to complete the purchase and sale of its LP Units in accordance with the terms of the Takeout Offer in respect of which the Drag-Along Notice had been sent, the General Partner or its designee shall have the right, without prejudice to any other rights which it may have, to: (i) direct that the purchase price payable to the Class B Limited Partner on the closing of the Takeout Offer be paid to the credit of the Class B Limited Partner in the main branch of the Partnership's bankers, and (ii) execute and deliver on behalf of and in the name of the Class B Limited Partner such documents, agreements, deeds, transfers, certificates, powers of attorney, resignations, releases or other documents that may be necessary to complete the Takeout Offer and the Class B Limited Partner hereby irrevocably appoints the General Partner or the Class A1 Limited Partner or its designee as the attorney of the Class B Limited Partner in that behalf and it

is hereby agreed, acknowledged and declared that this power of attorney is irrevocable and may be exercised during any subsequent legal incapacity on the part of the Class B Limited Partner.

- (g) Notwithstanding anything to the contrary in this Section 6.12, no the Class B Limited Partner will not be required to comply with Sections 6.12(d) and 6.12(e) in connection with any Takeout Offer unless:
 - (i) the liability for indemnification, if any, of the Class B Limited Partner in the Takeout Offer for the inaccuracy of any representations and warranties made by the Limited Partners or the General Partner in connection with such Takeout Offer is pro rata in proportion to, and does not exceed, the amount of consideration paid to the Class B Limited Partner in connection with such Takeout Offer;
 - (ii) the terms of such Takeout Offer do not provide a collateral benefit to any Partner which is not provided to the Class B Limited Partner; and
 - (iii) there is no requirement for the Class B Limited Partner to enter into a non-competition agreement or non-solicitation agreement as a condition to the completion of the Takeout Offer.

6.13 Class B Limited Partner Right of First Refusal.

- (a) If the General Partner has delivered a Drag-Along Notice, as defined in and pursuant to Section 6.12, the Drag-Along Notice shall first constitute an offer (in this Section 6.13, the "**ROFR Offer**") of the Class A1 Limited Partner to sell all (but not less than all) of the Class A1 Units of the Class A1 Limited Partner to the Class B Limited Partner on the same terms and conditions (including a purchase price equal to such portion of the total Takeout Offer purchase price otherwise payable to the Class A1 Limited Partner pursuant to Section 6.12(e)), *mutatis mutandis*, as are contained in the Takeout Offer but only in respect of the Class A1 Units of the Class A1 Limited Partner, and subject, however, to any modifications thereto expressly required by this Section 6.13. The ROFR Offer shall be open for acceptance by the Class B Limited Partner for a period of ten (10) days (in this Section 6.13, the "**ROFR Period**") commencing on the date upon which the Drag-Along Notice is received by the Class B Limited Partner.
- (b) Prior to the expiration of the ROFR Period in respect of which a Drag-Along Notice has been sent, the Class B Limited Partner shall have the right to accept such ROFR Offer by sending to the General Partner and the Class A1 Limited Partner a notice in writing to that effect (in this Section 6.13, the "**ROFR Acceptance Notice**").
- (c) If, prior to the expiration of the ROFR Period, the General Partner and the Class A1 Limited Partner have received a ROFR Acceptance Notice from the Class B Limited Partner:

- (i) the ROFR Acceptance Notice shall constitute the irrevocable agreement of the Class B Limited Partner to purchase all (but not less than all) of the Class A1 Units of the Class A1 Limited Partner; and
 - (ii) each Class A1 Limited Partner shall sell to the Class B Limited Partner, and the Class B Limited Partner shall purchase from the Class A1 Limited Partner, all (but not less than all) of its Class A1 Units for the price and on the terms and conditions contained in the Takeout Offer and in accordance with the provisions of this Section 6.13.
- (d) For any purchase and sale of the Class A1 Units of the Class A1 Limited Partner made pursuant to this Section 6.13:
- (i) the Purchase Price payable to the Class A1 Limited Partner for the purchase of all (but not less than all) of the Class A1 Units (in this Section 6.14, the "**Purchase Price**") shall be as set out in the Takeout Offer.
 - (ii) the Purchase Price shall be payable either in cash at the Time of Closing on the ROFR Closing Date (as defined in this Section 6.13) or otherwise in the manner set out in the Takeout Offer, including for greater certainty, by the issue of promissory notes of the Class B Limited Partner's own make and issue and/or in cash in a manner consistent with the Takeout Offer;
 - (iii) the closing of such purchase and sale shall take place at the offices of legal counsel for the Partnership on the date (in this Section 6.13, the "**ROFR Closing Date**") which is thirty (30) days after the expiry of the ROFR Period;
 - (iv) at the Time of Closing on the ROFR Closing Date, the Class A1 Limited Partner shall:
 - (A) assign and transfer to the Class B Limited Partner its Class A1 Units and deliver the certificate(s) representing such Class A1 Units duly endorsed for transfer to the Class B Limited Partner or as directed by it, and
 - (B) do all things required in order to deliver good and marketable title to its Class A Units to the Class B Limited Partner free and clear of any Liens whatsoever;
 - (v) at the Time of Closing on the ROFR Closing Date, the Class B Limited Partner shall pay to the Class A1 Limited Partner the Purchase Price so payable at the Time of Closing and deliver any promissory note(s) to the Class A1 Limited Partner required to satisfy such Purchase Price; and
 - (vi) if the Class A1 Limited Partner fails to complete the purchase and sale of its Class A1 Units hereunder, the Class B Limited Partner shall have the

right, without prejudice to any other rights which it may have, to pay the Purchase Price payable to the Class A1 Limited Partner by depositing such amount to the credit of the Class A1 Limited Partner in the main branch of the Partnership's bankers in the City of Toronto. Upon the payment of the Purchase Price as aforesaid, then from and after the date of deposit, the completion of the purchase and sale of the Class A1 Units of the Class A1 Limited Partner shall be deemed to have been fully completed. The Class B Limited Partner shall also have the right to execute and deliver, on behalf of and in the name of the Class A1 Limited Partner, such deeds, transfers, unit certificates, resignations and other documents that may be necessary to complete the purchase and sale of its Class A1 Units hereunder and the Class A1 Limited Partner irrevocably appoints the Class B Limited Partner or its designee as its attorney in that behalf with no restriction or limitation in that regard and declaring that this power of attorney may be exercised during any subsequent legal incapacity on its part.

6.14 Transfer in contravention of Agreement.

Any Transfer of LP Units contrary to the provisions of this Agreement shall be deemed to be null and void and of no force and effect.

ARTICLE 7

PARTICIPATION IN PROFITS AND LOSSES

7.1 Separate Capital Accounts.

The General Partner will maintain a separate capital account (each a "**Capital Account**") on the books of the Partnership for each Partner. The Capital Account of each Partner shall be:

- (a) credited with the following:
 - (i) the amount of all of the Capital Contributions made by such Partner, and
 - (ii) the amount of all allocations of Net Income allocated to such Partner in accordance with Sections 7.5 and 7.11; and
- (b) debited by the following:
 - (i) the amount of all distributions made to such Partner in accordance with Sections 7.5, 7.11 and Article 15 below, and
 - (ii) the amount of all allocations of Net Losses allocated to such Partner in accordance with Section 7.11.

A negative balance in the Capital Account of a Limited Partner shall not terminate the interest of such Limited Partner in the Partnership.

7.2 Reimbursement of Expenses.

The Partnership will reimburse the General Partner for all direct costs actually incurred by the General Partner in the performance of its duties hereunder including reasonable costs directly incurred for the benefit of the Partnership (including, without limitation, reasonable legal fees of the General Partner with respect to the preparation of this Agreement, the Shareholders Agreement, the Residential Construction Management Agreement, and the Residential Development Management Agreement), professional fees for the services rendered by the General Partner under this Agreement, but specifically excluding, without limitation, expenses of any action, suit or other proceedings in which or in relation to which the General Partner is adjudged to be in breach of any duty or responsibility imposed on it hereunder, and only to the extent provided for in the Residential Initial Budget or the Residential Approved Budget, as the case may be, or otherwise expended in accordance with the terms of this Agreement.

7.3 Timing and Determination of Distributions.

- (a) Subject to Sections 7.3(b), 7.3(c), 7.3(d) and 7.3(e), following Substantial Completion of the Residential Project, (i) Distributable Cash shall be determined on a monthly basis or such other period as the General Partner shall determine, and (ii) provided that Distributable Cash is a positive number, distributions of Distributable Cash shall be made as and when determined by the General Partner and distributed amongst the Partners in accordance with the "waterfall" of priorities in Section 7.5.
- (b) If applicable, following the Disposition of the Residential Component or a material portion thereof, the General Partner shall calculate and determine the amount of Distributable Cash with respect to such Disposition. Distributions of Distributable Cash following such Disposition shall be distributed as and when approved by the General Partner amongst the Partners in accordance with the "waterfall" of priorities in Section 7.5.
- (c) If applicable, following the Disposition of the Parking Component or a material portion thereof, the General Partner shall calculate and determine the amount of Distributable Cash with respect to such Disposition. Distributions of Distributable Cash following such Disposition shall be distributed as and when approved by the General Partner amongst the Partners in accordance with the "waterfall" of priorities in Section 7.5.
- (d) If applicable, following the Disposition of the Hotel Component or a material portion thereof, the General Partner shall calculate and determine the amount of Distributable Cash with respect to such Disposition. Distributions of Distributable Cash following such Disposition shall be distributed as and when approved by the General Partner amongst the Partners in accordance with the "waterfall" of priorities in Section 7.5.
- (e) Notwithstanding anything to the contrary in this Section 7.3, at any time and from time to time the General Partner may determine Distributable Cash for any

particular period, and, provided that Distributable Cash is a positive number, distribute Distributable Cash as and when determined by the General Partner amongst the Partners in accordance with the "waterfall" of priorities in Section 7.5.

7.4 Return to the Class A1 Limited Partner

The Class A1 Limited Partner shall be entitled to a return on the outstanding amount of its Class A1 Capital Contributions from time to time at a rate of fourteen percent (14%) per annum, calculated and compounded annually. The return on the Class A1 Capital Contributions and the return of the Class A1 Capital Contributions shall be payable in accordance with the "waterfall" of priorities in Section 7.5.

7.5 Distributions to the Partners.

- (a) A portion of Distributable Cash equal to 99.99% thereof shall be distributed amongst the Limited Partners in accordance with the following "waterfall" of priorities:
 - (i) first: to the Class A1 Limited Partner, a return, from and after the date hereof, on the outstanding amount from time to time of its Class A1 Capital Contributions at a rate of fourteen percent (14%) per annum, calculated and compounded annually, and
 - (ii) second: a return of the amount of the Class A1 Capital Contributions to the Class A1 Limited Partner, and
 - (iii) third: to the Class B Limited Partner, an amount equal to the aggregate amount of all distributions previously paid to the Class A1 Limited Partner pursuant to Section 7.5(a)(i); and
 - (iv) fourth, the balance:
 - (A) fifty percent (50%) to the Class A1 Limited Partner, and
 - (B) fifty percent (50%) to the Class B Limited Partner.
- (b) A portion of Distributable Cash equal to 0.01% thereof shall be allocated and distributed to the General Partner.

Distributions (if any) to the Partners shall be accompanied by a statement from the General Partner calculating the amount thereof and shall be sent to the Limited Partners and the General Partner on or before the one hundredth (100th) day immediately following day on which such distribution has been made.

7.6 Calculation of Entitlement of the Holders of Units.

The entitlement of each Limited Partner to distributions pursuant to Section 7.5 shall be calculated and accrued from the date of purchase of its LP Units.

7.7 Adjustments.

Subject to the following provisions of this Section, the determination of the General Partner of the proportionate share of a Limited Partner in the distribution or allocation of Distributable Cash shall be binding upon the Partnership and the Limited Partners. If the Accountant determines that the proportionate share of a Limited Partner in the distribution or allocation of Distributable Cash differs from the Limited Partner's entitlement as determined by the General Partner, then the determination of the Accountant shall be deemed to be correct and binding upon the Partnership and the Limited Partners and the General Partner will cause the necessary adjustments to be made by payment or reallocation to or from the Limited Partner as the case may be and in such regard may set-off against any future payments any debt owing by the Limited Partner to the Partnership.

7.8 Adjustment Lien.

Each Limited Partner hereby grants a Lien on its LP Units in favour of the Partnership to the extent of the sums due or owing by such Limited Partner to the Partnership as a result of any adjustment under Section 7.7 which requires the Limited Partner to make a payment to the Partnership. The General Partner will within seven (7) days after receiving the report of the Accountant, send a notice in writing to each Limited Partner whose share of Distributable Cash is to be adjusted notifying each such Limited Partner of the amount of the adjustment sum, together with either a cheque for that sum payable to the Limited Partner or a request for payment of the sum payable by the Limited Partner.

7.9 Determination of Net Income or Net Loss.

The Net Income or Net Loss of the Partnership shall be allocated among the Limited Partners and the General Partner for each Fiscal Year in accordance with Section 7.11. In allocating Net Income, consideration shall be given to the priority of payments under Section 7.5.

7.10 Time of Allocation.

Amounts accrued and required to be allocated pursuant to Section 7.11 shall be allocated as of the last day of each Fiscal Year.

7.11 Allocation of Income or Loss for Accounting & Tax Purposes.

The Net Income or Net Loss of the Partnership for each Fiscal Year shall be allocated in the following manner:

- (a) to the General Partner, an amount equal to 0.01% thereof to a maximum of \$10.00; and

- (b) the balance after making the allocation referred to in Section 7.11(a), to the Limited Partners as follows:
- (i) if any cost/outlay or expense, or any portion thereof, incurred directly by a Partner (for which such Partner does not receive reimbursement from the Partnership) is added to the cost of any assets of the Partnership for the purpose of computing the income or loss of the Partnership for Canadian tax purposes, the Net Income or Net Loss of the Partnership for the Fiscal Year shall first be notionally computed (the "**Pre-Capitalization Income or Loss**") without taking into account any such cost, outlay or expense which would otherwise be reasonably attributable to the computation of Net Income or Net Loss in the Fiscal Year (an "**Attributable Partner Expense**");
 - (ii) the Pre-Capitalization Loss shall be allocated to and among the Class A1 Limited Partner at the end of the Fiscal Year;
 - (iii) the Pre-Capitalization Income shall allocated to and among the Limited Partners at the end of the Fiscal Year in the amount that substantially corresponds to the portion of the Distributable Cash that was distributed to each Limited Partner during the Fiscal Year in accordance with this Agreement, such allocation to be determined by the General Partner, acting reasonably and fairly; and
 - (iv) the allocation of income or loss of the Partnership to the Partners as computed in Sections 7.11(b)(ii) and 7.11(b)(iii) above shall be adjusted such that all Attributable Partner Expenses for the Fiscal Year shall be deducted from the allocation of Pre-Capitalization Income or added to the allocation of Pre-Capitalization Loss to the Limited Partner that incurred such Attributable Partner Expense, as the case may be.

7.12 Tax Returns.

Each Partner shall prepare and file such documents as may be required to be prepared and filed for purposes of the Income Tax Act and shall include in its computation of income, the income or loss of the Partnership for tax purposes as may be determined and allocated to it pursuant to this Agreement.

7.13 No Right to Withdraw Amounts.

No Partner will have any right to withdraw any amount or receive any distribution from the Partnership, except as expressly provided for in this Agreement.

ARTICLE 8
FINANCIAL INFORMATION

8.1 Books and Records.

The General Partner shall cause to be kept during the term of the Partnership and for a period of six (6) years thereafter, at the General Partner's principal place of business, books of account and records reflecting the assets, liabilities, gross revenue and expenditures of the Partnership and all other records necessary to record the business and affairs of the Partnership and required to be kept pursuant to the Act or the ITA.

8.2 Annual Report.

In respect of each Fiscal Year of the Partnership, the General Partner shall, at the expense of the Partnership, send or cause to be sent to each Limited Partner within one hundred and twenty (120) days following the end of each Fiscal Year of the Partnership an annual report containing:

- (a) the Accountant's report on the financial statements of the Partnership;
- (b) a balance sheet for the Partnership as at the end of the immediately preceding Fiscal Year;
- (c) income or loss statement;
- (d) statement of cash flows;
- (e) a statement of changes in each Partner's Capital Account for that Fiscal Year, including a report on the income/loss allocated to each Limited Partner, and the contributions and distributions, if any, from or to the Limited Partners; and
- (f) such other information as, in the reasonable opinion of the General Partner, is material to the operations of the Partnership or required by applicable law.

8.3 Monthly Reports.

Prior to Substantial Completion of the Residential Project, and unless and to the extent such matters are the subject of reports already provided by the Residential Development Manager pursuant to the Residential Development Management Agreement (the "**DM Reports**"), the General Partner shall, at the expense of the Partnership, prepare and send or cause to be sent to each Limited Partner within fifteen (15) days following end of each calendar month a written report in respect of the progress of the Residential Project, the Residential Initial Budget or the Residential Approved Budget, as the case may be, and such other information as the Class A1 Limited Partner may approve in respect of the Residential Project.

8.4 Income Tax and Land Transfer Tax Information.

- (a) The General Partner shall send or cause to be sent to each Limited Partner on or before March 31 in each calendar year, all information necessary for the Limited Partners to prepare their income tax returns in respect of the preceding year.
- (b) The General Partner shall notify a Limited Partner if the General Partner becomes aware that such Limited Partner (or Person(s) with an interest in the Limited Partner) is liable for Land Transfer Tax in connection with such Limited Partner's acquisition of its LP Units, and shall provide to such Limited Partner on request any information and valuations necessary to prepare applicable Land Transfer Tax returns and to compute applicable Land Transfer Tax. The Limited Partners acknowledge that they may be required to file Land Transfer Tax returns and pay Land Transfer Tax in connection with the acquisition of LP Units.

ARTICLE 9 GENERAL PARTNER

9.1 Powers, Duties and Obligations.

The General Partner has:

- (a) unlimited liability for the debts, liabilities and obligations of the Partnership; and
- (b) subject to Section 9.14 the full and exclusive right, power and authority to manage, conduct, control, administer and operate the business and affairs and to make all decisions regarding the undertaking and business of the Partnership.

Subject to Section 9.14, an action taken by the General Partner on behalf of the Partnership is deemed to be the act of the Partnership, and binds the Partnership. The General Partner shall have all the rights and powers which may be possessed by a general partner pursuant to the Act and such rights and powers otherwise conferred by law and by this Agreement. A Person in dealing with a General Partner acting on behalf of the Partnership is not required to inquire into the authority of the General Partner to bind the Partnership and is entitled to rely conclusively upon the power and authority of the General Partner as set out in this Agreement.

9.2 Specific Powers and Duties.

Without limiting the generality of the foregoing, but subject to the provisions hereof including Section 9.14, the General Partner has the power and authority to do the following:

- (a) General Management: the General Partner shall provide over-all management, financial, and business planning to the Partnership and take all measures necessary or appropriate for the business of the Partnership or ancillary thereto including the appointment, termination and replacement of the Accountant;
- (b) Execute Documents: the General Partner may enter into, execute and carry out all agreements by or on behalf of the Partnership involving matters or transactions or

services to be rendered to the Partnership which are within the ordinary course of the Partnership's business and may execute, acknowledge and deliver any and all other deeds, documents and instruments and do all acts as may be necessary or desirable to carry out the intent and purpose of this Agreement;

- (c) Incur Expenses: the General Partner may incur expenses in accordance with the Residential Initial Budget or the Residential Approved Budget, as the case may be, and in the ordinary course of business of the Partnership on behalf of the Partnership and be reimbursed by the Partnership for such expenses;
- (d) Retaining Employees etc.: the General Partner may, on behalf of the Partnership, employ, retain or dismiss from employment personnel, agents, representatives or professionals with the powers and duties, upon the terms, at the places and for the compensation as in the discretion of the General Partner may be necessary or advisable in the carrying on of the business of the Partnership;
- (e) Banking: the General Partner may open accounts in banks or other recognized financial institutions for the Partnership in the name of the Partnership, designate signatories and, from time to time, change the signatories to the accounts;
- (f) Borrowing: the General Partner may borrow money or arrange credit facilities in the name of the Partnership from time to time and do all matters in connection therewith (including the payment of any fees, including the fee to the Class A1 Limited Partner as provide in Section 5.7) (i) in respect of the Construction Loan, (ii) in respect of the Development Loan, and (iii) from Arm's Length parties selected by it or any recognized financial institution on such terms and conditions as it deems is required;
- (g) Security: subject to Section 9.14(b), the General Partner may pledge, mortgage and/or encumber as security in respect of any borrowings or credit facilities arranged hereunder any assets of the Partnership;
- (h) Acquisition of Residential Project: the General Partner may take an assignment of the Residential Project or cause the Residential Project to be assigned to the Partnership or to the Title Nominee, and may attend to all matters relating to the acquisition of the Residential Project by the Partnership, the General Partnership or the Title Nominee;
- (i) Management: the General Partner may manage, administer, conserve, develop and operate the Residential Project and complete the sale of residential condominiums constituting the Residential Component and in general to engage in any and all phases of the business of the Partnership and, generally, to do the things and take the steps in connection with the Residential Project and the other assets and undertaking of the Partnership which would customarily be carried out by a reasonable business Person in the Province of Ontario. Without limiting the generality of the foregoing, the General Partner may delegate day-to-day management of the Properties, in whole or in part, to a third party manager and

does hereby delegate the development, construction, and management of the Residential Project to the Residential Construction Manager pursuant to the Residential Construction Management Agreement and to the Residential Development Manager pursuant to the Residential Development Management Agreement, as applicable. The General Partner is hereby authorized by the Partners: (i) to enter into, on behalf of the Partnership, the Residential Development Management Agreement and the Residential Construction Management Agreement and, (ii) in the event of the death or Incapacity of Mizrahi, to appoint, on behalf of the Partnership, the Class A1 Limited Partner or an Affiliate thereof to act as the substitute development manager under the Residential Development Management Agreement and to act as the substitute construction manager under the Residential Construction Management Agreement;

- (j) Units: subject to Sections 9.15(a) and 9.15(b), the General Partner may enter into agreements and attend to all matters relating to the sale and issuance of LP Units, and shall provide an up-to-date list of all Limited Partners and their addresses for service to all Limited Partners, as required from time to time to ensure that all Partners are aware of all current Limited Partners;
- (k) Sale of Assets: subject to the prior written consent of the Class A1 Limited Partner and Section 6.9, the General Partner may enter into agreements and attend to all matters relating to the sale of the Residential Component, the Parking Component or the Hotel Component, if any, or any material portion of each such component;
- (l) Investments: the General Partner may invest and reinvest funds not immediately required for the operation of the Partnership in short-term securities of Canadian Schedule 1 chartered bank;
- (m) Legal Proceedings: the General Partner may commence or defend any action or proceeding in connection with any actions or proceedings brought by or against the Partnership;
- (n) Elections, etc.: the General Partner may make, on behalf of the Partnership and of each Limited Partner, all elections, determinations or designations under the ITA or any other taxation or other legislation or laws of like import of Canada or any jurisdiction within or outside of Canada in respect of any Partner's interest in the Partnership;
- (o) Change Name: the General Partner may change the name of the Partnership to comply with the laws of the jurisdictions in which the Partnership may carry on business;
- (p) Change Address: the General Partner may change the address of the Partnership on written notice to the Limited Partners and upon the filing of a Subsequent Declaration reflecting the change;

- (q) Filings: the General Partner may file on a timely basis returns and any other documents which may be required to be filed by any governmental or like authority;
- (r) Fiscal Year End: subject to Section 9.14(f), the General Partner may change the Fiscal Year of the Partnership if it deems it necessary; and
- (s) Title Nominee: the General Partner may make all material decisions, obligations and actions respecting the business affairs and management of the Title Nominee.

9.3 Title to Properties.

Legal title to the assets of the Partnership may be held by the General Partner and in such case the General Partner shall hold such assets in trust for the benefit of the Partnership and will execute from time to time such declarations of trust and make such filings as the Class A1 Limited Partner from time to time may request.

9.4 Standard of Care.

The General Partner covenants that it will exercise the powers and discharge its duties under this Agreement honestly, in good faith, and in the best interest of the Limited Partners and the Partnership, and that it will exercise the care, diligence and skill of a reasonably prudent Person performing comparable duties, and will maintain the confidentiality of financial and other information and data which it may obtain through or on behalf of the Partnership, the disclosure of which may adversely affect the interests of the Partnership or a Limited Partner, except to the extent that disclosure is required by law or is, in its opinion, in the best interest of the Partnership to disclose, and it will utilize the information and data only for the business of the Partnership.

9.5 Safekeeping of Assets.

The General Partner is responsible for the safekeeping and use of all funds and assets of the Partnership whether or not in its immediate possession or control and will not employ or permit another to employ the funds or assets except for the exclusive benefit of the Partnership.

9.6 Limitation of Liability.

The General Partner is not personally liable for the return of any Capital Contribution made by a Limited Partner to the Partnership. Moreover, notwithstanding anything else contained in this Agreement, neither the General Partner nor its officers, directors, shareholders, employees or agents are liable, responsible for, or accountable in damages or otherwise to the Partnership or a Limited Partner for an action taken or failure to act on behalf of the Partnership within the scope of the authority conferred on the General Partner by this Agreement or by law unless the act or omission was performed or omitted fraudulently or in bad faith or constituted gross negligence or wilful misconduct.

9.7 Indemnification.

The Partnership hereby agrees to indemnify and hold harmless the General Partner, its officers, directors, shareholders, employees, or agents from and against any claim, demand, action, cause of action, damages, loss, cost, liability or expense by reason of acts, omissions or alleged acts or omissions arising out of the activities of the General Partner on behalf of the Partnership or in furtherance of the interests of the Partnership, but only if the acts, omissions or the alleged acts or omissions on which the actual or threatened action, proceeding or claim are based were performed in good faith and were not performed or omitted fraudulently or as a result of gross negligence or wilful misconduct by the General Partner, its officers, directors, shareholders, employees, or agents.

9.8 Restrictions upon the General Partner.

The General Partner shall not:

- (a) cause the Partnership to do any act or thing for which approval is required under Sections 9.14 or 9.15 without first obtaining such approval;
- (b) co-mingle the funds of the Partnership with the funds of the General Partner, its Affiliates, or any third party; and
- (c) cause the Partnership material damage as a result of its own fraud, gross negligence or wilful misconduct.

9.9 Retainer of an Affiliate.

The General Partner may employ or retain Affiliates on behalf of the Partnership to provide goods or services to the Partnership, provided such services are charged to the Partnership in a manner in which, and at a cost to the Partnership not greater than the cost which such services would be charged to the Partnership by Arm's-Length parties providing similar services. The General Partner represents, warrants and covenants to the Limited Partners that all such services shall be charged to the Partnership in a manner in which, and at a cost to the Partnership not greater than, the cost which such services would be charged to the Partnership by Arm's-Length parties providing similar services.

9.10 Removal of General Partner.

The General Partner may be removed and a replacement general partner appointed by the approval of the Limited Partners by Extra Ordinary Resolution only in the following events:

- (a) the adjudication of the General Partner as a bankrupt or the appointment of a receiver of the assets and undertaking of the General Partner;
- (b) the General Partner making an assignment for the benefit of creditors; or
- (c) the dissolution, winding-up or liquidation of the General Partner.

In addition, the General Partner may be removed and a substitute general partner appointed by approval of the Limited Partners by Extra Ordinary Resolution in the event of the default by the General Partner in the performance of its obligations under this Agreement, which default remains unremedied for a period in excess of thirty (30) days after the Limited Partners have given written notice of such default to the General Partner. The replacement general partner appointed by the Limited Partners by Extra Ordinary Resolution (the "**New General Partner**") shall assume all of the responsibilities and obligations of the removed General Partner (the "**Former General Partner**") under this Agreement from the date of such removal and upon the following additional terms:

- (d) the New General Partner shall, prior to assuming its responsibilities as a general partner under the terms of this Agreement, execute the documents presented by the Partnership to give effect to the assumption; and
- (e) the Former General Partner will execute such form of assignment or notices as may be required in order to enable the New General Partner to become registered as the assignee of the GP Unit and, if applicable, the registered owner of the Residential Project.

9.11 Voluntary Change of a General Partner.

The General Partner shall not resign, nor shall it transfer or dispose of its interest or any part thereof in the Partnership unless such resignation, transfer or disposition has been approved by Extra Ordinary Resolution of the Limited Partners or is in connection with or ancillary to a merger or amalgamation of the General Partner resulting in a surviving or continuing corporation or body corporate which is then the General Partner. The General Partner is bound by the terms of this Agreement until the transfer or disposition of its interest in the Partnership to the New General Partner has been completed.

9.12 Indemnity to Former General Partner.

On the resignation or removal of the Former General Partner, the Partnership will release and hold harmless the Former General Partner from any costs, damages, liabilities or expenses suffered or incurred by the Former General Partner as a result of or arising out of events, other than any default, negligence or wilful act or omission by the Former General Partner, which occur in relation to the Partnership prior to such resignation or removal.

9.13 Status of the General Partner.

The General Partner represents, warrants, covenants and agrees with each other Partner that:

- (a) Corporate Status: the General Partner is a duly incorporated, organized and subsisting corporation under the laws of the Province of Ontario;
- (b) Capacity: the General Partner is duly qualified to carry on business and is in good standing in each jurisdiction in which the nature of the business conducted by it or the Residential Project makes such qualification necessary;

- (c) Corporate Capacity: the General Partner has and will continue to have the capacity and corporate authority to act as the General Partner and to perform its obligations under this Agreement and that such obligations do not and will not conflict with or breach its articles of incorporation, by-laws or any agreements by which it is bound;
- (d) Commitment: the General Partner will devote to the conduct of the business of the Partnership such time as may be reasonably required for the proper management of the business of the Partnership and will not carry on any other business;
- (e) Residence: the General Partner is not a "non-resident" of Canada within the meaning of the ITA, and is not a "non-Canadian" within the meaning of the *Investment Canada Act* (Canada);
- (f) Status: the General Partner shall not change its status as represented and warranted herein and shall promptly provide evidence of such status to the Limited Partners upon request; and
- (g) Tax Shelter Investment: the purchase by the General Partner of its interest in the Partnership shall not at any time cause any Unit to be a "tax shelter investment" for purposes of Section 143.2 of the ITA or result in the application of any analogous provision of any provincial tax legislation.

The representations, warranties, covenants and agreements contained in this Section 9.13 shall survive the execution of this Agreement until the termination hereof.

9.14 Ordinary Resolution.

Notwithstanding any other provision of this Agreement, the General Partner shall have no authority to enter into and no action by the General Partner or the Partnership will be taken with respect to any of the following matters without the prior approval of the Limited Partners by Ordinary Resolution:

- (a) the incurring of any voluntary indebtedness for borrowed money or the guaranteeing of any such indebtedness, other than (i) as specifically provided for in this Agreement, and (ii) incurred in the ordinary course of business of the Partnership;
- (b) the granting of any Lien on the assets of the Partnership or the Title Nominee, other than: (i) in favour of the lender under the Construction Loan, (ii) in favour of the Development Lender pursuant to the Development Loan, (iii) in favour of Tarion, (iv) in favour of the Bond Issuer, (v) in favour of a lender in respect of indebtedness or guarantees otherwise approved pursuant to Section 9.14(a), and (vi) in the ordinary course of the business of the Partnership;
- (c) the taking or institution of any proceedings for the winding up, termination or dissolution of the Partnership;

- (d) the removal and replacement of the general partner of the Partnership;
- (e) changing, in any material respect, the Partnership's accounting method, either for financial or tax reporting purposes; and
- (f) changing the Accountant or Fiscal Year of the Partnership, or requiring an audit of the Partnership's financial statements.

9.15 Extra-Ordinary Resolution.

Notwithstanding any other provision of this Agreement, the General Partner shall have no authority to enter into and no action by the General Partner or the Partnership will be taken with respect to any of the following matters without the prior approval of the Limited Partners by Extra-Ordinary Resolution:

- (a) any addition, change or removal of any rights, privileges, restrictions and conditions attaching to the LP Units; and
- (b) the issuance of a new class of units to represent the interests of Limited Partners in the Partnership that is equal or superior to the Class A1 Units and the Class B Units.

ARTICLE 10 LIMITED PARTNERS

10.1 Admission of Limited Partners.

The General Partner, by the execution of this Agreement as the duly appointed attorney for the Limited Partners, hereby admits the Limited Partners to the Partnership as limited partners and agrees to record the Limited Partners in the Register and to cause to be executed and filed, as soon as practicable after the execution hereof, all such declarations, instruments and documents as may be required under applicable law to amend and restate the original agreement and reconstitute the Partnership as herein provided. The admission of the Limited Partners to the Partnership shall be effective from the date on which the Limited Partners are recorded in the Register.

10.2 Status of the Limited Partners.

Each of the Limited Partners severally and not jointly represents, warrants, covenants and agrees with each other Partner that it:

- (a) has and will have the capacity and competence and, if a corporation, partnership, limited partnership or other entity, the necessary authority, to enter into this Agreement;
- (b) has obtained any consents or approvals of any governmental authorities or Third Parties that are required for the execution and delivery of this Agreement by it;

- (c) is not party to any litigation, action or proceeding that, if adversely determined, could have a material adverse effect on, or enjoin, restrict or otherwise prevent it from performing its obligations under this Agreement;
- (d) is not a "non-resident" of Canada within the meaning of the ITA;
- (e) has the legal capacity and competence and, if a corporation, has been duly authorized, to enter into this Agreement and take all actions required pursuant hereto;
- (f) will not change its status as represented and warranted herein, shall promptly provide evidence of such status to the General Partner upon request and shall not transfer or purport to transfer its LP Unit to any Person that would be unable to make the representations and warranties set out above;
- (g) neither the purchase of LP Units nor the holding of the LP Units by the Limited Partner will at any time cause any LP Units to be a "tax shelter investment" for purposes of Section 143.2 of the ITA or result in the application of any analogous provision of any provincial taxing legislation;
- (h) it has obtained independent legal and tax advice as to its liabilities and obligations under this Agreement and any subscription agreement, and acknowledges that the relevant provisions of the ITA and related statutes are complex and that it has taken such steps as it considers necessary to ensure that it understands the meaning and effect of such representations, warranties and indemnity;
- (i) it is not a "financial institution" as that term is defined in subsection 142.2(1) of the ITA unless such Limited Partner has provided written notice to the contrary to the General Partner prior to the date of acceptance of the Limited Partner's subscription for its Units. A Limited Partner who is not an individual may be obliged to provide the General Partner with a declaration that it is not a "financial institution" as that term is defined in subsection 142.2(1) of the ITA;
- (j) that payment of the subscription price for each Limited Partner's Units was not financed through indebtedness for which recourse is or deemed to be limited within the meaning of the ITA;
- (k) it owns its LP Units legally and beneficially free and clear of all Liens, other than Liens created pursuant to this Agreement;
- (l) it has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in the Partnership and making an informed investment decision with respect thereto;
- (m) it is able to bear the economic and financial risk of an investment in the Partnership and understands that it has no right to withdraw and have its LP Units repurchased by the Partnership;

- (n) it is acquiring its LP Units for investment only and not with a view to, or for resale in connection with, any distribution to the public or public offering thereof, and will provide to the General Partner such financial information with respect to its itself and its interest in the Partnership as may be reasonably required from time to time in connection with the registration of the development with any governmental or quasi-governmental agencies having jurisdiction, including and without limitations Tarion pursuant to the Ontario New Home Warranty Program. It is acknowledged and agreed that no Limited Partner shall be required to provide any guarantees or indemnities with respect to any such registrations;
- (o) it understands that the equity interests in the Partnership have not been registered under the securities laws of any jurisdiction and cannot be disposed of unless they are subsequently registered and/or qualified or fall within an exemption under applicable securities laws and the provisions of this Agreement have been complied with; and
- (p) it has not received or been provided with an "offering memorandum" (as defined under applicable securities laws) in connection with its acquiring its LP Units.

Insofar as they relate to it, the following representations and warranties are true and correct:

- (q) it is acquiring its LP Units as principal for its own account, not for the benefit of any other Person, and not with a view to the resale or distribution of all or any part of its LP Units;
- (r) it is not resident in a jurisdiction outside of Canada;
- (s) it is not a bank listed in Schedule I to the Bank Act (Canada);
- (t) it is an "accredited investor" as that term is defined in National Instrument Rule 45-106 "Prospectus and Registration Exemptions";
- (u) it was not incorporated or created solely to permit the acquisition of its LP Units without the need for the filing of a prospectus; and
- (v) if required by any laws, it will execute, deliver, file and otherwise assist the Partnership in filing within the applicable limitations of time, such reports, undertakings and other documents with respect to the acquisition or disposition of all or any part of its LP Units as may be required.

The representations, warranties covenants and agreements contained in this Section 10.2 shall survive the execution of this Agreement until the termination hereof.

10.3 Limitations on Authority of Limited Partners.

No Limited Partner in its capacity as a limited partner, except to the extent permitted by law, shall:

- (a) take part in the control or management of the business of the Partnership or exercise any power in connection therewith;
- (b) execute any document or take any action which binds or purports to bind any other Partner or the Partnership;
- (c) hold itself out as having the power or authority to bind any other Partner or the Partnership;
- (d) have any authority or power to act for or undertake any obligation or responsibility on behalf of any other Partner or the Partnership; or
- (e) bring any action for petition or sale in connection with any assets of the Partnership, whether real or personal, or register or permit any Lien to be filed or registered or remain undischarged against any assets of the Partnership.

10.4 Limited Liability of Limited Partners.

- (a) Subject to the provisions of the Act, the liability of each Limited Partner for the liabilities and obligations of the Partnership shall be limited to its Capital Contribution, and each Limited Partner shall have no further liability for any other debts, liabilities or obligations of the Partnership and shall not be liable for any claims or assessments or be required to make further contributions to the Partnership except as specifically provided for herein.
- (b) The General Partner shall use commercially reasonable efforts to include the following provisions in all contracts entered into by the Partnership:

"The parties hereto acknowledge that Mizrahi Residential (The One) LP (the "**Limited Partnership**") is a limited partnership formed under the laws of the Province of Manitoba, a limited partner of which is only liable for any of the Limited Partnership's liabilities to the extent of the amount that the limited partner has contributed to the capital of the Limited Partnership. The parties hereto acknowledge that the obligations of the Limited Partnership are not personally binding upon, nor shall recourse be had to, the property of any of the limited partners or the property of any successor or assign of any of the limited partners, and that recourse shall only be had to the property of the Limited Partnership or the property of Mizrahi Residential (The One) GP Inc., which is the sole general partner of the Limited Partnership. The parties expressly acknowledge having been advised prior to entering into this agreement that each of 8891303 Canada Inc. and Mizrahi Inc. is a limited partner of the Limited Partnership and that, accordingly, its liability is limited as aforesaid."

10.5 Indemnification of Limited Partners and Insurance.

The General Partner hereby agrees to indemnify and hold harmless each Limited Partner (including former Limited Partners) for any claim, demand, action, cause of action, damage, loss, cost, liability or expense (including reasonable professional fees and disbursements) brought

against or incurred by such Limited Partner if its liability is not limited in the manner provided for in this Agreement other than any lack of limited liability caused by any act or omission of such Limited Partner. The General Partner will be liable to indemnify and hold harmless the Partnership for any claim, demand, action, cause of action, damages or incurred by the Partnership as a result of any breach by the General Partner of its obligations set forth in this Agreement. The General Partner will use its commercially reasonable efforts to obtain and maintain comprehensive general liability insurance in an amount and manner satisfactory to the General Partner. The cost of such insurance shall be borne by the Partnership.

10.6 Activities of Limited Partners.

Any Limited Partner, including such Limited Partner's officers, directors, shareholders, partners and agents, may engage in or hold an interest in any other business, venture, investment or activity whether similar to or competitive with the business of the Partnership and the same shall be deemed not to be a conflict of interest or breach of fiduciary duty. The General Partner and the Limited Partners hereby consent to any such activities and waive, relinquish and renounce any right or claim of participation or accounting.

10.7 No Actions or Liens.

Except as specifically set out herein, each Limited Partner covenants that it shall not during the term of this Agreement bring any action for partition or sale or otherwise in connection with any interest in the Residential Project or other assets of the Partnership whether real or personal, corporeal or incorporeal, nor register, nor, other than as provided herein, permit any Lien to be recorded or remain undischarged against its interest in the assets of the Partnership.

10.8 Compliance with Laws.

Each Limited Partner shall upon request of the General Partner immediately execute any documents or do such other things as considered by the General Partner to be necessary to comply with any applicable law or regulation of any jurisdiction in which the Partnership carries on business in relation to the continuation, operation and good standing of the Partnership.

ARTICLE 11

REGISTRAR AND TRANSFER AGENT

11.1 Appointment.

The General Partner may designate and appoint a Registrar and Transfer Agent to maintain the Register of the Partnership. To the extent that no such appointment is made, the General Partner shall be the Registrar and Transfer Agent.

11.2 Duties.

The Registrar and Transfer Agent, on behalf of the General Partner, shall do the following:

- (a) Office: the Registrar and Transfer Agent shall maintain a registered office at the office of the General Partner, or its legal counsel, or such other place as may be

stipulated by the General Partner and shall keep there a copy of the Declaration, any Subsequent Declarations and a copy of this Agreement and any amendments hereto;

- (b) Register: the Registrar and Transfer Agent shall maintain, either directly or through an intermediary appointed by it, the Register and shall record therein the full names and addresses of the Partners, the number and class of Units held by each Partner, whether each Partner is a limited or a general partner, particulars of registration and transfer of Units and shall record therein any mortgage or pledge of any Unit;
- (c) Other Records: the Registrar and Transfer Agent shall maintain such other records as may be required by law; and
- (d) Filings, etc.: The Registrar and Transfer Agent shall from time to time make on behalf of the Partnership all filings with any governmental authority that are required to be made by the Partnership.

ARTICLE 12

THE REGISTER

12.1 The Register.

The Register shall set forth the following information regarding each Limited Partner:

- (a) such Limited Partner's name and address or address for service, including municipality, street and number, if any, and postal code, and such Limited Partner's corporation number, if any; and
- (b) the amount of Capital Contributions of such Limited Partner.

12.2 Direction from General Partner.

The Registrar and Transfer Agent shall rely upon the direction of the General Partner in recording Limited Partners in the Register and the General Partner shall so direct the Registrar and Transfer Agent as follows:

- (a) Acceptance of Subscription: the General Partner shall provide to the Registrar and Transfer Agent written notice that the subscription of a proposed or current Limited Partner has been accepted together with a copy of the duly completed Subscription and Power of Attorney Form duly accepted by the General Partner;
- (b) Acceptance of Transfer: the General Partner shall provide to the Registrar and Transfer Agent written notice that the transfer or assignment of a LP Unit by a Partner has been accepted together with a copy of the duly completed Assignment and Transfer Form and written confirmation by the General Partner that

satisfactory arrangements have been made in respect of the obligations of the transferring Partner to the Partnership; and

- (c) Capital Contribution: the General Partner shall provide to the Registrar and Transfer Agent written notice of any changes in the capital contribution or agreed capital contribution of a Partner together with such evidence as is deemed appropriate by the General Partner.

12.3 Liability of Registrar and Transfer Agent.

The Registrar and Transfer Agent shall not be liable for any error in the Register to the extent that such error was made in acting in accordance with the direction of the General Partner as provided in Section 12.2.

12.4 Effective Date.

The rights and obligations of a Limited Partner as a Limited Partner under this Agreement as between such Limited Partner and the other Partners commence on and are enforceable from the date on which the name and other required information in respect of such Limited Partner is recorded in the Register.

12.5 Inspection of Register.

Any registered holder of a LP Unit, or an agent duly authorized in writing by such registered holder, shall have the right to inspect and take extracts from the Register during normal business hours, and, upon payment of a reasonable fee to the General Partner, to obtain a copy of the Register within a period of ten (10) days from the date of the filing of a written request therefore with the General Partner at the principal place of business of the Partnership.

ARTICLE 13 MEETINGS

13.1 Requisition of Meeting.

- (a) General: Meetings of the Limited Partners may be called by the General Partner at any time upon at least ten (10) days' notice. The Class A1 Limited Partner may by the giving of written notice signed by it request a meeting of the Partnership to the General Partner, the General Partner shall, within ten (10) days of receipt of such notice, call a special meeting of the Limited Partners and, if it fails to do so, the Class A1 Limited Partner may call such meeting by giving notice to the Limited Partners in accordance with this Agreement, signed by an authorized signatory of the Class A1 Limited Partner. Every meeting, however convened, will be conducted in accordance with this Agreement.
- (b) Annual Meetings: The General Partner shall convene an annual meeting of the Limited Partners within one hundred and eighty (180) days of the end of each Fiscal Year.

13.2 Place of Meeting.

Every meeting will be the head office of the Partnership or such other place as may be stipulated by the General Partner.

13.3 Notice of Meeting.

Notice of any meeting will be given to each Limited Partner and to the General Partner. The notice shall be delivered at least ten (10) and not more than fifty (50) days prior to the meeting and shall specify:

- (a) the time, date, and place of the meeting; and
- (b) in reasonable detail, the nature of the business to be transacted at the meeting.

13.4 Proxies.

Any Limited Partner entitled to vote at a meeting may vote by proxy if the proxy has been received by the General Partner or the chairman of the meeting for verification prior to the meeting.

13.5 Validity of Proxies.

A proxy purporting to be executed by or on behalf of a Limited Partner will be considered to be valid unless challenged at the time of or prior to its exercise, and the Person challenging will have the burden of proving to the satisfaction of the chairman of the meeting that the proxy is invalid and any decision of the chairman concerning the validity of a proxy will be final.

13.6 Corporations.

A Limited Partner which is a corporation, limited partnership or other entity may appoint an officer, director, manager or other authorized Person as its representative to attend, vote and act in its behalf at a meeting of Limited Partners.

13.7 Attendance of Others.

The General Partner, any officer or director of the General Partner, the solicitors for the General Partner and the Partnership, representatives of the Accountant and any other Person authorized by the General Partner as well as the solicitors for each Limited Partner will be entitled to attend any meeting of Limited Partners.

13.8 Chairperson.

The General Partner may nominate an individual (who need not be a Limited Partner) to be chairperson of a meeting of the Limited Partners and the individual nominated by the General Partner will be chairperson of such meeting.

13.9 Quorum.

A quorum at any meeting of the Limited Partners will consist of the Class A1 Limited Partner present in person; provided that, in respect of any meeting of the Limited Partners at which a matter requiring approval by Extra Ordinary Resolution will be considered, quorum will consist of the Class A1 Limited Partner and the Class B Limited Partner. No meeting of the Limited Partners at which an Extra Ordinary Resolution will be considered (in this Section 13.9, an "**Original Special Meeting**") shall continue in the absence of a quorum; provided that, if at any such meeting of the Limited Partners a quorum shall not be present by reason only of the fact that either the Class A1 Limited Partner or Class B Limited Partner (in this Section 13.9, each a "**Required Limited Partner**") is absent from such meeting, then, notwithstanding anything herein contained, the Required Limited Partner that is present at such meeting may call a supplementary meeting (in this Section 13.9, a "**Supplementary Special Meeting**") of the Limited Partners on not less than five (5) Business Days' notice to each of the Required Limited Partners, and the business at the Supplementary Special Meeting shall be limited to the business set out in the notice of the Original Special Meeting. If the Required Limited Partner that did not attend the Original Special Meeting does not attend the Supplementary Special Meeting, the Required Limited Partner attending the Supplementary Special Meeting shall constitute a quorum for the transaction of the business referred to in the notice of the Original Special Meeting. Subject to the foregoing, no meeting shall continue with the transaction of business in the absence of a quorum.

13.10 Voting.

- (a) Every question submitted to a meeting will be decided on a show of hands unless a poll is demanded by a Limited Partner, in which case a poll will be taken.
- (b) In the case of an equality of votes, the chairperson will not have a casting vote and the resolution will be deemed to be defeated.
- (c) On any vote at a meeting of the Limited Partners, a declaration of the chairperson concerning the result of the vote will be conclusive.

13.11 Poll.

A poll requested or required concerning:

- (a) the election of a chairperson or an adjournment, shall be taken immediately on request; or
- (b) any other matter, will be taken at the meeting or an adjournment of the meeting in such manner as the chairperson directs.

13.12 Resolutions Binding.

Any resolution passed in accordance with this Agreement shall be binding on all the Limited Partners and their respective heirs, executors, administrators, successors and permitted assigns,

whether or not any such Limited Partner was present in person or voted against any resolution so passed.

13.13 Resolution in Lieu of Meeting.

Any resolution consented to at any time during the Partnership's existence by the signature of the requisite number of Limited Partners is as valid and effective as if passed at a meeting of the Partners duly called, constituted and held for that purpose.

13.14 Minutes.

The General Partner will cause minutes to be kept of all proceedings and resolutions passed at every meeting or consented to by all of the Limited Partners, and to be entered in books to be kept for that purpose, and any minutes, if signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting, will be deemed conclusive evidence of the matters stated in them and such meeting shall be deemed to have been duly convened and held and all resolutions and proceedings shown in them shall be deemed to have been duly passed and taken.

13.15 Additional Rules and Procedures.

To the extent that the rules and procedures for the conduct of a meeting of the Limited Partners are not prescribed in this Agreement, the rules and procedures will be determined by the chairperson of the meeting.

ARTICLE 14

NOTICES

14.1 Notices.

A notice, demand, request, statement or other evidence required or permitted to be given under this Agreement must be in writing. It will be sufficiently given if delivered, or during the times the post office is normally operating, mailed prepaid or delivered by hand, facsimile transmission, email, a recognized courier service or other telecommunications facilities to a party addressed as follows:

- (a) to the General Partner:

Mizrahi Residential (The One) GP Inc.
189 Forest Hill Road
Toronto, Ontario M5P 2N3

Attention: President and Vice-President
Telephone: (416) 818-5288 and (416) 633-6765
Email: Sam@MizrahiCorp.Com and jcoco@cocogroup.com

- (b) to the Class A1 Limited Partner:

c/o Bridging Finance Inc.
77 King Street West, Suite 2925, P.O. Box 322
Toronto, Ontario M5K 1K7

Attention: Ms. Natasha Sharpe
Telephone: (416) 777-1601

Email: nsharpe@bridgingfinance.ca

with a copy to:

Coco Paving Inc.
949 Wilson Avenue
Toronto, Ontario
M3K 1G2

Attention: Ms. Virginia Jenny Coco
Facsimile: (416) 633-6765
Email: jcoco@cocogroup.com

and with a copy to:

Fogler, Rubinoff LLP
77 King Street West, Suite 3000
Toronto, Ontario M5K 1G8

Attention: Mr. Ian Kady
Telephone: (416) 941-8809
Email: ikady@foglers.com

(c) to the Class B Limited Partner:

Mizrahi Enterprises Inc.
189 Forest Hill Road
Toronto, Ontario M5P 2N3

Attention: Sam Mizrahi
Telephone: (416) 818-5288
Email: Sam@MizrahiCorp.Com

or to such other address as each party may from time to time advise the others in writing, and any such notice will be deemed to have been received seventy-two (72) hours after mailing, or if sent by facsimile or email transmission or courier, on the next Business Day, or if delivered, when delivered, provided that if the notice is mailed and there occurs between the time of mailing and the actual or deemed receipt of the notice, a mail strike, slow down, or other labour dispute which might affect delivery of the notice, then the notice is effective only when actually delivered. A party may change its address for notices by giving notice in accordance with the foregoing. The accidental omission in the giving of, or failure to give, a notice required by this

Agreement will not invalidate or affect in any way the legality of any meeting or other proceeding in respect of which such notice was or was intended to be given.

ARTICLE 15

DISSOLUTION AND LIQUIDATION

15.1 Dissolution.

The Partnership shall be dissolved upon the occurrence of any of the following events:

- (a) the approval of the Limited Partners by Ordinary Resolution approving the dissolution of the Partnership; or
- (b) subject, for greater certainty, to Section 6.9, all of the remaining assets of the Partnership are sold, all liabilities of the Partnership have been paid in full, and all Distributable Cash has been allocated and distributed to the Limited Partners and the General Partner in accordance with the provisions hereof.

Dissolution will be effective on the day on which the event occurred giving rise to the dissolution but the Partnership will not terminate until its assets have been distributed in accordance with this Agreement.

15.2 Liquidation of the Partnership Assets.

In the event of the dissolution of the Partnership, a receiver appointed by the General Partner (which may be the General Partner) shall commence to wind up the affairs of the Partnership and to liquidate its assets. The Partners will continue to share profits and losses during the period of liquidation in the same proportions as before the dissolution. The General Partner or receiver, as the case may be, has the full right and unlimited discretion to determine the time, manner and terms of any sale of assets of the Partnership pursuant to the liquidation, having regard to the activity and condition of the relevant market and general economic conditions.

15.3 Distribution.

Following the payment of all debts and liabilities of the Partnership and all expenses of liquidation, but conditional upon the right of the General Partner or receiver to set up such cash reserves as it may deem necessary for any contingent or unforeseen liabilities or obligations of the Partnership, the proceeds of the liquidation and the other funds of the Partnership will be distributed to the Partners in accordance with the applicable provisions of Article 7, *mutatis mutandis*.

15.4 Statement.

Within a reasonable time following the completion of the liquidation of the Partnership, the General Partner will supply to each of the Limited Partners a statement, reviewed by the Accountant, setting out the assets and liabilities of the Partnership as of the date of complete liquidation and the distribution of its assets.

15.5 Cash Distribution.

No Limited Partner has the right to demand or receive the properties and assets of the Partnership other than cash upon dissolution and termination of the Partnership.

15.6 Termination.

Upon the completion of the liquidation of the Partnership and the distribution of all of the Partnership funds, the Partnership shall terminate and the General Partner has the authority to execute and record, and shall execute and record, any certificate as well as any other documents required to effect the dissolution or termination of the Partnership.

15.7 Continuity.

Except as specifically set out in this Agreement, the Partnership shall not dissolve or terminate upon the occurrence of any event, including the admission of a New General Partner or Substituted Limited Partner or be terminated by the withdrawal, removal, death, insolvency, bankruptcy or other disability of a Limited Partner, as the case may be.

15.8 Receiver.

Subject to Section 9.10, the General Partner shall be the receiver of the Partnership charged with the responsibility of liquidating the Partnership upon its dissolution. If the General Partner is unable or unwilling to act in that capacity, then the General Partner shall appoint another appropriate Person to act as the receiver of the Partnership. The receiver shall proceed diligently to wind up the affairs of the Partnership and to distribute the net proceeds from the sale of the assets of the Partnership. During the course of the liquidation, the receiver shall operate the properties and undertaking of the Partnership and in doing so is vested with all of the powers and authority of the General Partner in relation to the Partnership under the terms of this Agreement. The Partnership shall pay to the receiver its reasonable fees and disbursements incurred in carrying out its duties.

ARTICLE 16
POWER OF ATTORNEY

16.1 Power of Attorney.

Each Limited Partner does hereby irrevocably nominate, constitute and appoint the General Partner and any New General Partner, with full power of substitution, as its agent and true and lawful attorney to act on its behalf with full power and authority in its name, place, and stead to execute, deliver and record or file as and where required:

- (a) all agreements, instruments and documents relating to the issuance of LP Units;
- (b) this Agreement and all instruments and declarations necessary to reflect any amendment to this Agreement;

- (c) the Declaration, any Subsequent Declaration and any other instruments or documents required to form, qualify, continue, amend and keep in good standing the Partnership as a limited partnership in all jurisdictions in which the Partnership may conduct its business;
- (d) any instrument required in connection with the dissolution, liquidation and termination of the Partnership;
- (e) all elections, determinations or designations under the ITA or any other taxation or other legislation or laws of similar import of Canada or of any provinces or other jurisdictions in respect of the affairs of the Partnership or of a Partner's interest in the Partnership;
- (f) all instruments relating to the admission of additional Limited Partners or Substituted Limited Partners subject to the terms and restrictions of this Agreement;
- (g) all documents as may be necessary to give effect to a transfer or assignment of LP Units pursuant to this Agreement;
- (h) the documents necessary to be filed with the appropriate governmental body or authority in connection with the business, assets and undertaking of the Partnership, including the Residential Project;
- (i) the documents as may be necessary to give effect to the conduct of the business of the Partnership as described in this Agreement; and
- (j) all other instruments and documents as may be necessary and appropriate to carry out fully this Agreement.

Each Limited Partner agrees to be bound by any representation and action of the General Partner made or taken in conformity with this power of attorney and hereby waives any and all defences which may be available to contest, negate or disaffirm the action of the General Partner taken in good faith under such power of attorney. The power of attorney granted herein is irrevocable and is a power coupled with an interest and survives the assignment by a Limited Partner of the whole or any part of the interest of each such Limited Partner in the Partnership and extends to the heirs, executors, administrators, successors, permitted assigns and other legal representatives of such Limited Partner, as the case may be, and may be exercised notwithstanding the subsequent legal incapacity of such Limited Partner, where applicable, and may be exercised by the General Partner on behalf of each Limited Partner in executing such instrument with a single signature as attorney and agent for all of them. A transferee of a LP Unit shall, upon becoming a Limited Partner, be conclusively deemed to have provided the General Partner with the power of attorney described in this Section 16.1.

ARTICLE 17

MISCELLANEOUS

17.1 Confidentiality.

The parties hereto agree that the terms and conditions of this Agreement are and shall remain confidential and shall not be disclosed by any party hereto to any Person without the prior written consent of the General Partner. Notwithstanding the foregoing, the parties hereto agree that the terms and conditions of this Agreement may be revealed to such party's professional advisors in connection with the provision of professional services to such party, provided such advisors are advised of the confidential nature of such terms and conditions and agree to act in accordance with the terms and conditions of this Agreement. The parties hereto may also disclose such terms and conditions of this Agreement as they may become legally compelled to do so, and in such event, shall provide written notice of such disclosure to the other parties.

17.2 Entire Agreement, Waiver.

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement. There are no warranties, representations or agreements between the parties in connection with such subject matter except as specifically set forth or referred to in this Agreement. No waiver or termination of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

17.3 Amendment.

This Agreement shall not be amended except by a written instrument signed by the General Partner, the Class A1 Limited Partner and the Class B Limited Partner.

17.4 Binding Agreement, Enurement.

Except as specifically contemplated herein, no party to this Agreement may assign, transfer or otherwise dispose of this Agreement or all or any part of its rights or obligations or any interest in this Agreement without the prior written consent of all of the other parties hereto. Subject to the foregoing, this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, legal representatives, administrators, successors and permitted assigns, as the case may be. This Agreement supersedes the Letter of Intent dated April 16, 2014 by Bridging Finance Inc. and accepted by Mizrahi Real Estate Group Inc., the Residential Construction Manager and the Residential Development Manager, which letter of intent shall be of no further force or effect.

17.5 Further Assurances.

The parties hereto shall sign such further and other documents, cause such meetings to be held, resolutions passed, exercise their votes and influence, do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part thereof.

17.6 Tender.

If a party hereto wishes to tender documents or money upon any other party hereto, such tender may, at the tendering party's option, be made upon such other party or upon its solicitors and any

tender of money shall be made by way of a certified cheque, bank draft or other means of immediately available funds.

17.7 Expenses.

Except as specifically set out herein, each Party will be responsible for any and all costs and expenses it incurs in connection with this Agreement.

17.8 Counterparts.


This Agreement may be executed in several counterparts, by original or PDF or facsimile signature, each of which so executed shall be deemed to be an original and such counterparts together shall be deemed to be the same instrument. This Agreement may also be executed and adopted by signing the Assignment and Transfer Form or similar instrument signed by a Substituted Limited Partner with the same effect as if such Substituted Limited Partner had executed a counterpart of this Agreement. All counterparts and adopting instruments shall be construed together and shall constitute one and the same agreement.


[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first shown above.

General Partner:


MIZRAHI RESIDENTIAL (THE ONE) GP INC.


Per: 
Name: U. Jenny Coco
Title: Vice - President

Per: 
Name: Netesha Sharpe
Title: Secretary
We have authority to bind the corporation

Class A1 Limited Partner:

8891303 CANADA INC.

Per: 
Name: U. Jenny Coco
Title: A.S.O.

Per: 
Name: Netesha Sharpe
Title: A.S.O.
We have authority to bind the corporation

Class B Limited Partner:

MIZRAHI ENTERPRISES INC.

Per: _____
Name: _____
Title: _____
I have authority to bind the corporation

SCHEDULE "A"
Form of LP Unit Certificate

UNIT CERTIFICATE

Class _____ LP Unit(s)

Certificate No.: _____

Mizrahi Residential (The One) LP
 (A Limited Partnership formed under the laws of the Province of Manitoba)

THE UNDERSIGNED, being the general partner (the "**General Partner**") of **Mizrahi Residential (The One) LP** (the "**Partnership**"), hereby certifies on behalf of the Partnership that:

 (Print Name of Registered Holder)

is the registered holder of _____ units (the "**LP Unit**" or "**LP Units**") in the Partnership.

The rights of a holder of LP Units are governed by a limited partnership agreement dated as of the 25th day of July, 2014, as the same may be amended or restated from time to time (the "**Partnership Agreement**"). The liability of the holder of this Certificate is limited to the amount of capital he, she or it has contributed or agreed to contribute to the Partnership plus his, her or its share of the undistributed income of the Partnership. A Limited Partner may lose the protection of limited liability if he, she or it takes part in the control of the business of the Partnership and may be liable to third parties as a result of false statements in public filings made pursuant to the laws of the Province of Manitoba and applicable legislation of other jurisdictions.

A transfer of any LP Units represented by this Certificate are subject to the provisions of the Partnership Agreement and may only be transferred in accordance with the terms of the Partnership Agreement.

Each LP Unit evidenced by this certificate is a "security" for the purposes of the *Securities Transfer Act*, 2006 (Ontario).

Capitalized terms not defined herein shall have the meaning ascribed to them in the Partnership Agreement.

IN WITNESS WHEREOF the undersigned has caused this Certificate to be signed by its duly authorized officer.

DATED this ____ day of _____, 20__.

MIZRAHI RESIDENTIAL (THE ONE) GP INC., in
 its capacity as General Partner of **MIZRAHI
 RESIDENTIAL (THE ONE) LP**

Per: _____
 Authorized Officer

Per: _____
 Authorized Officer

(REVERSE SIDE OF UNIT CERTIFICATE)

MIZRAHI RESIDENTIAL (THE ONE) LP

UNIT CERTIFICATE

Certificate No: _____

(Print Name of Registered Holder)

Class of Units: _____

Number of Units: _____

Date: _____

FOR VALUE RECEIVED, the undersigned hereby assigns and transfer unto:

(Print name of Transferee)

_____ Unit(s) represented by this Certificate.

DATED at _____ this _____ day of _____, 20____.

(Signature of Witness)

(Signature of Registered Holder)

SCHEDULE "B"
Form of Assignment and Transfer Form
ASSIGNMENT AND TRANSFER FORM

A TRANSFER OF ANY OF THE WITHIN LP UNITS ARE SUBJECT TO THE PROVISIONS OF A PARTNERSHIP AGREEMENT IN RESPECT OF **MIZRAHI RESIDENTIAL (THE ONE) LP** AND MAY ONLY BE TRANSFERRED IN ACCORDANCE WITH THE TERMS OF SUCH LIMITED PARTNERSHIP AGREEMENT.

THE UNDERSIGNED being a Limited Partner of **Mizrahi Residential (The One) LP** (the "**Partnership**"), hereby transfers, assigns and sells to:

(Print Name of Transferee)

(Print Address of Transferee)

(City, Province, Postal Code)

(the "**Transferee**") _____ units of limited partnership interest in the Partnership (the "**LP Unit**" or "**LP Units**") registered in the name of the undersigned.

THE UNDERSIGNED hereby constitutes the above named Transferee as a Substituted Limited Partner to the extent of the said number of LP Units and agrees to execute and deliver to the General Partner any documents required to effect a valid transfer of the said LP Units or which are necessary or advisable in the opinion of the General Partner to preserve the status of the Partnership as a limited partnership.

Capitalized terms not defined herein shall have the meaning ascribed to them in the Partnership Agreement in respect of the Partnership.

THE UNDERSIGNED agrees that the power of attorney previously granted to the General Partner will be effective for the purpose of executing and filing all certificates, amendments and other instruments necessary to give effect to this transfer.

DATED at _____ Province of _____ this _____ day of _____, 20__.

(Signature of Limited Partner)

(Name of Limited Partner – Please Print)

(Residence Address)

(City, Province, Postal Code)

(REVERSE SIDE OF ASSIGNMENT AND TRANSFER FORM)

Acknowledgement of Transferee

THE UNDERSIGNED, being the Transferee named above hereby accepts the Transfer of the Unit(s) as herein provided and, in consideration of the General Partner accepting this Transfer and conditional thereon, hereby:

1. agrees to be bound as a Limited Partner in the Partnership by the terms of the Partnership Agreement as from time to time amended and in effect and the Transferee hereby expressly ratifies and confirms the power of attorney given to the General Partner therein;
2. irrevocably constitutes and appoints the General Partner, with full power of substitution, as his true and lawful attorney and agent, with full power and authority in its name, place and stead to execute and deliver, for and on its behalf, the Partnership Agreement and any amendments thereto and hereby ratifies, for all legal purposes, execution of the Partnership Agreement on its behalf and all actions taken on its behalf pursuant thereto; and
3. declares that it is not a "non-Canadian" within the meaning of the *Investment Canada Act* (Canada) and that it is not a "non-resident" within the meaning of the *Income Tax Act* (Canada).

THE UNDERSIGNED hereby acknowledges that the power of attorney granted herein and in the Partnership Agreement is irrevocable and is a power coupled with an interest and survives the assignment by the undersigned of the whole or any part of the interest of the undersigned in the Partnership and extends to the heirs, executors, administrators, successors, assigns and other legal representatives of the undersigned and shall survive the death or disability of the undersigned until notice of death or disability is delivered to the General Partner and may be exercised by the General Partner on behalf of the undersigned in executing such instrument with a single signature as attorney and agent for all of them. The undersigned agrees to be bound by representation or action made or taken by the General Partner pursuant to such power of attorney and hereby waives any and all defences which may be available to contest, negate or disaffirm the action of the General Partner taken in good faith under such power of attorney.

THE UNDERSIGNED hereby accepts that this transfer form, the Partnership Agreement and related documents be in the English language only.

DATED at _____ Province of _____ this _____ day of _____, 20__.

(Signature of Witness)

(Signature of Transferee)

(Print Name of Witness)

(Name of Transferee – Please Print)

(Address of Transferee)

(City, Province, Postal Code)

(Social Insurance Number)

This is Exhibit “P” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A367

Message

From: Jenny Coco [JCoco@cocogroup.com]
Sent: 10/24/2015 1:11:59 PM
To: N Sharpe [NSharpe@bridgingfinance.ca]
CC: Patricia Bradley [pbradley@cocogroup.com]
Subject: Consolidated Summary.xlsx

Hi Natasha,

As per attached, the Coco investment is already over the threshold in investment in One Bloor.

Just another item to discuss.

JC

A367

The One
Consolidated Summary

A368

| | | Total Coco Group Funding - All Entities | | | | | | | | | Natasha (SH) 2333065 Ont Inc. | Investment Corp 8891303 Canada Inc. |
|--------------------------------------|------------|---|-----------------------------------|------------------------|------------------------------|------------------|-----------|-----------|------------|------------------|----------------------------------|---|
| | | | | | | | | | | | | |
| | | Coco Shareholder Investments Into 8891303 Canada Inc. | | | | | CII Loan | | | | | |
| | | | | | | | | | | | | |
| Description | Date | Jenny (SH) 1277015 Ontario | Rocky (SH) RA Coco Engineering | Bill (SH) G& N Coco | Nina (SH) 1364671 Ontario | Coco SH Total | Expenses | Interest | Total CII | Total Coco group | | Total - All SHs |
| 780 - 784 Yonge deposit | 7/22/2014 | 250,000 | 250,000 | 250,000 | 250,000 | 1,000,000 | | | - | 1,000,000 | | 1,000,000 |
| Deposit #1 - 1 and 11 Bloor | 7/31/2014 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | | | - | 2,000,000 | | 2,000,000 |
| August 20th closing half of 11 Bloor | 8/20/2014 | 3,512,443 | 3,512,443 | 3,512,443 | 3,512,443 | 14,049,772 | | | - | 14,049,772 | 902,619 | 14,952,391 |
| Foster & Partners | 8/29/2014 | 150,000 | 150,000 | 150,000 | 150,000 | 600,000 | | | - | 600,000 | | 600,000 |
| 770 Yonge deposit #1 | 9/5/2014 | 250,000 | 250,000 | 250,000 | 250,000 | 1,000,000 | | | - | 1,000,000 | | 1,000,000 |
| Deposit #2 - 1 and 11 Bloor | 9/10/2014 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | | | - | 2,000,000 | | 2,000,000 |
| Legal Fees | 9/12/2014 | 35,625 | 35,625 | 35,625 | 35,625 | 142,500 | | | - | 142,500 | 7,500 | 150,000 |
| Deposit #1 - 774 Yonge St | 10/15/2014 | 62,500 | 62,500 | 62,500 | 62,500 | 250,000 | | | - | 250,000 | | 250,000 |
| Equity top-up October 17, 2014 | 10/17/2014 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | | | - | 2,000,000 | | 2,000,000 |
| CREIT / FIERA \$120M Interest | 11/3/2014 | | | | | - | | 228,323 | 228,323 | 228,323 | | - |
| CREIT / FIERA \$120M Interest | 12/1/2014 | | | | | - | | 577,210 | 577,210 | 577,210 | | - |
| CREIT / FIERA \$120M Interest | 12/17/2014 | | | | | - | | 330,109 | 330,109 | 330,109 | | - |
| Equalization | 12/19/2014 | 1,459,611 | 1,459,611 | 1,459,611 | 1,459,611 | 5,838,444 | | | - | 5,838,444 | 496,243 | 6,334,687 |
| Year End - December 31, 2014 | 12/31/2014 | 7,220,179 | 7,220,179 | 7,220,179 | 7,220,179 | 28,880,716 | - | 1,135,643 | 1,135,643 | 30,016,359 | 1,406,362 | 30,287,079 |
| | | | | | | | | | | | | |
| Natasha Repayment to COCO SH | 3/12/2015 | (25,284) | (25,284) | (25,284) | (25,284) | (101,138) | | | - | (101,138) | 101,138 | - |
| CII - Expenses & Interest | 1/31/2015 | | | | | - | | 347,839 | 347,839 | 347,839 | | - |
| CREIT / FIERA \$120M Interest | 2/2/2015 | | | | | - | | 611,507 | 611,507 | 611,507 | | - |
| CREIT / FIERA \$120M Interest | 3/2/2015 | | | | | - | | 552,329 | 552,329 | 552,329 | | - |
| CREIT / FIERA \$120M Interest | 4/2/2015 | | | | | - | | 611,507 | 611,507 | 611,507 | | - |
| CII - Expenses & Interest | 2/28/2015 | | | | | - | | 241,758 | 241,758 | 241,758 | | - |
| CII - Expenses & Interest | 5/31/2015 | | | | | - | 1,632,906 | | 1,632,906 | 1,632,906 | | - |
| CII - Expenses & Interest | 6/30/2015 | | | | | - | 1,657,677 | | 1,657,677 | 1,657,677 | | - |
| CII - Expenses & Interest | 7/31/2015 | | | | | - | 400,262 | 1,052,740 | 1,453,002 | 1,453,002 | | - |
| CII - Expenses & Interest | 8/31/2015 | | | | | - | 1,913,071 | 1,099,863 | 3,012,934 | 3,012,934 | | - |
| CII - Expenses & Interest | 9/30/2015 | | | | | - | 1,080,375 | 1,099,863 | 2,180,238 | 2,180,238 | | - |
| CII - Expenses & Interest | 10/31/2015 | | | | | - | 1,450,243 | 1,434,110 | 2,884,352 | 2,884,352 | | - |
| | | | | | | - | | | - | - | | - |
| | | | | | | - | | | - | - | | - |
| | | | | | | - | | | - | - | | - |
| | | | | | | - | | | - | - | | - |
| Year End - December 31, 2015 | | (25,284) | (25,284) | (25,284) | (25,284) | (101,138) | 8,134,534 | 7,051,514 | 15,186,048 | 15,084,911 | 101,138 | - |
| | | | | | | | | | | | | |
| GRAND TOTAL TO DATE | | 7,194,895 | 7,194,895 | 7,194,895 | 7,194,895 | 28,779,579 | 8,134,534 | 8,187,157 | 16,321,691 | 45,101,270 | 1,507,500 | 30,287,079 |
| SH Contribution % | | 23.76% | 23.76% | 23.76% | 23.76% | 95.02% | | | | | 4.98% | 100.00% |

A368

The One
Consolidated Summary

| | | Total Coco Group Funding - All Entities | | | | | | | | | |
|--------------------------------------|------------|---|---------------------|-----------|-----------------|------------|-----------|-----------|------------|------------------|----------------------------------|
| | | Coco Shareholder Investments Into 8891303 Canada Inc. | | | | | CII Loan | | | | |
| Description | Date | Jenny (SH) | Rocky (SH) | Bill (SH) | Nina (SH) | Coco SH | | | | Total Coco group | Natasha (SH) 2333065 Ont Inc. |
| | | 1277015 Ontario | RA Coco Engineering | G& N Coco | 1364671 Ontario | Total | Expenses | Interest | Total CII | | |
| 780 - 784 Yonge deposit | 7/22/2014 | 250,000 | 250,000 | 250,000 | 250,000 | 1,000,000 | | | - | 1,000,000 | |
| Deposit #1 - 1 and 11 Bloor | 7/31/2014 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | | | - | 2,000,000 | |
| August 20th closing half of 11 Bloor | 8/20/2014 | 3,512,443 | 3,512,443 | 3,512,443 | 3,512,443 | 14,049,772 | | | - | 14,049,772 | 902,619 |
| Foster & Partners | 8/29/2014 | 150,000 | 150,000 | 150,000 | 150,000 | 600,000 | | | - | 600,000 | |
| 770 Yonge deposit #1 | 9/5/2014 | 250,000 | 250,000 | 250,000 | 250,000 | 1,000,000 | | | - | 1,000,000 | |
| Deposit #2 - 1 and 11 Bloor | 9/10/2014 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | | | - | 2,000,000 | |
| Legal Fees | 9/12/2014 | 35,625 | 35,625 | 35,625 | 35,625 | 142,500 | | | - | 142,500 | 7,500 |
| Deposit #1 - 774 Yonge St | 10/15/2014 | 62,500 | 62,500 | 62,500 | 62,500 | 250,000 | | | - | 250,000 | |
| Equity top-up October 17, 2014 | 10/17/2014 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | | | - | 2,000,000 | |
| CREIT / FIERA \$120M Interest | 11/3/2014 | | | | | - | | 228,323 | 228,323 | 228,323 | |
| CREIT / FIERA \$120M Interest | 12/1/2014 | | | | | - | | 577,210 | 577,210 | 577,210 | |
| CREIT / FIERA \$120M Interest | 12/17/2014 | | | | | - | | 330,109 | 330,109 | 330,109 | |
| Equalization | 12/19/2014 | 1,459,611 | 1,459,611 | 1,459,611 | 1,459,611 | 5,838,444 | | | - | 5,838,444 | 496,243 |
| Year End - December 31, 2014 | 12/31/2014 | 7,220,179 | 7,220,179 | 7,220,179 | 7,220,179 | 28,880,716 | - | 1,135,643 | 1,135,643 | 30,016,359 | 1,406,362 |
| | | | | | | | | | | | |
| Natasha Repayment to COCO SH | 3/12/2015 | (25,284) | (25,284) | (25,284) | (25,284) | (101,138) | | | - | (101,138) | 101,138 |
| CII - Expenses & Interest | 1/31/2015 | | | | | - | | 347,839 | 347,839 | 347,839 | |
| CREIT / FIERA \$120M Interest | 2/2/2015 | | | | | - | | 611,507 | 611,507 | 611,507 | |
| CREIT / FIERA \$120M Interest | 3/2/2015 | | | | | - | | 552,329 | 552,329 | 552,329 | |
| CREIT / FIERA \$120M Interest | 4/2/2015 | | | | | - | | 611,507 | 611,507 | 611,507 | |
| CII - Expenses & Interest | 2/28/2015 | | | | | - | | 241,758 | 241,758 | 241,758 | |
| CII - Expenses & Interest | 5/31/2015 | | | | | - | 1,632,906 | | 1,632,906 | 1,632,906 | |
| CII - Expenses & Interest | 6/30/2015 | | | | | - | 1,657,677 | | 1,657,677 | 1,657,677 | |
| CII - Expenses & Interest | 7/31/2015 | | | | | - | 400,262 | 1,052,740 | 1,453,002 | 1,453,002 | |
| CII - Expenses & Interest | 8/31/2015 | | | | | - | 1,913,071 | 1,099,863 | 3,012,934 | 3,012,934 | |
| CII - Expenses & Interest | 9/30/2015 | | | | | - | 1,080,375 | 1,099,863 | 2,180,238 | 2,180,238 | |
| CII - Expenses & Interest | 10/31/2015 | | | | | - | 1,450,243 | 1,434,110 | 2,884,352 | 2,884,352 | |
| | | | | | | - | | | - | - | |
| | | | | | | - | | | - | - | |
| | | | | | | - | | | - | - | |
| | | | | | | - | | | - | - | |
| Year End - December 31, 2015 | | (25,284) | (25,284) | (25,284) | (25,284) | (101,138) | 8,134,534 | 7,051,514 | 15,186,048 | 15,084,911 | 101,138 |
| | | | | | | | | | | | |
| GRAND TOTAL TO DATE | | 7,194,895 | 7,194,895 | 7,194,895 | 7,194,895 | 28,779,579 | 8,134,534 | 8,187,157 | 16,321,691 | 45,101,270 | 1,507,500 |
| SH Contribution % | | 23.76% | 23.76% | 23.76% | 23.76% | 95.02% | | | | | 4.98% |

The One Consolidated Summary

| | | Total Coco Group Funding - All Entities | | | | | | | | | | Investment Corp 8891303 |
|--------------------------------------|------------|---|---------------------|-----------|-----------------|------------|-----------|-----------|------------|------------------|----------------------------------|----------------------------|
| | | Coco Shareholder Investments Into 8891303 Canada Inc. | | | | | CII Loan | | | | | |
| | | Jenny (SH) | Rocky (SH) | Bill (SH) | Nina (SH) | Coco SH | | | | | | |
| Description | Date | 1277015 Ontario | RA Coco Engineering | G& N Coco | 1364671 Ontario | Total | Expenses | Interest | Total CII | Total Coco group | Natasha (SH) 2333065 Ont Inc. | Total - All SHs |
| 780 - 784 Yonge deposit | 7/22/2014 | 250,000 | 250,000 | 250,000 | 250,000 | 1,000,000 | | | | - 1,000,000 | | 1,000,000 |
| Deposit #1 - 1 and 11 Bloor | 7/31/2014 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | | | | - 2,000,000 | | 2,000,000 |
| August 20th closing half of 11 Bloor | 8/20/2014 | 3,512,443 | 3,512,443 | 3,512,443 | 3,512,443 | 14,049,772 | | | | - 14,049,772 | 902,619 | 14,952,391 |
| Foster & Partners | 8/29/2014 | 150,000 | 150,000 | 150,000 | 150,000 | 600,000 | | | | - 600,000 | | 600,000 |
| 770 Yonge deposit #1 | 9/5/2014 | 250,000 | 250,000 | 250,000 | 250,000 | 1,000,000 | | | | - 1,000,000 | | 1,000,000 |
| Deposit #2 - 1 and 11 Bloor | 9/10/2014 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | | | | - 2,000,000 | | 2,000,000 |
| Legal Fees | 9/12/2014 | 35,625 | 35,625 | 35,625 | 35,625 | 142,500 | | | | - 142,500 | 7,500 | 150,000 |
| Deposit #1 - 774 Yonge St | 10/15/2014 | 62,500 | 62,500 | 62,500 | 62,500 | 250,000 | | | | - 250,000 | | 250,000 |
| Equity top-up October 17, 2014 | 10/17/2014 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | | | | - 2,000,000 | | 2,000,000 |
| CREIT / FIERA \$120M Interest | 11/3/2014 | 57,081 | 57,081 | 57,081 | 57,081 | 228,323 | | 228,323 | 228,323 | 228,323 | | 228,323 |
| CREIT / FIERA \$120M Interest | 12/1/2014 | 144,303 | 144,303 | 144,303 | 144,303 | 577,210 | | 577,210 | 577,210 | 577,210 | | 577,210 |
| CREIT / FIERA \$120M Interest | 12/17/2014 | 82,527 | 82,527 | 82,527 | 82,527 | 330,109 | | 330,109 | 330,109 | 330,109 | | 330,109 |
| Equalization | 12/19/2014 | 1,459,611 | 1,459,611 | 1,459,611 | 1,459,611 | 5,838,444 | | | | - 5,838,444 | 496,243 | 6,334,687 |
| Year End - December 31, 2014 | 12/31/2014 | 7,504,090 | 7,504,090 | 7,504,090 | 7,504,090 | 30,016,359 | - | 1,135,643 | 1,135,643 | 30,016,359 | 1,406,362 | 31,422,721 |
| | | | | | | | | | | | | |
| Natasha Repayment to COCO SH | 3/12/2015 | (25,284) | (25,284) | (25,284) | (25,284) | (101,138) | | | | (101,138) | 101,138 | - |
| CII - Expenses & Interest | 1/31/2015 | | | | | - | | 347,839 | 347,839 | - | | - |
| CREIT / FIERA \$120M Interest | 2/2/2015 | 152,877 | 152,877 | 152,877 | 152,877 | 611,507 | | | | 611,507 | | 611,507 |
| CREIT / FIERA \$120M Interest | 3/2/2015 | 138,082 | 138,082 | 138,082 | 138,082 | 552,329 | | | | 552,329 | | 552,329 |
| CREIT / FIERA \$120M Interest | 4/2/2015 | 152,877 | 152,877 | 152,877 | 152,877 | 611,507 | | | | 611,507 | | 611,507 |
| CII - Expenses & Interest | 2/28/2015 | | | | | - | | 241,758 | 241,758 | - | | - |
| CII - Expenses & Interest | 5/31/2015 | | | | | - | 1,632,906 | | 1,632,906 | 1,632,906 | | - |
| CII - Expenses & Interest | 6/30/2015 | | | | | - | 1,657,677 | | 1,657,677 | 1,657,677 | | - |
| CII - Expenses & Interest | 7/31/2015 | | | | | - | 400,262 | 1,052,740 | 1,453,002 | 400,262 | | - |
| CII - Expenses & Interest | 8/31/2015 | | | | | - | 1,913,071 | 1,099,863 | 3,012,934 | 1,913,071 | | - |
| CII - Expenses & Interest | 9/30/2015 | | | | | - | 1,080,375 | 1,099,863 | 2,180,238 | 1,080,375 | | - |
| CII - Expenses & Interest | 10/31/2015 | | | | | - | 1,450,243 | 1,434,110 | 2,884,352 | 1,450,243 | | - |
| | | | | | | - | | | | - | | - |
| | | | | | | - | | | | - | | - |
| | | | | | | - | | | | - | | - |
| | | | | | | - | | | | - | | - |
| Year End - December 31, 2015 | | 418,551 | 418,551 | 418,551 | 418,551 | 1,674,205 | 8,134,534 | 5,276,172 | 13,410,706 | 9,808,739 | 101,138 | 1,775,342 |
| | | | | | | | | | | | | |
| GRAND TOTAL TO DATE | | 7,922,641 | 7,922,641 | 7,922,641 | 7,922,641 | 31,690,564 | 8,134,534 | 6,411,814 | 14,546,349 | 39,825,098 | 1,507,500 | 33,198,064 |
| SH Contribution % | | 23.86% | 23.86% | 23.86% | 23.86% | 95.46% | | | | | 4.54% | 100.00% |

CII Loan to The One by Vendor
Updated 10/22/2015

| Row Labels | Sum of Cheque Amount |
|---|----------------------|
| Foster + Partners | 4,069,511.40 |
| Core Architects Inc. | 868,831.24 |
| Treasurer, City of Toronto | 404,548.07 |
| Schwartz & Schwartz Professional Corporation | 388,750.00 |
| Sean Teperman Consulting Corp. | 387,537.96 |
| Adam J Brown | 331,258.23 |
| Read Jones Christoffersen | 175,612.98 |
| MGI Asset Management | 169,500.00 |
| MCW Consultants Ltd. | 169,500.00 |
| Altus Group | 164,213.92 |
| Brenbaum, Steinberg, Landow, Savin & Colraine LLP | 150,000.00 |
| Skyway Canada Limited | 119,133.64 |
| BA Consulting Group | 107,046.63 |
| Fogler Rubinoff | 72,916.65 |
| Rowan Williams Davies & Irwin | 65,540.00 |
| Daoust Vukovich LLP | 59,277.52 |
| Terraprobe Inc | 58,929.52 |
| The Planning Partnership | 39,557.85 |
| Bousfields Inc. | 36,115.83 |
| Lerch Bates Inc. | 33,900.00 |
| Cole Engineering Group Ltd. | 32,246.12 |
| Ernst & Young LLP | 31,498.75 |
| Krcmar surveyors Ltd | 30,186.29 |
| Ontario Hydro-Vac Inc. | 29,645.41 |
| DLB Construction | 23,566.60 |
| Extreme Electrical Services Ltd. | 22,095.31 |
| CRA | 18,714.60 |
| Safety First Consulting Professional Corporation | 16,697.96 |
| Masters Insurance Ltd. | 13,662.00 |
| Jensen Hughes (Formerly RBA) | 13,469.60 |
| Enbridge | 10,273.24 |
| Laughlins Solutions Incorporated | 5,358.73 |
| Goldsmith Borgal & Company Ltd. | 4,350.50 |
| Gowling Lafleur Henderson LLP | 4,104.09 |
| McCarthy Tetrault | 3,955.00 |
| Guild Electric Ltd. | 3,028.40 |
| (blank) | |
| Grand Total | 8,134,534.04 |
| Interest | 7,051,514.24 |
| Total Loan balance | 15,186,048.28 |

Payments Made on Behalf of GP Commercial (The One) by CII - Loan Details
October 16, 2015

| Vendor | Invoice # | Invoice Date | Cheque / Wire # | Cheque / Wire Date | Cheque Amount | Description |
|--------------------------------|-----------------|-------------------|------------------|--------------------|---------------------|--|
| Foster + Partners | 2304.06 | January 31, 2015 | WW15050432889117 | May 4, 2015 | 924,000.00 | Architect fees - concept and design |
| Treasurer, City of Toronto | 009-15-TEYM | April 30, 2015 | 1495 | May 5, 2015 | 17,605.97 | City Planning - expanded notice - community consultation |
| MGI Asset Management | 1202186 | April 27, 2015 | WW1505432889078 | May 4, 2015 | 33,900.00 | Asset Management Fee |
| Adam J Brown | 15702 | February 5, 2015 | 1497 | May 7, 2015 | 17,074.30 | Legal Fees - PATH system, Demolition permit, ZBA |
| Adam J Brown | 15777 | March 3, 2015 | 1498 | May 7, 2015 | 42,424.32 | Legal Fees - GFA Calc, heritage study, correspondence with Mayors Office |
| Core Architects | 58662 & 58718 | March 16, 2015 | 1499 | May 7, 2015 | 144,358.79 | Architect fees - design development |
| Krcmar surveyors ltd | 28907/15 | February 27, 2015 | 1496 | May 7, 2015 | 23,146.34 | Surveying - topography information |
| Read Jones Christoffersen | 176145 & 174507 | February 27, 2015 | 1500 | May 12, 2015 | 67,232.57 | Engineering consulting - Schematic Design |
| Rowan Williams Davies & Irwin | 11738 | March 12, 2015 | 1501 | May 14, 2015 | 65,540.00 | Wind Engineering Services |
| Terraprobe Inc | 72450 | December 31, 2014 | 1502 | May 14, 2015 | 30,919.64 | Geotechnical Investigation, substance survey, shoring design drawings |
| DLB Construction | 624 | February 24, 2015 | 1506 | May 14, 2015 | 16,861.18 | General Labour |
| DLB Construction | 633 | March 31, 2015 | 1507 | May 14, 2015 | 2,495.04 | General Labour |
| Sean Teperman Consulting Corp. | stcc49 | March 31, 2015 | 1503 | May 14, 2015 | 1,548.10 | Covered Walkway - ground level |
| Sean Teperman Consulting Corp. | stcc491 | March 25, 2015 | 1504 | May 14, 2015 | 13,312.53 | Covered Walkway - ground level |
| Sean Teperman Consulting Corp. | stcc479 | March 25, 2015 | 1505 | May 14, 2015 | 58,571.79 | Covered Walkway - ground level |
| Lerch Bates Inc. | 1253 | February 26, 2015 | 1508 | May 19, 2015 | 4,011.50 | SD Progress Review |
| Lerch Bates Inc. | 1301 | March 30, 2015 | 1509 | May 19, 2015 | 4,011.50 | Schematic Design |
| MGI Asset Management | 1202188 | May 26, 2015 | WW15052733014947 | May 27, 2015 | 33,900.00 | Asset Management Fee |
| Adam J Brown | 15830 | March 25, 2015 | 1510 | May 29, 2015 | 84,515.50 | Planning |
| Adam J Brown | 15898 | April 10, 2015 | 1511 | May 29, 2015 | 47,477.18 | Planning |
| Advanced - May 2015 | | | | | 1,632,906.25 | |

Jun-15

| | | | | | | |
|--|--------------------------|-------------------|------------------|---------------|------------|---|
| BA Consulting Group | 50609 | February 23, 2015 | 1513 | June 2, 2015 | 10,613.03 | Transportation advisory - loading area review |
| Bousfields Inc. | 27044 | January 28, 2015 | 1514 | June 3, 2015 | 1,401.72 | Urban design planning - preparation of massing |
| Core Architects Inc. | 58741 | April 14, 2015 | 1515 | June 3, 2015 | 144,083.48 | Design development |
| Core Architects Inc. | 58746 | April 14, 2015 | 1516 | June 3, 2015 | 3,727.72 | Printing |
| Safety First Consulting Professional Corporation | 10850 | March 1, 2015 | 1518 | June 3, 2015 | 7,214.77 | Safety inspections |
| Safety First Consulting Professional Corporation | 10700 | February 1, 2015 | 1519 | June 3, 2015 | 9,483.19 | Safety inspections |
| Sean Teperman Consulting Corp. | stcc508 | April 24, 2015 | 1520 | June 3, 2015 | 45,200.00 | Progress billing on \$183K contract |
| Sean Teperman Consulting Corp. | stcc515 | May 5, 2015 | 1521 | June 3, 2015 | 1,548.10 | Skyway - rental 107' |
| The Planning Partnership | 90-13661 | January 31, 2015 | 1522 | June 3, 2015 | 2,416.00 | Preliminary coordination, scheduling and production |
| The Planning Partnership | 90-13756 | February 28, 2015 | 1523 | June 3, 2015 | 17,776.83 | Option 1 - pre-design and schematic design |
| Extreme Electrical Services Ltd. | 580075 | February 26, 2015 | 1524 | June 11, 2015 | 7,176.92 | Electrical work - light installation |
| Extreme Electrical Services Ltd. | 580092 | March 31, 2015 | 1525 | June 11, 2015 | 1,261.84 | Electrical work - voltage leak |
| Treasurer, City of Toronto | 07/02/15 - 1 Bloor St W | May 7, 2015 | 1537 | July 2, 2015 | 55,997.72 | July property taxes - 1 Bloor St W |
| Treasurer, City of Toronto | 07/02/15 - 11 Bloor St W | May 7, 2015 | 1538 | July 2, 2015 | 26,536.03 | July property taxes - 11 Bloor St W |
| Treasurer, City of Toronto | 07/02/15 - 770 Yonge St | May 7, 2015 | 1539 | July 2, 2015 | 9,170.70 | July property taxes - 770 Yonge St |
| Treasurer, City of Toronto | 07/02/15 - 774 Yonge St | May 7, 2015 | 1540 | July 2, 2015 | 5,762.82 | July property taxes - 774 Yonge St |
| Treasurer, City of Toronto | 07/02/15 - 778 Yonge St | May 7, 2015 | 1541 | July 2, 2015 | 6,785.11 | July property taxes - 778 Yonge St |
| Treasurer, City of Toronto | 07/02/15 - 780 Yonge St | May 7, 2015 | 1542 | July 2, 2015 | 24,622.95 | July property taxes - 780 Yonge St |
| Brenbaum, Steinberg, Landow, Savin & Colrairie LLP | N/A | June 29, 2015 | WW15062933209125 | June 29, 2015 | 150,000.00 | Deposit 768 Yonge |
| Jensen Hughes (Formerly RBA) | 2150212 | February 27, 2015 | 1546 | June 25, 2015 | 5,051.10 | Preliminary consulting - engineering |
| Terraprobe Inc | 72846 | January 31, 2015 | 1545 | June 25, 2015 | 15,164.60 | Geotechnical investigation |
| Ontario Hydro-Vac Inc. | 3180 | April 8, 2015 | 1548 | June 25, 2015 | 29,645.41 | Hydro Vac |
| MCW Consultants Ltd. | 40425 | February 27, 2015 | 1549 | June 25, 2015 | 28,250.00 | Design Development - engineering |
| Krcmar surveyors ltd | 29146/15 | March 31, 2015 | 1544 | June 25, 2015 | 1,525.06 | Land Surveying |
| Foster + Partners | 2304.08 / 2304.09 | February 28, 2015 | WW15062633198770 | June 26, 2015 | 924,000.00 | Concept & Schematic Design |
| Cole Engineering Group Ltd. | 29636 & 30219 | January 15, 2015 | 1550 | June 25, 2015 | 11,532.30 | Engineering documents for re-zoning application |
| Adam J Brown | 15975 | May 4, 2015 | 1543 | June 25, 2015 | 21,425.18 | City Planning |
| Altus Group | 144912 | April 28, 2015 | 1547 | June 25, 2015 | 56,404.47 | Detailed construction cost estimate preparation |
| MGI Asset Management | 1202189 | June 25, 2015 | WW15062633198861 | June 26, 2015 | 33,900.00 | Asset Management Oversight |

Advanced - June 2015

1,657,677.05

15-Jul

| | | | | | | |
|--------------------------------|----------|----------------|------|---------------|------------|--|
| Gowling Lafleur Henderson LLP | 18228765 | June 12, 2015 | 1552 | July 2, 2015 | 2,695.27 | Amendments to agreements |
| Core Architects Inc. | 58897 | May 8, 2015 | 1551 | July 2, 2015 | 144,082.90 | Design Development |
| BA Consulting Group | 50740 | March 13, 2015 | 1553 | July 16, 2015 | 18,667.60 | Schematic Design |
| Bousfields Inc. | 27415 | March 30, 2015 | 1554 | July 16, 2015 | 16,983.00 | Planning / Urban Design Rationale Report |
| MCW Consultants Ltd. | 40588 | March 30, 2015 | 1556 | July 16, 2015 | 42,375.00 | Design Development |
| Read Jones Christoffersen | 177993 | March 31, 2015 | 1557 | July 16, 2015 | 27,319.50 | Schematic Design |
| Terraprobe Inc | 73703 | March 28, 2015 | 1558 | July 16, 2015 | 12,845.28 | Shoring Design Drawings |
| Cole Engineering Group Ltd. | 30675 | March 17, 2015 | 1555 | July 16, 2015 | 11,366.39 | Re-Zoning application |
| Sean Teperman Consulting Corp. | stcc525 | May 25, 2015 | 1565 | July 23, 2015 | 65,879.00 | Covered Walkway - ground level |
| Sean Teperman Consulting Corp. | stcc523 | May 25, 2015 | 1566 | July 23, 2015 | 56,500.00 | Covered Walkway - ground level |
| Sean Teperman Consulting Corp. | stcc535 | June 3, 2015 | 1567 | July 23, 2015 | 1,548.10 | Covered Walkway - ground level |

Advanced - July 2015

400,262.04

15-Aug

| | | | | | | |
|----------------------------------|--------------------------|----------------|------------------|-----------------|------------|--|
| Treasurer, City of Toronto | 08/04/15 - 1 Bloor St W | August 4, 2015 | 1559 | August 4, 2015 | 55,995.00 | August property taxes - 1 Bloor St W |
| Treasurer, City of Toronto | 08/04/15 - 11 Bloor St W | August 4, 2015 | 1560 | August 4, 2015 | 26,534.00 | August property taxes - 11 Bloor St W |
| Treasurer, City of Toronto | 08/04/15 - 770 Yonge St | August 4, 2015 | 1561 | August 4, 2015 | 9,168.00 | August property taxes - 770 Yonge St |
| Treasurer, City of Toronto | 08/04/15 - 774 Yonge St | August 4, 2015 | 5761 | August 4, 2015 | 5,761.00 | August property taxes - 774 Yonge St |
| Treasurer, City of Toronto | 08/04/15 - 778 Yonge St | August 4, 2015 | 1563 | August 4, 2015 | 6,784.00 | August property taxes - 778 Yonge St |
| Treasurer, City of Toronto | 08/04/15 - 780 Yonge St | August 4, 2015 | 1564 | August 4, 2015 | 24,622.00 | August property taxes - 780 Yonge St |
| MGI Asset Management | 1202191 | July 27, 2015 | WW15080533428599 | August 5, 2015 | 33,900.00 | Asset Management Oversight |
| Skyway Canada Limited | 5904 | July 30, 2015 | 1568 | August 7, 2015 | 105,428.00 | Scaffold purchase |
| Foster + Partners | 2304.10 / 2304.11 | March 31, 2015 | WW15081133457128 | August 11, 2015 | 907,116.90 | Architect fees - concept and design |
| Sean Teperman Consulting Corp. | stcc560 | June 26, 2015 | 1569 | August 7, 2015 | 2,226.10 | Covered Walkway - ground level |
| Sean Teperman Consulting Corp. | stcc553 | June 25, 2015 | 1570 | August 7, 2015 | 33,900.00 | Covered Walkway - ground level |
| The Planning Partnership | 90-13910 | April 30, 2015 | 1571 | August 7, 2015 | 13,746.95 | Re-zoning / schematic design / design development |
| Fogler Rubinoff | 21507851 | June 23, 2015 | 1573 | August 7, 2015 | 52,054.47 | Draft numerous agreements - credit, loan, covenant |
| Gowling Lafleur Henderson LLP | 18194437 | April 22, 2015 | 1574 | August 7, 2015 | 1,408.82 | Development management agreement |
| Guild Electric Ltd. | 80059 | May 29, 2015 | 1575 | August 7, 2015 | 3,028.40 | Decorative pedestrian light pole - Labour |
| Krcmar surveyors ltd | 29311/15 | April 30, 2015 | 1576 | August 7, 2015 | 3,277.00 | Land Surveying Fees |
| Krcmar surveyors ltd | 29671/15 | May 29, 2015 | 1577 | August 7, 2015 | 2,237.89 | Land Surveying Fees |
| Lerch Bates Inc. | 1443 | June 22, 2015 | 1580 | August 7, 2015 | 7,345.00 | SD / concept & design |
| Lerch Bates Inc. | 1390 | May 21, 2015 | 1581 | August 7, 2015 | 5,085.00 | SD / concept & design |
| Daoust Vukovich LLP | 79553 | May 31, 2015 | 1582 | August 7, 2015 | 5,018.90 | Lease draft, legal fees |
| Daoust Vukovich LLP | 79551 | May 31, 2015 | 1583 | August 7, 2015 | 6,127.71 | Lease draft, legal fees |
| Daoust Vukovich LLP | 79883 | June 30, 2015 | 1584 | August 7, 2015 | 3,738.04 | Lease draft, legal fees |
| Daoust Vukovich LLP | 79884 | June 30, 2015 | 1585 | August 7, 2015 | 8,636.28 | Lease draft, legal fees |
| DLB Construction | 647 | May 27, 2015 | 1586 | August 7, 2015 | 3,586.62 | General Labour |
| DLB Construction | 658 | June 28, 2015 | 1587 | August 7, 2015 | 623.76 | General Labour |
| McCarthy Tetrault | 2772006 | May 28, 2015 | 1588 | August 7, 2015 | 3,955.00 | Loan structure review |
| MCW Consultants Ltd. | 40891 | May 29, 2015 | 1589 | August 7, 2015 | 28,250.00 | Design development |
| MCW Consultants Ltd. | 40747 | April 29, 2015 | 1590 | August 7, 2015 | 14,125.00 | Design development |
| Jensen Hughes (Formerly RBA) | 2151017 | May 29, 2015 | 1591 | August 7, 2015 | 5,051.10 | Preliminary consulting |
| Read Jones Christoffersen | 179654 | April 30, 2015 | 1592 | August 7, 2015 | 35,248.94 | Schematic design & design development |
| Read Jones Christoffersen | 181825 | May 29, 2015 | 1593 | August 7, 2015 | 6,014.78 | Schematic design & design development |
| Enbridge | WR11439748 | July 30, 2015 | 1594 | August 7, 2015 | 10,273.24 | Cut-off Gas Main |
| Ernst & Young LLP | CA0189929973 | April 23, 2015 | 1595 | August 7, 2015 | 31,498.75 | Audited FS - The One 12/31/14 |
| Extreme Electrical Services Ltd. | 580107 | May 26, 2015 | 1596 | August 7, 2015 | 11,846.92 | Generator Rental |
| Extreme Electrical Services Ltd. | 580084 | March 25, 2015 | 1597 | August 7, 2015 | 1,809.63 | Plug testing |
| Altus Group | 149732 | June 10, 2015 | 1598 | August 7, 2015 | 5,438.29 | Cost planning services |
| Altus Group | 154695 | July 23, 2015 | 1599 | August 7, 2015 | 45,241.13 | Detailed construction estimate |
| Bousfields Inc. | 27619 | April 28, 2015 | 1600 | August 7, 2015 | 13,142.29 | Zoning amendment and schedule / planning rationale |
| BA Consulting Group | 50956 | April 10, 2015 | 1601 | August 7, 2015 | 29,285.53 | Traffic analysis |
| BA Consulting Group | 51348 | May 8, 2015 | 1602 | August 7, 2015 | 8,163.01 | Revise loading / ground area |
| BA Consulting Group | 51510 / 51510 | June 5, 2015 | 1603 | August 7, 2015 | 6,378.85 | Ramp plan / site design |

| | | | | | | |
|----------------------------------|---------------|-----------------|------------------|-----------------|---------------------|-------------------------------|
| Adam J Brown | 16075 | June 5, 2015 | 1604 | August 10, 2015 | 72,378.36 | 35 Balmuto |
| Cole Engineering Group Ltd. | 32436 | July 16, 2015 | 1605 | August 10, 2015 | 2,360.51 | Re-zoning engineering package |
| Cole Engineering Group Ltd. | 31871 | June 10, 2015 | 1606 | August 10, 2015 | 6,986.92 | Re-zoning engineering package |
| Core Architects Inc. | 59005 \ 59016 | June 8, 2015 | 1607 | August 10, 2015 | 144,251.34 | Design development |
| Laughlins Solutions Incorporated | N/A - Permit | June 29, 2015 | 1609 | August 17, 2015 | 4,021.41 | Permit - Piling and Shoring |
| Schwartz & Schwartz | N/A | August 20, 2015 | WW15082033512250 | August 20, 2015 | 100,000.00 | Deposit 760 - 762 Yonge |
| Advanced - August 2015 | | | | | 1,913,070.84 | |

15-Sep

| | | | | | | |
|----------------------------------|-----------------------------|-------------------|------------------|--------------------|---------------------|---|
| MGI Asset Management | 1202193 | August 24, 2015 | WW15090133584203 | September 1, 2015 | 33,900.00 | Asset Management Fee |
| Treasurer, City of Toronto | 08/04/15 - 1 Bloor St W | September 1, 2015 | 1611 | September 1, 2015 | 55,995.00 | August property taxes - 1 Bloor St W |
| Treasurer, City of Toronto | 08/04/15 - 11 Bloor St W | September 1, 2015 | 1612 | September 1, 2015 | 26,534.00 | August property taxes - 11 Bloor St W |
| Treasurer, City of Toronto | 08/04/15 - 770 Yonge St | September 1, 2015 | 1613 | September 1, 2015 | 9,168.00 | August property taxes - 770 Yonge St |
| Treasurer, City of Toronto | 08/04/15 - 774 Yonge St | September 1, 2015 | 1614 | September 1, 2015 | 5,761.00 | August property taxes - 774 Yonge St |
| Treasurer, City of Toronto | 08/04/15 - 778 Yonge St | September 1, 2015 | 1615 | September 1, 2015 | 6,784.00 | August property taxes - 778 Yonge St |
| Treasurer, City of Toronto | 08/04/15 - 780 Yonge St | September 1, 2015 | 1616 | September 1, 2015 | 24,622.00 | August property taxes - 780 Yonge St |
| BA Consulting Group | 7412-15, 7412-04 | July 3, 2015 | 1619 | September 11, 2015 | 14,548.75 | Transportation advisory / shoring & excavation plan |
| Bousfields Inc. | 27982 | June 29, 2015 | 1620 | September 11, 2015 | 2,847.20 | Planning - Urban Design |
| Core Architects Inc. | 59163 | July 10, 2015 | 1626 | September 11, 2015 | 144,243.53 | Design development installments |
| Goldsmith Borgal & Company Ltd. | 7980, 7945 | July 14, 2015 | 1625 | September 11, 2015 | 4,350.50 | Architectural research - field work |
| Lerch Bates Inc. | 1495 | July 16, 2015 | 1624 | September 11, 2015 | 9,322.50 | Concept / design |
| Masters Insurance Ltd. | 305447, 305446, 305445 | August 27, 2015 | 1623 | September 11, 2015 | 13,662.00 | Insurance |
| MCW Consultants Ltd. | 40981 | June 29, 2015 | 1622 | September 11, 2015 | 14,125.00 | Design development |
| Sean Teperman Consulting Corp. | 574, 559, 552, 538-540, 545 | June 30, 2015 | 1621 | September 11, 2015 | 50,725.14 | Scaffolding rental and Demo Progress billing |
| The Planning Partnership | 90-14062 | May 31, 2015 | 1618 | September 11, 2015 | 5,618.07 | Schematic design and development |
| Foster + Partners | 2304.12 | April 30, 2015 | WW15091733674491 | September 14, 2015 | 658,168.50 | Detail design |
| Advanced - September 2015 | | | | | 1,080,375.19 | |

15-Oct

| | | | | | | |
|----------------------------------|--------------------|--------------------|------------------|------------------|------------|---|
| Laughlins Solutions Incorporated | 1156231 & 1156232 | September 18, 2015 | 1629 | October 6, 2015 | 1,337.32 | Permits - Sign and Initial Building |
| Skyway Canada Limited | 122104 | September 24, 2015 | 1628 | October 6, 2015 | 13,705.64 | HST on Scaffold |
| CRA | N/A | September 11, 2015 | 1630 | October 6, 2015 | 18,714.60 | Withholding taxes on Foster Payments |
| Adam J Brown | 16200 / 16261 | July 24, 2015 | 1631 | October 13, 2015 | 45,963.39 | Various - municipal approvals consultant |
| Altus Group | 156276 | August 12, 2015 | 1632 | October 13, 2015 | 34,530.03 | Budgeting / cost planning |
| BA Consulting Group | 52162 | August 28, 2015 | 1633 | October 13, 2015 | 19,389.86 | Transportation advisory - loading area review |
| Daoust Vukovich LLP | 80412 | July 31, 2015 | 1634 | October 13, 2015 | 22,764.13 | Condo leases and H&M lease |
| Daoust Vukovich LLP | 80854 | August 31, 2015 | 1635 | October 13, 2015 | 12,992.46 | Condo leases and Apple lease |
| MCW Consultants Ltd. | 41135 | July 30, 2015 | 1636 | October 13, 2015 | 14,125.00 | Design development |
| Read Jones Christoffersen | 185488 | July 31, 2015 | 1637 | October 13, 2015 | 22,741.25 | Schematic design and design development |
| Core Architects Inc. | 59306 | August 6, 2015 | 1639 | October 13, 2015 | 144,083.48 | Design Development |
| Bousfields Inc. | 28334 | August 28, 2015 | 1638 | October 13, 2015 | 1,741.62 | Planning Architect |
| Schwartz & Schwartz | N/A | October 15, 2015 | WW15101533836048 | October 15, 2015 | 288,750.00 | Second Deposit 760 - 762 Yonge |
| Professional Corporation | | | | | | |
| Altus Group | 162069 | October 20, 2015 | 1640 | October 23, 2015 | 22,600.00 | Deposit |
| Read Jones Christoffersen | 184144 | June 30, 2015 | | | 17,055.94 | Schematic design and design development |
| Fogler Rubinoff | 21510724 | August 26, 2015 | | | 20,862.18 | Various - agreements and meetings |
| Foster + Partners | 2304.14 & 2304.15 | July 31, 2015 | | | 656,226.00 | Detail design |
| Jensen Hughes (Formerly RBA) | 2151326 | July 31, 2015 | | | 3,367.40 | Preliminary consulting |
| Lerch Bates Inc. | 1550 | August 27, 2015 | | | 4,124.50 | Concept / Design |
| MCW Consultants Ltd. | 41271 | August 28, 2015 | | | 28,250.00 | Design development |
| Sean Teperman Consulting Corp. | 576, 577, 586, 640 | July 24, 2015 | | | 56,579.10 | Demo |
| Treasurer, City of Toronto | 8/17/2015 | August 17, 2015 | | | 338.77 | Water |

| | |
|--|---------------|
| Advanced - October 2015 | 1,450,242.67 |
| Total Expenses Paid | 8,134,534.04 |
| Interest Payments since June 2015's burden | 7,051,514.24 |
| Grand Total | 15,186,048.28 |

Note CII has been paying interest on CREIT and FIERA loans starting July 2nd for the June interest amounts

Interest Payments paid by CII

CREIT, FIERA, VTB

Updated

October 17, 2015

| Date Paid | Interest Period | CREIT \$70MM | CREIT \$50MM mezz | Fiera \$50 MM | Fiera \$25MM | 778 VTB interest | Total |
|--------------------|-----------------|--------------|-------------------|---------------|--------------|------------------|------------------|
| 11/3/2014 | 14-Oct | 228,323 | | | | | 228,323 |
| 12/1/2014 | 14-Nov | 577,210 | | | | | 577,210 |
| 12/17/2014 | 14-Dec | 330,109 | | | | | 330,109 |
| 1/2/2015 | Dec-14 | 276,165 | 71,674 | | | | 347,839 |
| 2/2/2015 | Jan-15 | 611,507 | | | | | 611,507 |
| 3/2/2015 | Feb-15 | 470,137 | | 82,191.78 | | | 552,329 |
| 4/2/2015 | Mar-15 | 611,507 | | | - | | 611,507 |
| 2/3/2015 | Jan-15 | | 241,757.71 | | | | 241,758 |
| 7/2/2015 | Jun-15 | 345,205 | 255,479 | 246,575 | 205,479 | - | 1,052,740 |
| 8/4/2015 | Jul-15 | 356,712 | 276,027 | 254,795 | 212,329 | - | 1,099,863 |
| 9/1/2015 | Aug-15 | 356,712 | 276,027 | 254,795 | 212,329 | | 1,099,863 |
| 10/1/2015 | Sep-15 | 345,205 | 267,123 | 246,575 | 205,479 | | 1,064,384 |
| 10/19/2015 | Oct-15 | 200,548 | 169,178 | | | | 369,726 |
| | | | | | | | - |
| | | | | | | | - |
| | | | | | | | - |
| | | | | | | | - |
| | | | | | | | - |
| | | | | | | | - |
| Grand Total | | 1,604,384 | 1,243,836 | 1,002,740 | 835,616 | - | 7,051,514 |

Payments Made on Behalf of GP Commercial (The One) by CII - Loan Details
October 17, 2015

| Vendor | Invoice # | Invoice Date | Cheque / Wire # | Cheque / Wire Date | Cheque Amount | Description | HST |
|--|---------------|-------------------|------------------|--------------------|---------------|--|-----------|
| Adam J Brown | 15702 | February 5, 2015 | 1497 | May 7, 2015 | 17,074.30 | Legal Fees - PATH system, Demolition permit, ZBA | 1,964.30 |
| Adam J Brown | 15777 | March 3, 2015 | 1498 | May 7, 2015 | 42,424.32 | Legal Fees - GFA Calc, heritage study, correspondence with Mayors Office | 4,880.67 |
| Adam J Brown | 15830 | March 25, 2015 | 1510 | May 29, 2015 | 84,515.50 | Planning | 9,723.02 |
| Adam J Brown | 15898 | April 10, 2015 | 1511 | May 29, 2015 | 47,477.18 | Planning | 5,461.98 |
| Adam J Brown | 15975 | May 4, 2015 | 1543 | June 25, 2015 | 21,425.18 | City Planning | 2,464.84 |
| Adam J Brown | 16075 | June 5, 2015 | 1604 | August 10, 2015 | 72,378.36 | 35 Balmuto | 8,326.71 |
| Altus Group | 144912 | April 28, 2015 | 1547 | June 25, 2015 | 56,404.47 | Detailed construction cost estimate preparation | 6,489.01 |
| Altus Group | 149732 | June 10, 2015 | 1598 | August 7, 2015 | 5,438.29 | Cost planning services | 625.64 |
| Altus Group | 154695 | July 23, 2015 | 1599 | August 7, 2015 | 45,241.13 | Detailed construction estimate | 5,204.73 |
| BA Consulting Group | 50609 | February 23, 2015 | 1513 | June 2, 2015 | 10,613.03 | Transportation advisory - loading area review | 1,220.97 |
| BA Consulting Group | 50740 | March 13, 2015 | 1553 | July 16, 2015 | 18,667.60 | Schematic Design | 2,147.60 |
| BA Consulting Group | 50956 | April 10, 2015 | 1601 | August 7, 2015 | 29,285.53 | Traffic analysis | 3,369.13 |
| BA Consulting Group | 51348 | May 8, 2015 | 1602 | August 7, 2015 | 8,163.01 | Revise loading / ground area | 939.11 |
| BA Consulting Group | 51510 / 51510 | June 5, 2015 | 1603 | August 7, 2015 | 6,378.85 | Ramp plan / site design | 733.85 |
| Bousfields Inc. | 27044 | January 28, 2015 | 1514 | June 3, 2015 | 1,401.72 | Urban design planning - preparation of massing | 161.26 |
| Bousfields Inc. | 27415 | March 30, 2015 | 1554 | July 16, 2015 | 16,983.00 | Planning / Urban Design Rationale Report | 1,953.80 |
| Bousfields Inc. | 27619 | April 28, 2015 | 1600 | August 7, 2015 | 13,142.29 | Zoning amendment and schedule / planning rationale | 1,511.94 |
| Brenbaum, Steinberg, Landow, Savin & Colrairie LLP | N/A | June 29, 2015 | WW15062933209125 | June 29, 2015 | 150,000.00 | Deposit 768 Yonge | 17,256.64 |
| Cole Engineering Group Ltd. | 29636 & 30219 | January 15, 2015 | 1550 | June 25, 2015 | 11,532.30 | Engineering documents for re-zoning application | 1,326.72 |
| Cole Engineering Group Ltd. | 30675 | March 17, 2015 | 1555 | July 16, 2015 | 11,366.39 | Re-Zoning application | 1,307.64 |
| Cole Engineering Group Ltd. | 32436 | July 16, 2015 | 1605 | August 10, 2015 | 2,360.51 | Re-zoning engineering package | 271.56 |
| Cole Engineering Group Ltd. | 31871 | June 10, 2015 | 1606 | August 10, 2015 | 6,986.92 | Re-zoning engineering package | 803.80 |
| Core Architects Inc. | 58662 & 58718 | March 16, 2015 | 1499 | May 7, 2015 | 144,358.79 | Architect fees - design development | 16,607.65 |
| Core Architects Inc. | 58741 | April 14, 2015 | 1515 | June 3, 2015 | 144,083.48 | Design development | 16,575.98 |
| Core Architects Inc. | 58746 | April 14, 2015 | 1516 | June 3, 2015 | 3,727.72 | Printing | 428.85 |
| Core Architects Inc. | 58897 | May 8, 2015 | 1551 | July 2, 2015 | 144,082.90 | Design Development | 16,575.91 |
| Core Architects Inc. | 59005 \ 59016 | June 8, 2015 | 1607 | August 10, 2015 | 144,251.34 | Design development | 16,595.29 |
| Daoust Vukovich LLP | 79553 | May 31, 2015 | 1582 | August 7, 2015 | 5,018.90 | Lease draft, legal fees | 577.40 |
| Daoust Vukovich LLP | 79551 | May 31, 2015 | 1583 | August 7, 2015 | 6,127.71 | Lease draft, legal fees | 704.96 |
| Daoust Vukovich LLP | 79883 | June 30, 2015 | 1584 | August 7, 2015 | 3,738.04 | Lease draft, legal fees | 430.04 |

A379

CII to The One Loan - Bloor
Daoust Vukovich LLP
10/14/2015

| Invoice Date | Invoice # | Cheque / Wire # | Cheque / Wire Date | Description | Net of HST. |
|-----------------|-----------|-----------------|--------------------|------------------------------|-------------|
| May 31, 2015 | 79553 | 1582 | August 7, 2015 | Lease draft, legal fees | 4,441.50 |
| | 79551 | 1583 | August 7, 2015 | Lease draft, legal fees | 5,422.75 |
| June 30, 2015 | 79883 | 1584 | August 7, 2015 | Lease draft, legal fees | 3,308.00 |
| | 79884 | 1585 | August 7, 2015 | Lease draft, legal fees | 7,642.73 |
| July 31, 2015 | 80412 | 1634 | October 13, 2015 | Condo leases and H&M lease | 20,145.25 |
| August 31, 2015 | 80854 | 1635 | October 13, 2015 | Condo leases and Apple lease | 11,497.75 |
| Grand Total | | | | | 52,457.98 |

No Quote

A379

| | |
|--|--|
| Sources of funds | |
| 1277015 Ontario (Jenny) | |
| RA Coco Engineering (Rocky) | |
| G& N Coco (Bill) | |
| 1364671 Ontario (Nina) | |
| Natasha Sharpe | |
| Subtotal | |
| Coco International - EXPENSES | |
| Coco International - INTEREST on MEZZ \$50M CREIT | |
| Coco International - INTEREST on FIERA \$25M Injection | |
| VTB Mortgage | |
| Total | |

| Sources of funds | August 20th closing half of 11 | | | |
|--|--------------------------------|-----------------------------|---------------|-------------------|
| | 780 - 784 Yonge deposit | Deposit #1 - 1 and 11 Bloor | Bloor | Foster & Partners |
| 1277015 Ontario (Jenny) | 250,000.00 | 500,000.00 | 3,512,443.00 | 150,000.00 |
| RA Coco Engineering (Rocky) | 250,000.00 | 500,000.00 | 3,512,443.00 | 150,000.00 |
| G& N Coco (Bill) | 250,000.00 | 500,000.00 | 3,512,443.00 | 150,000.00 |
| 1364671 Ontario (Nina) | 250,000.00 | 500,000.00 | 3,512,443.00 | 150,000.00 |
| Natasha Sharpe | | | 902,619.35 | |
| Subtotal | | | | |
| Coco International - EXPENSES | | | | |
| Coco International - INTEREST on MEZZ \$50M CREIT | | | | |
| Coco International - INTEREST on FIERA \$25M Injection | | | | |
| VTB Mortgage | | | | |
| Total | 1,000,000.00 | 2,000,000.00 | 14,952,391.35 | 600,000.00 |

| Sources of funds | | | | | | |
|--|----------------------|-----------------------------|----------------------------|---------------------------|-------------------------------|--------------------------------|
| | 770 Yonge deposit #1 | Deposit #2 - 1 and 11 Bloor | Deposit #2 - 780-784 Yonge | Deposit #1 - 774 Yonge St | September 12, 2015 Legal Fees | Equity top-up October 17, 2014 |
| 1277015 Ontario (Jenny) | 250,000.00 | 500,000.00 | | 62,500.00 | 35,625.00 | 500,000.00 |
| RA Coco Engineering (Rocky) | 250,000.00 | 500,000.00 | | 62,500.00 | 35,625.00 | 500,000.00 |
| G& N Coco (Bill) | 250,000.00 | 500,000.00 | | 62,500.00 | 35,625.00 | 500,000.00 |
| 1364671 Ontario (Nina) | 250,000.00 | 500,000.00 | | 62,500.00 | 35,625.00 | 500,000.00 |
| Natasha Sharpe | | | | | | |
| Subtotal | | | | | | |
| Coco International - EXPENSES | | | | | | |
| Coco International - INTEREST on MEZZ \$50M CREIT | | | | | | |
| Coco International - INTEREST on FIERA \$25M Injection | | | | | | |
| VTB Mortgage | | | | | | |
| Total | 1,000,000.00 | 6,000,000.00 | 1,000,000.00 | 250,000.00 | | 3,197,608.65 |

| Sources of funds | | | | Total | November 3, 2014 interest payment | |
|--|--|-------------|-----------------------------|---------------|--------------------------------------|-----------|
| | | 19-Dec-14 | Interest Income 12/31/14 | | | |
| 1277015 Ontario (Jenny) | | 1,412,738 | 46,873 | 7,220,179.08 | 23.159% | 57,081 |
| RA Coco Engineering (Rocky) | | 1,412,738 | 46,873 | 7,220,179.08 | 23.159% | 57,081 |
| G& N Coco (Bill) | | 1,412,738 | 46,873 | 7,220,179.08 | 23.159% | 57,081 |
| 1364671 Ontario (Nina) | | 1,412,738 | 46,873 | 7,220,179.08 | 23.159% | 57,081 |
| Natasha Sharpe | | 496,243 | | 1,398,862.28 | 4.487% Shortfall | ### |
| Subtotal | | | | 30,279,578.60 | | 228,323 |
| Coco International - EXPENSES | | | 896,870 | 896,869.50 | | |
| Coco International - INTEREST on MEZZ \$50M CREIT | | | | - | | |
| Coco International - INTEREST on FIERA \$25M Injection | | | | - | | |
| VTB Mortgage | | | | - | | |
| Total | | (50,414.96) | 187,493.56 | 896,869.50 | 31,176,448.10 | 228,323 - |

| Sources of funds | | | | | |
|--|--------------------------------------|---------------------------------------|----------------|---------------|----------|
| | December 1, 2014 interest payment | December 17, 2014 interest payment | Total Interest | Grand total | |
| 1277015 Ontario (Jenny) | 144,303 | 82,527 | 283,911 | 7,504,089.76 | 23.224% |
| RA Coco Engineering (Rocky) | 144,303 | 82,527 | 283,911 | 7,504,089.77 | 23.224% |
| G& N Coco (Bill) | 144,303 | 82,527 | 283,911 | 7,504,089.76 | 23.224% |
| 1364671 Ontario (Nina) | 144,303 | 82,527 | 283,911 | 7,504,089.77 | 23.224% |
| Natasha Sharpe | | | | 1,398,862.28 | 4.329% |
| Subtotal | 577,210 | 330,109 | 1,135,643 | 31,415,221 | |
| Coco International - EXPENSES | | | - | 896,869.50 | |
| Coco International - INTEREST on MEZZ \$50M CREIT | | | - | - | |
| Coco International - INTEREST on FIERA \$25M Injection | | | - | - | |
| VTB Mortgage | | | - | - | |
| Total | 577,210 | 330,109 | 1,135,643 | 32,312,090.84 | 100.000% |

7,504,089.76

7,504,089.44

(0.32)

46,873.394

46,873.714

| | | | | | | | | TOTAL PURCHASE PRICE INCL. LTT | Revised Statement of Adjustments for Closing | | TOTAL ACQUISITION PRICE | | | | |
|--|-------------------|-----------------|------------------|------------------|------------------------|-----------------|-------------------|--------------------------------|--|-------------------|-------------------------|-----------------|-----------------|------------------|------------------|
| | Purchase Price | Deposit #1 | Deposit #2 | VTB | Balance Due on Closing | | Land Transfer Tax | | Title Insurance | | | 22-Jul-14 | 31-Jul-14 | 20-Aug-14 | 29-Aug-14 |
| 1 Bloor St W | \$ 105,000,000.00 | \$ 1,000,000.00 | \$ 4,000,000.00 | \$ - | \$ 101,226,830.84 | \$ 2,821,200.00 | | \$ 109,048,030.84 | | \$ 104,048,030.84 | \$ 109,048,030.84 | | \$ 1,000,000.00 | | |
| 11 Bloor St W - Frank Stollery (2011) Ltd. | \$ 15,000,000.00 | \$ 500,000.00 | \$ 2,000,000.00 | \$ - | \$ 12,500,000.00 | \$ 446,200.00 | | \$ 15,446,200.00 | \$ 46,108.35 | \$ 12,992,308.35 | \$ 15,492,308.35 | | \$ 500,000.00 | | |
| 11 Bloor St W - 2243968 Ontario Ltd. | \$ 15,000,000.00 | \$ 500,000.00 | | \$ - | \$ 14,500,000.00 | \$ 446,200.00 | | \$ 15,446,200.00 | \$ 6,191.35 | \$ 14,952,391.35 | \$ 15,452,391.35 | | \$ 500,000.00 | \$ 14,952,391.35 | |
| 780 - 784 Yonge St | \$ 23,000,000.00 | \$ 1,000,000.00 | \$ 1,000,000.00 | \$ - | \$ 21,000,000.00 | \$ 686,200.00 | | \$ 23,686,200.00 | \$ 62,893.55 | \$ 21,749,093.55 | \$ 23,749,093.55 | \$ 1,000,000.00 | | | |
| 768 Yonge St | \$ 4,975,000.00 | \$ 100,000.00 | \$ 150,000.00 | | \$ 4,725,000.00 | \$ 145,450.00 | | \$ 5,120,450.00 | | \$ 4,870,450.00 | \$ 5,120,450.00 | | | | |
| 770 Yonge St | \$ 15,987,426.26 | \$ 1,000,000.00 | \$ 500,000.00 | \$ - | \$ 14,487,426.26 | \$ 476,200.00 | | \$ 16,463,626.26 | \$ 3,736.80 | \$ 14,967,363.06 | \$ 16,467,363.06 | | | | |
| 774 Yonge St | \$ 15,000,000.00 | \$ 250,000.00 | \$ 500,000.00 | \$ - | \$ 14,250,000.00 | \$ 579,300.00 | | \$ 15,579,300.00 | \$ 250,000.00 | \$ 15,079,300.00 | \$ 15,829,300.00 | | | | |
| 778 Yonge St | \$ 18,775,000.00 | \$ 650,000.00 | \$ 1,909,450.00 | | \$ 16,215,550.00 | \$ 559,450.00 | | \$ 19,334,450.00 | \$ 11,057.58 | \$ 16,786,057.58 | \$ 19,345,507.58 | | | | |
| VTB 778 Yonge St | | | | \$ 12,000,000.00 | | | | | VTB | \$ 12,000,000.00 | | | | | |
| Total | \$ 212,737,426.26 | \$ 5,000,000.00 | \$ 10,059,450.00 | \$ 12,000,000.00 | \$ 198,904,807.10 | \$ 6,160,200.00 | | \$ 220,124,457.10 | \$ 379,987.63 | \$ 217,444,994.73 | \$ 220,504,444.73 | \$ 1,000,000.00 | \$ 2,000,000.00 | \$ 14,952,391.35 | \$ - |
| Foster + Partners | | | | | | | | | | | | | | | \$ 600,000.00 |
| Equity top-up | | | | | | | | | | | | | | | |
| Legal Fees and Expenses | | | | | | | | | | | | | | | |
| Property taxes | | | | | | | | | | | | | | | |
| VTB interest | | | | | | | | | | | | | | | |
| CREIT mezzanine Financing fee | | | | | | | | | | | | | | | |
| Mizrahi Development fee | | | | | | | | | | | | | | | |
| LP Unit Certificates Issued | | | | | | | | | LP Unit Certificates Issued | | | A1-2 | | A1-3 | A1-4 |
| Coco Injection: | | | | | | | | | | | | \$ 1,000,000.00 | \$ 2,000,000.00 | \$ 14,952,391.35 | \$ 600,000.00 |
| - cumulative | | | | | | | | | | | | \$ 1,000,000.00 | \$ 3,000,000.00 | \$ 17,952,391.35 | \$ 18,552,391.35 |
| CREIT Injection: | | | | | | | | | | | | | | | |
| - cumulative | | | | | | | | | | | | | | | |
| Mezz. Financing CREIT | | | | | | | | | | | | | | | |
| - cumulative | | | | | | | | | | | | | | | |
| Mezz. Financing - TBC | | | | | | | | | | | | | | | |
| - cumulative | | | | | | | | | | | | | | | |
| VTB | | | | | | | | | | | | | | | |

deposit made

closed transaction

| Sources of funds | | | | | August 20th closing half of 11 | | | |
|--|-------------------------|-----------------------------|---------------|-------------------|--------------------------------|--|--|--|
| | 780 - 784 Yonge deposit | Deposit #1 - 1 and 11 Bloor | Bloor | Foster & Partners | | | | |
| 1277015 Ontario (Jenny) | 250,000.00 | 500,000.00 | 3,512,443.00 | 150,000.00 | | | | |
| RA Coco Engineering (Rocky) | 250,000.00 | 500,000.00 | 3,512,443.00 | 150,000.00 | | | | |
| G& N Coco (Bill) | 250,000.00 | 500,000.00 | 3,512,443.00 | 150,000.00 | | | | |
| 1364671 Ontario (Nina) | 250,000.00 | 500,000.00 | 3,512,443.00 | 150,000.00 | | | | |
| Natasha Sharpe | | | 902,619.35 | | | | | |
| Subtotal | | | | | | | | |
| Coco International - EXPENSES | | | | | | | | |
| Coco International - INTEREST on MEZZ \$50M CREIT | | | | | | | | |
| Coco International - INTEREST on FIERA \$25M Injection | | | | | | | | |
| VTB Mortgage | | | | | | | | |
| Total | 1,000,000.00 | 2,000,000.00 | 14,952,391.35 | 600,000.00 | | | | |

| | 5-Sep-14 | 10-Sep-14 | 19-Sep-14 | 15-Oct-14 | 17-Oct-14 | 20-Oct-14 | 21-Oct-14 | 30-Oct-14 | 18-Nov-14 | 18-Dec-14 | 19-Dec-14 | 5-Jan-15 | 6-Jan-15 | | | | | | | | | | | | | |
|--|----------|---------------|-----------|---------------|------------|---------------|----------------|----------------|------------|----------------|---------------|----------------|---------------|----------------|---------------|----------------|---------------|--------------|--------------|---------------|----|---|----|---------------|----|--------------|
| 1 Bloor St W | \$ | 4,000,000.00 | | | | \$ | 104,048,030.84 | | | | | | | | | | | | | | | | | | | |
| 11 Bloor St W - Frank Stollery (2011) Ltd. 11 Bloor St W - 2243968 Ontario Ltd. | \$ | 2,000,000.00 | | | | \$ | 12,992,308.35 | | | | | | | | | | | | | | | | | | | |
| 780 - 784 Yonge St | | | \$ | 1,000,000.00 | | | | | | \$ | 21,143,856.30 | | | | | | | | | | | | | | | |
| 768 Yonge St | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 770 Yonge St | \$ | 1,000,000.00 | | | | | | \$ | 500,000.00 | | | \$ | 14,967,363.06 | | | | | | | | | | | | | |
| 774 Yonge St | | | | \$ | 250,000.00 | | | | | | | | | | | | | | | | | | | | | |
| 778 Yonge St | | | | | | | \$ | 650,000.00 | | \$ | 1,909,450.00 | | \$ | 4,785,257.14 | | | | | | | | | | | | |
| VTB 778 Yonge St | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total | \$ | 1,000,000.00 | \$ | 6,000,000.00 | \$ | 1,000,000.00 | \$ | 250,000.00 | \$ | - | \$ | 117,040,339.19 | \$ | 650,000.00 | \$ | 500,000.00 | \$ | 1,909,450.00 | \$ | 21,143,856.30 | \$ | - | \$ | 14,967,363.06 | \$ | 4,785,257.14 |
| Foster + Partners | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Equity top-up | | | | | \$ | 3,197,608.65 | | | | | | | | | | | | | | | | | | | | |
| Legal Fees and Expenses | | | | | | | \$ | 1,225,230.08 | | | \$ | 1,872,525 | | | | | | | | | | | | | | |
| Property taxes | | | | | | | | | | | | | | | | | | | | | | | | | | |
| VTB interest | | | | | | | | | | | | | | | | | | | | | | | | | | |
| CREIT mezzanine Financing fee | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mizrahi Development fee | | | | | | | | | | | \$ | 10,000,000 | | | | | | | | | | | | | | |
| LP Unit Certificates Issued | | A1-5 | A1-6 | A1-7 | A1-8 | A1-9 | TBC | TBC | TBC | | | | | | | | | | | | | | | | | |
| Coco Injection: | \$ | 1,000,000.00 | \$ | 6,000,000.00 | \$ | 1,000,000.00 | \$ | 250,000.00 | \$ | 3,197,608.65 | | | | | | | | | | | | | | | | |
| - cumulative | \$ | 19,552,391.35 | \$ | 25,552,391.35 | \$ | 26,552,391.35 | \$ | 26,802,391.35 | \$ | 30,000,000.00 | | | | | | | | | | | | | | | | |
| CREIT Injection: | | | | | | | \$ | 115,067,960.62 | \$ | 650,000.00 | \$ | 500,000.00 | \$ | 1,909,450.00 | \$ | 1,872,589.38 | | | | | | | | | | |
| - cumulative | | | | | | | \$ | 115,067,960.62 | \$ | 115,717,960.62 | \$ | 116,217,960.62 | \$ | 118,127,410.62 | \$ | 120,000,000.00 | | | | | | | | | | |
| Mezz. Financing CREIT | | | | | | | | | | | | | | | | | | | | | | | | | | |
| - cumulative | | | | | | | | | | | | \$ | 21,143,791.65 | \$ | 10,000,000.00 | \$ | 14,967,363.06 | \$ | 3,888,845.29 | | | | | | | |
| Mezz. Financing - TBC | | | | | | | | | | | | | | | | | | | | | | | | | | |
| - cumulative | | | | | | | | | | | | | \$ | 896,411.85 | | | | | \$ | 896,411.85 | | | | | | |
| VTB | | | | | | | | | | | | | | | | | | | | | | | | | | |

deposit made

closed transaction

| Sources of funds | 770 Yonge deposit #1 | Deposit #2 - 1 and 11 Bloor | Deposit #2 - 780-784 Yonge | Deposit #1 - 774 Yonge St | Equity top-up October 17, 2014 | | | | | | | | | | | | | | | | | | | | | |
|--|----------------------|-----------------------------|----------------------------|---------------------------|--------------------------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|--------|---|---|---|---|---|------------|
| 1277015 Ontario (Jenny) | 250,000.00 | 500,000.00 | | 62,500.00 | 500,000.00 | | | | | | | | | | | | | | | | | | | | | |
| RA Coco Engineering (Rocky) | 250,000.00 | 500,000.00 | | 62,500.00 | 500,000.00 | | | | | | | | | | | | | | | | | | | | | |
| G& N Coco (Bill) | 250,000.00 | 500,000.00 | | 62,500.00 | 500,000.00 | | | | | | | | | | | | | | | | | | | | | |
| 1364671 Ontario (Nina) | 250,000.00 | 500,000.00 | | 62,500.00 | 500,000.00 | | | | | | | | | | | | | | | | | | | | | |
| Natasha Sharpe | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Subtotal | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Coco International - EXPENSES | | | | | | | | | | | | | | | | | | | | | | | | | | 896,870 |
| Coco International - INTEREST on MEZZ \$50M CREIT | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Coco International - INTEREST on FIERA \$25M Injection | | | | | | | | | | | | | | | | | | | | | | | | | | |
| VTB Mortgage | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total | 1,000,000.00 | 6,000,000.00 | 1,000,000.00 | 250,000.00 | 3,197,608.65 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | (0.00) | - | - | - | - | - | 896,869.50 |

| | 16-Jan-15 | 19-Jan-15 | 21-Jan-15 | 17-Feb-15 | 20-Feb-15 | 2-Mar-15 | 12-Mar-15 | 16-Mar-15 | 18-Mar-15 | April 1, 2015 property tax installment | 7-Apr-15 | 14-Apr-15 | 21-Apr-15 |
|--|----------------------------|---------------------------|----------------------------|----------------------------|----------------------------|-------------------------------|---------------------------------|-------------------------------|------------------------------|--|------------------------------|-----------------------------|--------------------------------------|
| 1 Bloor St W | | | | | | | | | | | | | |
| 11 Bloor St W - Frank Stollery (2011) Ltd. 11 Bloor St W - 2243968 Ontario Ltd. | | | | | | | | | | | | | |
| 780 - 784 Yonge St | | | | | | | | | | | | | |
| 768 Yonge St | | | | | \$ 100,000.00 | | | | | | | | |
| 770 Yonge St | | | | | | | | | | | | | |
| 774 Yonge St | \$ 500,000.00 | | | | | | | | | | | | \$ 15,079,300.00 |
| 778 Yonge St | | | | | | | | | | | | | |
| VTB 778 Yonge St | | | | | | | | | | | | | VTB |
| Total | \$ 500,000.00 | \$ - | \$ - | \$ - | \$ 100,000.00 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 15,079,300.00 |
| Foster + Partners | | | | | | | | | | | | | |
| Equity top-up | | | | | | | | | | | | | |
| Legal Fees and Expenses | | 57,145.24 | 490,688.27 | | | | 1,218,485.57 | \$ 674,077.70 | \$ 60,667.70 | \$ 105,682 | \$ 51,396.92 | \$ 5,000.00 | |
| Property taxes | | | | | | 105,685.24 | | | | | | | |
| VTB interest | | | | 120,000.00 | | | | | | | | | |
| CREIT mezzanine Financing fee | | | | | | \$ 200,000.00 | | | | | | | |
| Mizrahi Development fee | | | | | | | | | | | | | |
| LP Unit Certificates Issued | | | | | | | | | | | | | |
| Coco Injection: - cumulative | | | | | | | | | | | | | |
| CREIT Injection: - cumulative | | | | | | | | | | | | | |
| Mezz. Financing CREIT - cumulative | | | | | | | | | | | | | \$ - \$ 50,000,000.00 |
| Mezz. Financing - TBC - cumulative | 500,000 \$ 1,396,411.85 | 57,145 \$ 1,453,557.09 | 490,688 \$ 1,944,245.36 | 120,000 \$ 2,064,245.36 | 100,000 \$ 2,164,245.36 | 305,685.24 \$ 2,469,930.60 | 1,218,485.57 \$ 3,688,416.17 | 674,077.70 \$ 4,362,493.87 | 60,667.70 \$ 4,423,161.57 | 105,682.00 \$ 4,528,843.57 | 51,396.92 \$ 4,580,240.49 | 5,000.00 \$ 4,585,240.49 | \$ 15,079,300.00 \$ 19,608,143.57 |
| VTB | | | | | | | | | | | | | \$ 12,000,000.00 |

deposit made

closed transaction

| Sources of funds | | | | | | | | | | | | | Loan Payout 17/04/2015 | Loan advance - expenses May | Loan advance - expenses June | Loan advance - expenses July |
|--|------------|-----------|------------|---|------------|------------|--------------|------------|-----------|------------|-----------|----------|---------------------------|--------------------------------|---------------------------------|---------------------------------|
| 1277015 Ontario (Jenny) | | | | | | | | (25,284) | | | | | | | | |
| RA Coco Engineering (Rocky) | | | | | | | | (25,284) | | | | | | | | |
| G& N Coco (Bill) | | | | | | | | (25,284) | | | | | | | | |
| 1364671 Ontario (Nina) | | | | | | | | (25,284) | | | | | | | | |
| Natasha Sharpe | | | | | | | | 101,138 | | | | | | | | |
| Subtotal | | | | | | | | | | | | | | | | |
| Coco International - EXPENSES | 500,000 | 57,145 | 490,688 | | 100,000 | 305,685.24 | 1,218,485.57 | 674,077.70 | 60,667.70 | 105,682.00 | 51,396.92 | 5,000.00 | (4,585,698) | 1,632,906 | 1,657,677 | 400,262 |
| Coco International - INTEREST on MEZZ \$50M CREIT | | | | | | | | | | | | | (484,932) | | | |
| Coco International - INTEREST on FIERA \$25M Injection | | | | | | | | | | | | | | | | |
| VTB Mortgage | | | | | | | | | | | | | | | | |
| Total | 500,000.00 | 57,145.24 | 490,688.27 | - | 100,000.00 | 305,685.24 | 1,218,485.57 | 674,077.70 | 60,667.70 | 105,682.00 | 51,396.92 | 5,000.00 | (5,070,629.65) | 1,632,906.25 | 1,657,677.05 | 400,262.04 |

| | TOTAL ACQUISITION PRICE |
|--|-------------------------|
| 1 Bloor St W | \$ 109,048,030.84 |
| 11 Bloor St W - Frank Stollery (2011) Ltd. | \$ 15,492,308.35 |
| 11 Bloor St W - 2243968 Ontario Ltd. | \$ 15,452,391.35 |
| 780 - 784 Yonge St | \$ 23,143,856.30 |
| 768 Yonge St | \$ 100,000.00 |
| 770 Yonge St | \$ 16,467,363.06 |
| 774 Yonge St | \$ 15,829,300.00 |
| 778 Yonge St | \$ 7,344,707.14 |
| VTB 778 Yonge St | \$ 12,000,000.00 |
| Total | \$ 214,877,957.04 |
| Foster + Partners | \$ 600,000.00 |
| Equity top-up | \$ 3,197,608.65 |
| Legal Fees and Expenses | \$ 5,538,151.59 |
| Property taxes | \$ 211,367.24 |
| VTB interest | \$ 120,000.00 |
| CREIT mezzanine Financing fee | \$ 200,000.00 |
| Mizrahi Development fee | \$ 10,000,000.00 |
| LP Unit Certificates Issued | \$ 231,216,108.63 |
| Coco Injection: | \$ 30,000,000.00 |
| - cumulative | \$ 30,000,000.00 |
| CREIT Injection: | \$ 120,000,000.00 |
| - cumulative | \$ 120,000,000.00 |
| Mezz. Financing CREIT | \$ 50,000,000.00 |
| - cumulative | \$ 50,000,000.00 |
| Mezz. Financing - TBC | \$ 19,664,540.49 |
| - cumulative | \$ 19,608,143.57 |
| VTB | \$ 12,000,000.00 |
| | \$ 231,608,143.57 |

deposit made

closed transaction

| Sources of funds | Loan advance - expenses August | Loan advance - expenses September | Loan advance - expenses October | Total |
|--|--------------------------------|-----------------------------------|---------------------------------|---------------|
| 1277015 Ontario (Jenny) | | | | 7,124,999.99 |
| RA Coco Engineering (Rocky) | | | | 7,125,000.00 |
| G& N Coco (Bill) | | | | 7,125,000.00 |
| 1364671 Ontario (Nina) | | | | 7,125,000.01 |
| Natasha Sharpe | | | | 1,500,000.00 |
| Subtotal | | | | 30,000,000.00 |
| Coco International - EXPENSES | 1,913,071 | 1,080,375 | 640,839 | 7,205,130.15 |
| Coco International - INTEREST on MEZZ \$50M CREIT | | | | (484,931.51) |
| Coco International - INTEREST on FIERA \$25M Injection | | | | - |
| VTB Mortgage | | | | - |
| Total | 1,913,070.84 | 1,080,375.19 | 640,838.78 | 36,720,198.64 |

| |
|--|
| Difference between total acquisition price |
| \$ - |
| \$ - |
| \$ - |
| \$ 605,237.25 |
| \$ - |
| \$ - |
| -\$ 800.44 |
| -\$ 5,626,487.69 |

| November 3, 2014 interest payment | December 1, 2014 interest payment | December 17, 2014 interest payment | January 2, 2015 interest payment | February 3, 2015 interest payment | March 2, 2015 interest payment | April 1 interest payment | April 17 loan payout |
|-----------------------------------|-----------------------------------|------------------------------------|----------------------------------|-----------------------------------|--------------------------------|--------------------------|----------------------|
|-----------------------------------|-----------------------------------|------------------------------------|----------------------------------|-----------------------------------|--------------------------------|--------------------------|----------------------|

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| November 3, 2014 interest payment | December 1, 2014 interest payment | December 17, 2014 interest payment | January 2, 2015 interest payment | February 3, 2015 interest payment | March 2, 2015 interest payment | April 1, 2015 interest payment | April 17 loan payout | April 30, 2015 interest payment |
|-----------------------------------|-----------------------------------|------------------------------------|----------------------------------|-----------------------------------|--------------------------------|--------------------------------|----------------------|---------------------------------|
| 57,081 | 144,303 | 82,527 | 69,041 | 152,877 | 138,082 | 152,877 | | |
| 57,081 | 144,303 | 82,527 | 69,041 | 152,877 | 138,082 | 152,877 | | |
| 57,081 | 144,303 | 82,527 | 69,042 | 152,877 | 138,082 | 152,877 | | |
| 57,081 | 144,303 | 82,527 | 69,041 | 152,877 | 138,082 | 152,877 | | |
| 228,323 | 577,210 | 330,109 | 276,165 | 611,507 | 552,329 | 611,507 | - | - |
| | | | 71,674 | 241,757 | 230,137 | 254,795 | | |
| 228,323 | - | 577,210 | 330,109 | 347,839 | 853,264 | 782,466 | 866,301 | - |

| | | | | |
|-----------------|-----------|--------------|-------|---------------------------|
| 7,408,911 | | | Less: | Class C shares |
| \$ 7,504,089.44 | | \$ 49,873.39 | Less: | Class D shares |
| 95,179 | | 35,625 | | |
| (85,498) | | 85,498 | | Current loan amount |
| 9,680 | 38,721.52 | | Less: | Maximum approved amount |
| | | | | Balance remaining on loan |

| | |
|--|--|
| | |
|--|--|

| |
|--|
| 1 Bloor St W |
| 11 Bloor St W - Frank Stollery (2011) Ltd. 11 Bloor St W - 2243968 Ontario Ltd. |
| 780 - 784 Yonge St |
| 768 Yonge St |
| 770 Yonge St |
| 774 Yonge St |
| 778 Yonge St |
| VTB 778 Yonge St |
| Total |
| Foster + Partners |
| Equity top-up |
| Legal Fees and Expenses |
| Property taxes |
| VTB interest |
| CREIT mezzanine Financing fee |
| Mizrahi Development fee |
| LP Unit Certificates Issued |
| |
| Coco Injection: |
| - cumulative |
| CREIT Injection: |
| - cumulative |
| Mezz. Financing CREIT |
| - cumulative |
| Mezz. Financing - TBC |
| - cumulative |
| VTB |

| |
|--------------------|
| deposit made |
| closed transaction |

| | May 1, 2015 interest payment for April | May 18, 2015 VTB Interest | June 1, 2015 interest payment for May | July 2nd Interest for June | August 4th Interest for July | August 20 VTB Interest | September 1 Interest Payment for August | October 1 Interest Payment for September | October 9 Interest Payment for CREIT \$50M Interest decrease | Total Interest | Grand total | |
|--|--|------------------------------|---|-------------------------------|---------------------------------|---------------------------|---|--|---|----------------|---------------|----------|
| Sources of funds | | | | | | | | | | | | |
| 1277015 Ontario (Jenny) | 147,945 | | 152,877 | 147,945 | 152,876.71 | | 152,876.71 | 147,945.21 | | 1,699,253 | 8,824,253.16 | 18.618% |
| RA Coco Engineering (Rocky) | 147,945 | | 152,877 | 147,945 | 152,876.71 | | 152,876.71 | 147,945.21 | | 1,699,253 | 8,824,253.20 | 18.618% |
| G& N Coco (Bill) | 147,945 | | 152,877 | 147,945 | 152,876.71 | | 152,876.71 | 147,945.21 | | 1,699,254 | 8,824,254.00 | 18.618% |
| 1364671 Ontario (Nina) | 147,945 | | 152,877 | 147,945 | 152,876.71 | | 152,876.71 | 147,945.21 | | 1,699,253 | 8,824,253.23 | 18.618% |
| Natasha Sharpe | | | | | | | | | | | 1,500,000.00 | 3.165% |
| Subtotal | 591,781 | | 611,507 | 591,781 | 611,507 | | 611,507 | 591,781 | - | 6,797,014 | 36,797,014 | |
| Coco International - EXPENSES | | | | | | | | | | - | 7,205,130.15 | |
| Coco International - INTEREST on MEZZ \$50M CREIT | 246,575 | | 254,795 | 255,479 | 276,027 | | 276,027 | 267,123 | | 2,374,389 | 1,889,457.67 | |
| Coco International - INTEREST on FIERA \$25M Injection | | 212,329 | | 205,479 | 212,329 | | 212,329 | 205,479 | | 1,143,835 | 1,143,835.17 | |
| VTB Mortgage | | 120,000 | | | | 120,000 | | | | 360,000 | 360,000.00 | |
| Total | 838,356 | 332,329 | 866,302 | 1,052,739 | 1,099,863 | 120,000 | 1,099,863 | 1,064,384 | - | 10,675,238 | 47,395,436.57 | 100.000% |

30,000,000.00
7,110,443.82

10,284,992.75
7,500,000.00

- - 2,784,992.75

1 BLOOR STREET WEST

SITES UNDER CONTRACT:

| Address | Property Identifier # | Approx Area (sq m) | Approx Area (sq ft) | PSA - Vendor | Tenant | Acceptance Date | Status | Purchase Price | Deposit #1 / #2 | Deposit Due Date | Due on Closing | Closing Date | VTB Mtg \$ | VTB Terms |
|----------------------|-----------------------|--------------------|---------------------|--|------------------------------------|-----------------|--------|-----------------|-----------------|---|-----------------|--------------|------------|---|
| 1 Bloor Street W | 21109-0200 LT | 624.2 | 6719.05 | Frank Stollery Limited | Stollery/Swiss Time | ##### | Done | \$ 105,000,000 | \$ 1,000,000 | 2 banking days after acceptance of PSA as a refundable deposit - non-refundable in the event of any default by the Purchaser | \$ 100,000,000 | | | The transaction shall be completed no later than 6 pm on the day that is 60 days after the satisfaction or waiver of the Seller's condition in paragraph 4, Paragraph 4 (Seller's Conditions): 21 days following the date of acceptance (July 28/29), July 28/29 + 60 days + 21 days = Saturday, October 18, 2014 Closing: October 20th, 2014 |
| | | | | | | | | | | The date that is the later of (i) 30 days after the date of mutual acceptance and delivery of the agreement); or (ii) 20 days after the seller waives its condition in section 4; section 4: 21 days following the date of acceptatnce upon the seller receving requisite shareholder approval to the sale transaction set out in the agreement. Assuming acceptance date is July 28/29, the second deposit would be due September 10, 2014 (deposit made September 10th, 2014) | | | | |
| 11 Bloor Street W | 21109-0160 LT | 253.4 | 2727.66 | Frank Stollery (2011) Limited 2243968 Ontario Limited | (old) French Connection | ##### | Done | \$ 30,000,000 | \$ 1,000,000 | 2 banking days after acceptance of PSA as a refundable deposit - non-refundable in the event of any default by the Purchaser | \$ 25,000,000 | | | 50% to Frank Stollery (2011) Limited - October 20, 2014 (60 days after waiver of the Vendor's Condition in the 1 Bloor AFS) 50% to 2243968 Ontario Limited - August 20, 2014 |
| | | | | | | | | | | 50% to Frank Stollery (2011) Limited - September 10, 2014 (later of (i) 30 days from the Date of Acceptance of the 1 Bloor St APS; and (ii) 20 days after the Vendor's waiver under the 1 Bloor Street APS 50% to 2243968 Ontario Limited - August 20, 2014 (waiver of the Title Condition = closing date) | | | | |
| 780-784 Yonge Street | 21109-0158 LT | 535.4 | 5763.20 | R. Perlman Enterprises Inc. and M Perlman Enterprises Inc. | Burgundy's Bar and Eatery, Sunrise | ##### | Done | \$ 23,000,000 | \$ 1,000,000 | By 5pm within 2 days of Effective Date (July 21st) - (Deposit made July 22) | \$ 21,000,000 | | | Effective Date (July 21st) + Approval Period (60 days) + 90 days = December 18, 2014 |
| | | | | | | | | | | HSBC Comfort Letter: Purchase Price less first deposit; within 21 days of July 21st = August 11th by 5:00pm --- SENT TO PERLMAN AUGUST 11TH | | | | |
| 770 Yonge Street | 21109-0155 LT | 375.8 | 4045.21 | Peter Nicholson Holdings Limited | Le Chateau | ##### | Done | \$ 16,000,000 | \$ 1,000,000 | Upon acceptance of PSA | \$ 14,500,000 | | | Monday, January 5, 2015 |
| | | | | | | | | | | Refundable -- 3 business days following full execution (October 9 + 3 days) = October 15, 2014 | | | | |
| 774 Yonge Street | 21109-0156 LT | 370.4 | 3987.08 | HR Property Holdings Ltd. | Hue's Kitchen | 9-Oct-14 | Done | \$ 15,000,000 | \$ 250,000 | | \$ 14,750,000 | | | 21-Apr-15 |
| | | | | | | | | | | Upon acceptance of PSA = October 21, 2014 | | | | |
| 778 Yonge Street | 21109-0157 LT | 219.3 | 2360.60 | Charles J. Schwartz (for all Sellers as set out in Schedule "A") | Money Mart | 20-Oct-14 | Done | \$ 18,775,000 | \$ 1,909,450 | Tuesday, November 18, 2014 | \$ 4,215,550 | | | Tuesday, January 6, 2015 |
| | | | | | | | | | | upon acceptance of PSA = February 20, 2015 | | | | |
| 768 Yonge Street | 21109-0154 LT | 232 | 2497.308934 | H2000 Investment Group | Tea Shop | 20-Feb-15 | Done | \$ 4,975,000.00 | \$ 150,000.00 | within 2 business days upon waiver or satisfaction of the last of the conditions in Section 6 of the PSA | \$ 4,725,000.00 | | | 30 days after receipt by the Seller or Seller's solicitor of notice of waiver or satisfaction of all conditions 4% p.a. calculated quarterly, repayable in quarterly interest payments only, and due 3 years after the completion of PSA |

| | | | | | | | | | |
|--------|-------------|----|-------------|----|------------|----|-------------|----|------------|
| 2610.5 | 28100.11862 | \$ | 212,750,000 | \$ | 38,759,450 | \$ | 184,190,550 | \$ | 12,000,000 |
|--------|-------------|----|-------------|----|------------|----|-------------|----|------------|

| SITES UNDER CONSIDERATION | | | | | | | | | | | | | |
|---------------------------|---------------|--------|-------------|----------------------------------|--------------------|----|---------------|----|-----------|-------------------------|----|------------|---------------------|
| 13 Bloor Street W | 21109-0161 LT | 475.5 | 5118.41 | Altavista Properties Inc. | H&M | \$ | 50,000,000 | \$ | 2,000,000 | 60 days / due diligence | \$ | 48,000,000 | 90 days (tentative) |
| 15 Bloor Street W | 21109-0162 LT | 486.8 | 5240.04 | Altavista Properties Inc. | Scotiabank | | same as above | | | | | | |
| 17 Bloor Street W | 21109-0030 LT | 310.7 | 3344.46 | Scotia Realty Limited | Scotiabank | \$ | 45,000,000 | | | | | | |
| Sub-Totals | | 1,273 | 13,703 | | | \$ | 95,000,000 | \$ | 2,000,000 | | \$ | 48,000,000 | \$ - |
| TOTALS | | 3,884 | 41,803 | | | \$ | 307,750,000 | | | | | | |
| OTHER SITES: | | | | | | | | | | | | | |
| N/A | 21109-0192 LT | 259 | 2787.944026 | EMM Financial Corp. | | | | | | | | | |
| 762 Yonge Street | 21109-0152 LT | 315 | 3390.742734 | 1026406 Ontario Ltd. | | | | | | | | | |
| 758 Yonge Street | 21109-0151 LT | 243 | 2615.715823 | Fabish Optical Company Limited | Crown Opticians | | | | | | | | |
| 756 Yonge Street | 21109-0150 LT | 331 | 3562.970936 | 3386856 Canada Limited | Cash Money | | | | | | | | |
| | | | | | Green Beauty Spa | | | | | | | | |
| 752 Yonge Street | 21109-0149 LT | 565 | 6081.808396 | DAC Investments (Canada) Ltd. | Korean Grill House | | | | | | | | |
| | | | | Marilyn & Saul Greenglans, Pearl | | | | | | | | | |
| | | | | Lebo, Gertrade Richmond & Saul | | | | | | | | | |
| 750 Yonge Street | 21109-0148 LT | 418 | 4499.461787 | Greenlans | | | | | | | | | |
| Sub-Total | | 11,403 | 122,745 | | | | | | | | | | |
| GRAND TOTAL | | 15,287 | 164,548 | | | | | | | | | | |

1 BLOOR STREET WEST
SITES UNDER CONTRACT:

| DEPOSIT #1 | | | | | | | DEPOSIT #2 | | | OTHER | | | |
|----------------------|-----------------------|--|----------------|--------------|--|-----------------------|---------------|--|----------------------------|--|------------|----------------|---|
| Address | Property Identifier # | PSA - Vendor | Purchase Price | Deposit #1 | Deposit #1 Due Date | Deposit/Transfer Date | Deposit #2 | Deposit #2 Due Date | Deposit/Transfer Date | Other | Due Date | Due on Closing | Closing Date |
| 1 Bloor Street W | 21109-0200 LT | Frank Stollery Limited | \$ 105,000,000 | \$ 1,000,000 | 2 banking days after acceptance of PSA as a refundable deposit - non-refundable in the event of any default by the Purchaser | 30-Jul-14 | \$ 4,000,000 | September 10th, 2014 | ##### | - | - | \$ 100,000,000 | 20-Oct-14 |
| | | Frank Stollery (2011) Limited | \$ 15,000,000 | \$ 500,000 | 2 banking days after acceptance of PSA as a refundable deposit - non-refundable in the event of any default by the Purchaser | 30-Jul-14 | \$ 2,000,000 | September 10th, 2014 | ##### | - | - | \$ 12,500,000 | 20-Oct-14 |
| 11 Bloor Street W | 21109-0160 LT | 2243968 Ontario Limited | \$ 15,000,000 | \$ 500,000 | 2 banking days after acceptance of PSA as a refundable deposit - non-refundable in the event of any default by the Purchaser | 30-Jul-14 | \$ 2,000,000 | August 20th, 2014 | 20-Aug-14 | - | - | \$ 12,500,000 | 20-Aug-14 |
| 780-784 Yonge Street | 21109-0158 LT | R. Perlman Enterprises Inc. and M Perlman Enterprises Inc. | \$ 23,000,000 | \$ 1,000,000 | By 5pm within 2 days of Effective Date (July 21st) - (Deposit made July 22) | 22-Jul-14 | \$ 1,000,000 | September 19th, 2014 | Friday, September 19, 2014 | HSBC Comfort Letter: Purchase Price less first deposit; within 21 days of July 21st | 22,000,000 | \$ 21,000,000 | 18-Dec-14 |
| 770 Yonge Street | 21109-0155 LT | Peter Nicholson Holdings Limited | \$ 16,000,000 | \$ 1,000,000 | Upon acceptance of PSA | 5-Sep-14 | \$ 500,000 | - | Thursday, October 30, 2014 | - | - | \$ 14,500,000 | 5-Jan-14 |
| 774 Yonge Street | 21109-0156 LT | HR Property Holdings Ltd. | \$ 15,000,000 | \$ 250,000 | 3 days following full execution (October 9 + 3 days) = October 15th, 2014 | 15-Oct-14 | - | - | - | - | - | \$ 14,750,000 | 21-Apr-15 |
| 778 Yonge Street | 21109-0157 LT | Charles J. Schwartz | \$ 18,775,000 | \$ 650,000 | Upon acceptance of PSA | 21-Oct-14 | \$ 1,909,450 | - | 18-Nov-14 | 4% p.a. calculated quarterly, repayable in quarterly interest payments only, and due 3 years after completion of PSA | 12,000,000 | \$ 6,125,000 | 6-Jan-15 |
| 768 Yonge Street | 21109-0154 LT | H2000 Investment Group Inc. | \$ 4,975,000 | \$ 100,000 | Upon acceptance of PSA | 20-Feb-15 | \$ 150,000 | within 2 business days upon waiver or satisfaction of the last of the conditions in Section 6 of the PSA | - | - | - | \$ 4,725,000 | 30 days after receipt by the Seller or Seller's solicitor of notice of waiver or satisfaction of all conditions |
| TOTAL | | | \$ 212,750,000 | \$ 5,000,000 | | | \$ 11,559,450 | | | \$ 22,000,000 | | | \$ 186,100,000 |

deposit made
closed transaction

| Date Paid | Amount | Description |
|------------|---------------|-------------------------|
| 09/29/2014 | \$ 600,000.00 | Foster + Partner - Fees |

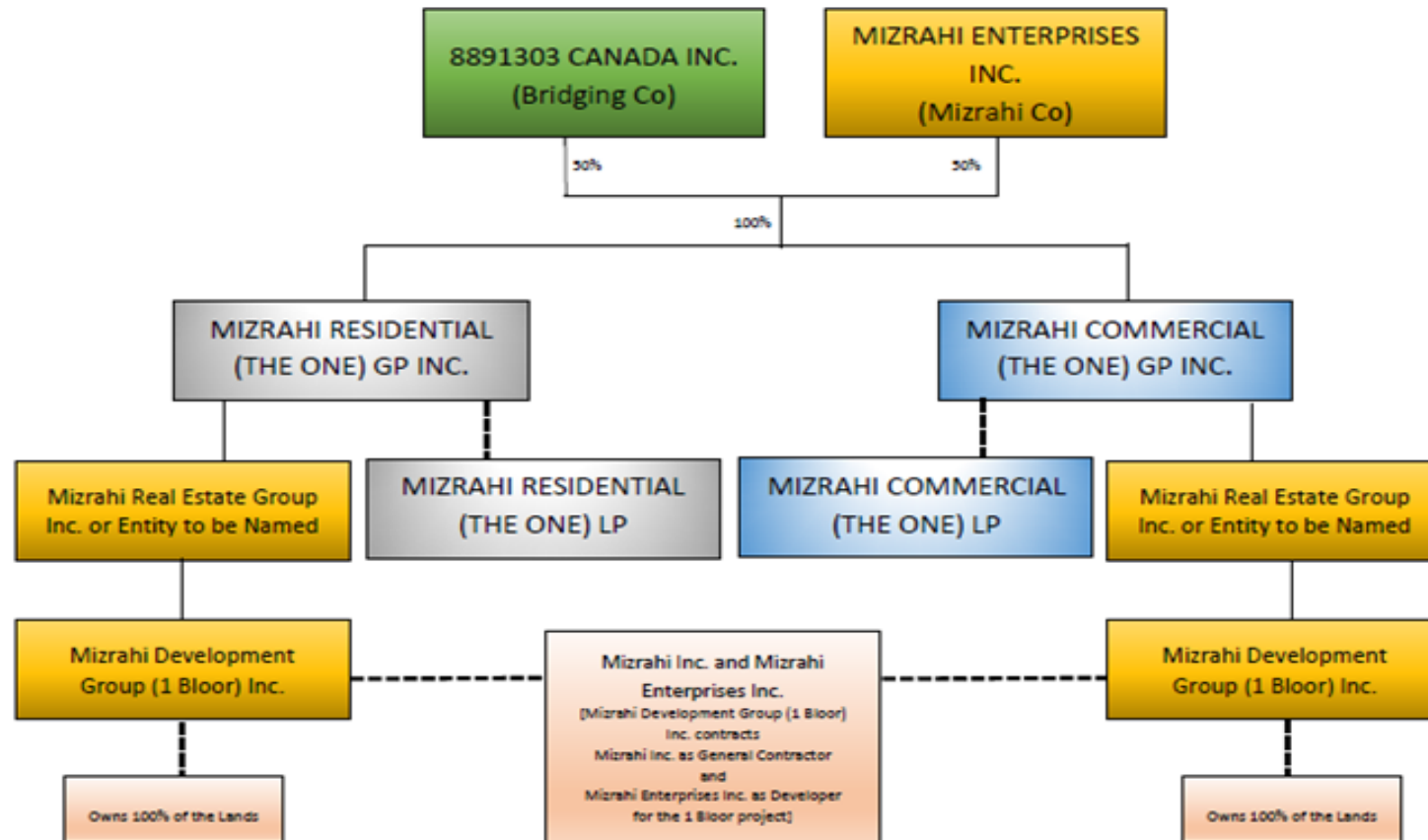
1 Bloor - Agreement Summary & Org. Chart**COMMERCIAL AGREEMENTS**

| | | |
|---|--------|-----------|
| Commercial Limited Partnership Agreement | Signed | 25-Jul-14 |
| Commercial Subscription Agreement | Signed | 25-Jul-14 |
| Commercial Development Management Agreement | Signed | 25-Jul-14 |
| Commercial GP Shareholder Agreement | Signed | 25-Jul-14 |

RESIDENTIAL AGREEMENTS

| | | |
|--|--------|-----------|
| Residential Limited Partnership Agreement | Signed | 25-Jul-14 |
| Residential Subscription Agreement | Signed | 25-Jul-14 |
| Residential Development Management Agreement | Signed | 25-Jul-14 |
| Residential GP Shareholder Agreement | Signed | 25-Jul-14 |

1 BLOOR STRUCTURE



This is Exhibit “Q” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A398

Message

From: Jenny Coco [JCoco@cocogroup.com]
Sent: 12/30/2020 6:52:13 PM
To: N Sharpe [NSharpe@bridgingfinance.ca]
CC: Rocky Coco [Rcoco@cocogroup.com]; David Sharpe [dsharpe@bridgingfinance.ca]
Subject: RE: Dundonald Mizrahi

Hello Natasha,

The purpose of this email is to respond to your allegations below.

First of all, allow me to remind you, both Sharpe and Coco were lenders of 181 Davenport and remain investors in THE ONE, both Mizrahi Developments.

Secondly, we deny your allegations and any wrongdoing.

Lastly, you have not provided enough information for us to understand, let alone substantively respond to, your allegations. We therefore ask that you please convene a meeting and provide all chronology of your management of the loans, together with all details and decisions made by the CIO and BF Team, acting in the best interest of all parties.

As discussed at the Board Meeting, I shall not be available this afternoon, as today is the 2 year anniversary of my Father's passing.

Regards,

Jenny
Jenny Coco, CEO
Coco Group

----- Original message -----

From: N Sharpe <NSharpe@bridgingfinance.ca>
Date: 2020-12-30 10:04 a.m. (GMT-05:00)
To: Jenny Coco <JCoco@cocogroup.com>
Cc: Rocky Coco <Rcoco@cocogroup.com>, David Sharpe <dsharpe@bridgingfinance.ca>
Subject: Dundonald Mizrahi

****EXTERNAL SENDER****

Jenny,

I have not received any response to my requests regarding a confirmation that you did not act to prevent Sam Mizrahi from making a 15+ million dollar payment to the Funds on the same loan you sold to the Funds.

Without your assistance it is going to be difficult to resolve this. I am open to any suggestions you have regarding how to proceed. For instance is it possible to receive confirmation from any credible party that the below are inaccurate representations and not images of actual correspondence? Or perhaps confirm that this is only one unrepresentative part of a larger discussion which in fact did not involve any action on your part that reduced the payment to the Funds?

A398

A399

I am confident that you would not have done anything inappropriate so can you please provide something that will simply allow us to demonstrate we're all doing the right things regarding governance, and move on.

From: Jenny Coco
Sent: Saturday, March 28, 2020 6:48 PM
To: 'Adam Brown' <adam.brown@toronto.ca>; Sam Mirzahi <Sam.Mirzahi@toronto.ca>; Jessica Smolowski <jessica.smolowski@toronto.ca>
Subject: RE: Negotiation of alternative solution if we cannot convey 14 Dundonald by the time we are ready for the conditional above-grade permit

Importance: High

Hi Adam, Jessica, Sam:

First of all, Adam and Jessica, thank you for coordinating the conference call with Sam and I.

Secondly, in the best interest of the Project, Coco is prepared to allow Adam / Jessica to proceed with the City of Toronto negotiations as outlined in Adam's email below, assuming 14 Dundonald meets all municipal requirements, and subject to:

- 1) If Coco and Mirzahi are not able to agree on the property valuation of 14 Dundonald, the property shall be conveyed to the City in escrow by the "Owner" even if the value between Coco and Mirzahi is not resolved, at no extra cost to the Project.
- 2) Coco / Mirzahi shall make best efforts to negotiate a settlement of the property prior to conveyance to the City in escrow. If the terms are not agreed upon, Coco / Mirzahi shall Arbitrate this matter as a priority.
- 3) Coco shall be kept informed on the status of all outstanding matters and negotiations related to this issue and consulted in advance of any decisions being made, should the City provide alternative options.
- 4) Coco reserves its rights.

All parties must confirm and accept the above prior to proceeding.

Thank you,

Jenny
Jenny Coco
Chief Executive Officer
cimgre003.jpg
940 Wilson Avenue
Toronto, ON M3K 1G2
Phone: 1-416-633-6870
Fax: 1-416-633-6766
Email: jessica.smolowski@toronto.ca

On Mar 31, 2020, at 7:04 PM, Sam Mirzahi <Sam.Mirzahi@toronto.ca> wrote:

Jenny,

For ease of reference I will address your comments to your sequence below.

1. The value of 14 Dundonald between the Owner of 14 Dundonald and LP/OP of 1 Bloor project must be at a minimum the cost of the land, in addition to all costs of Bridging Finance associated with its loan, and subject to Bridging Finance's release of its mortgage on 14 Dundonald. This would be in addition to the payment of the carrying costs such as property taxes, maintenance, administration, demolition, environmental, and acquisition costs, and conversion to parkland for the property from the date of purchase to the conveyance date, or the appraised value of the land, whichever costs and/or values are higher. The reason why the higher value amount, is that we do not know at this time the amount that Bridging Finance will calculate for their total fees, interest costs and discharge statement (we have requested it), in addition to the costs the owner of the land has incurred on the property to date vs. the appraised value which we are waiting on from the appraisal company and the owner of 14 Dundonald can't be in a position where it will not be able to transfer the property if they do not have Bridging Finance discharge of their mortgage in accordance with their loan and owing amounts.
2. Let us get it completed, asap, and hopefully no arbitration will be necessary, as #1 above is a fair and equitable business solution.
3. This has always occurred, and Adam Brown's office is doing the same.

2

Sent from my iPhone

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A400

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A400

This is Exhibit “R” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A402

Message

From: Sam Mizrahi [sam@mizrahidevelopments.ca]
Sent: 11/19/2016 10:27:58 AM
To: Graham Marr [GMarr@bridgingfinance.ca]
CC: N Sharpe [NSharpe@bridgingfinance.ca]
Subject: 1 Bloor Sales Office Retail and 181 Davenport

Good afternoon Graham, (Draft Thoughts for Discussion)

I trust you are well and enjoying the weekend.

As per our conversations with Natasha and yourself, please find an outline of what I believe would set out the framework to get 1 Bloor's Sales Centre started for an April 2017 opening and sales launch, by having Bridging provide a bridge loan parallel to waiting on the construction financing that would pay out this very same bridge loan from closings of the construction financing. The sales centre would be located on the ground floor retail space of 181 Davenport, for the many reasons discussed, as this would be the best location to provide both the sales and customer service centre as well as finishing selections during the sales and construction cycle.

Lease

Tenant: Mizrahi Inc.
 Landlord: 181Davenport Retail Inc.
 Term: 10 years
 Commencement Date: Jan 1, 2017
 GLA: 4,097 sf (approx. – to be measured per BOMA 2010)
 Net Rent: \$85psfpa
 Permitted Use: Sales Office, Customer Selections, and Administration operated by Tenant providing services to Mizrahi Developments (The One) Inc. ("The One")
 Landlord's Work: As-Is
 Tenant's Work: Tenant to fully improve and equip the Premises to prepare them for the Permitted Use
 Fixturing Period: None
 Operating Covenant: 5 years from the date of opening (to occur within 180 days after Commencement Date)
 Termination Right: Either party may terminate after the 5th anniversary of the Commencement Date on 180 days' notice
 Additional Rent: Fully Net -Tenant to pay all Realty Taxes attributable to the Commercial Component,
 Plus Operating Costs fixed @ \$3psf for year 1, escalated by 3% annually
 Lease Form: Landlord's standard, to be executed on or before Dec 15.
 Both parties to be represented by Daoust Vukovich LLP ("DV"). Both parties to waive conflict.

Sales Office Services

Per a separate agreement, Mizrahi Inc. will provide sales services to The One in connection with the promotion and sale of residential units at One Bloor Street West
 The One will pay to Mizrahi Inc. all costs of operating the Sales Office, including rent, personnel, marketing and advertising and all other expenses, monthly in advance based on budgeted costs subject to reconciliation and adjustment at the end of each fiscal period of The One
 The One will also pay to Mizrahi Inc. all costs of constructing the Sales Office, upon maturity of the Loan (costs to include all interest accrued on the Loan to the payment date)
 Upon Mizrahi Inc. entering into the Lease, The One will pay to Mizrahi Inc. the full costs of the sales centre budget and furniture budget representing \$2.5 Million, in addition to first and last months rents and security deposit.
 Both parties to be represented by DV. Both parties to waive conflict.

Loan

Bridging Finance Inc. will lend to Mizrahi Inc. the sum of \$2.5M on or before December 15, 2016
 Interest will accrue at an annual rate of 12%, payable upon maturity

A402

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Maturity: all principal and interest is due on the date of the first draw by The One the construction loan at One Bloor West ("Due Date"). At the option of The One, Due Date can be extended to the date when The One takes its second draw. Interest will continue to accrue to the date of payment.

Security Documents to include Leasehold Mortgage, Promissory Note and property-specific GSA and related PPSA registration in the amount of \$2.5 Million all standing behind and postponed and standstill to borrowers conventional first mortgage of no more than \$5.4 Million.

Borrower to be represented by DV. Lender to arrange separate counsel. Lender to waive any conflict arising out of DV's previous and ongoing representation of The One or otherwise. Borrower to pay legal fees of lender and borrower. All fees to be funded out of loan.

In reference to the current Bridging loan to 181 Davenport, we would have a separate agreement, as discussed, that would cover the delta shortfall of the current loan at the end of the project of 181 once calculated through another loan that would have repayments by partial payments on the sales commissions and marketing and advertising payments/budget that Mizrahi Inc, would be receiving from The One, and as per the Altus Budget to repay the shortfall and retire the outstanding debt shortfall of the 181 amounts.

Kindly let me know your thoughts and if I missed anything, and lets get together to discuss further at your earliest opportunity. Thanks in advance and have a great weekend.

Sincerely,



Sam Mizrahi

President

126 Hazelton Avenue

Toronto, Ontario M5R 2E5

T. 416.922.4200 ext. 4210

C. 416.818.5288

F. 1.866.300.0219

Sam@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

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A403

This is Exhibit “S” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A405

Message

From: Sam Mizrahi [sam@mizrahidevelopments.ca]
Sent: 11/9/2017 3:08:00 PM
To: Graham Marr [GMarr@bridgingfinance.ca]
CC: Jeff Halman [Jhalman@bashllp.com]; N Sharpe [NSharpe@bridgingfinance.ca]
Subject: Re: Draft amendment

Also Graham in regards to section 10, it will reduce the amount owing to Bridging when I transfer the unit and interest rate and is in everyone's best interest for me to replace it with the bank financing term sheet I provided you in our meeting for up to \$4.2 Million which would come to you, these proceeds would reduce my loan amount to you and I am only paying 5.4% vs. 12%.

Sincerely,

**Sam Mizrahi***President*

125 Hazelton Avenue
Toronto, Ontario M5R 2E4
T. 416.922.4200 ext. 4210
C. 416.818.5288
F. 1.866.300.0219

Sam@MizrahiDevelopments.ca**www.MizrahiDevelopments.ca**

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On Nov 9, 2017, at 2:57 PM, Sam Mizrahi <Sam@MizrahiDevelopments.ca> wrote:

Sales Commission is 4.89% on \$1 Billion

So, we have \$48.9 Million plus hst

So at 50%, I would have \$24.45 Million available.

Sincerely,

**Sam Mizrahi***President*

125 Hazelton Avenue
Toronto, Ontario M5R 2E4
T. 416.922.4200 ext. 4210
C. 416.818.5288

A405

A406

F. 1.866.300.0219Sam@MizrahiDevelopments.cawww.MizrahiDevelopments.ca

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On Nov 9, 2017, at 2:44 PM, Graham Marr <GMarr@bridgingfinance.ca> wrote:

Sam,

Just so I'm clear on the commissions point, can you please give me your rough calculation using expected total residential sales of \$1B to the Project.

Thanks

Graham Marr, CPA, CA, CFA

Managing Director and Portfolio Manager | **Bridging Finance Inc.**

Suite 2925, 77 King West

Toronto | ON | M5K 1K7

T: (416) 777-1794

T: (403) 910-0697

C: (416)-906-0395

gmarr@bridgingfinance.ca

Bridging Finance Inc., Co-Manager of

Sprott Bridging Income Fund LP and

Sprott Bridging Income RSP Fund

From: Sam Mizrahi [<mailto:sam@mizrahidevelopments.ca>]

Sent: Thursday, November 09, 2017 2:40 PM

To: Graham Marr <GMarr@bridgingfinance.ca>

Cc: Jeff Halman <jhalman@bashllp.com>

Subject: Re: Draft amendment

Hi Graham,

Thanks for your email. I have 3 comments. Please find them below.

Can you please provide the breakdown for the Nov 1 current \$39,976,188.61 amount owing and what they consist of different principal balances i.e. 181, vs. 14 Dundonald, vs 1 Bloor Sales Gallery. Thanks.

Section 10: Require language "That cannot be unreasonably or arbitrarily withheld" in regards to consent

Section 13: We can only as advised from day one ensure that 50% of the sales commissions, as we still have third party brokers and agents that are required to be paid, which is why it was always 50% and not 100% on Sales Commissions only.

Sincerely,

A406

A407

**Sam Mizrahi***President*

125 Hazelton Avenue

Toronto, Ontario M5R 2E4

T. 416.922.4200 ext. 4210

C. 416.818.5288

F. 1.866.300.0219

Sam@MizrahiDevelopments.cawww.MizrahiDevelopments.ca

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On Nov 9, 2017, at 1:48 PM, Graham Marr <GMarr@bridgingfinance.ca> wrote:

Phil, can you pls send Sam a redline from our prior amendment? thanks

Graham Marr, CPA, CA, CFA
Senior Managing Director and Portfolio Manager Bridging Finance Inc.
Suite 2925, 77 King West
Toronto|ON|M5K 1K7
T: (416) 777-1794
T: (403) 910-0697
C: (416)-906-0395
gmarr@bridgingfinance.ca

Bridging Finance Inc., Co-Manager of
Sprott Bridging Income Fund LP and
Sprott Bridging Income RSP Fund

On Thu, Nov 9, 2017 at 1:34 PM -0500, "Sam Mizrahi" <sam@mizrahidevelopments.ca> wrote:

Thank you.

Sincerely,

**Sam Mizrahi***President*125 Hazelton AvenueToronto, Ontario M5R 2E4T. 416.922.4200 ext. 4210C. 416.818.5288F. 1.866.300.0219Sam@MizrahiDevelopments.cawww.MizrahiDevelopments.ca

A407

A408

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On Nov 9, 2017, at 11:59 AM, Philip L. Taylor <Philip@chaitons.com> wrote:

Please disregard the prior attachment. The correct document is attached.

Thanks,

Philip L. Taylor

Partner | Chaitons LLP | Tel: 416.218.1125

From: Graham Marr [<mailto:GMarr@bridgingfinance.ca>]

Sent: November-09-17 11:54 AM

To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>

Cc: N Sharpe <NSharpe@bridgingfinance.ca>; Philip L. Taylor <Philip@chaitons.com>

Subject: Draft amendment

Sam, please find attached a draft amendment for your review in respect of the incremental financing request.

Which counsel will you be using for review?

Thanks

Graham Marr, CPA, CA, CFA

Managing Director and Portfolio Manager | **Bridging Finance Inc.**

Suite 2925, 77 King West

Toronto | ON | M5K 1K7

T: (416) 777-1794

T: (403) 910-0697

C: (416)-906-0395

gmarr@bridgingfinance.ca

Bridging Finance Inc., Co-Manager of

Sprott Bridging Income Fund LP and

Sprott Bridging Income RSP Fund

<Amending Letter.doc>

A408

This is Exhibit “T” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

AMENDED AND RESTATED
SECTION 37 AGREEMENT

THIS AGREEMENT made this 21st day of July, 2020

AMONG:

MIZRAHI DEVELOPMENT GROUP (THE ONE) INC.
(hereinafter referred to as the "Owner")

OF THE FIRST PART

- and -

2495159 ONTARIO INC.
(hereinafter referred to the "Numbered Company")

OF THE SECOND PART

- and -

CITY OF TORONTO
(hereinafter referred to as the "City")

OF THE THIRD PART

WHEREAS the Owner is the registered owner in fee simple of certain lands and premises in the City of Toronto, in the Province of Ontario, known municipally in the year 2019 as 1 and 11 Bloor Street West and 768, 770-772, 774-776, 778 and 780-784 Yonge Street and legally described in Schedule "A-1" of this Agreement (collectively, herein said lands being the "Site");

AND WHEREAS the Site was the subject of an application by the Owner for amendments to the former City of Toronto Zoning By-law No. 438-86, as amended, and to the City of Toronto Zoning By-law No. 569-2013, as amended, (collectively herein referred to as the "Zoning By-laws") which proposed to permit an increase to the height and density of development beyond the height and density otherwise permitted by the Zoning By-laws for the Site;

AND WHEREAS Council for the City (herein referred to as "City Council") failed to make a decision on the application and the Owner appealed to the Ontario Municipal Board, now Local Planning Appeal Tribunal (the "LPAT" or the "Tribunal"), pursuant to subsection 34(11) of the *Planning Act*;

AND WHEREAS City Council at its meeting of July 12, 13, 14 and 15, 2016 accepted the Owner's offer to settle the Owner's appeal subject to the instructions of City Council;

AND WHEREAS subsection 37(1) of the *Planning Act* provides that the council of a local municipality may, in a by-law passed under section 34 of the *Planning Act*, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law;

AND WHEREAS subsection 37(2) of the *Planning Act* requires that a by-law under

section 34 of the *Planning Act* which authorizes increases in height and density pursuant to subsection 37(1) of the *Planning Act* may not be enacted unless the municipality has an official plan in effect that contains provisions relating to the authorization of increases in height and density of development;

AND WHEREAS the City of Toronto Official Plan contains provisions relating to the authorization of increases in height and density of development;

AND WHEREAS subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with such facilities, services or matters;

AND WHEREAS the Owner and the City executed, delivered an agreement made as of February 24, 2020 pursuant to section 37(3) of the *Planning Act* to secure the provision of certain facilities, services and matters with respect to the Site (herein referred to as the "Original Agreement");

AND WHEREAS the Original Agreement, pursuant to section 37(4) of the *Planning Act* was registered on February 26, 2020 as Instrument No. AT5373895 in the Land Registry Office for the City of Toronto (No. 80);

AND WHEREAS following the execution and delivery of the Original Agreement by the Owner and the City the LPAT issued an order, dated February 18, 2020 as further revised by an order dated February 26, 2020, approving the form of the Amending By-laws within the Original Agreement;

AND WHEREAS following the execution, delivery and registration of the Original Agreement, City Council adopted Item MM22.29 at its meeting on June 29 and 30, 2020 directing that the Off-site Parkland be financially secured and conveyed to the City on a timetable and improved in a manner contrary to the Original Agreement and the Amending By-laws as attached to the Original Agreement;

AND WHEREAS the City required the Numbered Company to enter into the Original Agreement;

AND WHEREAS to the Parties may agree to enter into this agreement (herein referred to as the "Agreement") and this Agreement may be registered by the City against the Site and the Off-site Parkland, and the City is entitled to enforce the provisions of this Agreement as applicable against the Owner and the Numbered Company on a joint and several basis subject to the Registry Act and the Land Titles Act against any and all subsequent owners of the Site and the Off-site Parkland;

NOW THEREFORE in consideration of the sum of two dollars (\$2.00), the receipt and sufficiency of which is hereby acknowledged, and for other good and valuable consideration, the Owner and the City agree to and with each other as follows:

1 DEFINITIONS AND SCHEDULES

1.1 For the purposes of this Agreement, the following words and terms shall have the following meanings:

- (a) **"Above Grade Building Permit"** means the first Building Permit to be issued that permits the construction of all or any portion of a building on the Site to be located above grade but for the purpose of this definition a building does not include a temporary sales office or temporary sales building;

- (b) **"Amending By-laws"** means the proposed amendments to the Zoning By-laws substantially in the form and having the content attached hereto as Schedules "B-1" and "B-2";
- (c) **"Application to Court"** means an application for leave to appeal, an application for judicial review, an application to quash pursuant to the *City of Toronto Act, 2006* and any appeal(s) from a decision or order in respect of any of these made to a court;
- (d) **"Approved Park Completion Certificate"** has the meaning identified in subsection 13.26 of this Agreement;
- (e) **"Approved Park Design Plans"** has the meaning identified in subsection 13.17;
- (f) **"Architectural Features"** has the meaning identified in subsection 8.1 of this Agreement;
- (g) **"Balmuto Street Traffic Control Signals"** has the meaning identified in subsection 5.1 of this Agreement;
- (h) **"Balmuto Street Traffic Installation"** has the meaning identified in subsection 5.2 of this Agreement;
- (i) **"Base Park Improvements"** means:
 - (i) Demolition, removal and disposal of all existing materials, buildings, foundations and associated servicing;
 - (ii) grading inclusive of 300mm depth topsoil supply and placement. Where lands have been environmentally risk assessed in accordance with Ministry of the Environment, Parks and Conservation requirements and Provincial regulations, the required depth profile of the environmental soil / soft cap will be 1.5 metres of engineered fill compacted to 95% standard Proctor density and certified by the Owner's consulting engineer. In the case of a risk-assessment, all materials brought on the Off-site Parkland shall comply with the site-specific standards outlined in the certificate of property use issued by the Ministry of the Environment, Parks and Conservation. In the case where no risk assessment of the Off-site Parkland was required, all materials brought on the Off-site Parkland shall comply with the Ontario Regulation 153/04, Table 3 RPI standards;
 - (iii) Sodding #1 nursery grade or equivalent value of other approved park development;
 - (iv) Fencing, where deemed necessary to the satisfaction of the General Manager, PFR;

- (v) Sanitary and storm service connections with manholes at streetline;
 - (vi) Water and electrical service connections (minimum water: 50mm to the street line including backflow preventers, shut off valves, water metre and chamber; electrical connection to the street line and electrical panel in a lockable cabinet (100 Amp service));
 - (vii) Street trees along all public road allowances abutting City-owned parkland;
 - (viii) Standard park sign (separate certified cheque required);
 - (ix) evergreen trees or shrubs planted along the boundary of the Off-site Parkland and the lands municipally known in the year 2019 as 16 Dundonald Street;
 - (x) three hose bibs; and
 - (xi) a replacement sidewalk with a width of 2.1 metres and a length of 10.973 metres along the frontage of the Off-site Parkland constructed using unit pavers matching the same pattern for sidewalks within James Canning Park.
- (j) **"Building Code Act, 1992"** means *Building Code Act, 1992*, S.O. 1992, c. 23;
 - (k) **"Building Permit"** means a permit to construct all or part of building issued by the Chief Building Official pursuant to section 8 of the *Building Code Act, 1992* and, unless otherwise specified by this Agreement, includes a conditional building permit and any permit for excavation or shoring, a permit to construct the foundation of a building located below grade, an Above Grade Building Permit, and a permit for the demolition of a building;
 - (l) **"Cash Contribution"** has the meaning identified in subsection 2.1 of this Agreement;
 - (m) **"Certificate of Approval for Environmental Compliance"** means an approval given under the authority of Part II.1 of the *Environmental Protection Act*;
 - (n) **"Chief Financial Officer and Treasurer"** means the City's Chief Financial Officer and Treasurer and shall include his or her designate;
 - (o) **"Chief Planner"** means the City's Chief Planner and Executive Director, City Planning and shall include his or her designate;
 - (p) **"City of Toronto Act, 2006"** means the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Schedule A;

- (q) **"City Standards and Specifications"** has the meaning identified subsection 5.28(c) of this Agreement;
- (r) **"Condominium"** means a corporation created pursuant to a Condominium Registration;
- (s) **"Condominium Act"** means the *Condominium Act, 1998*, S.O. 1998, c.19;
- (t) **"Condominium Registration"** means registration of a declaration and a description in accordance with the *Condominium Act*;
- (u) **"Construction Act"** means the *Construction Act*, R.S.O. 1990, c. C. 30;
- (v) **"Construction Price Index"** means the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table 18-10-0135-01, or its successor;
- (w) **"Consulting Engineer"** shall have the meaning identified in subsection 7.2 of this Agreement;
- (x) **"Conveyance Date"** shall have the meaning identified in subsection 13.4 of this Agreement;
- (y) **"Date of Final Approval of the Amending By-laws"** means the first day upon which all of the provisions of the Amending By-laws have actually come into force and in effect, with all applicable appeal periods having lapsed with no appeals nor rehearing requests to the Tribunal, and/or Applications to Court having been launched with respect thereto or with any such appeals or rehearing requests to the Tribunal and/or Applications to Court having been finally determined in favour of the Amending By-laws so that a Building Permit(s) would be issued by the Chief Building Official, permitting the construction contemplated by the Amending By-laws to the heights and densities as permitted thereunder, upon the Owner obtaining all requisite approvals, submitting the appropriate applications for a Building Permit(s), and paying the requisite application fees;
- (z) **"Development"** means the development within the Site described in the Amending By-laws, as may be varied from time to time;
- (aa) **"Development Charges Act"** means the *Development Charges Act, 1997*, S.O. 1997, c. 27;
- (bb) **"Development Charges"** mean those charges under the City's Development Charges By-law, being City of Toronto By-law No. 515-2018;

- (cc) **"Development Review Process"** means the Site Plan Application and Site Plan Approval process as set out under section 114 of the *City of Toronto Act, 2006*;
- (dd) **"Environmental Protection Act"** means the *Environmental Protection Act, R.S.O. 1990, c. E.19*;
- (ee) **"Executive Director, ECS"** means the City's Chief Engineer and Executive Director of Engineering and Construction Services and shall include his or her designate;
- (ff) **"Final Confirmation Date"** means the second (2nd) business day, other than a Saturday, Sunday or public holiday in Ontario following the later of:
 - (i) the Date of Final Approval of the Amending By-laws, and
 - (ii) such other date as may be agreed to by the Parties hereto, provided that the occurrence of the Final Confirmation Date in accordance with the foregoing shall be expressly conditional upon such Amending By-laws being approved, in force, and/or in effect in accordance with this section on the Final Confirmation Date;
- (gg) **"Final Disposition"** means any of the following events:
 - (i) the entry of an order of the LPAT finally disposing of the Amending By-laws which rejects the Amending By-laws or results in certain amendments to the Amending By-laws,
 - (ii) the entry of an order of the LPAT which follows a rehearing by the LPAT finally disposing of the Amending By-laws or certain parts thereof which rejects the Amending By-laws or results in certain amendments to the Amending By-laws, and
 - (iii) the entry of an order of the Court which finally disposes of an Application to Court and rejects the Amending By-laws or results in certain amendments to the Amending By-laws;
- (hh) **"Final Park Acceptance Certificate"** has the meaning identified in subsection 13.33 of this Agreement;
- (ii) **"Final Statement of Approval"** means written confirmation from the Chief Planner that all conditions required for the approval of plans and drawings provided by the Owner pursuant to the Development Review Process have been satisfied and said plans and drawings are approved, to the satisfaction of the Chief Planner;

- (jj) **"Financial Security"** means a Letter of Credit or a certified cheque payable to the Treasurer, City of Toronto and shall be sufficient to guarantee the terms and obligations set out in this Agreement, as applicable;
- (kk) **"General Manager, PFR"** means City's General Manager, Parks, Forestry, and Recreation and shall include his or her designate;
- (ll) **"General Manager, Solid Waste Management Services"** means City's General Manager, Solid Waste Management Services and shall include his or her designate;
- (mm) **"Land Titles Act"** means the *Land Titles Act*, R.S.O. 1990, c. L.5;
- (nn) **"Landscape Architect"** means the firm of consulting landscape architects retained by the Owner to complete the Base Park Improvements;
- (oo) **"Letter of Credit"** means an irrevocable unconditional standby letter of credit from a Canadian Chartered Bank acceptable to the Chief Financial Officer and Treasurer in the form attached hereto as Schedule "C", with such alterations, if any, in language (not affecting the substance thereof) as are acceptable to the Chief Financial Officer and Treasurer and with the necessary particulars entered thereon;
- (pp) **"Maintenance Guarantee Period"** has the meaning identified in subsection 7.33 of this Agreement;
- (qq) **"More Homes, More Choice Act, 2019"** means the *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9;
- (rr) **"Notice of Termination"** has the meaning identified in subsection 26.3 of this Agreement;
- (ss) **"Notice of Park Acceptance"** has the meaning identified in subsection 13.26 of this Agreement;
- (tt) **"Off-site Parkland"** means the lands municipally known in the year 2019 as 14 Dundonald Street, City of Toronto, and legally described in Schedule "A-2" attached to this Agreement;
- (uu) **"Ownership Group"** means the Owner and the Numbered Company;
- (vv) **"Park Acceptance"** has the meaning identified in subsection 13.23 of this Agreement;
- (ww) **"Park Completion Certificate"** means a completion certificate signed and sealed by the Landscape Architect in respect of the Base Park Improvements;

- (xx) **"Park List of Deficiencies"** has the meaning identified in subsection 13.26 of this Agreement;
- (yy) **"Parties"** means the Owner and the City and **"Party"** means any one of them;
- (zz) **"Pedestrian Clearway"** has the meaning identified in subsection 4.1 of this Agreement;
- (aaa) **"Pedestrian Clearway Easement"** has the meaning identified in subsection 4.4 of this Agreement;
- (bbb) **"Pedestrian Path Connection"** has the meaning identified in subsection 2.4 of this Agreement;
- (ccc) **"Pedestrian Path Connection Easement"** has the meaning identified in subsection 12.1(e) of this Agreement;
- (ddd) **"Pet Amenity Area"** has the meaning identified in subsection 9.1 of this Agreement;
- (eee) **"Planning Act"** means the *Planning Act*, R.S.O. 1990, c. P.13;
- (fff) **"POPS Area"** has the meaning identified in subsection 3.1 of this Agreement;
- (ggg) **"POPS Easement"** has the meaning identified in subsection 3.6 of this Agreement;
- (hhh) **"Site"** means the lands legally described in Schedule "A" attached hereto;
- (iii) **"Site Plan Agreement"** means an agreement or agreement(s) between the Owner and the City authorized by section 114 of the *City of Toronto Act, 2006*;
- (jjj) **"Site Plan Application"** means an application filed to the City in accordance with section 114 of the *City of Toronto Act, 2006*;
- (kkk) **"Site Plan Approval"** means issuance of a Final Statement of Approval;
- (lll) **"Site Plan Appeal"** has the meaning identified in subsection 27.1 of this Agreement;
- (mmm) **"Storm Sewer"** has the meaning identified in subsection 7.1 of this Agreement;
- (nnn) **"Title Opinion for Registration of this Agreement"** means the form of Solicitor's opinion attached hereto as Schedule "D-1";

- (ooo) **"Title Opinion for Registration of Conveyances"** means the form of Solicitor's opinion attached hereto as Schedule "D-2";
- (ppp) **"Toronto Green Standard"** means the standard adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 as Item PG32.3 of the City's Planning and Growth Management Committee;
- (qqq) **"Unwinding Date"** has the meaning identified in subsection 26.2 of this Agreement; and
- (rrr) **"Ward Councillor"** means the City councillor for the ward in which the Site is located.

All other definitions or words and phrases not listed in this subsection 1.1 shall have the meaning as identified in this Agreement.

- 1.2 The schedules attached hereto are incorporated into this Agreement by reference and are deemed to be a part hereof. The schedules attached hereto are as follows:

| | |
|----------------|--|
| Schedule "A-1" | Legal Description of the Site; |
| Schedule "A-2" | Legal Description of the Off-site Parkland; |
| Schedule "B-1" | Proposed Amendment to City of Toronto Zoning By-law 569-2013; |
| Schedule "B-2" | Proposed Amendment to Former City of Toronto Zoning By-law 438-86; |
| Schedule "C" | Form of Letter of Credit; |
| Schedule "D-1" | Title Opinion For Registration Of This Agreement; |
| Schedule "D-2" | Title Opinion For Registration Of Conveyances; |
| Schedule "E" | List of Drawings and Reports for Storm Sewer; and |
| Schedule "F" | Preliminary Cost Estimate For Storm Sewer. |

2 CASH CONTRIBUTIONS TO PUBLIC SERVICES, FACILITIES OR MATTERS

- 2.1 Prior to the issuance of the first Building Permit for a part or all of the Site, the Owner shall pay to the City the sum of TWENTY-ONE MILLION NINE HUNDRED THOUSAND DOLLARS (\$21,900,000.00) in Canadian funds (herein referred to as the **"Cash Contribution"**) and the Cash Contribution shall be used by the City for the purpose of community benefits in accordance with the terms of this Agreement on the proportions set out below:
- (a) 10% directed to new or existing affordable housing facilities to the satisfaction of the Chief Planner;
- (b) 10% directed to new or existing cultural and community facilities to the satisfaction of the Chief Planner, in consultation with the Ward Councillor; and

- (c) 80% to be directed to any future publicly accessible underground pedestrian tunnel and related connections through buildings to be added as a part of the existing pedestrian pathway network in the vicinity of the Site as more particularly described in subsection 2.3 of this Agreement (herein referred to as the "**Pedestrian Path Connection Contribution**"), local streetscape improvements including Yonge Street Revitalization, and local park improvements, to the satisfaction of the Chief Planner, in consultation with the Ward Councillor.

- 2.2 If, upon the expiry of three (3) years from the Date of Final Approval of the Amending By-laws and thereafter, the Cash Contribution has not been used by the City for the intended purpose(s) set out in subsection 2.1 of this Agreement, any portion of the Cash Contribution may be redirected for another purpose at the discretion of the Chief Planner, in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the Site.
- 2.3 Beginning immediately upon the day the LPAT issues an Order approving the Development pursuant to the proceedings assigned LPAT File No. PL160524 (Case No. PL160431) and thereafter, the Owner shall use its best efforts to secure an agreement or agreements with the registered owner of the land known in the year 2019 as 2 Bloor Street West, City of Toronto and the registered owners of the lands abutting the Site to the west municipally known in the year 2019 as 15 Bloor Street West to provide a publically accessible underground pedestrian tunnel within the below grade portion of Bloor Street West between the Site and the lands municipally known in the year 2019 as 2 Bloor Street West, including all pedestrian connections from the underground pedestrian tunnel into the respective buildings, and underground pedestrian tunnel connections between the concourse level of the Development, being the first level of the Development located below grade, on the Site and the lands abutting the Site to the west municipally known in the year 2019 as 15 Bloor Street West, including all pedestrian connections from the underground pedestrian tunnel into the respective buildings (herein referred to as the "**Pedestrian Path Connection**") ultimately to facilitate the eventual construction of a below grade pedestrian entrance to the subway station at the intersection of Yonge Street and Bloor Street West, to the satisfaction of the Chief Planner, in consultation with the City Solicitor and the Ward Councillor. The Parties agree that, in the event the cost of Pedestrian Path Connection is greater than ONE HUNDRED PERCENT (100%) of the Pedestrian Path Connection, all additional costs for the Pedestrian Path Connection shall not be the responsibility of the Owner.

3 PRIVATELY OWNED PUBLICLY ACCESSIBLE SPACE

POPS Area

- 3.1 The Owner shall, at its sole cost and expense, provide, construct, and thereafter repair and maintain an area of no less than twenty-seven (27) square metres of privately owned, publicly-accessible space on the Site adjacent to the existing sidewalk abutting the Site on the Bloor Street West frontage, as generally located on the

architectural plans dated October 8, 2019, prepared by Foster + Partners and Core Architects Inc. (herein referred to as the "POPS Area") with the final location, dimensions, configuration, and design of the POPS Area to be to the satisfaction of the Chief Planner pursuant to the Development Review Process which shall include a Site Plan Agreement between the Owner and the City to secure design details for the POPS Area. The POPS Area shall be completed by the Owner and open to the public prior to the earlier of the first commercial use or the first residential use of any part of a building erected on the Site and Condominium Registration of all or any part of the Site, to the satisfaction of the Chief Planner in consultations with the City Solicitor.

3.2 The Owner agrees the POPS Area shall remain open and accessible to the general public, including the City, its officials, employees and agents, at all times of the day and night, 365 days of the year, subject to temporary closure as set out below, such that the general public has the right to use the POPS Area, provided that such public access is revocable at any time and access to the POPS Area may be refused or a person may be required to vacate the POPS Area in the case of any person who:

- (a) unreasonably interferes with or restricts, or attempts to unreasonably interfere with or restrict, the ability of other members of the public, or lawful users, including occupants of the Development, to access, use or enjoy part or all of the POPS Area;
- (b) carries on, or attempts to carry on, any illegal or unlawful activity on or within the POPS Area;
- (c) acts in a manner unreasonably inconsistent with the intended use of the POPS Area;
- (d) injures or damages (or attempts to injure or damage) any person, any real and/or personal property, and/or property rights, including any portion of the Development adjacent to the POPS Area;
- (e) obstructs, injures or attempts to obstruct or injure, any person(s) using the POPS Area or any portion thereof;
- (f) harms or destroys, or attempts to harm or destroy, any part of the POPS Area or any property rights associated therewith, and/or any property of any person(s) entitled to use the POPS Area;
- (g) commits or attempts to commit any criminal or quasi-criminal offence or is in breach of any by-law of the City.

3.3 The Owner and the City agree that the general public's access to the POPS Area may be restricted or refused as necessary in the event of an emergency or to permit maintenance, repairs, or reconstruction of the POPS Area. The Owner shall have the right at all

reasonable times to enter upon and within the POPS Area for purpose of maintenance and repair of the POPS Area or abutting lands and structures or appurtenances therein, including lands, structures and appurtenances below the POPS Area, provided the Owner in exercising such rights of access, shall not unreasonably interfere with the POPS Area and shall exercise all reasonable care in conducting its operations and shall restore the POPS Area to the same or an improved condition, as existed immediately prior to such entry to the satisfaction of the Chief Planner.

- 3.4 Prior to the first residential occupancy of any part of the Site, the Owner shall install and maintain, at its sole expense, one signage plaque in a visible and centralized location, generally in accordance with the City template for privately owned publicly-accessible space signage, and which is placed generally in accordance with the parameters established in the applicable Urban Design Guidelines as endorsed by City Council at its meeting on July 9, 2014, through the adoption of Item PG34.14, or on terms otherwise satisfactory to the Chief Planner.
- 3.5 The Owner shall ensure the POPS Area is:
- (a) illuminated to a standard acceptable to the Chief Planner and in accordance with approved plans and drawings pursuant to the Development Review Process;
 - (b) kept clear of snow and ice, rubbish, run off, and other obstructions;
 - (c) constructed in a manner acceptable to the Chief Planner; and
 - (d) thereafter repaired and maintained by the Owner to a standard as required by the Chief Planner as determined pursuant to the Development Review Process

at the sole cost and expense of the Owner, to the satisfaction of the Chief Planner.

POPS Easement

- 3.6 Prior to Site Plan Approval for any part or all of the Site, the Owner shall register a grant of easement in perpetuity to the City for nominal consideration over, upon, above, and through the entirety of the POPS Area for the purpose of publicly accessible open space use by the general public and the City, its officials, employees and agents, including all necessary rights of support (herein referred to as the "**POPS Easement**"), to the satisfaction of the City Solicitor. The POPS Easement shall be free and clear of all physical encumbrances and obstructions upon, below, and above the surface of the POPS Area save and except for any physical encumbrances and obstructions that may be permitted by, and at the sole discretion of, the Chief Planner pursuant to the Development Review Process. The POPS Easement shall allow for any necessary as-built adjustments satisfactory to the Chief Planner, in writing.

Indemnity

- 3.7 Without limiting and in addition to the Owner's obligations as set out in Section 16 of this Agreement, the Owner shall, from time to time and all times hereafter fully

indemnify and save harmless the City, its elected officials, officers, employees, agents, their successors and assigns, or any of them, from and against all actions, causes of action, suits, claims and other proceedings which may be brought against or made upon the City, its elected officials, officers, employees, agents, their successors and assigns, or any of them, and from and against all loss, liability, judgment, costs, charges, demands, damages or expenses which the City, its elected officials, officers, employees, agents, their successors and assigns, or any of them may sustain, suffer or be put to resulting from or arising out of:

- (a) the failure of the Owner to repair or maintain the POPS Area in accordance with the terms of this Agreement;
- (b) the failure of the Owner to design, construct, and maintain the lands and structures supporting the POPS Area; and
- (c) any loss, damage or injury (including death resulting from injury) to any person or property, howsoever caused directly or indirectly, resulting from or sustained by reason of any act or omission of the Owner or any person for whom it is in law responsible in connection with any of the provisions set out in this Agreement with respect to the POPS Area and the POPS Easement.

Insurance

- 3.8 The Owner shall take out and maintain, at its sole cost and expense, commercial general liability insurance with respect to the POPS Area and the POPS Easement acceptable as to form, limits and conditions to the appropriate City official, for a limit of not less than TEN MILLION DOLLARS (\$10,000,000.00) per occurrence (such limit to be increased from time to time to reflect an amount which would be maintained by a prudent owner as determined by the appropriate City official) covering possible damages, losses, claims and expenses for or in connection with any personal injury, death or property damage that might be incurred on or about the POPS Area. The insurance policy shall include the City as an additional insured and shall contain a cross-liability and severability of interest clause and include contractual liability coverage. The liability insurance policy shall provide that any breach of a condition of the policy by an insured shall not affect protection given by the policy to any other insured. The liability insurance policy shall contain a clause providing that the insurer will not cancel or refuse to renew the said insurance without first giving the City thirty (30) days prior written notice thereof. The Owner shall supply the appropriate City official with satisfactory evidence of such insurance upon request by the City, and a certificate of insurance shall be remitted to the Chief Planner no later than thirty (30) days following its issuance and evidence of continuance if available shall be remitted to the City at least thirty (30) days prior to the expiration of any insurance policy. The Owner shall provide to the City a copy of the insurance policy upon request.

4 PEDESTRIAN CLEARWAY

Pedestrian Clearway

- 4.1 The Owner shall, at its sole cost and expense, construct, provide and thereafter repair and maintain a pedestrian walkway on the Site between the face of the proposed building and the sidewalks abutting the Site on the Bloor Street West and Yonge Street frontages (herein referred to as the "**Pedestrian Clearway**"), with the final length, width, location, configuration and design of the Pedestrian Clearway to be to the satisfaction of the Chief Planner pursuant to the Development Review Process which shall include a Site Plan Agreement between the Owner and the City to secure design details for the Pedestrian Clearway, to the satisfaction of the Chief Planner. The Pedestrian Clearway shall be completed by the Owner and open to the general public prior to the earlier of the first commercial use or the first residential use of any part of a building erected on the Site, to the satisfaction of the Chief Planner.
- 4.2 The Owner shall have the right at all reasonable times to enter upon the Pedestrian Clearway for the purpose of maintenance and repair of the pedestrian sidewalk, provided the Owner in exercising such right of access, shall not unreasonably interfere with the Pedestrian Clearway Easement and shall exercise all reasonable care in conducting its operations and shall restore the Pedestrian Clearway to the same or an improved condition, as existed immediately prior to such entry.
- 4.3 Prior to effecting any maintenance or repairs which would necessitate the closure of the Pedestrian Clearway, the Owner shall obtain the prior written consent of the General Manager, Transportation Services. Notwithstanding any other terms or provisions of the Pedestrian Clearway Easement and this Agreement, at any time and from time to time, the Owner may interfere with or interrupt the use of the Pedestrian Clearway Easement without notice in instances of emergency provided obtaining prior written consent of the General Manager, Transportation Services is not practical.
- 4.4 The Owner shall ensure the Pedestrian Clearway is:
 - (a) illuminated to a standard acceptable to the Chief Planner and in accordance with approved plans and drawings pursuant to the Development Review Process;
 - (b) kept clear of snow and ice, rubbish, run off, and other obstructions;
 - (c) constructed in a manner acceptable to the Chief Planner; and
 - (d) thereafter repaired and maintained by the Owner to a standard as required by the Chief Planner as determined pursuant to the Development Review Process

at the sole cost and expense of the Owner, to the satisfaction of the Chief Planner.

Pedestrian Clearway Easement

- 4.5 Prior to Site Plan Approval for any part or all of the Site, the Owner shall register a grant of easement in perpetuity to the City for nominal consideration upon, above, and through the entirety of the Pedestrian Clearway for pedestrian use by the general public and the City, its officials, employees and agents, including all necessary rights of support (herein referred to as the "**Pedestrian Clearway Easement**"), to the satisfaction of the City Solicitor. The Pedestrian Clearway Easement shall be free and clear of all physical encumbrances and obstructions upon, below, and above the surface of the Pedestrian Clearway save and except for any physical encumbrances and obstructions that may be permitted by, and at the sole discretion of, the Chief Planner pursuant to the Development Review Process. The Pedestrian Clearway Easement shall allow for any necessary as-built adjustments satisfactory to the Chief Planner, in writing.

Indemnity

- 4.6 Without limiting and in addition to the Owner's obligations as set out in Section 16 of this Agreement, the Owner shall, from time to time and all times hereafter fully indemnify and save harmless the City, its elected officials, officers, employees, agents, their successors and assigns, or any of them, from and against all actions, causes of action, suits, claims and other proceedings which may be brought against or made upon the City, its elected officials, officers, employees, agents, their successors and assigns, or any of them, and from and against all loss, liability, judgment, costs, charges, demands, damages or expenses which the City, its elected officials, officers, employees, agents, their successors and assigns, or any of them may sustain, suffer or be put to resulting from or arising out of:
- (a) the failure of the Owner to repair and maintain the Pedestrian Clearway in accordance with the terms of this Agreement;
 - (b) the failure of the Owner to design, construct, and maintain the lands and structures supporting the Pedestrian Clearway; and
 - (c) any loss, damage or injury (including death resulting from injury) to any person or property, howsoever caused directly or indirectly, resulting from or sustained by reason of any act or omission of the Owner or any person for whom it is in law responsible in connection with any of the provisions set out in this Agreement with respect to the Pedestrian Clearway or the Pedestrian Clearway Easement.

Insurance

- 4.7 The Owner shall take out and maintain, at its sole expense, commercial general liability insurance with respect to the Pedestrian Clearway and the Pedestrian Clearway Easement acceptable as to form, limits and conditions to the appropriate City official, for a limit of not less than TEN MILLION DOLLARS (\$10,000,000.00) per occurrence (such limit to be increased from time to time to reflect an amount which would be maintained by a prudent owner as determined by the appropriate City official) covering possible damages, losses, claims and expenses for or in connection

with any personal injury, death or property damage that might be incurred on or about the Pedestrian Clearway. The insurance policy shall include the City as an additional insured and shall contain a cross-liability and severability of interest clause and include contractual liability coverage. The liability insurance policy shall provide that any breach of a condition of the policy by an insured shall not affect protection given by the policy to any other insured. The liability insurance policy shall contain a clause providing that the insurer will not cancel or refuse to renew the said insurance without first giving the City thirty (30) days prior written notice thereof. The Owner shall supply the City with satisfactory evidence of such insurance upon request by the City, and a certificate of insurance shall be remitted to the Chief Planner no later than thirty (30) days following issuance and evidence of continuance if available shall be remitted to the City at least thirty (30) days prior to the expiration of any insurance policy. The Owner shall provide to the City a copy of the insurance policy upon request.

5 BALMUTO STREET TRAFFIC CONTROL SIGNALS

- 5.1 The Owner agrees to install traffic control signals and all related infrastructure, and all related pavement markings, all related road signage, and construct any minor changes to existing curbs as necessary at the intersection of Bloor Street West and Balmuto Street to facilitate the installation of the traffic control signals and all related infrastructure (herein all such works collectively referred to as the "**Balmuto Street Traffic Control Signals**") in accordance with the terms of this Agreement.

Street Traffic Control Signals Design

- 5.2 Prior to Site Plan Approval for any part or all of the Site, the Owner shall provide, at its sole cost and expense, a detailed design and a cost estimate for the total costs and expenses for the installation of the Balmuto Street Traffic Control Signals, to the satisfaction of the General Manager, Transportation Services.

Financial Security

- 5.3 Prior to Site Plan Approval for any part or all of the Site, the Owner shall deliver Financial Security to the City in the amount of FOUR HUNDRED THOUSAND (\$400,000) dollars in Canadian funds to financially secure the total costs and expenses for the installation of the Balmuto Street Traffic Control Signals, to the satisfaction of the General Manager, Transportation Services. The Owner acknowledges and agrees the amount of the Financial Security required by this subsection 5.3 shall be exclusive of all design costs incurred by the Owner.
- 5.4 The amount held as Financial Security for the Balmuto Street Traffic Control Signals may, at the discretion of General Manager, Transportation Services, be reduced on completion of the construction/installation of all or any portion of Balmuto Street Traffic Control Signals, to the satisfaction of the General Manager, Transportation Services and prior to the City assuming responsibility therefore.
- 5.5 The amount of the Financial Security required by this Section 5 remaining on deposit following a reduction referred shall be sufficient to guarantee:

- (a) 100% of the estimated cost to complete the Balmuto Street Traffic Control Signals outstanding at that time;
- (b) the value of the holdbacks required to be retained by the Owner, or any other proper payer, under Part IV of the *Construction Act* with regard to the construction or installation of any portion of the Balmuto Street Traffic Control Signals. The Owner agrees to submit to the City all such documentation as is necessary to verify the amount of the holdbacks required to be retained as well as any further documentation which may be required by the City; and
- (c) ten percent (10%) of the value of workmanship and materials for a minimum period of two (2) years from the date the installation of the Balmuto Street Traffic Control Signals is completed and accepted in writing by the Executive Director, ECS; however,

in no event shall the amount of the reduced Financial Security required by this Section 5 be less than twenty percent (20%), of the final approved cost estimate for the Balmuto Street Traffic Control Signals, which the Owner acknowledges and agrees has not yet been established to the satisfaction of the General Manager, Transportation Services at the time of this Agreement and, of that twenty percent (20%), ten percent (10%) is to guarantee workmanship and ten percent (10%) is to guarantee performance of the Owner's construction lien obligations.

Installation of Street Traffic Control Signals Design

5.6 Prior to the earlier of

- (a) Condominium Registration of a part or all of the Site,
- (b) the first residential or commercial use of the Site, and
- (c) July 15, 2023

the Owner shall install the Balmuto Street Traffic Control Signals, to the satisfaction of the Executive Director, ECS and the General Manager, Transportation Services and, in any event, the Owner shall not commence work for the installation of the Balmuto Street Traffic Control Signals prior to requesting and receiving written permission to commence construction from the General Manager, Transportation Services.

- 5.7** Prior to the commencement of work to install the Balmuto Street Traffic Control Signals and in addition to the written permission of the General Manager, Transportation Services as set out in subsection 5.6 of this Agreement, the Owner shall, at its sole cost and expense, make an application for permits for construction and street occupation and provide a construction management plan describing how the work for the installation of the Balmuto Street Traffic Control Signals will be implemented and coordinated, to the satisfaction of the General Manager, Transportation Services.

- 5.8 During the installation of the Balmuto Street Traffic Control Signals the Owner shall ensure full time inspection for the work, to the satisfaction of the General Manager, Transportation Services and the Owner shall be solely responsible for the payment of all inspection fees required by the General Manager, Transportation Services. The Owner shall provide a minimum forty-eight (48) hours' advance notice to the General Manager, Transportation Services for the purpose of scheduling an inspection of the work for the installation of the Balmuto Street Traffic Control Signals, to the satisfaction of the General Manager, Transportation Services.

Maintenance and Operating Costs

- 5.9 Prior to Site Plan Approval for any part or all of the Site, the Owner shall provide the City with a certified cheque in the amount of THIRTY THOUSAND DOLLARS (\$30,000.00) in Canadian funds for the purpose of the maintenance and operating costs of the Balmuto Street Traffic Control Signals. The Owner acknowledges and agrees the certified cheque to be provided by the Owner pursuant to this subsection 5.9 is an amount sufficient to pay the City's maintenance and operating costs for the Balmuto Street Traffic Control Signals for a period of five (5) years to begin immediately upon the day following the expiry of the two (2) year period referred to in subsection 5.6(c) of this Agreement. Notwithstanding the provision of the Owner's certified cheque required by this subsection 5.9, the Owner agrees that the maintenance and operating costs referred to in this subsection 9 do not include costs associated with faulty or incomplete installation work which shall remain the sole responsibility of the Owner.

Liability Insurance

- 5.10 The Owner shall effect, maintain, or cause to be maintained and kept in force a Commercial General Liability Insurance policy applicable to its obligations to install the Balmuto Street Traffic Control Signals which is in a form that is satisfactory to the appropriate City Official and which issued by an insurance company licenced to transact business in the Province of Ontario and the Owner shall, prior to the General Manager, Transportation Services providing permission to install the Balmuto Street Traffic Control Signals pursuant to subsection 5.6 of this Agreement, submit to the General Manager, Transportation Services a certificate of insurance using the City's current standard certificate of insurance form evidencing coverage, to the satisfaction of the General Manager, Transportation Services.
- 5.11 The insurance policy referred to in subsection 5.10 of this Agreement shall provide for the following:
- (a) a minimum limit of such policy shall be TEN MILLION DOLLARS (\$10,000,000.00) per occurrence exclusive of interest and costs;
 - (b) inclusion of the City as an additional insured;
 - (c) coverage with respect Cross-Liability and Severability of Interests; Employer's Liability and Contingent Employer's Liability, Non-Owned Automobile Liability; and any other provisions applicable to the obligations to be carried out in connection with this Agreement; and

- (d) thirty (30) days prior written notice of cancellation or material change.
- 5.12 The insurance policy referred to in subsection 5.10 of this Agreement shall be maintained in force until the completion of the Maintenance Guarantee Period and the City assumes responsibility for the Balmuto Street Traffic Control Signals.
- 5.13 The Owner shall submit a renewal certificate using the City's current standard Certificate of Insurance Form prior to the expiration of the insurance policy to be provided pursuant to subsection 5.10 of this Agreement without notice or demand by the City. If the Owner fails to pay the renewal premium, the Financial Security to be provided by the Owner pursuant to this Section 5 and held by the City pursuant to this Agreement may be drawn on to cover the costs of same. In the event that the City elects to draw on the Financial Security required by this Section 5 to pay the renewal premium, the Owner will be required to resubmit the Financial Security for the Balmuto Street Traffic Control Signals in an amount satisfactory to the City to guarantee completion of the installation of the Balmuto Street Traffic Control Signals required under the terms of this Agreement.
- 5.14 The Owner further agrees to supply a Certificate of Insurance in a form and amount satisfactory to any other applicable governmental authority or to any other person whose lands or services are being worked upon, traversed or affected by the Balmuto Street Traffic Control Signals installation work provided for herein. The policy shall indemnify the applicable governmental authorities or person, as the case may be, from any loss arising from claims for damages, injury or otherwise in connection with the Storm Sewer work done by or on behalf of the Owner.
- 5.15 The Owner shall provide "as-built" drawings in hard copy and digital form respectively for the Balmuto Street Traffic Control Signals, to the satisfaction of the General Manager, Transportation Services prior to the City's acceptance of the Balmuto Street Traffic Control Signals by the City.

Acceptance and Assumption

- 5.16 The Executive Director, ECS may consider acceptance of the Balmuto Street Traffic Control Signals upon receipt of "as-built" drawings in hard copy and digital form showing the final plan and profile locations of the Balmuto Street Traffic Control Signals and written certification from the Owner's engineer that the Balmuto Street Traffic Control Signals have been fully and finally constructed or carried out in accordance with the accepted engineering design drawings required by subsection 5.2 of this Agreement, City Standards and Specifications, and good engineering practices.
- 5.17 The Executive Director, ECS, in consultation with the General Manager, Transportation Services, shall, if satisfied with the Balmuto Street Traffic Control Signals, assume responsibility for the Balmuto Street Traffic Control Signals. Provided that all matters related to the Balmuto Street Traffic Control Signals have been completed to the satisfaction of the Executive Director, ECS, all outstanding payments and invoices have been made and the City is not aware of any claims against it in connection with the Balmuto Street Traffic Control Signals to be provided in accordance with this Agreement or matters related hereto, the Executive Director, ECS shall authorize the release of the

Financial Security provided to secure the installation of the Balmuto Street Traffic Control Signals.

- 5.18 Upon assumption by the City of the Balmuto Street Traffic Control Signals, the ownership of the Balmuto Street Traffic Control Signals shall vest in the City, and the Owner shall have no claims or rights thereto.

Construction Act

- 5.19 The Owner agrees to comply with the provisions of the *Construction Act* including, but not limited to, ensuring that holdbacks are retained in accordance with Part IV of that Act with respect to the supply of services or materials for the Balmuto Street Traffic Control Signals.
- 5.20 If any lien is preserved or written notice of lien given pursuant to the *Construction Act* for the supply of services or materials in connection with the construction, installation or maintenance of any portion of the Balmuto Street Traffic Control Signals Sewer located on a public street or highway or any lands owned by the City or in which the City has an interest, the Owner forthwith shall give written notice to the City of such document, process or claim.
- 5.21 Without limiting the Owner's obligations and the City's rights under Section 16 of this Agreement the Owner shall indemnify, defend and save the City harmless, from and against any and all claims, actions or demands made against the City in connection with the *Construction Act* and all costs incurred by the City as a result thereof. In the event that any action, cause of action, claim or other legal document or process or other alleged claim is commenced against or imposed upon the City, the City shall, forthwith, give notice to the Owner of such document, process or claim. Upon the receipt of such notice from the City, the Owner, at its own expense and to the satisfaction of the City, shall appeal, contest, defend or settle such legal document, process or claim on behalf of the City and reasonably notify the City on a periodic basis of the progress of the matter. The Owner acknowledges and agrees that the City reserves the right to elect at any time to conduct its own appeal, contestation, defence or settlement negotiations at the Owner's expense after giving notice of same to the Owner.
- 5.22 If any lien is preserved or written notice of lien given pursuant to the *Construction Act* for the supply of services or materials in connection with the construction, installation or maintenance of any portion of the Balmuto Street Traffic Control Signals located on a public street or highway or any lands owned by the City or in which the City has an interest, the Owner shall be considered to be in default in accordance with the terms of this Agreement, until all such claims for lien, together with any associated certificates of action, are discharged or vacated or such written notices of lien are withdrawn or a Court declaration is obtained that the written notices of lien are no longer binding or that the related liens have expired.
- 5.23 The Owner acknowledges and agrees that no reduction in Financial Security for the Storm Sewer will be considered if the Owner is in default of the provisions of this Section 5.

Indemnification

- 5.24 Without limiting and in addition to the Owner's obligations and the City's rights as set out in Section 16 of this Agreement, the Owner shall indemnify and save the City, harmless from and against any and all loss, injury or damage or claim for loss, injury or damage in connection with installation of the Balmuto Street Traffic Control Signals done by or on behalf of the Owner or the use including design, construction, maintenance and use of the Balmuto Street Traffic Control Signals prior to its acceptance by the City, including any damages incurred by reason of the Owner's failure to comply with any provision of this Agreement, save and except to the extent that any such loss, injury, damage or claim arises by virtue of the negligence or willful misconduct of the City or any of their employees, agents, representatives or any other person for whom the City is responsible for at law.
- 5.25 Without limiting and in addition to the Owner's obligations and the City's rights as set out in Section 16 of this Agreement, in the event that any action, cause of action, claim or other legal document or process or other alleged claim is commenced against or imposed upon the City, the City shall, forthwith, give notice to the Owner of such document, process or claim. Upon the receipt of such notice from the City, the Owner, at its own expense and to the satisfaction of the City, shall appeal, contest, defend or settle such legal document, process or claim on behalf of the City and shall reasonably notify the City on a periodic basis of the progress of the matter. The Owner acknowledges and agrees that the City reserves the right to elect at any time to conduct its own appeal, contestation, defence or settlement negotiations at the Owner's expense after giving notice of same to the Owner.
- 5.26 Without limiting and in addition to the Owner's obligations and the city's rights as set out in Section 16 of this Agreement, the Owner will pay to the City on demand any loss, costs, injury, damages and expenses which may be sustained, incurred or paid by the City in consequence of the matters governed by the indemnity and defence provisions of this Agreement, provided that on default of such payment all such mentioned loss, costs, injury, damages and expenses and all such moneys so paid or payable may be deducted from the Financial Security required to be provided by this Section 5 or from moneys payable by the City to the Owner on any account whatsoever or may be recovered from the Owner in a court of competent jurisdiction as moneys paid at its request.
- 5.27 The Owner agrees to take all precautions necessary to protect the public against injury, including without limitation City-owned lands to be used for the purpose of the installation of the Balmuto Street Traffic Control Signals, and when necessary maintain illuminated danger signals at night and at such other times and places as may be required to ensure public safety, to the satisfaction of the Executive Director, ECS.

General Provisions

- 5.28 The Owner acknowledges and agrees with the City that:

- (a) Qualitative or Quantitative Tests

The Executive Director, ECS may have qualitative or quantitative tests made of any materials which have been, or are proposed to be used in the construction of

the Balmuto Street Traffic Control Signals required by this Agreement and the cost of such tests shall be paid by the Owner no later than fourteen (14) days of the account being rendered by the City;

(b) Relocation of Existing Services

The Owner shall pay the cost of relocating any existing municipal infrastructure caused by the installation of the Balmuto Street Traffic Control Signals within fourteen (14) days of the account for same being rendered by the City;

(c) Specifications

Unless otherwise specified, and notwithstanding and despite anything to the contrary in this Agreement, any Balmuto Street Traffic Control Signals installation work required to be done under this Agreement by the Owner shall be according to the standards and specifications of the City as may be modified from time to time and Provincial standards as may be required by the General Manager, Transportation Services (herein referred to as the "**City Standards and Specifications**");

(d) Damages to Municipal Infrastructure

The Owner shall at its sole cost and own expense, restore all existing municipal infrastructure that may be damaged due to activities related to the installation of the Balmuto Street Traffic Control Signals, to the satisfaction of the Executive Director, ECS; and

(e) Interest

Interest shall be payable by the Owner to the City on all sums of money payable under this Section 5 which are not paid on the due dates. The due date of any sum of money shall be thirty (30) days after the date of the invoice. The interest rate shall be prime interest rate prevailing on the due date of the invoice and the amount of the interest shall be determined by the Chief Financial Officer and Treasurer whose decision in this matter shall be final.

6 INTENTIONALLY DELETED

7 STORM SEWER

Scope of Work

- 7.1 The Owner agrees to construct and complete at its sole cost and expense and in a good and workmanlike manner, a storm sewer and all related appurtenances as hereinafter set out in Schedule "E" to this Agreement (collectively, said works are referred to as the "**Storm Sewer**") and in accordance with the preliminary cost estimate attached as Schedule "F" to this Agreement. The Owner acknowledges and agrees to revise the drawings and reports set out in Schedule "E" and the preliminary cost estimate attached

as Schedule "F", to the satisfaction of the Executive Director, ECS, without amendment to this Agreement, in the event the Ministry of Environment, Conservation and Parks requires revisions to the drawings and report set out in Schedule "E" prior to it issuing a Certificate of Approval for Environmental Compliance for the Storm Sewer and the Owner shall complete, perform, financially secure or make payment in respect of said revisions in accordance with this Section 7.

Consulting Engineer

- 7.2 The Owner agrees to retain a professional engineer, competent in the municipal engineering field (herein referred to as the "**Consulting Engineer**") to carry out all the necessary engineering requirements for the Development and the Storm Sewer in accordance with the Performance Standards for Professional Engineers Providing Land Development Services, as amended from time to time, as prepared by the Professional Engineers Ontario until the Storm Sewer work provided for in this Section 7 is completed and acceptable to the Executive Director, ECS. The Consulting Engineer shall serve as the Owner's representative in all matters related to the provision and installation of the Storm Sewer and shall be the primary engineering contact with the City.
- 7.3 The Owner agrees to retain the Consulting Engineer to perform, without limiting the generality of the foregoing, the following services:
- (a) prepare designs of all works to be constructed, including overland flow routes and other storm water management concepts;
 - (b) ensure soil investigation is carried out when soil conditions warrant and to submit the reports to the Owner and the City;
 - (c) prepare and submit to the City all required drawings, cost estimates and reports;
 - (d) prepare and administer where required all necessary contract(s);
 - (e) obtain necessary approvals in conjunction with the City or any external authority having jurisdiction as may be necessary;
 - (f) arrange and document a pre-construction meeting to be attended by the City and such further meetings as may be required by the Executive Director, ECS;
 - (g) provide and confirm the field layout of the Storm Sewer construction and reconstruction and the Development of the Site;
 - (h) provide full time on-site inspection and prepare/ submit daily inspection reports. Inspection reports shall be completed, to the satisfaction of the Executive Director, ECS and shall be submitted to the Executive Director, ECS on a weekly basis;

- (i) inspect compliance with the City specifications, and certify that the Storm Sewer has been constructed and/or installed in accordance with standards, specifications and designs accepted by the City;
- (j) inspect all deficient construction works and prepare performance rectification lists for the Storm Sewer;
- (k) follow-up to ensure that all Storm Sewer rectifications are satisfactorily completed prior to said works being accepted by the Executive Director, ECS;
- (l) maintain all records of construction and, upon completion, provide to the Executive Director, ECS a complete set of "as-built" drawings showing the final plan and profile locations of the Storm Sewer, including connections to the street line. The as-built drawings shall be in hard-copy and in digital format acceptable to the Executive Director, ECS; and
- (m) provide co-ordination and scheduling to comply with the timing provisions of Section 7 of this Agreement and its requirements.

7.4 The Owner agrees to provide the City with a letter in a form acceptable to the Executive Director, ECS indicating there is a hiring agreement or contract between it and the Consulting Engineer before commencement of construction of the Storm Sewer. The said agreement or contract shall include the services to be provided by the Consulting Engineer, in accordance with this Section 7.

7.5 The agreement or contract referred to in subsection 7.4 of this Agreement shall provide that the Executive Director, ECS may inspect or cause to be inspected the construction of the Storm Sewer and that the Executive Director, ECS has the authority to require the Owner to cease work in the event that:

- (a) safety is compromised;
- (b) work is not being performed in accordance with good engineering practices;
- (c) an adjustment to the design is required to suit conditions not known at the time of review of the engineering drawings; or
- (d) the work is being performed without full-time consultant inspection.

7.6 The Owner acknowledges and agrees that should circumstances warrant the City to require the Owner to cease work in respect of the Storm Sewer, any loss of profits or costs incurred, as a result of the stoppage of work, are at the Owner's sole cost and expense.

Release for Construction of the Storm Sewer

7.7 The Owner shall not commence construction of the Storm Sewer until the Executive Director, ECS is satisfied that the following conditions have been met:

- (a) this Agreement has been signed by the Owner;
- (b) the engineering drawings for the Storm Sewer have received final acceptance by the Executive Director, ECS;
- (c) the Owner has deposited with the City Financial Security as set out in this Section 7;
- (d) the Owner has deposited with the City proof of insurance as set out in this Section 7;
- (e) the Owner has deposited with the City proof of Worker Safety and Insurance Board Clearance Certificate;
- (f) the requirements set out in Schedule "E" of this Agreement to be completed prior to release of construction of the Storm Sewer have been satisfied; and,
- (g) the Owner has obtained a roadway occupancy permit for works required upon below, above and within roads or other permits as may be required to the satisfaction of the Executive Director, ECS.

7.8 Upon confirmation that all of the conditions in subsection 7.7 of this Agreement have been met by the Owner to the satisfaction of the Executive Director, ECS, the Executive Director, ECS may issue to the Owner written permission to commence construction of the Storm Sewer.

Liability Insurance

- 7.9 The Owner will effect, maintain or cause to be maintained, and kept in force, a Commercial General Liability insurance policy applicable to its obligations to construct the Storm Sewer which is in a form that is satisfactory to the appropriate City official and which is written with an insurance company licensed to transact business in the Province of Ontario. Prior to release for construction of the Storm Sewer as set out in subsection 7.7 of this Agreement, the Owner shall submit to the Executive Director, ECS a Certificate of Insurance using the City's current standard Certificate of Insurance Form evidencing the coverage required pursuant to this Section 7, to the satisfaction of the Executive Director, ECS.
- 7.10 The insurance policy referred to in subsection 7.9 of this Agreement shall provide for the following:
- (a) a minimum limit of such policy shall be Ten Million Dollars (\$10,000,000.00) per occurrence exclusive of interest and costs;
 - (b) inclusion of the City as an additional insured;
 - (c) coverage with respect Cross-Liability and Severability of Interests; Employer's Liability and Contingent Employer's Liability, Non-Owned Automobile Liability;

and any other provisions applicable to the obligations to be carried out in connection with this Agreement; and

(d) thirty (30) days prior written notice of cancellation or material change.

- 7.11 The insurance policy referred to in subsection 7.9 of this Agreement shall be maintained in force until the completion of the Maintenance Guarantee Period and the City assumes responsibility for the Storm Sewer.
- 7.12 The Owner shall submit a renewal certificate using the City's current standard Certificate of Insurance Form prior to the expiration of the insurance policy to be provided pursuant to subsection 7.9 of this Agreement without notice or demand by the City. If the Owner fails to pay the renewal premium, the Financial Security to be provided by the Owner pursuant to this Section 7 and held by the City pursuant to this Agreement may be drawn on to cover the costs of same. In the event that the City elects to draw on the Financial Security required by this Section 7 to pay the renewal premium, the Owner will be required to resubmit the Financial Security for the Storm Sewer in an amount satisfactory to the City to guarantee completion of the Storm Sewer constructed under the terms of this Agreement.
- 7.13 The Owner further agrees to supply a Certificate of Insurance in a form and amount satisfactory to any other applicable governmental authority or to any other person whose lands or services are being worked upon, traversed or affected by the Storm Sewer work provided for herein. The policy shall indemnify the applicable governmental authorities or person, as the case may be, from any loss arising from claims for damages, injury or otherwise in connection with the Storm Sewer work done by or on behalf of the Owner.

Inspection Work and Construction Obligations

- 7.14 When and where determined by the Executive Director, ECS, the Storm Sewer shall be constructed and installed under the observation of inspectors employed by the City at the sole cost and expense of the Owner. The Owner shall be solely responsible for the payment of all City inspection fees, to the satisfaction of the Executive Director, ECS. Following release for construction of the Storm Sewer in accordance with subsection 7.7 of this agreement, the Owner agrees to ensure that the Consulting Engineer notifies the Executive Director, ECS in writing of the proposed date of commencement of construction prior to commencing construction.
- 7.15 The Owner agrees that the Executive Director, ECS shall have the authority to stop the construction of all or part of the Storm Sewer in the event City inspections determine that adjustment to the design is required to suit actual conditions not known at the time of review of the engineering drawings and such changes shall be made by the Owner at no cost to the City.
- 7.16 The Owner shall not restrict, and shall ensure that no person working within the Site shall restrict, the normal flow of traffic within or outside the Site without the prior written consent of the Executive Director, ECS.

- 7.17 The Owner shall maintain the Site and any external lands on which the Storm Sewer is being constructed in a condition free from accumulation of waste products, debris, mud and dust until the City assumes responsibility of the Storm Sewer pursuant to this Agreement.
- 7.18 The City shall be entitled to designate points of access to and egress from to the Site from existing City streets during the period of construction of the Storm Sewer and the Development. Permanent barricades shall be erected as necessary at locations designated by the Executive Director, ECS prior to construction and shall be maintained at the Owner's sole cost and expense until acceptance of the Storm Sewer or as required by the Executive Director, ECS.

Indemnification

- 7.19 Without limiting and in addition to the Owner's obligations and the City's rights as set out in Section 16 of this Agreement, the Owner shall indemnify and save the City, harmless from and against any and all loss, injury or damage or claim for loss, injury or damage in connection with installation of the Storm Sewer done by or on behalf of the Owner or the use including design, construction, maintenance and use of the Storm Sewer prior to its acceptance by the City, including any damages incurred by reason of the Owner's failure to comply with any provision of this Agreement, save and except to the extent that any such loss, injury, damage or claim arises by virtue of the negligence or willful misconduct of the City or any of their employees, agents, representatives or any other person for whom the City is responsible for at law.
- 7.20 Without limiting and in addition to the Owner's obligations and the City's rights as set out in Section 16 of this Agreement, in the event that any action, cause of action, claim or other legal document or process or other alleged claim is commenced against or imposed upon the City, the City shall, forthwith, give notice to the Owner of such document, process or claim. Upon the receipt of such notice from the City, the Owner, at its own expense and to the satisfaction of the City, shall appeal, contest, defend or settle such legal document, process or claim on behalf of the City and shall reasonably notify the City on a periodic basis of the progress of the matter. The Owner acknowledges and agrees that the City reserves the right to elect at any time to conduct its own appeal, contestation, defence or settlement negotiations at the Owner's expense after giving notice of same to the Owner.
- 7.21 Without limiting and in addition to the Owner's obligations and the city's rights as set out in Section 16 of this Agreement, the Owner will pay to the City on demand any loss, costs, injury, damages and expenses which may be sustained, incurred or paid by the City in consequence of the matters governed by the indemnity and defence provisions of this Agreement, provided that on default of such payment all such mentioned loss, costs, injury, damages and expenses and all such moneys so paid or payable may be deducted from the Financial Security required to be provided by this Section 7 or from moneys payable by the City to the Owner on any account whatsoever or may be recovered from the Owner in a court of competent jurisdiction as moneys paid at its request.

- 7.22 The Owner agrees to take all precautions necessary to protect the public against injury on the Site and other lands to be developed or used for construction purposes, including without limitation City-owned lands to be used for the purpose of the construction of the Storm Sewer, and when necessary maintain illuminated danger signals at night and at such other times and places as may be required to ensure public safety, to the satisfaction of the Executive Director, ECS.

Financial Security

- 7.23 Prior to the earlier of Release for Construction of the Storm Sewer under subsection 7.7 of this Agreement and the issuance of the first Above Grade Building Permit for a part or all of the Site, the Owner shall provide the City with Financial Security to guarantee the satisfactory performance and completion of the Storm Sewer as shown and described in the list of drawings and reports in Schedule "E" attached hereto and all obligations required pursuant to Section 7 of this Agreement, including:
- (a) the provision of "as-built" drawings required under subsection 7.3 of this Agreement;
 - (b) any claims that may be claimed against holdback as provided under the *Construction Act* in respect of work done or improvements made to lands dedicated as public streets, highways or made to other public lands; and,
 - (c) workmanship and materials for a period of two years from the date the Storm Sewer is accepted in writing by the Executive Director, ECS.
- 7.24 The Financial Security required by this Section 7 shall be in the form of a certified cheque or a Letter of Credit or any combination thereof and shall be in an amount to be determined by the Executive Director, ECS, whose decision shall be final but in any event the amount of the Financial Security shall be no less than one hundred and twenty percent (120%) of the preliminary cost estimate attached hereto as Schedule "F".
- 7.25 The Owner acknowledges and agrees the Financial Security required by this Section 7 submitted to the City in the form of a certified cheque will be placed in a non-interest bearing account.
- 7.26 The Owner agrees that the Financial Security, as may be reduced in accordance with this Section 7, will be maintained in full force and effect until the expiry of the Maintenance Guarantee Period and the City assumes responsibility for the Storm Sewer pursuant to subsections 7.32 to 7.37, inclusive.
- 7.27 At the request of the Owner and with the approval of the Executive Director, ECS in his sole discretion, the Maintenance Guarantee Period may be established for stages of the work for the Storm Sewer rather than for the complete Storm Sewer works.
- 7.28 The amount held as Financial Security for the Storm Sewer may, at the discretion of Executive Director, ECS, be reduced:

- (a) on completion of the construction/installation of all or any portion of the Storm Sewer and prior to the City assuming responsibility therefore, and
 - (b) upon receipt of the Consulting Engineer's certification of the cost of the outstanding Storm Sewer yet to be constructed or completed pursuant to this Agreement.
- 7.29 The amount of the Financial Security required by this Section 7 remaining on deposit following a reduction shall be sufficient to guarantee:
- (a) 100% of the estimated cost to complete the Storm Sewer outstanding at that time;
 - (b) the provision of engineering services and other professional services required by subsections 7.2 to 7.5, inclusive of this Agreement and which are necessary to complete the Storm Sewer outstanding at that time;
 - (c) the value of the holdbacks required to be retained by the Owner, or any other proper payer, under Part IV of the *Construction Act* with regard to the construction or installation of any portion of the Storm Sewer located on a public street or highway or any lands owned by the City or in which the City has an interest. The Owner agrees to submit to the City all such documentation as is necessary to verify the amount of the holdbacks required to be retained as well as any further documentation which may be required by the City; and
 - (d) ten percent (10%) of the value of workmanship and materials for a minimum period of two (2) years from the date the Storm Sewer is completed and accepted in writing by the Executive Director, ECS; however,

in no event shall the amount of the reduced Financial Security be less than twenty percent (20%), of the final approved cost estimate for the Storm Sewer which the owner acknowledges and agrees has not been established to the satisfaction of the Executive Director, ECS at the time of this Agreement, and which shall be to the satisfaction of the Executive Director, ECS in their sole discretion, prior to the earlier of Release for Construction of services and Site Plan Approval for the Site and, of that twenty percent (20%), ten percent (10%) is to guarantee workmanship and ten percent (10%) is to guarantee performance of the Owner's construction lien obligations.

- 7.30 The Owner may be entitled to more than one reduction of the Financial Security for the Storm Sewer prior to the City assuming responsibility for the Storm Sewer provided that all the provisions of this Section 7 are complied with, to the satisfaction of the Executive Director, ECS.
- 7.31 Notwithstanding the provisions of this Section 7, the Owner acknowledges and agrees that no reduction in Financial Security for the Storm Sewer will be considered by the Executive Director, ECS or any other decision-maker if the Owner is in default pursuant to this Agreement.

Time Limit for Work, Acceptance and Maintenance Guarantee

- 7.32 The Owner shall complete the Storm Sewer required under this Agreement within two (2) years from the date this Agreement, except as may be specifically stated otherwise for in Schedule "E" attached hereto.
- 7.33 The Owner shall, at its sole cost and expense, warrant and guarantee the workmanship and materials of the Storm Sewer for a minimum period of two (2) years from the date that the Storm Sewer is accepted by the Executive Director, ECS (herein referred to as the **"Maintenance Guarantee Period"**).
- 7.34 Upon completion of the Maintenance Guarantee Period and prior to assumption by the City of the Storm Sewer, the Owner shall provide the Executive Director, ECS with the supporting material for an administrative amendment relating to a change in ownership of the Certificate of Approval for Environmental Compliance issued for the Storm Sewer constructed pursuant to this Agreement, as follows:
- (a) A signed letter from the Owner (Certificate of Approval holder) to the Ministry of the Environment, Conservation and Parks, requesting a change in the name/address/ownership of the business indicating the date the change is to take effect;
 - (b) A copy of the Certificate(s) of Approval requiring the name/address/ownership change; and ,
 - (c) A signed letter from the Owner authorizing the transfer of ownership of the Certificate of Approval to the City.
- 7.35 The Executive Director, ECS may consider acceptance of the Storm Sewer upon receipt of "as-built" drawings in hard copy and digital form showing the final plan and profile locations of the Storm Sewer and written certification from the Owner's Consulting Engineer that the Storm Sewer has been fully and finally constructed or carried out in accordance with the accepted engineering drawings, City Standards and Specifications and good engineering practices.
- 7.36 Following completion of the Maintenance Guarantee Period and upon receipt of those items identified in subsections 7.34 and 7.35 above, the Executive Director, ECS, if satisfied with the Storm Sewer, shall, on behalf of the City, assume responsibility for the Storm Sewer. Provided that all matters related to the Storm Sewer have been completed to the satisfaction of the Executive Director, ECS, all outstanding payments and invoices have been made and the City is not aware of any claims against it in connection with the Storm Sewer to be provided in accordance with this Agreement or matters related hereto, the Executive Director, ECS shall authorize the release of the Financial Security.
- 7.37 Upon assumption by the City of the Storm Sewer, the ownership of the Storm Sewer shall vest in the City, and the Owner shall have no claims or rights thereto, other than those accruing to it as an Owner of the land abutting on streets on which the Storm Sewer was constructed.

Incomplete or Faulty Work

7.38 If, in the opinion of the Executive Director, ECS in respect of the Storm Sewer installed pursuant to this Agreement:

- (a) the Owner is not prosecuting or causing to be prosecuted the work required in connection with this Agreement within the specified time, or the Owner is improperly performing the Storm Sewer work;
- (b) the Owner is not completing the Storm Sewer in accordance with the accepted engineering drawings in Schedule "E" attached hereto, subject to the terms of this Agreement;
- (c) the Owner is not completing Storm Sewer work under this Agreement within the specified time agreed upon;
- (d) the Owner is neglecting or has abandoned the Storm Sewer work before completion;
- (e) the Owner is unreasonably delaying the Storm Sewer work with the result that the conditions and covenants of this Agreement are being violated;
- (f) the Owner is failing to complete the Storm Sewer work or has carried out faulty work, or is carrying out the work in a careless manner, or proceeding in bad faith with respect to any of the Storm Sewer work in this Agreement;
- (g) the Owner is neglecting or refusing to renew or to again perform such work as may have been rejected by the Executive Director, ECS as being defective or unsuitable; and/or
- (h) the Owner is proceeding or acting in any other manner which, in the opinion of the Executive Director, ECS, causes a default in the performance of the terms of this Agreement in respect of the Storm Sewer;

then, in any such case, the Executive Director, ECS shall notify the Owner of such default or neglect hereof and shall set out the deficiencies to be remedied.

7.39 If notification of default provided pursuant to subsection 7.38 of this Agreement is without effect, and the Owner is not proceeding to remedy or carry out the matters in default within the time specified in the notice then the Executive Director, ECS may immediately draw upon the Financial Security for the Storm Sewer to purchase such materials, tools and machinery and to employ such workers as are required for the proper completion of the Storm Sewer at the sole cost and expense of the Owner. The Owner acknowledges that the City has the right, in the case of a default by the Owner to carry out the terms of this Agreement, to enter upon the Site in order to comply with the provisions of this Agreement.

7.40 Where, in the opinion of the Executive Director, ECS, a state of emergency exists concerning the Storm Sewer or Development, any required work may be done by the City

to rectify the situation at the Owner's sole cost and expense without prior notice to the Owner. The City agrees to notify the Owner forthwith in writing of the steps being carried out. The cost and expense of such emergency work shall be calculated by the Executive Director, ECS whose decision shall be final and conclusive.

- 7.41 The authority of the Executive Director, ECS under this Section 7 shall include the right of entry onto the property by the Executive Director, ECS or by any designated employees, agents or servants, to carry out the works under this Section 7. Such entry by the City shall be as an agent for the Owner and shall not be deemed, for any purposes whatsoever, as an acceptance of the Storm Sewer or the Storm Sewer work by the City.
- 7.42 It is understood and agreed that the total costs for all work done by the City under the authority of this Section 7 exclusive of emergency work, shall include a management fee of twenty per cent (20%) of all labour, material and machine time charges incurred to complete the work, and further, a fee of thirty per cent (30%) of the charges incurred for the dislocation and inconvenience caused to the City as a result of such default on the part of the Owner. It is understood and agreed that the aforementioned costs and fees as expressed in percentages are liquidated damages and are not to be deemed to be a penalty.
- 7.43 It is hereby declared and agreed that the assumption by the Owner of the obligations imposed by this Section 7 is one of the considerations without which the City would not have executed this Agreement.

General Provisions

- 7.44 The Owner acknowledges and agrees with the City that:

(a) **Qualitative or Quantitative Tests**

The Executive Director, ECS may have qualitative or quantitative tests made of any materials which have been, or are proposed to be used in the construction of the Storm Sewer required by this Agreement and the cost of such tests shall be paid by the Owner no later than fourteen (14) days of the account being rendered by the City;

(b) **Relocation of Existing Services**

The Owner shall pay the cost of relocating any existing municipal infrastructure caused by the Development within fourteen (14) days of the account for same being rendered by the City;

(c) **Specifications**

Unless otherwise specified, any Storm Sewer work required to be done under this Agreement by the Owner shall be according to City Standards and Specifications;

(d) **Engineering Drawings**

The Owner shall provide "as-built" drawings in hard copy and digital form respectively for the Storm Sewer, to the City prior to acceptance of the Storm Sewer by the City. The Owner further agrees to provide a copy of the accepted engineering drawings within sixty (60) days on demand if the City requires the drawings at any time during the development of the Site;

(e) Siltation Control

The Owner shall, at its expense, install and maintain all siltation control devices as required by the Executive Director, ECS at all times during construction of the Storm Sewer and the Development;

(f) Damages to Municipal Infrastructure

The Owner shall at its sole cost and own expense, restore all existing municipal infrastructure that may be damaged due to activities related to the Development to the satisfaction of the Executive Director, ECS;

(g) Interest

Interest shall be payable by the Owner to the City on all sums of money payable under this Section 7 which are not paid on the due dates. The due date of any sum of money shall be thirty (30) days after the date of the invoice. The interest rate shall be prime interest rate prevailing on the due date of the invoice and the amount of the interest shall be determined by the Chief Financial Officer and Treasurer whose decision in this matter shall be final; and

(h) Soil Investigation Reports

The Owner shall provide soil investigation reports from a competent soils engineer if soil conditions warrant in the opinion and where recommended by the Consulting Engineer; and

(i) Right to Enter

The City may enter onto any part of the Site or Land, public street or lighting subject to the construction of the Storm Sewer including below grade at any time, to inspect the Storm Sewer but such inspection will not constitute the City's acceptance of the Storm Sewer or any part of the Storm Sewer.

Construction Act

7.45 The Owner agrees to comply with the provisions of the *Construction Act* including, but not limited to, ensuring that holdbacks are retained in accordance with Part IV of that Act with respect to the supply of services or materials for the Storm Sewer.

7.46 If any lien is preserved or written notice of lien given pursuant to the *Construction Act* for the supply of services or materials in connection with the construction, installation or maintenance of any portion of the Storm Sewer located on a public street or highway or

any lands owned by the City or in which the City has an interest, the Owner forthwith shall give written notice to the City of such document, process or claim.

- 7.47 Without limiting the Owner's obligations and the City's rights under Section 16 of this Agreement the Owner shall indemnify, defend and save the City harmless, from and against any and all claims, actions or demands made against the City in connection with the *Construction Act* and all costs incurred by the City as a result thereof. In the event that any action, cause of action, claim or other legal document or process or other alleged claim is commenced against or imposed upon the City, the City shall, forthwith, give notice to the Owner of such document, process or claim. Upon the receipt of such notice from the City, the Owner, at its own expense and to the satisfaction of the City, shall appeal, contest, defend or settle such legal document, process or claim on behalf of the City and reasonably notify the City on a periodic basis of the progress of the matter. The Owner acknowledges and agrees that the City reserves the right to elect at any time to conduct its own appeal, contestation, defence or settlement negotiations at the Owner's expense after giving notice of same to the Owner.
- 7.48 If any lien is preserved or written notice of lien given pursuant to the *Construction Act* for the supply of services or materials in connection with the construction, installation or maintenance of any portion of the Storm Sewer located on a public street or highway or any lands owned by the City or in which the City has an interest, the Owner shall be considered to be in default in accordance with the terms of this Agreement, until all such claims for lien, together with any associated certificates of action, are discharged or vacated or such written notices of lien are withdrawn or a Court declaration is obtained that the written notices of lien are no longer binding or that the related liens have expired.
- 7.49 The Owner acknowledges and agrees that no reduction in Financial Security for the Storm Sewer will be considered if the Owner is in default of the provisions of this Section 7.

8 ARCHITECTURAL FEATURES

- 8.1 Pursuant to the Development Review Process for the Site but in any event prior to the Site Plan Approval for the Site, the Owner shall cause the preparation of and submit plans and drawings to the satisfaction of the Chief Planner identifying the architectural features of the tower component of the Development on the Site, including the expression of the mega columns, diagonal hangers and retail level articulation and cladding and the Owner shall enter into a Site Plan Agreement with the City to secure same to the satisfaction of the Chief Planner in consultation with the City Solicitor.

9 PET AMENITY AREA

- 9.1 Pursuant to the Development Review Process for the Site but in any event prior to Site Plan Approval for the Site, the Owner shall, at its sole cost and expense, cause the preparation of and submit plans and drawings to the satisfaction of the Chief Planner identifying a pet-friendly area with disposal facilities (herein referred to as the "Pet Amenity Area") within the Development on the Site for the use of the residents of the Development, and the Owner shall enter into a Site Plan Agreement with the City to secure design details for the Pet Amenity Area shown on the submitted plans and drawings, to

the satisfaction of the Chief Planner, in consultation with the City Solicitor. The design of the Pet Amenity Area, including layout and materiality shall be to the satisfaction of the Chief Planner prior to Site Plan Approval for the Site.

10 TORONTO GREEN STANDARD

- 10.1 The Owner shall construct and maintain the Development in accordance with Tier 2 performance measures of the Toronto Green Standard.

11 OPERATIONS MANAGEMENT PLAN

- 11.1 Pursuant to the Development Review Process of the Site but in any event prior to Site Plan Approval for the Site, the Owner shall provide and thereafter implement a plan which addresses the management of all vehicular parking spaces on the Site as a part of the Development, the valet service for the Development on the Site, the manoeuvring of vehicles within the Site as a part of the Development, and a master plan for the loading dock on the Site as a part of the Development, all to the satisfaction of the General Manager, Transportation Services and the Executive Director, ECS.
- 11.2 The City acknowledges and agrees that at the request of the local community groups the Development will be served by private solid waste collection service and as such the Owner shall not be required to construct the Development to the City's solid waste collection standards related to the entry and exit of City solid waste collection service trucks from the Site. Nothing in this subsection 11.2 shall prevent the City from any future exemptions for the Development on the Site which may facilitate the City's election to provide solid waste collection and recycling service for the Development. Prior to Site Plan Approval for any or all of the Site, the Owner shall provide a waste management plan, to the satisfaction of the Executive Director, ECS in consultation with General Manager, Solid Waste Management Services.

12 PEDESTRIAN PATH CONNECTION

- 12.1 If the Pedestrian Path Connection Contribution is used by the City for the Pedestrian Path Connection then the Owner shall, no later than three hundred and sixty-five days (365) after receiving written notice from the City of its intention to use the Pedestrian Path Connection Contribution for the Pedestrian Path Connection:
- (a) continue to use its best efforts to secure an agreement or agreements with the registered owner of the lands municipally known in the year 2019 as 2 Bloor Street West, City of Toronto and the registered owners of the lands abutting the Site to the west municipally known in the year 2019 as 15 Bloor Street West to provide the Pedestrian Path Connection, to the satisfaction of the Chief Planner and the City Solicitor;
 - (b) submit a detailed engineering design for the Pedestrian Path Connection, to the satisfaction of the Chief Planner, the General Manager, Transportation Services, and the Executive Director, ECS;

- (c) submit an application to the Right-of-Way Management Section of Transportation Services and enter into a tunnel agreement with the City in respect of Pedestrian Path Connection, all to the satisfaction of the General Manager, Transportation Services and the Executive Director, ECS, and City Solicitor;
- (d) enter into a license agreement with the City permitting the encroachment of the Pedestrian Path Connection and make all payments of consideration and fees thereunder, to the satisfaction of the City Solicitor, in consultation with the Director, Real Estate Services; and
- (e) register a grant of easement in perpetuity to the City for nominal consideration through the portion of the PATH Connection located within the Site for the purpose of pedestrian use by the general public and the City, its officials, employees and agents, including all necessary rights of support (herein referred to as the **"Pedestrian Path Connection Easement"**), to the satisfaction of the City Solicitor. The Pedestrian Path Connection Easement shall be free and clear of all physical encumbrances and obstructions save and except for any physical encumbrances and obstructions that may be permitted by, and at the sole discretion of, the Chief Planner pursuant to the Development Review Process,

all at no expense to the City.

12.2 The Owner acknowledges and agrees that, if the City exercises its option and provides notice as set out in subsection 12.1 of this Agreement, the Owner shall not be entitled to any set-off, reimbursement or cost-recovery from the City for costs incurred by the Owner which are necessary to facilitate the Pedestrian Path Connection including, but not limited to,

- (a) the Owner's provision of the knock-out panels as a part of the Development on the Site as required by this Agreement and the Development Review Process,
- (b) the Owner's engineering and design fees for the Pedestrian Path Connection,
- (c) the Owner's head office, administration, overhead and legal costs,
- (d) the Owner's costs associated with the provision of any insurance for the Pedestrian Path Connection,
- (e) the fair market value of pedestrian access rights through the Pedestrian Path Connection, and
- (f) the costs of settling the terms of this Agreement,

and the Parties agree that all said costs shall be the sole responsibility of the Owner.

13 PARKLAND DEDICATION

Parkland Dedication and Credit for Conveyance Off-site Parkland

- 13.1 The Owner agrees that it shall satisfy the City's parkland dedication requirements pursuant to section 42 of the *Planning Act* and the Toronto Municipal Code in accordance with the terms of this Agreement, to the satisfaction of the General Manager, PFR.
- 13.2 The Owner acknowledges and agrees the required parkland dedication for the Development as required pursuant to section 42 of the *Planning Act* and the Toronto Municipal Code is equal to the monetary value of two hundred and forty-five (245) square metres of the Site.
- 13.3 Subject to the terms of this Agreement, the Ownership Group agrees to provide, and the City agrees to accept, the Numbered Company's conveyance of the Off-site Parkland to the City as a partial fulfillment of the required parkland dedication in respect of the Development. The Numbered Company warrants and represents that at the time of this Agreement the Numbered Company has the power of disposition of the Off-site Parkland.
- 13.4 Immediately following the satisfaction of the Ownership Group's obligations described in subsection 13.7 of this Agreement, but in any event no later than the earlier of
- (1) the registration of a condominium for all or a part of the Site;
 - (2) the first occupancy of all or a part of the Site; and
 - (3) October 29, 2020, unless otherwise extended in writing by and at the sole discretion of the General Manager, Parks, Forestry and Recreation to a later date,
- (the earliest of said events herein referred to as the "**Conveyance Date**") the Numbered Company shall, for nominal consideration, convey to the City the Off-site Parkland in fee simple and deliver to the City the vacant possession of the Off-site Parkland, free and clear of all physical obstructions and encumbrances above, upon, and below the surface of the Off-site Parkland consistent with the list of works described at subsection 1.1(i)(i) of this Agreement, unless otherwise permitted in writing by the General Manager, PFR or as otherwise permitted by this Agreement, and free and clear of all title encumbrances in accordance with this Agreement, to the satisfaction of the City Solicitor.
- 13.5 Prior to the issuance of the first Above Grade Building Permit for all or a part of the Site, the Ownership Group shall deliver a Letter of Credit to the City in an amount equivalent to one hundred percent (100%) of the monetary value to the Off-site Parkland on the day before the day the first Above Grade Building Permit is issued for all or a part of the Site to secure the Numbered Company's conveyance of the Off-site Parkland to the City in accordance with this Agreement, to the satisfaction of the General Manager, PFR. The Ownership Group acknowledges and agrees that the monetary value of the required Letter of Credit shall be determined by the Director, Real Estate Services. If, prior to the registration of the conveyance of the Off-site Parkland to the City as contemplated under this Agreement, the LPAT determines pursuant to its authority under section 42 of the *Planning Act* that the value of the Off-site Parkland is greater than the value of the Letter

of Credit as determined by the Director, Real Estate Services, the Ownership Group shall provide the City with a replacement Letter of Credit in an amount equivalent to the value of the Off-site Parkland as determined by the LPAT no later than 15 days following the issuance of the LPAT's written decision. In the event that the Numbered Company does not convey the Off-site Parkland to the City on or prior to the Conveyance Date, then at any time after the Conveyance Date the City shall be entitled to draw down from the Letter of Credit or the replacement Letter of Credit, as the case may be, at the sole discretion of the General Manager, PFR and, upon doing so, the Numbered Company shall be released from its obligation to convey the Off-site Parkland to the City and the Ownership Group agrees that it shall not bring any claims or actions against the City in respect of any costs incurred by the Ownership Group in respect of the Off-site Parkland. Notwithstanding and despite the City's right to draw down from the Letter of Credit or the replacement Letter of Credit, the City is under no obligation to draw down from the Letter of Credit or the replacement Letter of Credit after the Conveyance Date. If the Numbered Company conveys the fee simple interest in the Off-site Parkland to the City prior to the City drawing down on the Letter of Credit or replacement Letter of Credit, as the case may be, then the City shall return the Letter of Credit or replacement Letter of Credit to the Owner upon the certification of the conveyance by the Land Registry Office.

- 13.6 If, on the day before the day the first Above Grade Building Permit is issued for all or a part of the Site, the monetary value of the Off-site Parkland is less than one hundred percent (100%) of the monetary value of the parkland dedication required for the Development as described in subsection 13.2 of this Agreement, then prior to the issuance of said Above Grade Building Permit the Ownership Group shall make a cash payment to the City in Canadian funds in the amount of the difference between the monetary value of the parkland dedication requirement for the Development as set out in subsection 13.2 of this Agreement and the monetary value of the Off-site Parkland, said cash payment to be made in partial fulfillment of the required parkland dedication as set out in subsection 13.2 of this Agreement, to the satisfaction of the General Manager, PFR. The Ownership Group acknowledges and agrees that for the purpose of this subsection 13.6 the monetary value of the required parkland dedication for the Development and the monetary value of the Off-site Parkland shall be determined by the Director, Real Estate Services whose decision shall be final unless paid under protest and appealed to the LPAT.

Environmental Compliance

- 13.7 Prior to the registration of the conveyance in fee simple of the Off-site Parkland from the Numbered Company to the City and subject to subsection 22.2 of this Agreement, the Ownership Group shall complete an environmental assessment of the Off-site Parkland, to the satisfaction of the Executive Director, ECS in consultation with the General Manager, PFR and shall:
- (a) Submit a Qualified Person Preliminary Statement Letter that is dated and signed by the applicant's Qualified Person, as defined in Ontario Regulation 153/04, describing the Off-site Parkland, and identifying what environmental documentation will be provided to the City's peer reviewer to support the relevant conveyance; all environmental documentation consistent with Ontario Regulation

153/04; requirements shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04; and insurance requirements or such greater amount specified by the Executive Director, ECS and copy to the General Manager, PFR;

- (b) Pay all costs associated with the City retaining a third-party peer reviewer including all administrative costs to the City (7%), and submit an initial deposit of \$8,000.00 towards the cost of the peer review in the form of a certified cheque, to the Executive Director, ECS, and submit further deposits when requested to cover all costs of retaining a third-party peer reviewer in respect to each conveyance;
- (c) Submit, to the satisfaction of the City's third-party peer reviewer and the Executive Director, ECS, all environmental site assessment reports prepared in accordance with Ontario Regulation 153/04, describing the current conditions of the off-site parkland and the proposed remedial action plan based on the site condition standards approach;
- (d) At the completion of the site assessment/remediation process, submit a Statement from the Qualified Person based on the submitted environmental documents, to the Executive Director, ECS for peer review and concurrence, which states:
 - (i) In the opinion of the Qualified Person:
 - (1) It is either likely or unlikely that there is off-site contamination resulting from past land uses on the off-site parkland that has migrated onto adjacent City lands that would exceed the applicable Site Condition Standards; and
 - (2) To the extent that the opinion in subsection d(i)(1) is that past migration is likely, it is either possible or unlikely that such off-site contamination on adjacent City lands poses an adverse effect to the environment or human health.
 - (ii) The Off-site Parkland meets either:
 - (1) the applicable Ministry of the Environment, Parks and Conservation Generic Site Condition Standards (Tables 1, 2, 3, 6, 7, 8 and 9; subject to applicable exemptions as stated in Ontario Regulation 153/04) for the most environmentally sensitive adjacent land use; or
 - (2) the Property Specific Standards as approved by the Ministry of the Environment, Parks and Conservation for a Risk Assessment/Risk Management Plan which was conducted in accordance with the conditions set out herein.

- (e) The Qualified Person's statement, referenced in subsections (a) and (d) above, will include a Reliance Letter that is dated and signed by the applicant's Qualified Person, as defined in Ontario Regulation 153/04, confirming that both the City and the City's third-party peer reviewer can rely on the environmental documentation submitted, consistent with Ontario Regulation 153/04 requirements, and the Qualified Person's opinion as to the conditions of the Off-site Parkland; all environmental documentation consistent with Ontario Regulation 153/04 requirements and opinions shall be submitted with reliance extended to the City and its third-party peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04 insurance requirements or such greater amount specified by the Executive Director, ECS.
- (f) For conveyance of the Off-site Parkland requiring a Record of Site Condition:
 - (i) File the Record of Site Condition on the Ontario Environmental Site Registry; and
 - (ii) Submit the Ministry of the Environment, Parks and Conservation's Letter of Acknowledgement of Filing of the Record of Site Condition or letter or acceptance of filing of the Record of Site Condition confirming that the Record of Site Condition has been prepared and filed in accordance with Ontario Regulation 153/04, to the satisfaction of the Executive Director, ECS.

Park Improvements

- 13.8 The Ownership Group shall, at its sole cost and expense, complete all Base Park Improvements to the Off-site Parkland no later than three hundred and sixty-five (365) days after the issuance of the first Above Grade Building Permit for a part or all of the Site, to the satisfaction of the General Manager, PFR. Unforeseen delays resulting in the late completion of the Base Park Improvements to the Off-site Parkland may be taken into consideration and the date for completion of the Base Park Improvements may be extended at the sole discretion of the General Manager, PFR. Notwithstanding and despite this subsection 13.8, the Ownership Group agrees that in the event the first Above Grade Building Permit is issued for any part or all of the Site prior to the Conveyance Date then the works described in subsection 1.1(i)(i) of this Agreement shall be completed prior to the Conveyance Date.
- 13.9 Prior to the issuance of the first Above Grade Building Permit for any part or all of the Site, the Ownership Group shall submit a cost estimate and any necessary plans for the Base Park Improvements, to the satisfaction of the General Manager, PFR.
- 13.10 Prior to issuance of the first Above Grade Building Permit for any part or all of the Site, the Ownership Group shall deliver to the General Manager, PFR a Letter of Credit in the amount of one hundred and twenty percent (120%) of the value of the Base Park Improvements for the Off-site Parkland, to the satisfaction of the General Manager, PFR.

The Owner acknowledges and agrees that it is not entitled to a credit towards the Parks and Recreation component of the Development Charges for the Owner's costs associated with the Base Park Improvements.

- 13.11 In the event the Ownership Group carries out any of the Base Park Improvements on a part or all of the Off-site Parkland following the registration of the conveyance in fee simple of the Off-site Parkland to the City, prior to commencing any such work the Ownership Group must enter into a Park Access Agreement (PAA) with the City, to the satisfaction of the General Manager, PFR.
- 13.12 Prior to conveyance of the Off-site Parkland Dedication, the Ownership Group shall install and thereafter maintain temporary fencing along the boundary of the Off-site Parkland, to the satisfaction of the General Manager, PFR, until such time as the Base Park Improvements are completed by the Owner, to the satisfaction of the General Manager, PFR.
- 13.13 The Ownership Group shall ensure, at all times, that the grading and drainage for the Off-site Parkland is compatible with the grades of the adjacent lands, to the satisfaction of the General Manager, PFR.
- 13.14 The Ownership Group shall, prior to bringing any fill and topsoil onto the Off-site Parkland, provide the General Manager, PFR with documentation from a qualified environmental engineer that said fill and topsoil brought meets all applicable laws, regulations and guidelines for use in a public park, to the satisfaction of the General Manager, PFR.
- 13.15 The Ownership Group covenants and agrees that it shall not provide improvements to the Off-site Parkland above Base Park Improvements and the Ownership Group agrees it shall not be eligible for nor shall it request from the City a credit against the Parks and Recreation component of Development Charges payable for the Development in the event, notwithstanding and despite its covenant contained in this subsection 13.15, the Ownership Group provides improvements to the Off-site Parkland above Base Park Improvements.
- 13.16 Upon completion of the construction and installation of the Base Park Improvements the Ownership Group shall guarantee all work and associated materials to the satisfaction of the General Manager, PFR. The Ownership Group shall provide certification from their Landscape Architect certifying that all Base Park Improvements have been completed in accordance with the approved drawings.
- 13.17 All design and tender drawings as well as construction documents shall be submitted for review and approved by the General Manager, PFR before any agreement is entered into by the owner for the construction of the Base Park Improvements. The said tender and construction documents as approved by the General Manager, PFR shall thereafter constitute the **"Approved Park Design Plans"**.
- 13.18 The Ownership Group shall, prior to issuance of a tender to construct the Base Park Improvements, provide the General Manager, PFR with:

- (a) Copies of all relevant project documentation including documentation released to proposed contractors or subcontractors in respect of the Base Park Improvements and the results of responses received;
- (b) All plans and drawings, to be submitted to any contractor retained by the Owner; and
- (c) A description of the proposed products and materials.

13.19 The Ownership Group shall not commence the construction of the proposed Base Park Improvements without first having given reasonable prior written notice that it intends to do so to the General Manager, PFR.

13.20 The General Manager, PFR will be given access to and opportunity to participate in all construction meetings and the Ownership Group will notify the General Manager, PFR of all meetings and any critical or emergency meetings (with a minimum two (2) business days' notice, where feasible, so the City can arrange to attend).

13.21 The General Manager, PFR shall be entitled, at any reasonable time, from time to time, without giving prior notice, to enter upon the lands to inspect the construction of the Base Park Improvements, including progress and quality of work, and all contracts for the construction of the Base Park Improvements shall make appropriate provision for the same.

13.22 The Owner and the City acknowledge and agree that:

- (a) All proposed changes to the construction contract(s), including change orders, are required to be submitted for prior approval to the General Manager, PFR for review in a reasonably prompt and timely manner; and
- (b) The General Manager, PFR reserves the right to have changes removed at the Owner's cost, in the event they are made without the prior approval of General Manager, PFR

13.23 The Ownership Group shall complete the Base Park Improvements in accordance with the materials described in subsection 13.17 and with the terms of this Agreement to the satisfaction of the General Manager, PFR. Following completion of the Base Park Improvements the Ownership Group shall contact the General Manager, PFR to initiate inspections by City Staff and consideration by the General Manager, PFR of acceptance of the Off-site Parkland by the City (herein referred to as "**Park Acceptance**").

13.24 Prior to Park Acceptance by the City, the Ownership Group shall, to the satisfaction of the General Manager, PFR:

- (a) Complete all Base Park Improvements to the satisfaction of the General Manager, PFR as confirmed through City inspections;
- (b) Ensure that all construction work is certified in accordance with the *Construction*

Act, and the Ownership Group shall forward all documentation for substantial performance and release of holdbacks to the City for review and approval;

- (c) Hold back all amounts required to be held back by the *Construction Act* and the Ownership Group shall be responsible for any liens placed on the Off-site Parkland as a result of the design, construction and provision of the Base Park Improvements to the City by the Owner as required by this Agreement;
- (d) Cause the Landscape Architect to provide the General Manager, PFR with a Park Completion Certificate verifying the Base Park Improvements have been completed in accordance with the materials described in subsection 13.17 of this Agreement and the date of such completion, accompanied by the documentation and materials referenced in subsection 13.25 of this Agreement;
- (e) Provide documentation from a qualified environmental engineer certifying that any fill or topsoil brought onto the lands comprising the Off-site Parkland met all applicable laws, regulations and guidelines for use in a public park; and
- (f) Have satisfied the environmental obligations set out in this Agreement; and
- (g) Provide any other materials or documents as may be deemed relevant and necessary by the General Manager, PFR.

13.25 The Landscape Architect shall append the following to the Park Completion Certificate to the satisfaction of the General Manager, PFR:

- (a) A description of the Base Park Improvements and a statement as to the date of completion;
- (b) Confirmation that the final payment has been issued with respect to the Base Park Improvements;
- (c) All documentation and certificates relating to the *Construction Act*, confirming that there are no liens registered against the Off-site Parkland;
- (d) All requisite compliance letters, certificates, inspection and test results, including environmental compliance contemplated herein;
- (e) All licenses or permits for equipment or systems;
- (f) All owner's and maintenance manuals for any and all equipment, machinery, devices and appurtenances;
- (g) A complete set of as-built drawings in hard copy (two (2) full size bond and one (1) set 11x17 format) and digital format (CD or USB, in the latest version of AutoCAD, and as PDFs) which include but are not limited to specifications, locations of all hidden services, and all deviations from the design drawings, shop drawings, inspection reports, minutes of meetings, site instructions, change orders, invoices,

certificates, progress images, warranties, close out documentation, compliance letters (for any play structures and safety surfaces), manuals, etc. The files are to be organized in folders, including a file index and submitted;

- (h) Certified grading plans,
- (i) All warranties, certificates or documents for all equipment, machinery, devices and systems as transferred to the City;
- (j) Spare or replacement parts, special tools and other such items as may be provided by the manufacturer;
- (k) A statement as to the actual total cost of the Base Park Improvements as constructed; and
- (l) Such other types of information or materials relating to the Base Park Improvements as may be relevant.

13.26 Within a reasonable time of receipt of the Park Completion Certificate from the Landscape Architect, the General Manager, PFR shall forward to the Ownership Group and the Landscape Architect either:

- (a) A notice of acceptance of the Park Completion Certificate (herein referred to as a "**Notice of Park Acceptance**") in which case the Park Completion Certificate shall be deemed to be approved (and hereinafter, the approved Park Completion Certificate shall be referred to as the "**Approved Park Completion Certificate**"); or
- (b) A list of deficiencies (herein referred to as a "**Park List of Deficiencies**").

13.27 Upon receipt of a Park List of Deficiencies, the Ownership Group:

- (a) Shall promptly remedy any defects or deficiencies contained therein; and
- (b) Upon completion, cause the Landscape Architect to issue a replacement Park Completion Certificate and accompanying materials as applicable.

13.28 Upon receipt of a replacement Park Completion Certificate from the Landscape Architect pursuant to subsection 13.27 above, the General Manager, PFR shall, if satisfied, issue a Notice of Park Acceptance and the replacement Park Completion Certificate shall be deemed to be the Approved Park Completion Certificate.

13.29 If any lien is claimed pursuant to the *Construction Act* for the supply of services or material in connection with the said work, the Ownership Group shall be considered to be in default unless all such liens are discharged or vacated within twenty (20) days of the Ownership Group becoming aware of such lien, including, without limitation, service of a Statement of Claim or notification by the City of any claim, and if the Ownership Group does not

discharge or vacate such liens, the City may, in its absolute discretion, use the Financial Security deposited by the Ownership Group for the Park Improvements to pay into court any amounts required to vacate all liens plus costs of such lien or liens, if not paid forthwith after a written demand by the City to the Ownership Group. Further, the Ownership Group shall indemnify the City against any claims, actions or demands in connection with the said work and all costs reasonably incurred by the City as a result of such claims, actions or demands.

- 13.30 Upon issuance of the Notice of Park Acceptance, the General Manager, PFR, may reduce the Letter of Credit for the Base Park Improvements held pursuant to this Section 13, retaining an amount equivalent to twenty percent (20%) of the original amount of each of the Base Park Improvements Letter of Credit to guarantee quality of work and materials for two (2) years.
- 13.31 The Ownership Group shall correct or cause to be corrected at its own expense and to the satisfaction of the General Manager, PFR any defects or deficiencies, that are not the result of lack of maintenance or improper maintenance by the City in any portion of the Base Park Improvements appearing within a period of two (2) years after the Park Completion Certificate has been given together with any damage to any other portions of the Park Improvements resulting from any such corrections (herein referred to as the **"Park Warranty Period"**).
- 13.32 If the General Manager, PFR deems at any time during such Park Warranty Period that any of Base Park Improvements are defective or unsuitable, the General Manager, PFR may, following thirty (30) days' notice having been provided to the Ownership Group in writing, may give the Ownership Group an opportunity to remedy defective or unsuitable work, or draw on the Letter of Credit provided by the Owner in this Section 13, and apply such monies to pay for part or all of the costs to correct such deficiencies or to do such maintenance as may be necessary, including the City's management fee equal to twenty percent (20%) of the total cost of the required work. It is understood that the cost of workers employed to do such work, whether or not such workers are normally employed by the City, may be paid for by drawing on the said Letter of Credit.
- 13.33 Not later than thirty (30) days prior to expiry of the Park Warranty Period for the Park Improvements, the Ownership Group shall arrange with the General Manager, PFR for a final inspection of that portion of the Park Improvements and shall deliver a final acceptance certificate (herein referred to as the **"Final Park Acceptance Certificate"**) from the Landscape Architect in a form satisfactory to the General Manager, PFR certifying there are no defects or deficiencies in such Base Park Improvements referred to therein and upon receipt of such Final Park Acceptance Certificate and provided that the General Manager, PFR is satisfied that there are no outstanding defects or deficiencies, the General Manager, PFR shall so advise the Ownership Group in writing and the Park Warranty Period shall expire for such Park Improvements upon the expiry of the Park Warranty Period at which time the Park is fully assumed by the City.
- 13.34 If the Ownership Group fails to arrange the final inspection of any Base Park Improvements with the General Manager, PFR within the time frame provided for in this

Section 13, the Park Warranty Period and Ownership Group's warranty respecting such Base Park Improvements shall be deemed to be extended until the date of such final inspection, certificate delivery and acceptance thereof.

- 13.35 Notwithstanding any other provision of this Agreement, if at any time the General Manager, PFR in his or her sole discretion is dissatisfied with the progress of the Ownership Group in implementing the Base Park Improvements process, the General Manager, PFR may, following thirty (30) days' notice having been provided to the Ownership Group in writing giving the Ownership Group an opportunity to address the concerns of the General Manager, PFR, in its unfettered discretion draw on the Letter of Credit provided by the Ownership Group under this Section 13 and apply such monies to pay for part or all of the costs to complete the implementation of the park improvement process, including the City's management fee equal to twenty percent (20%) of the total cost of the required work. It is understood that the cost of workers employed to do such work, whether or not such workers are normally employed by the City, may be paid for by drawing on said Letter of Credit.
- 13.36 Upon the expiry of the Parkland Warranty Period, the outstanding amount to the Letter of Credit originally provided by the Ownership Group for Base Park Improvements pursuant to this Section 13 shall be released by the General Manager, PFR to the Ownership Group provided that all deficiencies have been rectified to the satisfaction of the General Manager, PFR.
- 13.37 Concurrently with the execution of this Agreement among the Owner, the Numbered Company, and the City, the Numbered Company shall register a Section 118 Restriction on title to the Off-site Parkland, in a form and with priority to the satisfaction of the City Solicitor, pursuant to the *Land Titles Act*, restricting any transfer or charge of the Off-site Parkland without the prior written consent of the General Manager, PFR.
- 13.38 Prior to providing consent to a charge or transfer of the Off-site Parkland, the General Manager, PFR shall require:
- (a) a transferee to enter into and register against the Off-site Parkland or such portion thereof as the General Manager, PFR and City Solicitor agree is appropriate, a direct agreement with the City to assume all obligations of the Numbered Company relating to the Off-site Parkland, in a form and with priority to the satisfaction of the City Solicitor; and
 - (b) a chargee to enter into and register against the title to the Off-site Parkland a direct agreement with the City, in a form and with priority to the satisfaction of the City Solicitor, providing that in the event the chargee takes possession of or transfers the Off-site Parkland or any portion thereof the chargee shall assume all obligations of the Numbered Company under this Agreement.

14 INTENTIONALLY DELETED**15 KNOCK-OUT PANELS**

- 15.1 Pursuant to the Development Review Process for the Site but in any event prior to Site Plan Approval for any part or all of the Site, the Owner shall cause the preparation of and submit plans and drawings to the satisfaction of the Chief Planner, identifying knock-out panels in a number, location, and dimension along the concourse level and in the underground parking garage levels of the Development on the Site, to the satisfaction of the Chief Planner, for the purpose of future vehicular connections and ramps, located within Parcel 1 as shown on Diagram 3 within Schedule "B-1" attached hereto and within Parcel 1 as shown on Map 2 within Schedule "B-2" attached, to the satisfaction of the Chief Planner.
- 15.2 Pursuant to the Development Review Process for the Site but in any event prior to Site Plan Approval for any part or all of the Site, the Owner shall cause the preparation of and submit, plans and drawings, to the satisfaction of the Chief Planner, identifying knock-out panels in a number, location, and dimension along the concourse level of the Development, to the satisfaction of the Chief Planner, for the purpose of facilitating connections to the Pedestrian Path Connection, and the Owner shall enter into a Site Plan Agreement with the City to secure the provision of same, to the satisfaction of the Chief Planner in consultation with the City Solicitor.

16 INDEMNITY

- 16.1 The Owner will well and truly save, defend and keep harmless and fully indemnify the City and each of its elected officials, officers, employees and agents of, from and against all manner of actions, suits, claims, executions and demands which may be brought against or made upon the City, its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the City, its elected officials, officers, employees and agents, or any of them, by reason of, or on account of, or in consequence of the fulfilment by the Owner of its obligations under this Agreement including the default or breach by the Owner of its obligations under this Agreement or by reason of any negligence or willful default of the Owner, its officers, employees, agents or persons acting under its direction in connection with the Owner's obligations hereunder. The Owner will pay to the City and to each such elected official, officer, employee or agent on demand any loss, costs, damages and expenses which may be sustained, incurred or paid by the City or by any of its elected officials, officers and agents in consequence of any such action, suit, claim, lien, execution or demand and any monies paid or payable by the City or any of its elected officials, officers, employees or agents in settlement of or in discharge or on account thereof. Such indemnity shall include, but not be limited to, any loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the City as a result of the environmental remediation in respect of the Site, or failure to perform the same, including any arising from or in any way connected with any contaminant left on or below the Site, created as a result of the Development. The Owner releases the City and each of its elected officials, officers, employees and agents of, from and against all manner

of actions, suits, claims, executions and demands which could be brought against or made upon the City, its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the Owner by reason of, or on account of, or in consequence of the fulfillment of their respective obligations or exercise of their respective powers under this Agreement, provided, however, that such release shall not apply to any loss, costs, charges, damages, liens and expenses incurred by the Owner arising from the gross negligence and/or willful misconduct of the City, its officers, employees, agents or persons for whom it is responsible in law. Any amounts owing to the City pursuant to the obligation of the Owner to indemnify the City pursuant to the terms of this Agreement may be collected by the City, in addition to any other remedies it may have, as taxes with all such amounts to be payable as directed by City Council pursuant to section 386 of the *City of Toronto Act, 2006*.

- 16.2 The Numbered Company will well and truly save, defend and keep harmless and fully indemnify the City and each of its elected officials, officers, employees and agents of, from and against all manner of actions, suits, claims, executions and demands which may be brought against or made upon the City, its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the City, its elected officials, officers, employees and agents, or any of them, by reason of, or on account of, or in consequence of the fulfillment by the Numbered Company of its obligations under this Agreement including the default or breach by the Numbered Company of its obligations under this Agreement or by reason of any negligence or willful default of the Owner, its officers, employees, agents or persons acting under its direction in connection with the Numbered Company's obligations hereunder. The Numbered Company will pay to the City and to each such elected official, officer, employee or agent on demand any loss, costs, damages and expenses which may be sustained, incurred or paid by the City or by any of its elected officials, officers and agents in consequence of any such action, suit, claim, lien, execution or demand and any monies paid or payable by the City or any of its elected officials, officers, employees or agents in settlement of or in discharge or on account thereof. Such indemnity shall include, but not be limited to, any loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the City as a result of the environmental remediation in respect of the Off-site Parkland, or failure to perform the same, including any arising from or in any way connected with any contaminant left on or below the Off-site Parkland, created as a result of the Development. The Numbered Company releases the City and each of its elected officials, officers, employees and agents of, from and against all manner of actions, suits, claims, executions and demands which could be brought against or made upon the City, its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the Numbered Company by reason of, or on account of, or in consequence of the fulfillment of their respective obligations or exercise of their respective powers under this Agreement, provided, however, that such release shall not apply to any loss, costs, charges, damages, liens and expenses incurred by the Numbered Company arising from the gross negligence and/or willful misconduct of the City, its officers, employees, agents or persons for whom

it is responsible in law. Any amounts owing to the City pursuant to the obligation of the Numbered Company to indemnify the City pursuant to the terms of this Agreement may be collected by the City, in addition to any other remedies it may have, as taxes with all such amounts to be payable as directed by City Council pursuant to section 386 of the *City of Toronto Act, 2006*.

- 16.3 If the City is made a party to any action, suit or proceeding, in respect of a claim to which the Owner's obligation to indemnify the City under the provisions of this Section 16 extends, the City shall inform the Owner fully of such claims and the Owner may defend such action, suit or proceedings in the name of the City and the City shall afford the Owner every reasonable cooperation in the defense of such action, suit or proceeding, and the Owner may, in such event, elect to pay and satisfy any such claim.
- 16.4 If the City is made a party to any action, suit or proceeding, in respect of a claim to which the Numbered Company's obligation to indemnify the City under the provisions of this Section 16 extends, the City shall inform the Numbered Company fully of such claims and the Numbered Company may defend such action, suit or proceedings in the name of the City and the City shall afford the Numbered Company every reasonable cooperation in the defense of such action, suit or proceeding, and the Numbered Company may, in such event, elect to pay and satisfy any such claim.
- 16.5 The obligations of the Owner and the Numbered Company to defend and release the City under the provisions of this Agreement shall survive any termination or release in whole or in part of this Agreement, notwithstanding anything in this Agreement to the contrary.
- 16.6 The Owner shall take all precautions reasonably necessary to protect the public against injury on the Site and other lands external to the Site to be developed or serviced pursuant to the terms thereof and, when necessary, maintain illuminated danger signals at night and at such other times and places as public safety may require, including when the City undertakes works for its own services, facilities and infrastructure at or in the vicinity of the Site.
- 16.7 The Numbered Company shall take all precautions reasonably necessary to protect the public against injury on the Off-site Parkland and other lands external to the Off-site Parkland to be developed or serviced pursuant to the terms thereof and, when necessary, maintain illuminated danger signals at night and at such other times and places as public safety may require, including when the City undertakes works for its own services, facilities and infrastructure at or in the vicinity of the Off-site Parkland.

17 SPECIFIC PERFORMANCE

- 17.1 The Ownership Group acknowledges and agrees that any breach of this Agreement by the Ownership Group would not be adequately compensated by payment of damages and, accordingly, the Owner and the Numbered Company admit that specific performance is an appropriate form of remedy in the event of default by the Ownership Group.

18 BUILDING OFFICIAL MAY REFRAIN FROM ISSUANCE OF BUILDING PERMIT

- 18.1 The Ownership Group acknowledges and agrees that despite the *Building Code Act, 1992* or any other statute of the Province of Ontario, the Chief Building Official shall not issue, or be required to issue, nor shall the Ownership Group demand or be entitled to receive, any Building Permit while the Owner is in default of its obligations under this Agreement.
- 18.2 The Ownership Group acknowledges and agrees that the provisions of this Section 18 may be pleaded by the City as an estoppel against a plaintiff/defendant by counterclaim in any proceedings of any nature or kind whatsoever against the Chief Building Official or the City or any of its employees or officials, as a result of the non-issuance or revocation of a Building Permit.
- 18.3 The Ownership Group agrees that wherever the provisions of this Agreement permit the City to refuse to process or issue a Building Permit such provisions shall apply equally to the Chief Building Official.

19 TAXES

- 19.1 The Ownership Group acknowledges and agrees to pay, and shall fully indemnify the City in respect of any taxes, including those levied under the *Excise Tax Act*, associated with the benefit to the City of any facility, service, matter or thing referenced in this Agreement and provided to the City for the benefit of the City by the Ownership Group, including any service, matter or thing required under section 114 of the *City of Toronto Act, 2006* provided:
- (a) such indemnity shall be net of any rebate available to the City; and
 - (b) the Ownership Group may defend against the imposition of such taxes in the name of the City provided that the Owner may, in such event, elect to pay and satisfy any such claim for taxes in which event the City shall inform the Owner fully of such claim for taxes and shall offer the Owner every co-operation in the defense of said claim for taxes.

20 FACILITIES, WORKS AND MATTERS/ENFORCEMENT

- 20.1 The Ownership Group agrees that certain facilities, works, matters and payments required by this Agreement shall be provided and maintained by the Ownership Group at its sole risk and expense and to the satisfaction of the City. In addition, the Ownership Group agrees, that upon failure by it to do any act that is required by this Agreement, the City may, in addition to any other remedy under this Agreement, enter upon the Site or the Off-site Parkland if necessary and do the said act at the Ownership Group's expense and collect the cost in like manner as municipal taxes as provided for in section 386 of the *City of Toronto Act, 2006*.
- 20.2 No remedy herein conferred upon or reserved to the City shall exclude any other remedy, but each remedy shall be cumulative and in addition to every other remedy given hereunder or hereafter existing at law or in equity or be statute.

- 20.3 The failure of the City at any time to require performance by the Ownership Group of any obligation under this Agreement shall not constitute a waiver by the City to require full and complete performance of such obligation, or any other obligation of the Ownership Group under this Agreement, and shall in no way affect the City's rights thereafter to enforce such obligation, nor shall any such failure or decision be taken or held to be a waiver of the performance of the same or any other obligation hereunder at any later time.

21 REGISTRATION OF THIS AGREEMENT, TITLE & POSTPONEMENTS

The Owner and the Site

- 21.1 The Owner warrants that at the date of execution of this Agreement it is the registered and beneficial owner in fee simple of the Site, being the lands described in Schedule "A-1".
- 21.2 The Owner hereby agrees that at the request of the City Solicitor and at its sole cost and expense that this Agreement or a notice thereof shall be registered on title to the Site, to the satisfaction of the City Solicitor.
- 21.3 The Owner shall do such things and obtain such discharges, releases or postponements of any interest in or encumbrance of the Site as are required at the sole discretion and to the satisfaction of the City Solicitor to ensure that this Agreement, once registered, shall have priority over any interest, other than the Owner's fee simple interest and such encumbrances as may be included in the Owner's solicitor's opinion to be provided in the form of the Title Opinion For The Registration Of This Agreement in accordance with the terms of this Agreement.
- 21.4 Prior to the registration of this Agreement against the title to the Site, the Owner shall, at its sole cost and expense, provide to the City Solicitor a title opinion from the Owner's solicitors, being solicitors in good standing and licensed to practice in the Province of Ontario, addressed to the City Solicitor and substantially in the form of the Title Opinion For The Registration Of This Agreement, with such modifications as may be acceptable to the City Solicitor in her sole and unfettered discretion, opining that
- (a) the Owner is the registered owner in fee simple of the Site;
 - (b) this Agreement shall have priority over any interest other than encumbrances which may be permitted by the City Solicitor, in her sole and unfettered discretion, and
 - (c) with respect to the encumbrances which may be permitted by the City Solicitor in her sole discretion the Owner's solicitor is of the opinion that there are no liens, charges, mortgages or other security interests or options to purchase, leases or options to lease, or similar rights contained therein, or restrictions which could result in the exercise of rights and remedies by the holders thereof such that the City could not enforce the provisions of this Agreement, against the said holders and the party or parties in possession or control of the Development or operation of the Site, or which could prevent or hinder the City from exercising the rights set

out in any transfer or grant of easement, as the case may be, required by this Agreement.

The Numbered Company and the Off-site Parkland

- 21.5 The Numbered Company warrants that at the date of execution of this Agreement it is the registered and beneficial owner in fee simple of the Off-site Parkland, being the lands described in Schedule "A-2".
- 21.6 The Numbered Company hereby agrees that at the request of the City Solicitor and at its sole cost and expense that this Agreement or a notice thereof shall be registered on title to the Off-site Parkland, to the satisfaction of the City Solicitor.
- 21.7 The Numbered Company shall do such things and obtain such discharges, releases or postponements of any interest in or encumbrance of the Off-site Parkland as are required at the sole discretion and to the satisfaction of the City Solicitor to ensure that this Agreement, once registered, shall have priority over any interest, other than the Numbered Company's fee simple interest and such encumbrances as may be included in the Numbered Company's solicitor's opinion to be provided in the form of the Title Opinion For The Registration Of This Agreement in accordance with the terms of this Agreement.
- 21.8 Prior to the registration of this Agreement against the title to the Off-site Parkland, the Numbered Company shall, at its sole cost and expense, provide to the City Solicitor a title opinion from the Numbered Company's solicitors, being solicitors in good standing and licensed to practice in the Province of Ontario, addressed to the City Solicitor and substantially in the form of the Title Opinion For The Registration Of This Agreement, with such modifications as may be acceptable to the City Solicitor in her sole and unfettered discretion, opining that
- (a) the Numbered Company is the registered owner in fee simple of the Off-site Parkland;
 - (b) this Agreement shall have priority over any interest other than encumbrances which may be permitted by the City Solicitor, in her sole and unfettered discretion, and
 - (c) with respect to the encumbrances which may be permitted by the City Solicitor in her sole discretion the solicitor is of the opinion that there are no liens, charges, mortgages or other security interests or options to purchase, leases or options to lease, or similar rights contained therein, or restrictions which could result in the exercise of rights and remedies by the holders thereof such that the City could not enforce the provisions of this Agreement, against the said holders and the party or parties in possession or control of the Off-site Parkland or operation of the Off-site Parkland, or which could prevent or hinder the City from exercising the rights set out in any transfer or grant of easement, as the case may be, required by this Agreement.

22 CONVEYANCES OF LAND TO THE CITY

- 22.1 In respect of each conveyance of land from the Owner and the Numbered Company to the City required by this Agreement including, but not limited to, the conveyance of the fee simple interest in the Off-site Parkland, the grant of the POPS Easement, the grant of the Pedestrian Clearway Easement, and the grant of the Pedestrian Path Connection Easement:
- (a) the legal description of land to be conveyed, including the description of dominant and servient lands subject to an easement shall be to the satisfaction of the City Solicitor, in her sole and unfettered discretion;
 - (b) all registration documents relating to the land to be conveyed including all survey(s) and or reference plan(s) shall be in a form and content acceptable to the City Solicitor, in consultation with the Chief Planner prior to their registration and deposit in the Land Registry Office; and
 - (c) the Ownership Group shall be responsible for all costs relating to each registration of a conveyance of land required by this Agreement, including but not limited to the cost of preparing any survey(s) and/or reference plan(s) for the registration of the conveyance of the Off-site Parkland in fee simple, the registration of the grant of the POPS Easement, and the registration of the grant of Pedestrian Clearway Easement.
- 22.2 In respect of the conveyance of the fee simple interest in the Off-site Parkland by the Numbered Company to the City, notwithstanding and despite anything in the contrary in this Agreement, the Parties agree that, prior to the registration of said conveyance, the Ownership Group shall comply with all City policies and standards which apply regarding the City's acquisition of lands as a condition of development approval in effect on the day said conveyance is registered, to the satisfaction of the appropriate City official.
- 22.3 In respect of the construction of the Storm Sewer, the Owner shall be responsible at its sole cost and expense for compliance with the City's Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry, as same may be amended from time to time. Prior to entering into any contract for work in relation to such improvements (or work), the Owner shall forward information on the proposed contract as required by the City's Fair Wage Office, for review and written approval, which shall not be unreasonably withheld.
- 22.4 In respect of the Base Park Improvements to the Off-site Parkland the Ownership Group shall be responsible at its sole cost and expense for compliance with the City's Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry, as same may be amended from time to time. Prior to entering into any contract for work in relation to such improvements (or work), the Owner shall forward information on the proposed contract as required by the City's Fair Wage Office, for review and written approval, which shall not be unreasonably withheld.

- 22.5 The Ownership Group shall do such things and obtain such discharges, releases or postponements of any interest in or encumbrance of the Off-site Parkland as are required to the satisfaction of the City Solicitor to ensure upon the conveyance of the Numbered Company's fee simple interest in the Off-site Parkland to the City that the City's fee simple interest in the Off-site Parkland shall have priority over any interest, other than such encumbrances as may be included in the Numbered Company's solicitor's opinion to be provided in the form of the Title Opinion For The Registration Of Conveyances in accordance with the terms of this Agreement.
- 22.6 The Owner shall do such things and obtain such discharges, releases or postponements of any interest in or encumbrance of the Site as are required to the satisfaction of the City Solicitor to ensure that all grants of easements required under this Agreement, once registered, shall have priority over any interest, other than the Owner's fee simple interest and such encumbrances as may be included in the Owner's solicitor's opinion to be provided in the form of the Title Opinion For The Registration Of Conveyances in accordance with the terms of this Agreement.
- 22.7 The Ownership Group shall, in respect of and prior to the registration of each conveyance from the Owner to the City as required by this Agreement including, but not limited to, the conveyance of the Off-site Parkland in fee simple, the conveyance of the POPS Easement, and the conveyance of the Pedestrian Clearway Easement, provide to the City Solicitor a title opinion from Owner's solicitors, being solicitors in good standing in the Province of Ontario, addressed to the City Solicitor and substantially in the form of the Title Opinion For The Registration of Conveyances, with such modifications as may be acceptable to the City Solicitor in her sole and unfettered discretion, opining that the Owner is the registered owner in fee simple of the real property to be conveyed to the City and that none of the encumbrances against the real property to be conveyed that are not being postponed, discharged or otherwise released, contain rights or remedies that could preclude, defeat, adversely affect or interfere with the rights and fee simple interest of the City in the Off-site Parkland or the easement interest in the POPS Area and the Pedestrian Clearway or the use and enjoyment of the said easement interests.
- 22.8 The Ownership Group shall be responsible at its sole cost and expense for paying any and all sales tax, harmonized sales tax and/or land transfer tax payable for all conveyances of land required by this Agreement (which includes payment of provincial and municipal land transfer tax), if any. Notwithstanding the payment of all applicable tax payable as provided above and without limiting the Ownership Group's obligations and the City's rights as set out in Section 16, the Ownership Group shall indemnify and save harmless the City from any and all liabilities, damages, costs, claims, suits or actions made or brought against, suffered by or imposed on the City or its property arising out of, or in respect of liability for tax payable for the conveyances of land required under this Agreement.

23 PAYMENTS, FINANCIAL SECURITIES AND UPWARDS INDEXING

- 23.1 The amounts of all payments to be made to the City including the Cash Contribution, the amounts of all the Letters of Credit or certified cheques to be provided to the City under

this Agreement, and all references to specified dollar amounts in this Agreement shall be subject to increases in accordance with the Construction Price Index calculated from the date that this Agreement is executed by the Parties to the date of payment. In the case of multiple financial payments being required to be paid to the City over time, the amount of each such payment shall be increased up to the date of each such payment to the City, and if a Letter of Credit or certified cheque is to be provided and where it is indicated that the amount of such Letter of Credit or certified cheque is subject to increases as described in this Section 23, the amounts of each such Letter of Credit or certified cheque shall be increased up to the date of provision of such Letter of Credit or certified cheque to the City.

23.2 If the amount secured by a Letter of Credit or a certified cheque is subject to increases as described in this Section 23 then the Ownership Group agrees to provide the City with either an amended Letter of Credit for the total indexed amount or with a supplementary Letter(s) of Credit or certified cheque(s) for any difference between the face value of the original Letter of Credit or certified cheque provided to the City and the increased amount then outstanding and owing to the City. The supplementary Letter of Credit or certified cheque will be provided to the City within twenty (20) days following the issuance of a written demand for payment sent to the Ownership Group by a City official. Any provisions related to the release of the original Letter(s) of Credit or certified cheque(s) to the Ownership Group shall apply *mutatis mutandis* to any replacement or supplementary Letter(s) of Credit or certified cheque(s) provided.

23.3 The Ownership Group acknowledges and agrees any Financial Security received by the City in the form of a certified cheque will be placed in a non-interest bearing account.

24 DEVELOPMENT CHARGES

24.1 The Parties acknowledge and agree that none of the facilities, works, services, matters or funds to be provided by the Owner to the City under the terms of the Agreement shall constitute Development Charges or a Development Charges credit pursuant to any by-law enacted by the City pursuant to the *Development Charges Act* or any successor legislation. The Ownership Group further acknowledges that it will be required to make all applicable Development Charge payments in accordance with the provisions of any by-law enacted by the City pursuant to the *Development Charges Act*. The amount of the Development Charges shall be based on the rates in place on the effective date of this Agreement.

24.2 The Owner agrees to ensure that the persons who first purchase all or any part of the Site are informed at the time of transfer, of all the Development Charges related to the Development.

24.3 Any outstanding balance respecting a Development Charge as calculated is to be paid in full on the date a Building Permit is issued in relation to a building or structure on land to which a Development Charge applies and shall be calculated at the rate in effect on the date the Building Permit is issued in accordance with the Development Charges By-law.

- 24.4 Any payments, conveyances or contributions made to the City pursuant to this Agreement are separate and distinct from any other payment the Owner may be liable for pursuant to the *Planning Act*, as it read on the day before Subsection 12(3) of Schedule 12 to the *More Homes, More Choice Act, 2019* came into force; the *City of Toronto Act, 2006* or other applicable legislation, including but not limited to the aforesaid Development Charges pursuant to the *Development Charges Act, 1997*. The Owner further acknowledges that the Owner may be required to make such other payments or pay such other charges as may be applicable in addition to the contributions made pursuant to this Agreement.

25 GENERAL COVENANTS

- 25.1 The Parties hereto covenant and agree that at all times and from time to time hereafter upon every reasonable written request to do so, they shall make, execute, deliver or cause to be made, done, executed and delivered, all such further acts, deeds, assurances and things as may be required for more effectively implementing and carrying out the true intent and meaning of this Agreement.
- 25.2 Notwithstanding any other provisions of this Agreement, the Parties hereto agree with each other that none of the provisions of this Agreement is intended to operate, nor shall have the effect of operating in any way to fetter either the City Council, which authorized the execution of this Agreement, or any of its successors in the exercise of any of City Council's legislative, quasi-judicial powers or discretionary powers. Without limiting the generality of the foregoing, such powers include the power to pass, amend or repeal by-laws, to adopt, amend or rescind Official Plan Amendments, or any discretionary power that the City has under law to approve or withhold approval to permit any demolition, relocation, construction, alteration, re-modeling or any other things or act which may materially affect any building, structure or part thereof that is subject to this Agreement;
- 25.3 The Parties hereto agree that the covenants, rights, duties, provisos, conditions and obligations herein contained shall ensure to the benefit of and be binding upon the City and its successors and assigns and that the City and its successors and assigns shall be entitled to enforce the provisions of this Agreement which are covenants, duties or obligations of the Owner and the Numbered Company and their successors and assigns, including all subsequent owners of the Site or any part thereof and all subsequent owners of the Off-site Parkland or any part thereof, and that each registered owner of the Site, or any part of the Site from time to time and that each registered owner of the Off-site Parkland, or any part of the Off-site Parkland from time to time, shall be jointly and severally liable for the covenants and obligations of the Owner and the Numbered Company.
- 25.4 The Owner agrees that the covenants, rights, duties, provisos, conditions and obligations herein contained, as they apply to the Owner, shall enure to the benefit of and be binding upon it and the Owner's successors and assigns, including all subsequent owners of all or any portion of the Site on a joint and several basis.
- 25.5 The Numbered Company agrees that the covenants, rights, duties, provisos, conditions and obligations herein contained, as they apply to the Numbered Company, shall enure to the benefit of and be binding upon it and the Numbered Company's successors and

assigns, including all subsequent owners of all or any portion of the Off-site Parkland on a joint and several basis.

- 25.6 The Owner agrees that the covenants, easements, restrictions, rights, duties, provisos, conditions and obligations herein contained, as they apply to the Owner, shall run with the Site and shall enure to the benefit of and be binding upon the Owner and its successors and assigns, including a future condominium corporation and including all subsequent owners of all or any portion of the Site on a joint and several basis.
- 25.7 The Numbered Company agrees that the covenants, easements, restrictions, rights, duties, provisos, conditions and obligations herein contained, as they apply to the Numbered Company, shall run with the Off-site Parkland and shall enure to the benefit of and be binding upon the Numbered Company and its successors and assigns, including a future condominium corporation and including all subsequent owners of all or any portion of the Off-site Parkland on a joint and several basis.
- 25.8 Notwithstanding anything in this Agreement to the contrary, in the event that the City retains ownership of any part of the Site or the Off-site Parkland or acquires any part of the Site or Off-site Parkland or holds an easement over any part of the Site, the City shall not be bound by this Agreement as an owner.
- 25.9 The Owner agrees that any document relating to the conveyance of the Off-site Parkland and any of the lands included in the Site shall not contain any provision that the person or corporation acquiring the said lands is not required to comply with the terms and provision of this Agreement, or that is contrary to the provisions hereof.
- 25.10 Any notices to be given under this Agreement shall be delivered to the Parties at their respective addresses, which are as follows:

To the City:

City of Toronto
2nd Floor, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: City Clerk
Fax: (416) 392-6990

With Copy to:

City of Toronto Legal Services Division
Station 1260 - 26th Floor, Metro Hall
55 John Street
Toronto, ON M5V 3C6

Attention: City Solicitor
Fax: (416) 338-7703

And Copy to:

City of Toronto Engineering and Construction Services
Director of Engineering Review
City of Toronto
Metro Hall, 16th floor
55 John Street
Toronto ON M5V 3C6

Attention: Chief Engineer and Executive Director
Fax: 416-392-4426

To the Owner:

President

Mizrahi Development Group (The One) Inc.
125 Hazelton Avenue
Toronto, ON M5R 2E4

Attention: Sam Mizrahi, President
Email: sam@mizrahidevelopments.ca
Fax: 1(866) 300-0219

To the Numbered Company: 2495159 Ontario Inc.
189 Forest Hill Road
Toronto, ON M5P 2N3

Attention: Sam Mizrahi, President
Email: sam@mizrahidevelopments.ca
Fax: 1(866) 300-0219

- 25.11 The Parties agree to immediately notify each other, in writing, of any changes of address, email address or facsimile number.
- 25.12 Notice given pursuant to subsection 25.10 of this Agreement will be given by personally delivery, prepaid registered mail, by facsimile transmission or by email transmission. Notice will be deemed to have been received by a Party on the date of personal delivery and email transmission, on the third day after its mailing by prepaid registered mail or on the next business day (excluding Saturdays, Sundays and statutory holidays) following the date of facsimile transmission (provided confirmation of transmission is produced at the time of such transmission to the intended party).
- 25.13 In the event of any interruption in the postal service, notice shall be given to any Party at its respective address as set out herein by personal delivery, email transmission or facsimile transmission in the manner as set out herein.
- 25.14 No waiver or modification of the terms of this Agreement shall be valid unless in writing and signed by the City.
- 25.15 This Agreement may be amended from time to time without the consent or agreement of the owners of any units located within any condominium corporation registered against any or all of the Site and the Owner agrees that any such amendment shall not relieve or release any such owner of a condominium unit from the provisions of this Agreement.
- 25.16 The Parties acknowledge that it is possible that the City and subsequent owners may wish to modify this Agreement insofar as it relates to a component of the Site without the consent of each of the other owners of the remainder of the Site or portions thereof and to that end the Owner agrees that this Agreement may be amended by the City and a subsequent owner in respect of any one component of the Site without the consent or agreement of the owner of any other component of the Site.
- 25.17 It is the intent of this Agreement except where stated otherwise that the City shall not incur any expenses for the development of the Site and every obligation of the Owner under this Agreement shall be deemed to include the words "at the Owner's expense", unless specifically stated otherwise.
- 25.18 By execution hereof, any entities constituting the Ownership Group acknowledge and agree that they are jointly and severally liable for the obligations set out in this Agreement.

- 25.19 This Agreement is entered into by the Parties as an agreement contemplated by subsection 37(3) of the *Planning Act*. It is agreed and acknowledged by the Parties hereto that each is satisfied as to the jurisdiction of the other to enter into this Agreement. The Owner therefore acknowledges and agrees that it shall not question the jurisdiction of the City to enter into this Agreement nor question the legality of any portion thereof, and, likewise, the City agrees that it shall not question the jurisdiction of the Owner and the Numbered Company to enter into this Agreement nor question the legality of any portion hereof. The Parties hereto and their respective successors, assigns and sub-lessees are and shall be estopped from challenging the jurisdiction of the other Party to enter into this Agreement in any proceeding before a court of competent jurisdiction.
- 25.20 If this Agreement as a whole is determined by a court of competent jurisdiction to be illegal or beyond the power and jurisdiction of the City, and appeals from such decision have been exhausted, the Owner, the Numbered Company, and the City agree that the Amending By-law may be repealed by the City, and both the Owner and the Numbered Company acknowledge and agree not to oppose or question or cause to be opposed or questioned the said repeal and the termination provisions of this Agreement shall apply *mutatis mutandis*.
- 25.21 If any individual provision(s) of this Agreement is or are determined by a court of competent jurisdiction to be illegal or beyond the power, jurisdiction, or capacity of any party bound hereby, such provision shall be severed from this Agreement if the Owner, the Numbered Company, and the City agree, and the remainder of the Agreement shall continue in full force and effect, *mutatis mutandis*, and, in such case, the Owner, the Numbered Company, and the City agree to negotiate in good faith to amend the Agreement in order to implement the intentions as set out herein. If the Owner, the Numbered Company, and the City cannot agree that such provision or provisions shall be severed, or if this Agreement is found not to have jurisdiction or authority to restrain the issuance of a Building Permit or to restrain occupancy in accordance with the terms of this Agreement, City Council may repeal or amend the Amending By-laws with the object of restoring the City's zoning by-law provisions applicable to the Site to the state they were in on the day immediately prior to the date of the approval of the Amending By-laws, and the Owner and the Numbered Company acknowledge and agree not to oppose or question or cause to be opposed or questioned the repeal of the Amending By-laws.
- 25.22 The failure of the City at any time to require performance by the Owner or the Numbered Company of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall any such waiver be taken or held to be a waiver of the performance of the same or any other obligation hereunder at any later time.
- 25.23 Time shall be of the essence in this Agreement.
- 25.24 This Agreement shall commence on the date of execution and delivery hereof by the Parties.
- 25.25 Notwithstanding anything in this Agreement to the contrary, if the Owner, the Numbered Company, or the City are *bona fide* delayed in or prevented from performing any obligation arising under this Agreement by reason of strikes or other labour disturbances, civil

disturbance, material or labour shortage, restrictive government laws, including but not limited to the issuance of required permits, regulations or directives, acts of public enemy, war, terrorism, riots, sabotage, crime, lightning, earthquake, fire, hurricane, tornado, flood, explosion or other act of God, then the performance of such obligation is excused for so long as such cause exists, and the party so delayed shall be and is entitled, without being in breach of this Agreement, to carry out such obligations within the appropriate time period after the cessation of such cause.

25.26 Nothing in subsection 25.25 of this Agreement shall operate to excuse the Ownership Group from the prompt payment of cash, or the delivery of Letters of Credit in accordance with the terms of this Agreement.

25.27 The Ownership Group agrees that upon failure by them to do any act that is required by this Agreement, the City may, notify the Ownership Group and, in addition to any other remedy under this Agreement, enter upon the Site or the Off-site Parkland, as applicable, if necessary and do the said act at the Ownership Group's expense, as the case may be, and collect the cost in like manner as municipal taxes as provided for in section 386 of the *City of Toronto Act, 2006*.

26 COMPLETION AND UNWINDING

26.1 Subject to subsections 26.2 to 26.8 and to subsections 25.4 and 25.5 hereof, this Agreement shall be effective, enure to the benefit of and be binding upon the Parties hereto, and their respective heirs, executors, administrators, successors and assigns on and after the date of this Agreement. On the Final Confirmation Date, the City and/or the Owner shall give notice in writing to the other Party that the Final Confirmation Date has occurred, and upon either Party hereto giving such notice, Sections 26.2 to 26.8 hereof shall have no further effect.

26.2 The date of unwinding of this Agreement, should such occur (hereinafter referred to as the "**Unwinding Date**"), shall be the earlier to occur of:

- (a) the date of Final Disposition of the Amending By-laws if the Final Disposition rejects the Amending By-laws; and
- (b) the date of expiry of the sixty (60) day period specified in a Notice of Termination, which is given pursuant to Sections 26.3, 26.4 or 26.5 hereof.

26.3 On the occurrence of a Final Disposition of the Amending By-laws which results in the Amending By-laws coming into force or effect with modification(s) or amendment(s) thereto, then sixty (60) days written notice of termination (herein referred to as a "**Notice of Termination**") may be given by either the City or the Owner to the other. Unless the City and the Owner otherwise agree, the Unwinding Date shall occur on the expiry of the sixty (60) day period specified in such Notice of Termination. If a Notice of Termination is not given in accordance with this Section 26, the modification(s) or amendments) shall be deemed to be "Permitted Amendments" for the purposes of this Agreement.

- 26.4 If as a result of being required to do so by the Final Disposition of the Amending By-laws, City Council passes, or adopts a modification(s) or amendment(s) to the Amending By-laws which is not one of the Permitted Amendments pursuant to Section 26.3, then, at any time within thirty (30) days from the date of the giving of notice of the passing or adoption of such amendment(s) or modification(s) by the City to the Owner, sixty (60) days written Notice of Termination may be given by either the City or the Owner to the other. After passing or adopting one of the aforesaid amendment(s) or modification(s) the City forthwith shall give notice thereof to the Owner. Unless the City and the Owner otherwise agree, the Unwinding Date shall occur on the expiry of the sixty (60) day period specified in such Notice of Termination. If a Notice of Termination is not given in accordance with this Section, the modification(s) or amendment(s) shall be deemed to be one of the Permitted Amendments for the purposes of this Agreement.
- 26.5 If the Final Confirmation Date has not occurred on or before December 1, 2020 then written Notice of Termination may be given by either the City or the Owner to the other. Unless on or prior to the expiry of sixty (60) days after the date on which such Notice of Termination was given to such other Party, either the Date of Final Approval of the Amending By-laws occurs or the City and the Owner hereto otherwise agree the Unwinding Date shall occur on the expiry of such sixty (60) day period.
- 26.6 On or after the occurrence of the Unwinding Date, the Owner may expunge registration of this Agreement by appropriate means according to the requirements of the land registry system pertaining to the affected property and the City shall cooperate with all requests of the Owner, acting reasonably, in such respect, including the execution of releases and quit claims in suitable form for registration.
- 26.7 Without fettering City Council, in any way, in the exercise of its discretionary powers, on or after the occurrence of the Unwinding Date, City Council may repeal or amend the Amending By-laws with the object of restoring the Zoning By-law provisions applicable to the Lands to the state they were in on the day immediately prior to the date of the passing of the Amending By-laws. In respect of any repealing or Amending By-laws which is passed pursuant to this Section either on or after the occurrence of the Unwinding Date, the Owner covenants and agrees that it will not object to the passing, approval, or coming into force and effect of such rescinding By-law.
- 26.8 On the occurrence of the Unwinding Date, the Chief Financial Officer and Treasurer shall return any cash or Financial Security deposited by the Owner pursuant to this Agreement, as well as any interest or investment income produced therein or therefrom which have been received by the City in respect thereof.

27 SITE PLAN APPEAL

- 27.1 The Parties acknowledge and agree that as of the date of this Agreement the Owner has withdrawn its appeal to the LPAT in respect of the Site Plan Application for the Site (being Application No. 15 128257 STE 27 SA; LPAT File No. PL160431) (herein referred to as the "Site Plan Appeal").

28 THE ORIGINAL AGREEMENT

- 28.1 This Agreement amends, restates, and replaces in its entirety the Original Agreement. The City agrees with the Owner and the Numbered Company that upon the execution and delivery of this Agreement by the Parties, the registration of this Agreement against title to the Site and the Off-site Parkland in accordance with the terms of this Agreement, and the LPAT issuing an Order approving the Amending By-laws attached to this Agreement, the City shall execute and deliver such documents as may be required for the deletion of the Original Agreement from title to the Site.

29 INTERPRETATION

- 29.1 The Parties agree that the recitals in this Agreement are true both in substance and in fact.
- 29.2 The headings in the body of this Agreement have been inserted for convenience of reference only and do not form part of the Agreement.
- 29.3 This Agreement shall be construed by substituting the plural for the singular, and vice versa, as may be required by the context.
- 29.4 This Agreement shall be construed with all changes in number and gender as may be required by the context.
- 29.5 Reference to an official of the City in this Agreement is deemed to include a reference to the official of the City who performs the duties of the referenced official from time to time.
- 29.6 Whenever the provisions of this Agreement require an approval or consent of any official of the City, the approval or consent may alternatively be given by the City Council or such other official as the City Council may direct or is otherwise empowered to act.
- 29.7 Reference to a statute, regulation, or other law, City by-law, City policy, City standard, or City guideline in this Agreement shall be deemed to include a reference to the statute, regulation, or other law, City by-law, City policy, City standard, or City guideline as amended, re-enacted, replaced, consolidated or substituted from time to time.

- 29.8 This Agreement may be executed by the Parties in counterparts and when all parties have executed at least as many counterparts as there are Parties, all of such counterparts shall be deemed to be originals and all such counterparts taken together shall constitute one and the same agreement.
- 29.9 This Agreement may be executed by electronic signature that is received by the City in a file format acceptable to the City. Such electronic signature shall be deemed to be an original signature for the purpose of this Agreement with the same legal effect as an original signature.

IN WITNESS WHEREOF the Parties have hereunto executed this Agreement to by the hands of their proper signing officers duly authorized in that behalf.

MIZRAHI DEVELOPMENT GROUP (THE ONE) INC.


 Name: Sam Mizrahi President
 Title:

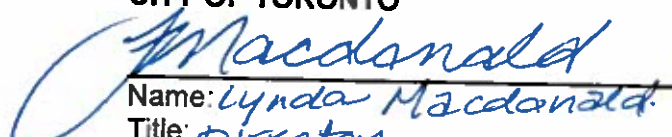
I/We have the authority to bind the corporation.

2495159 ONTARIO INC.


 Name: Sam Mizrahi President
 Title:

I/We have the authority to bind the corporation.

CITY OF TORONTO


 Name: Lynda Macdonald
 Title: Director
 Community Planning

I/We have the authority to bind the corporation.

Schedule "A-1"

Legal Description of the Site

FIRSTLY

PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP145729 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; CITY OF TORONTO, BEING PIN 21109-0154 (LT)

768 YONGE STREET, TORONTO, ONTARIO

SECONDLY

PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP93304 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; CITY OF TORONTO, BEING PIN 21109-0155 (LT)

770-772 YONGE STREET, TORONTO, ONTARIO

THIRDLY

PT PARKLT 9 CON 1 FTB TWP OF YORK PT 1 64R16532; SUBJECT TO AN EASEMENT AS IN AT5101384; CITY OF TORONTO, BEING PIN 21109-0156 (LT)

774-776 YONGE STREET, TORONTO, ONTARIO

FOURTHLY

PT PARKLT 9 CON 1 FTB TWP OF YORK PT 1 63R658; SUBJECT TO AN EASEMENT AS IN AT5101384; CITY OF TORONTO, BEING PIN 21109-0157 (LT)

778 YONGE STREET, TORONTO, ONTARIO

FIFTHLY

PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CA703847; SUBJECT TO AN EASEMENT AS IN AT5101384; CITY OF TORONTO, BEING PIN 21109-0158 (LT)

780-784 YONGE STREET, TORONTO, ONTARIO

SIXTHLY

PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CT277770. T/W EASEMENT AS IN CT277770; SUBJECT TO AN EASEMENT AS IN AT5101384; CITY OF TORONTO, BEING PIN 21109-0160 (LT)

11 BLOOR STREET WEST, TORONTO, ONTARIO

SEVENTHLY

FIRSTLY: PT PARK LT 9 CON 1 FTB TWP OF YORK, AS IN EP142034 AND SECONDLY: PT PT PARK LT 9 CON 1 FTB TWP OF YORK DESIGNATED AS PT 15 ON PL 63R-3142, ; S/T OVER PT 15 ON 63R-3142 AS IN CT277770; S/T OVER PT 15 ON PL 63R-3142 AS IN CT831646; SUBJECT TO AN EASEMENT AS IN AT5101384; CITY OF TORONTO, BEING PIN 21109-0200 (LT)

1 BLOOR STREET WEST, TORONTO, ONTARIO

Schedule "A-2"

Legal Description of the Off-site Parkland

LOT 16, PLAN 250E, CITY OF TORONTO, BEING PIN 21106-0118 (LT)

14 DUNDONALD STREET, TORONTO, ONTARIO

Schedule "B-1"

**Proposed Amendment to
Former City of Toronto Zoning By-law 569-2013**

CITY OF TORONTO

BY-LAW No. XXX- 2019(LPAT)

To amend Zoning By-law No. 569-2013, as amended, with respect to the lands municipally known in the year 2019 as 760-762 Yonge Street, 768-784 Yonge Street and 1-11 Bloor Street West.

Whereas the Local Planning Appeal Tribunal, pursuant to its Order issued on _____, 2019, in Tribunal File No. PL160431, determined to amend By-law No. 569-2013, as amended, with respect to the lands known municipally as 760-762 Yonge Street, 768-784 Yonge Street and 1-11 Bloor Street West; and

Whereas authority is given to the Local Planning Appeal Tribunal under Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 569-2013, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

By-law No. 569-2013, as amended, is further amended by the Local Planning Appeal Tribunal as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law;
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law No. 569-2013, Chapter 800 Definitions;
3. Zoning By-law No. 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to CR 7.8 (c4.5; r7.8) SS1 (x62) and CR 3.0 (c2.0; r3.0) SS1 (x62), as shown on Diagram 2 attached to this By-law;
4. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 62 so that it reads:

Exception CR (62)

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 760-762 Yonge Street, 768-784 Yonge Street and 1-11 Bloor Street West, if the requirements of Section 6 and Schedule A of By-law #####-2019 [Clerks to insert] are complied with, **buildings** or **structures** may be constructed in compliance with (B) to (T) below:
- (B) Despite Regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 115.8 metres in the year 2019 and the elevation of the highest point of the **building** or **structure**;
- (C) Despite Regulation 40.10.40.10(1), no portion of a **building** or **structure** erected on the lands may exceed the **height** in metres specified by the numbers following the symbol "HT" on Diagram 3 of By-law XXX-2019.
- (D) Despite (C) above, and regulations 40.5.40.10(3) to (7), the following building elements are permitted to project above the heights shown on Diagram 3 of By-law###-2019:
- i. window washing equipment, **building** maintenance units, trellises, canopies and outdoor amenity **structures** – a maximum vertical projection of 5.3 metres;
1.2
 - ii. main entrance canopies – a maximum vertical projection of 14.0 metres above the height within any area not having a height limit shown on Diagram 3;
1.3
 - iii. parapets, railings, guard rails and lightning rods – a maximum vertical projection of 1.8 metres;
 - iv. wind protection screens, stairs, and stair and elevator enclosures and terrace dividers – a maximum vertical projection of 3.0 metres;
 - v. roof drainage – a maximum vertical projection of 0.5 metres;
 - vi. architectural features, pillars, columns, piers, beams, hybrid exoskeleton **structures** and hybrid exoskeleton cladding – a maximum vertical projection of 16.5 metres above the height within the area identified as HT 292.5 as shown on Diagram 3 of By-law XXX-2019; and
 - vii. hard and **soft landscaping** and public art;
- (E) Regulation 600.10.10 with respect to Building Setbacks does not apply;
- (F) Despite Claus 5.10.40.70, and regulations 40.10.40.70(1) and 40.10.40.80(1), the required minimum **building setbacks** and above ground separation distance between **main walls** are as shown on Diagram 3 of By-law XXX-2019 ;
- (G) Despite (D) above, the minimum **building setbacks** of the ground floor of a **building** or **structure** on Parcel 1 will be shown on Diagram 4 of By-law XXX-2019;
- (H) Despite (D) above, the minimum **building setbacks** of the tower floor plates of a **building** or **structure** on Parcel 1 between the heights of 69.0 metres and 75.0 metres, 132.0 metres and 138.0 metres, 196.0 metres and 202.0 metres, 265.0 metres and 271.0 metres, will be as shown on Diagram 5 of By-law XXX-2019;
- (I) Despite (D) above and regulations 40.10.40.60(2) to (9), the following encroachments are permitted to encroach into the required minimum **building setbacks** and above ground separation distance between **main walls** on Diagram 3 of By-law XXX-2019:

- i. awnings and canopies – a maximum of 6.6 metres;
 - ii. doors, revolving doors, signage, roof drains, gutters, flashing, tie-ins to adjacent **buildings**, cornices, ornamental elements, parapets, architectural flutes, ornamental louvers, piers, pillars, beams, hybrid exoskeleton **structures**, hybrid exoskeleton cladding, window sills, light fixtures, art and landscape features and site servicing features – a maximum of 1.2 metres;
- (J) Balconies are not permitted to encroach into the required minimum **building setbacks** and above ground separation distance between **main walls** shown on Diagram 3 of By-law XXX-2019;
- (K) Despite Regulation 40.10.40.40(1) the total **gross floor area** of all **buildings** and **structures** on Parcel 1 and Parcel 2 as shown on Diagram 3 of By-law XXX-2019, must not exceed 80,000 square metres, provided:
- i. residential uses symbolized by the letter 'r', permitted by Regulations 40.10.20.10(1)(B) and 40.10.20.20(1)(B), must not exceed 62,500 square metres;
 - ii. non-residential uses symbolized by the letter 'c', permitted by Regulations 40.10.20.10(1)(A) and 40.10.20.20(1)(A), must not exceed 18,000 square metres excluding **public parking**;
 - iii. For the purposes of this By-law, in addition to Section 40.5.40.40(1), the calculation of **gross floor area** also excludes the floor area associated with mechanical rooms and indoor **amenity space**;
- (L) a minimum of 10 percent of the total number of **dwelling units** must:
- i. have a minimum area of 79.0 square metres; and
 - ii. contain at least two bedrooms;
- (M) Despite Regulation 40.10.40.50(1), **amenity space** must be provided at a minimum rate of 3.5 square metres for each **dwelling unit**, of which:
- i. at least 1.7 square metres for each **dwelling unit** is indoor **amenity space**;
 - ii. at least 40.0 square metres is outdoor **amenity space** in a location adjoining or directly accessible to the indoor **amenity space**; and
 - iii. no more than 25% of the outdoor component may be a **green roof**;
- (N) Despite 40.10.40.50(2), no outdoor **amenity space** is required for non-residential uses;
- (O) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, a minimum of 296 **parking spaces** must be provided and maintained as follows:
- i. **parking spaces** may be shared between residents, residential visitors and non-residential uses;
 - ii. **parking spaces** for residents, residential visitors and non-residential uses may be located within **public parking**;
 - iii. a minimum of 277 **parking spaces** must be provided within **public parking**, of which, a minimum of 200 **parking spaces** must be available to residents;

- iv. a minimum of 4 car-share **parking spaces** must be provided;
 - v. a minimum of 15 short-term **parking spaces** must be provided, of which, 5 short-term **parking space** may be obstructed on one side;
 - vi. Despite Clauses 200.15.1 and 200.15.1.5 and (M)(v) above, at least one short-term **parking space** must have a minimum width of 3.9 metres, a minimum length of 5.6 metres and a minimum vertical clearance of 2.1 metres and may be located below-ground, and would satisfy the requirements of regulation 200.15.10;
- (P) Despite Section 200.5.1.10(2)(A)(iv), a maximum of 33 **parking spaces** may be obstructed on one side and have the following dimensions;
- i. a minimum width of 2.6 metres
 - ii. a minimum length of 5.6 metres; and
 - iii. a minimum vertical clearance of 2.1 metres;
- (Q) Despite regulation 200.5.1.10(2)(A), a maximum of 3 small car **parking spaces** may be provided and accessed by a **drive aisle** with a minimum width of 5.4 metres, each having a dimension of a minimum width of 3.2 metres, a minimum length of 5.1 metres and a minimum vertical clearance of 2.0 metres;
- (R) Despite Regulation 200.5.1.10(5) a maximum of 78 **parking spaces** that are required in order to satisfy the residential parking requirements, as set out in section (K) above, may be provided as 39 **tandem parking spaces**, of which, 35 **tandem parking spaces** may be provided in **stacked parking spaces**;
- (S) Despite the dimensions outlined in Regulation 200.5.1.10(2), **stacked parking spaces** can have:
- i. a minimum width of 2.6 metres
 - ii. a minimum length of 5.6 metres; and
 - iii. a minimum vertical clearance of 1.5 metres;
 - iv. **stacked parking spaces** mechanisms and equipment located within these dimensions;
- (T) Despite Regulations 220.5.10.1(1) to (9), the following minimum number of **loading spaces** must be provided and maintained on the lands:
- i. one Type "G" **loading space**;
 - ii. one Type "B" **loading space**; and
 - iii. three Type "C" **loading spaces**;
- (U) Despite Regulation 230.5.1.10(9), long-term **bicycle parking spaces** and short-term **bicycle parking spaces** can be located below ground and in **stacked bicycle parking spaces**;
- (V) Despite the dimensions set out in Regulations 230.5.1.10(4) and (5), **stacked bicycle parking spaces** provided on the lands shall have the following dimensions:
- i. a minimum width of 0.6 metres
 - ii. a minimum length of 1.8 metres; and

- iii. a minimum vertical clearance of 1.2 metres;

Prevailing By-law and Prevailing Sections

(A) Section 12(2) 259 of former City of Toronto By-law 438-86

5. Despite any severance, partition or division of lands, the provisions of this By-law apply to the whole of the lands as if no severance, partition or division occurred

6. Section 37 Provisions

- (a) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 2 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands save and except for Parcel 2 as shown on Diagram 3, to the satisfaction of the City Solicitor.
- (b) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- (c) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

PURSUANT TO DECISION/ORDER OF THE LOCAL PLANNING APPEAL TRIBUNAL ISSUED ON _____, 2019 IN TRIBUNAL CASE NO. PL160431.

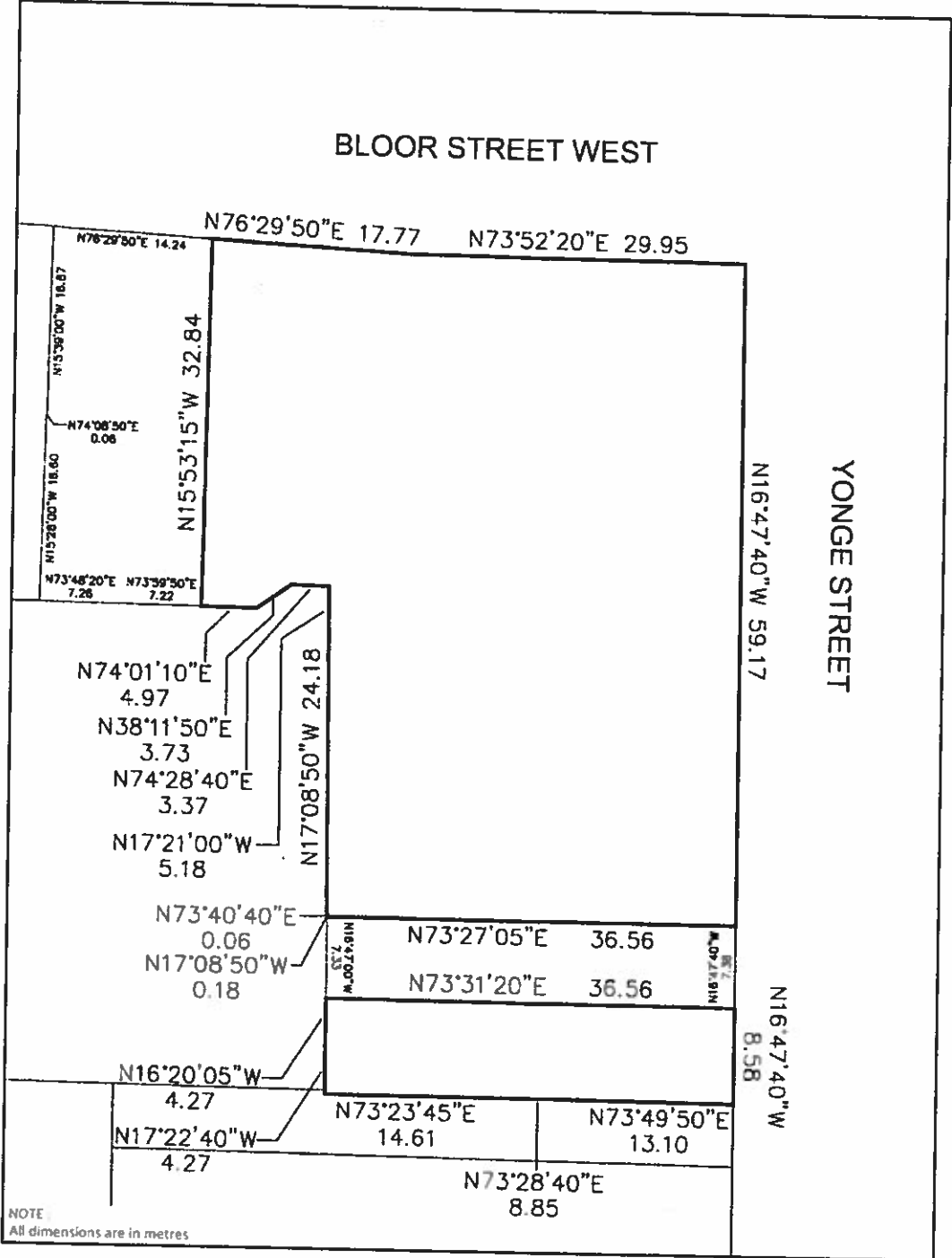
SCHEDULE A

Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the owner of the lands, save and except Parcel 2 as shown on Diagram 3, at their expense to the City in accordance with one or more agreements pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City and registered against title to the lands save and except for Parcel 2 as shown on Diagram 3, with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first Building Permit for a part or all of the lands, the Owner shall pay to the City the sum of TWENTY-ONE MILLION NINE HUNDRED THOUSAND DOLLARS (\$21,900,000.00) in Canadian funds (herein referred to as the "**Cash Contribution**") and the Cash Contribution shall be indexed in accordance with the terms of the Section 37 Agreement and used by the City for the purpose of community benefits in accordance with the terms of the Section Agreement on the proportions set out below:
 - (a) 10% directed to new or existing affordable housing facilities to the satisfaction of the Chief Planner & Executive Director, City Planning;
 - (b) 10% directed to new or existing cultural and community facilities to the satisfaction of the Chief Planner & Executive Director, City Planning, in consultation with the Ward Councillor; and
 - (c) 80% to be directed to any future publicly accessible underground pedestrian tunnel and related connections through buildings to be added as a part of the existing pedestrian pathway network in the vicinity of the lands as more particularly described in the Section 37 Agreement, local streetscape improvements including Yonge Street Revitalization, and local park improvements, to the satisfaction of the Chief Planner & Executive Director, City Planning, in consultation with the Ward Councillor.
2. Prior to the earlier of Release for Construction of a storm sewer which will service the development on the lands as described in the Section 37 Agreement and the issuance of the first Above Grade Building Permit for a part or all of the lands, the Owner shall provide the City with financial security indexed in accordance with the Section 37 Agreement to guarantee the satisfactory performance and completion of said storm sewer in an amount and form to the satisfaction of the Chief Engineer & Executive Director, Engineering and Construction Services.
3. Prior to the issuance of the first Above Grade Building Permit for a part or all of the lands, the Owner shall deliver to the City financial security in an amount equivalent to one hundred percent (100%) of the monetary value of the lands municipally known in the year 2019 as 14 Dundonald Street, to the satisfaction of the General Manager, Parks, Forestry and Recreation in consultation with the Director, Real Estate Services, to secure the Owner's conveyance in fee simple of 14 Dundonald Street to the City for the purpose of public parkland, free and clear of all physical obstructions and encumbrances above, upon, and below the surface of said lands including, but not limited to, above and below grade buildings, structures, foundations, utilities and services, all paved areas and associated base and foundation material, unless otherwise permitted in writing by the General Manager, Parks, Forestry & Recreation, and in accordance with terms and conditions of the amended and restated Section 37 Agreement.
4. Prior to the issuance of the first Above Grade Building Permit for any part or all of the lands, the owner shall submit a cost estimate and all plans for base park improvements to 14 Dundonald Street, to the satisfaction of the General Manager, Parks, Forestry & Recreation.
5. Prior to the issuance of the first Above Grade Building Permit for a part or all of the lands, the Owner shall deliver to the City financial security satisfactory to the General Manager, Parks, Forestry and Recreation in an amount equivalent to one hundred and twenty percent (120%) of the monetary value of base park improvements to 14 Dundonald Street,

as required by the amended and restated Section 37 Agreement, to secure the Owner's delivery of said base park improvements to the satisfaction of the General Manager, Parks, Forestry & Recreation.



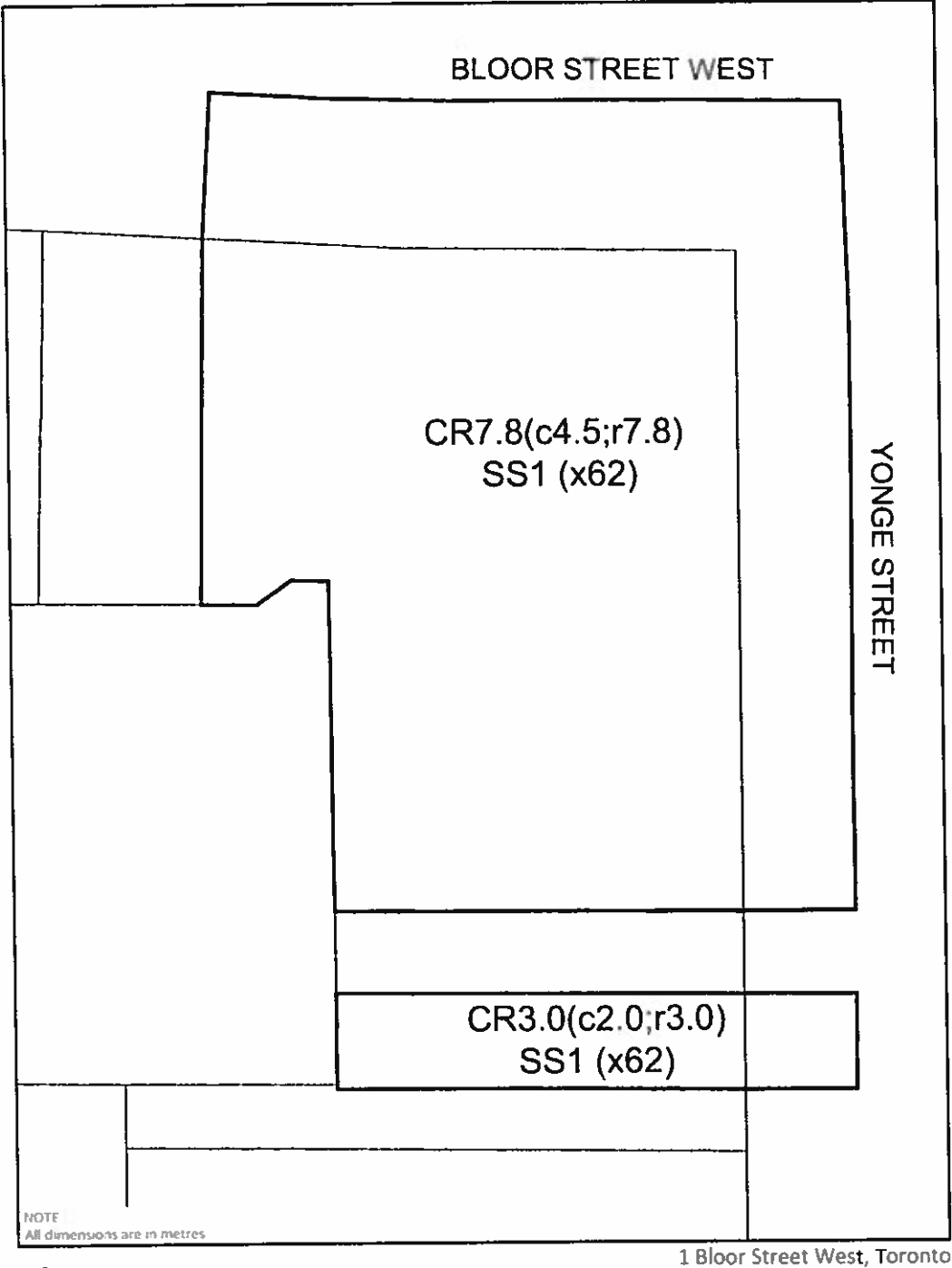
Toronto City Planning Division

1 Bloor Street West, Toronto

Diagram 1



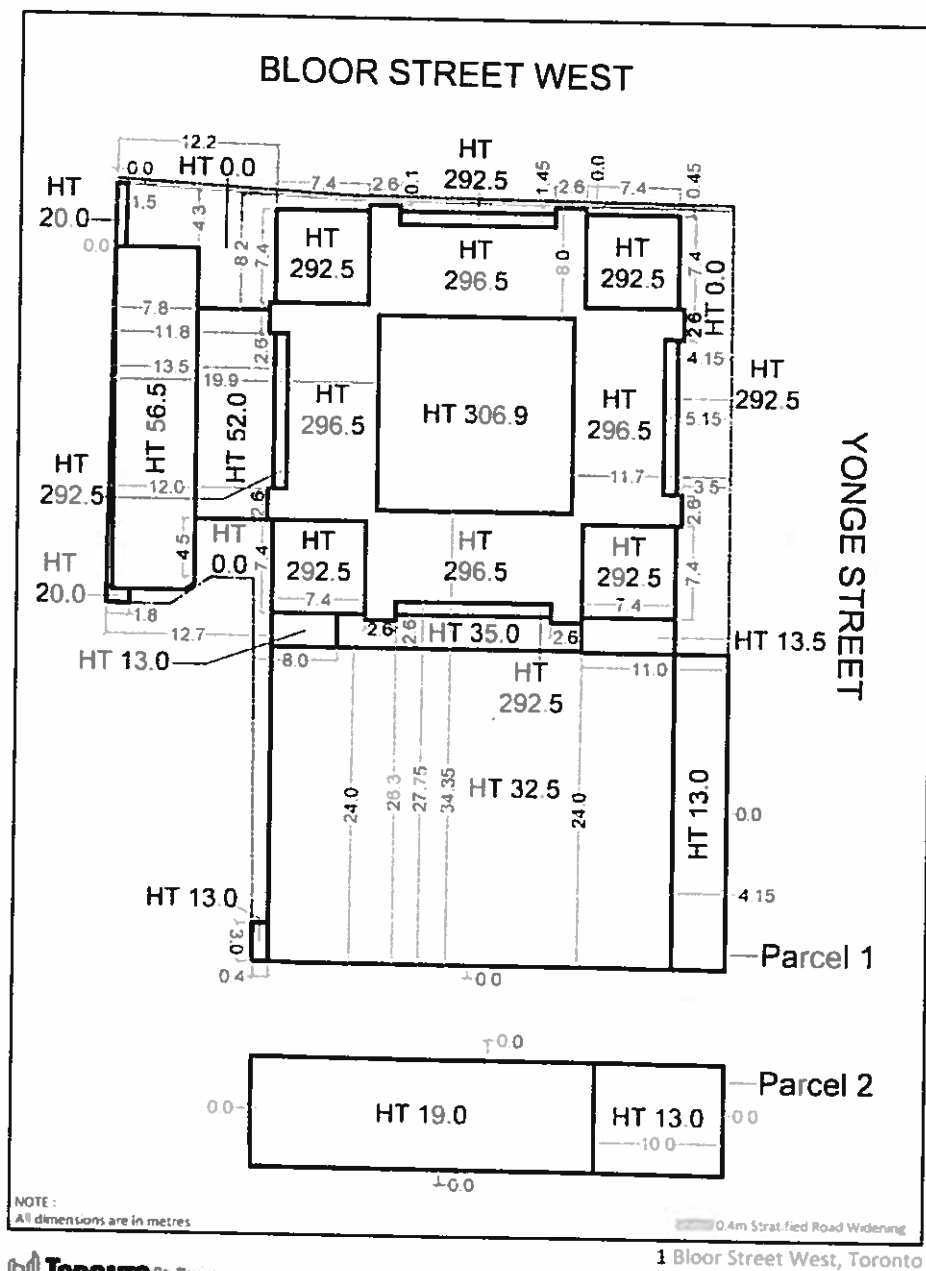
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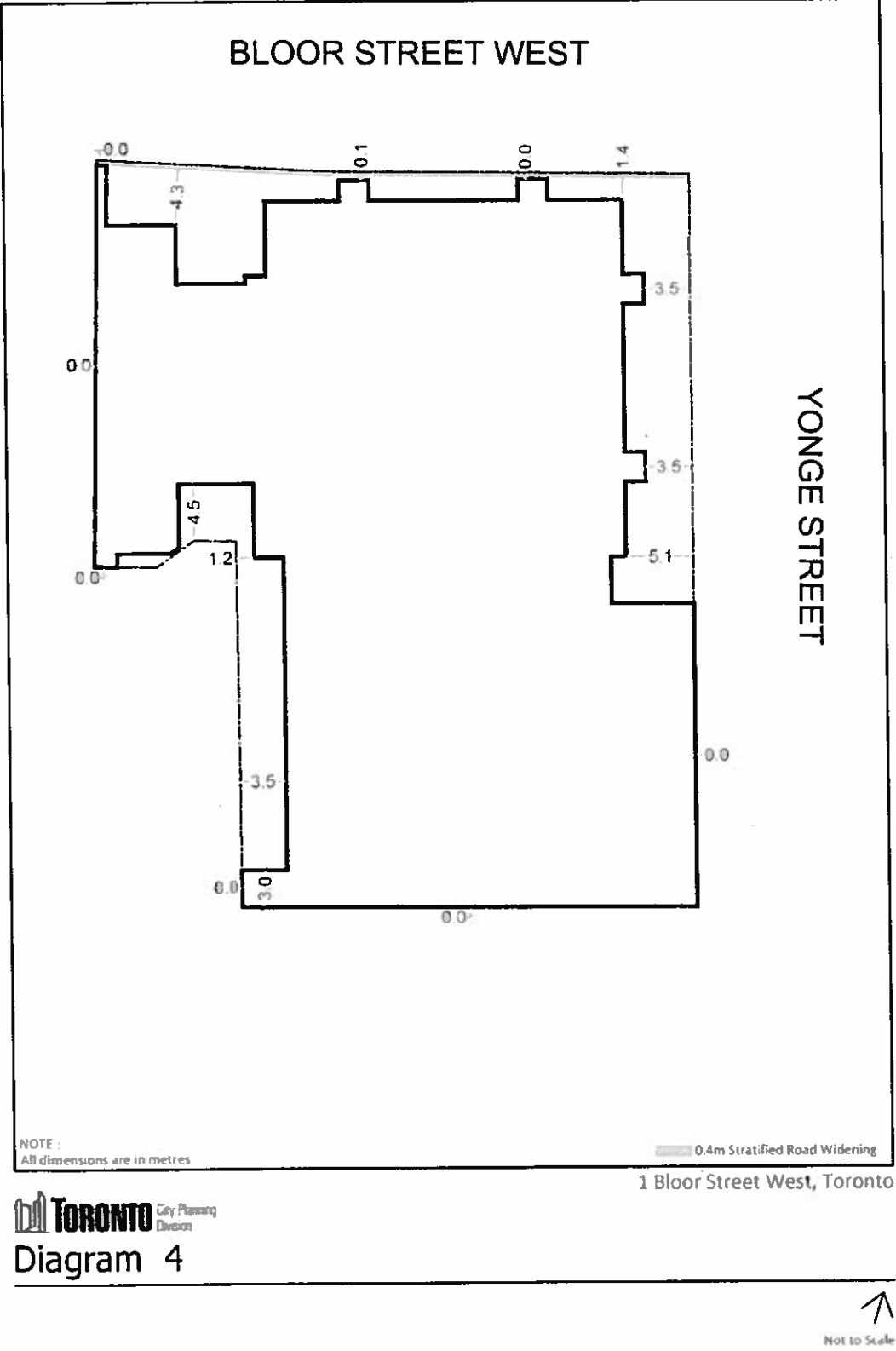


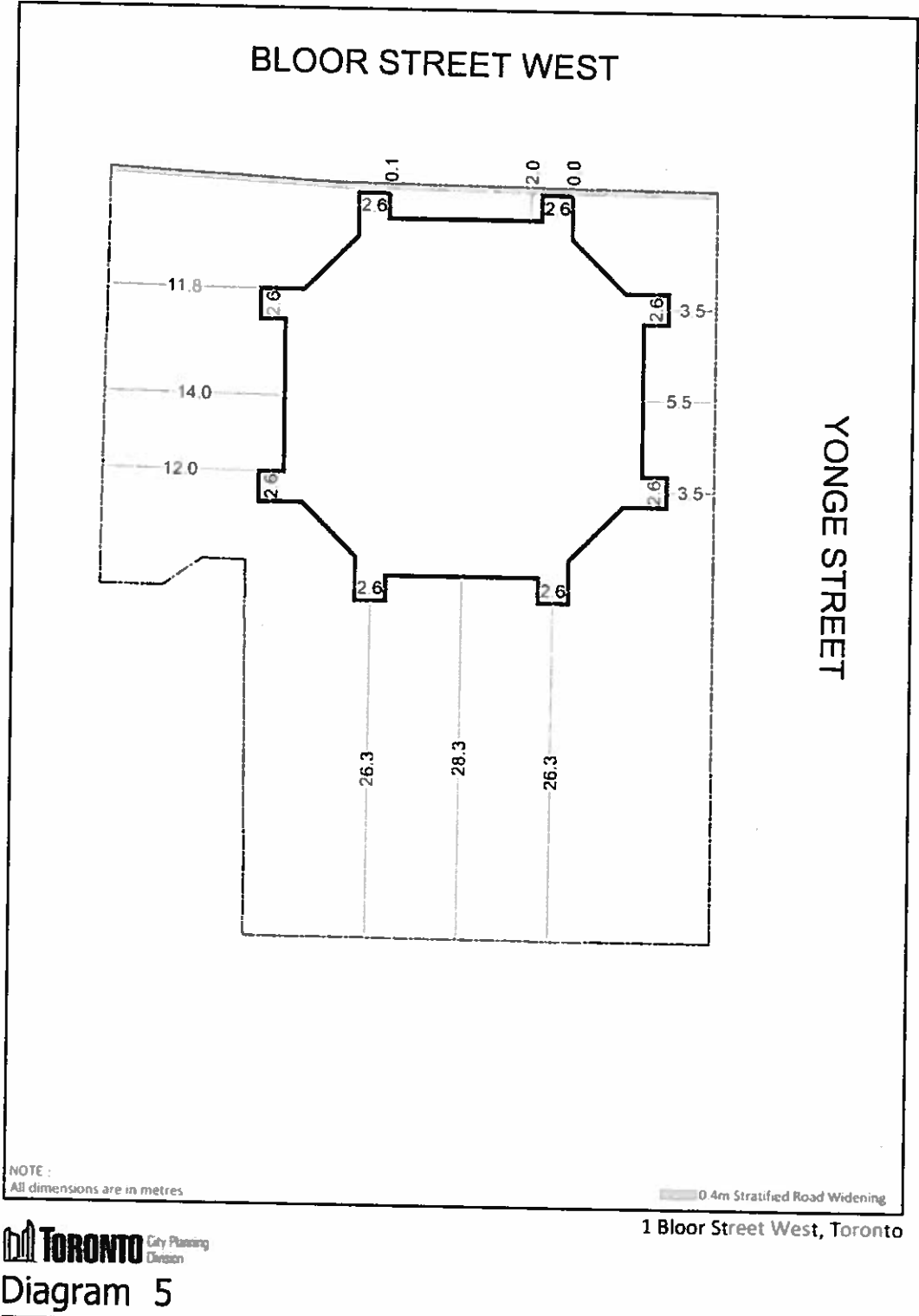
 **Toronto** City Planning Division

Diagram 2


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Schedule "B-2"

**Proposed Amendment to
City of Toronto Zoning By-law 438-86**

CITY OF TORONTO

BY-LAW No. XXX-2020(LPAT)

To amend by-law No. 438-86, as amended, of the former City of Toronto with respect with lands known as 760-762 Yonge Street, 768-784 Yonge Street and 1-11 Bloor Street West.

Whereas the Local Planning Appeal Tribunal, by its Decision issued on ____, 2020, in Tribunal File No. PL160431 approved amendments to the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands known municipally as 760-762 Yonge Street, 768-784 Yonge Street and 1-11 Bloor Street West; and

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the Planning Act, may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in the By-law which is secured by one or more agreements between the owner of the land and the City of Toronto; and

Pursuant to the Order of the Local Planning Appeal Tribunal, By-law No. 438-86, the Zoning By-law of the former City of Toronto, as amended, is further amended as follows:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the lands identified as the *lot* on Map 1 forming part of this By-law are permitted subject to compliance with the conditions set out in By-law and in return for the provision by the owner of the *lot*, of the facilities, services and matters set out in Schedule A hereof, the provisions of which shall be secured by one or more agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of one or more agreements between the City and the owner of the *lot* on title pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Schedule A hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) require the provision of a facility, service or matter as a precondition to the issuance of a building permit or a permit issued pursuant to the *Ontario Heritage Act*, such building may not be erected or used until the owner of the loads has satisfied the said requirement.
3. None of the provisions of Section 2 with respect to the definitions of *bicycle parking space – occupant*, *bicycle parking space – visitor*, *grade*, *height*, *lot* and *residential gross floor area* and Sections 4(2)(a), 4(5)(b), 4(8), 4(12), 4(13), 4(17), 8(1)(a), 8(3) Part I, 8(3) Part II 1, 2, 12(2)132, 12(2)260, and 12(2)380 of By-law No. 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of land and the erection and use of certain buildings and structures in various areas of the City of Toronto", shall apply to prevent the

erection and use of a *mixed-use building* on the *lot* delineated by dashed lines on the attached Map 1, provided that:

- (a) the *lot* upon which the proposed building and structure is erected or used comprises at least the lands shown outlined by dashed lines on the attached Map 1;
- (b) the aggregate of the *residential gross floor area* and *non-residential gross floor area* of buildings and structures on Parcel 1 and Parcel 2 as shown on Map 2 shall not exceed 80,000 square metres, subject to the following:
 - (i) the *residential gross floor area* of buildings and structures shall not exceed 62,500 square metres; and
 - (ii) the *non-residential gross floor area* of buildings and structures shall not exceed 18,400 square metres excluding the *commercial parking garage* and mechanical rooms;
- (c) a minimum of 10 percent of the total number of *dwelling units* shall have a minimum area of 79.0 square metres and shall contain at least two bedrooms;
- (d) despite the definition of *residential amenity space* in Section 2(1) of By-law 438-86, *residential amenity space* can be shared and does not need to be provided for the exclusive use of residents of a building;
- (e) *residential amenity space* shall be provided and maintained on the *lot* at a minimum rate of 3.5 square metres per *dwelling unit*, of which:
 - (i) a minimum of 1.7 square metres per *dwelling unit* for indoor *residential amenity space*, of which, a kitchen does not have to be provided in a multi-purpose room;
 - (ii) at least 40.0 square metres is outdoor *residential amenity space* in a location adjoining or directly accessible to the indoor *residential amenity space*; and
 - (iii) no more than 25% of the outdoor component may be a green roof;
- (f) no portion of a building or structure erected on the *lot* shall have a greater *height* in metres than the *heights* in metres specified by the numbers following the symbol H on the attached Map 2 except that:
 - (i) the maximum *height* for trellises, canopies, outdoor amenity structures, building maintenance units and window washing equipment, having a maximum height of the sum of 5.3 metres and the applicable *height* limit shown on Map 2 shall be permitted within any area on Map 2;
 - (ii) main entrance canopies – a maximum vertical projection of 14.0 metres above the height within any area not having a height limit shown on Map 2;
 - (iii) the maximum *height* for parapets, guard rails, railings, lightning rods and elements of a green roof having a maximum height of the sum of 1.8 metres and the applicable *height* limit shown on Map 2 shall be permitted within any area on Map 2;
 - (iv) the maximum *height* for mechanical equipment and any associated enclosure structures, wind protection screens, stairs, stair and elevator enclosures, terrace dividers and having a maximum height of the sum of 3.0 metres and the applicable *height* limit shown on Map 2 shall be permitted within any area on Map 2;
 - (v) the maximum *height* for roof drainage having a maximum height of the sum of 0.5 metres and the applicable *height* limit shown on Map 2 shall be permitted within any area on Map 2;
 - (vi) the maximum *height* for pillars, columns, piers, architectural features, beams, hybrid exoskeleton structures and hybrid exoskeleton cladding having a maximum height of the sum of 16.5 metres and the applicable *height* limit shown on Map 2 shall be permitted within the area identified as H 292.5 on Map 2; and

- (vii) hard and soft landscaping and public art can extend beyond the applicable *height* limit shown on Map 2 within any area on Map 2;
- (g) no portion of the building above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, with the exception of the following:
 - (i) awnings and canopies – a maximum of 6.6 metres beyond the heavy lines shown on Map 2;
 - (ii) doors, revolving doors, signage, roof drains, gutters, flashing, tie-ins to adjacent buildings, cornices, ornamental elements, parapets, architectural flutes, columns, piers, pillars, ornamental louvres, beams, hybrid exoskeleton structures, hybrid exoskeleton cladding, window sills, light fixtures, art and landscape features and site servicing features – a maximum of 1.2 metres beyond the heavy lines shown on Map 2;
- (h) balconies are not permitted to project beyond the heavy lines shown on Map 2;
- (i) Despite (g) above, the minimum setbacks of the ground floor of a building or structure on Parcel 1 will be shown on Map 3;
- (j) Despite (g) above, the minimum setbacks of the tower floor plates of a building or structure on Parcel 1 between the heights of 69.0 metres and 75.0 metres, 132.0 metres and 138.0 metres, 196.0 metres and 202.0 metres, and 265.0 metres and 271.0 metres, will be shown on Map 4;
- (k) a minimum total number of 296 *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) a *commercial parking garage* is permitted on the *lot*;
 - (ii) *parking spaces* are permitted to be shared between residents, residential visitors and non-residential uses;
 - (iii) *parking spaces* for residents, residential visitors and non-residential uses are permitted to be located within a *commercial parking garage*;
 - (iv) a minimum of 277 *parking spaces* shall be provided within a *commercial parking garage*, of which a minimum of 200 *parking spaces* shall be provided for residents;
 - (v) a minimum of 4 *car-share parking spaces* shall be provided;
 - (vi) a minimum of 15 short-term *parking spaces* shall be provided, of which, 5 short-term *parking spaces* may be obstructed on one side and at least one short-term *parking space* shall have a minimum width of 3.9 metres, a minimum length of 5.6 metres and a minimum vertical clearance of 2.1 metres;
- (l) the additional requirements outlined in Sections 2(1) and 4(17) of By-law 438-86 for obstructed *parking spaces* do not apply to a maximum of 33 *parking spaces* that are obstructed on one side and that are required in order to satisfy the residential parking requirements, as set out in section (k) above;
- (m) a maximum of 3 small car *parking spaces* may be provided and accessed by a drive aisle with a minimum width of 5.4 metres, each having a dimension of a minimum width of 3.2 metres, a minimum length of 5.1 metres and a minimum vertical clearance of 2.0 metres;
- (n) despite the definition of *parking space*, a maximum of 78 *parking spaces* that are required in order to satisfy the residential parking requirements, as set out in section (k) above, may be provided as 39 *tandem parking spaces*, of which, 35 *tandem parking spaces* may be provided in *parking stackers*;
- (o) despite the definition of *parking stacker* in Section 2(1) of By-law 438-86 and the minimum dimensions set out in Section 4(17) of By-law 438-86, *parking spaces* provided in a *parking stacker* shall have:
 - (i) a minimum length of 5.6 metres;

- (ii) a minimum width of 2.6 metres; and
 - (iii) a minimum vertical clearance of 1.5 metres;
 - (iv) *parking stacker* mechanisms and equipment located within these dimensions
- (p) *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following requirements :
- (i) a minimum of 0.9 *bicycle parking spaces – occupant per dwelling unit*;
 - (ii) a minimum of 0.1 *bicycle parking spaces – visitor per dwelling unit*;
 - (iii) a minimum of 0.2 *bicycle parking spaces – occupant per 100 square metres of interior floor area used for an office*;
 - (iv) a minimum of 3 plus 0.2 *bicycle parking spaces – visitor per 100 square metres of interior floor area used for an office*;
 - (v) a minimum of 0.2 *bicycle parking spaces – occupant per 100 square metres of interior floor area used for a restaurant and retail store*;
 - (vi) a minimum of 3 plus 0.3 *bicycle parking spaces – visitor per 100 square metres of interior floor area used for a restaurant and retail store*;
- (q) to calculate *bicycle parking space* requirements for other than *dwelling units*, the gross floor area of a building is reduced by the area in the building used for:
- (i) parking, loading and bicycle parking below-ground;
 - (ii) required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
 - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (iv) shower and change facilities required by this By-law for required bicycle parking spaces;
 - (v) elevator shafts;
 - (vi) mechanical penthouse and mechanical rooms;
 - (vii) exit stairwells in the building; or
 - (viii) floor area associated with a *commercial parking garage*;
- (r) if a building has uses, other than *dwelling units*, for which a *bicycle parking space – occupant* is required, shower and change facilities must be provided for each gender at the following rate:
- (i) none if less than 5 required *bicycle parking spaces – occupant*;
 - (ii) 1 for 5 to 60 required *bicycle parking space – occupant*;
 - (iii) 2 for 61 to 120 required *bicycle parking spaces – occupant*;
 - (iv) 3 for 121 to 180 required *bicycle parking spaces – occupant*;
 - (v) 4 for more than 180 required *bicycle parking spaces – occupant*;
- (s) loading spaces shall be provided on the *lot* in accordance with the following:
- (i) one *loading space – type "G"*;
 - (ii) one *loading spave – type "B"*; and

- (iii) three *loading space – type “C”*;
4. In addition to the permitted uses identified in Section 1, a temporary *sales presentation centre* shall be permitted on the *lot*, and none of the other provisions of this By-law shall apply to such use.
5. For the purposes of this By-law:
- (a) “*bicycle parking space – occupant*” means an area that is equipped with a bicycle locker or a room or bicycle rack for the purpose of parking and securing bicycles, and
- (i) where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has a horizontal dimension of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - (iii) notwithstanding (i) and (ii) above, where the bicycles are to be parking in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking spaces within the stacker are not be subject to the dimensions outlined in (i) and (ii) above;
- (b) “*bicycle parking space – visitor*” means an area that is equipped with a room or a bicycle rack for the purpose of parking and securing bicycles, and
- (i) where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has a horizontal dimension of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - (iii) notwithstanding (i) and (ii) above, where the bicycles are to be parking in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking spaces within the stacker are not be subject to the dimensions outlined in (i) and (ii) above;
- (c) “*car-share*” means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and to use a car-sharing vehicle, a person must meet the membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable. Cars are reserved in advance and fees for use are normally based on time and/or kilometres driven;
- (d) “*car-share parking space*” means a parking space exclusively for a car used only for car-sharing purposes;
- (e) “*grade*” means 115.8 metres Canadian Geodetic Datum;
- (f) “*height*” means the vertical distance between grade and the heighest point of the building or structure except for those elements otherwise prescribed in this By-law;
- (g) “*interior floor area*” means the floor area of any part of a building, measured to:
- (i) the interior side of a main wall;
 - (ii) the centreline of an interior wall; or
 - (iii) a line delineating the part being measured;

- (g) "*residential gross floor area*" means the aggregate of the areas of each floor, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, but excluding:
- (i) indoor *residential amenity space*;
 - (ii) parking, loading and bicycle parking below established grade;
 - (iii) parking, loading and bicycle parking at or above established grade;
 - (iv) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (v) shower and change facilities required by this By-law for required *bicycle parking spaces*;
 - (vi) elevator shafts;
 - (vii) garbage shafts;
 - (viii) mechanical rooms; and
 - (ix) exit stairwells in the building; and
- (h) "*tandem parking space*" means an area that includes two *parking spaces*, one of which is not readily accessible for parking and removal of a motor vehicle without the necessity of moving another vehicle;
- (i) "*sales presentation centre*" means a building, structure or facility on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*;
- (j) Each word or expression which is italicized in this By-law shall have the same meaning as each word or expression as defined in the aforesaid By-law No. 438-86, as amended, unless otherwise defined in this By-law.
6. Notwithstanding any severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division had occurred.
7. Section 37 Provisions
- (a) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in *height* and density of the development is permitted beyond that otherwise permitted on the lands shown on Map 2 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
 - (b) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
 - (c) The owner shall not use, or permit the use of, a *building* or *structure* erected with an increase in *height* and density pursuant to this By-law unless all provisions of Schedule A are satisfied.
8. Within the *lot*, no person shall use any land or erect any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (a) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

PURSUANT TO DECISION/ORDER OF THE LOCAL PLANNING APPEAL TRIBUNAL ISSUED
ON _____, 2020 IN TRIBUNAL CASE NO. PL160431.

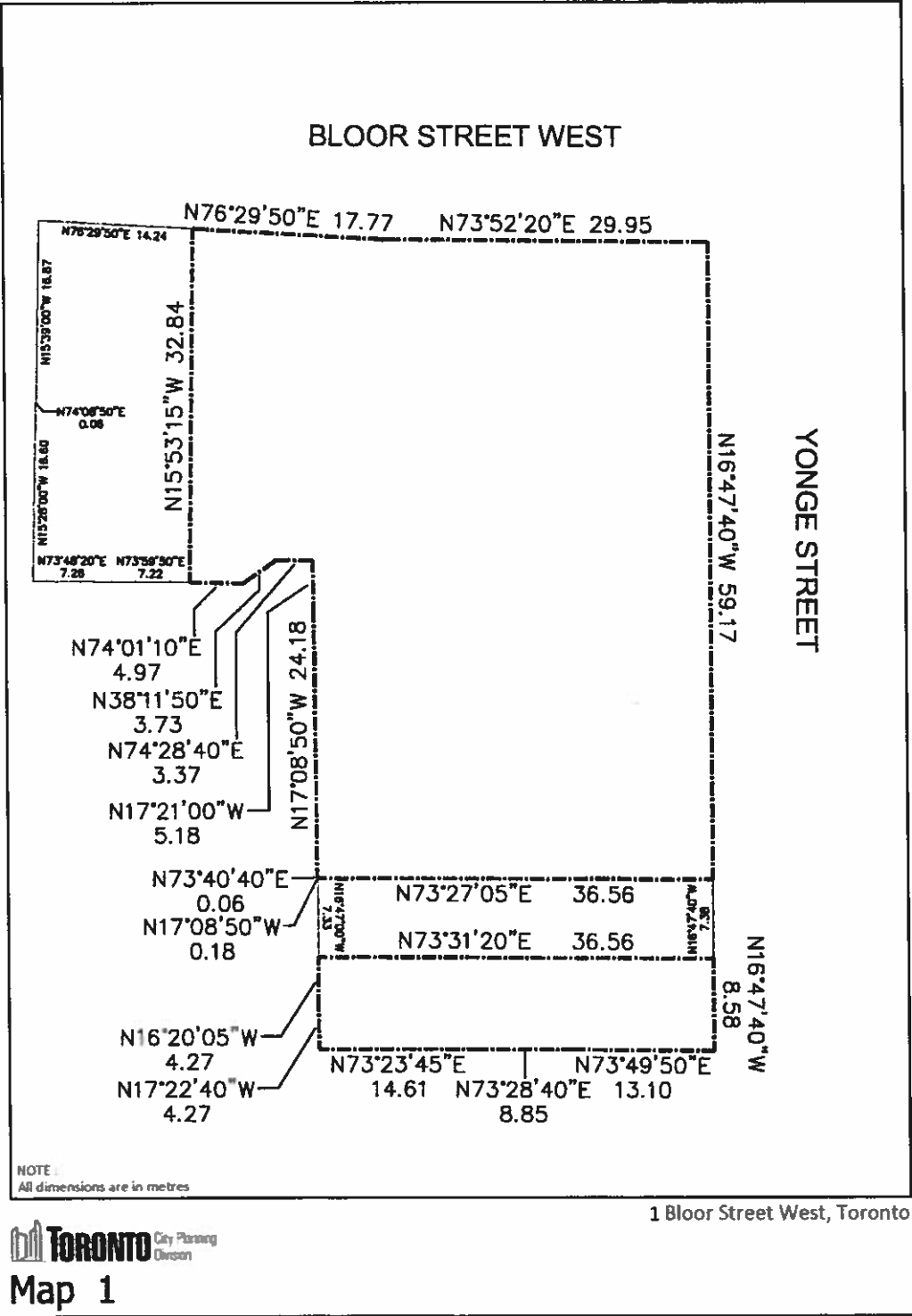
SCHEDULE A

Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the owner of the *lot*, save and except Parcel 2 as shown on Map 2, at their expense to the City in accordance with one or more agreements pursuant to Section 37(3) of the Planning Act, in a form satisfactory to the City and registered against title to the *lot*, save and except Parcel 2 as shown on Map 2, with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first Building Permit for a part or all of the *lot*, the Owner shall pay to the City the sum of TWENTY-ONE MILLION NINE HUNDRED THOUSAND DOLLARS (\$21,900,000.00) in Canadian funds (herein referred to as the "**Cash Contribution**") and the Cash Contribution shall be indexed in accordance with the terms of the Section 37 Agreement and used by the City for the purpose of community benefits in accordance with the terms of the Section Agreement on the proportions set out below:
 - (a) 10% directed to new or existing affordable housing facilities to the satisfaction of the Chief Planner & Executive Director, City Planning;
 - (b) 10% directed to new or existing cultural and community facilities to the satisfaction of the Chief Planner & Executive Director, City Planning, in consultation with the Ward Councillor; and
 - (c) 80% to be directed to any future publicly accessible underground pedestrian tunnel and related connections through buildings to be added as a part of the existing pedestrian pathway network in the vicinity of the lands as more particularly described in the Section 37 Agreement, local streetscape improvements including Yonge Street Revitalization, and local park improvements, to the satisfaction of the Chief Planner & Executive Director, City Planning, in consultation with the Ward Councillor.
2. Prior to the earlier of Release for Construction of a storm sewer which will service the development on the *lot* as described in the Section 37 Agreement and the issuance of the first Above Grade Building Permit for a part or all of the *lot*, the Owner shall provide the City with financial security indexed in accordance with the Section 37 Agreement to guarantee the satisfactory performance and completion of said storm sewer in an amount and form to the satisfaction of the Chief Engineer & Executive Director, Engineering and Construction Services.
3. Prior to the issuance of the first Above Grade Building Permit for a part or all of the lands, the Owner shall deliver to the City financial security in an amount equivalent to one hundred percent (100%) of the monetary value of the lands municipally known in the year 2019 as 14 Dundonald Street, to the satisfaction of the General Manager, Parks, Forestry and Recreation in consultation with the Director, Real Estate Services, to secure the Owner's conveyance in fee simple of 14 Dundonald Street to the City for the purpose of public parkland, free and clear of all physical obstructions and encumbrances above, upon, and below the surface of said lands including, but not limited to, above and below grade buildings, structures, foundations, utilities and services, all paved areas and associated base and foundation material, unless otherwise permitted in writing by the General Manager, Parks, Forestry & Recreation, and in accordance with terms and conditions of the amended and restated Section 37 Agreement.
4. Prior to the issuance of the first Above Grade Building Permit for any part or all of the lands, the owner shall submit a cost estimate and all plans for base park improvements to 14 Dundonald Street, to the satisfaction of the General Manager, Parks, Forestry & Recreation.
5. Prior to the issuance of the first Above Grade Building Permit for a part or all of the lands, the Owner shall deliver to the City financial security satisfactory to the General Manager, Parks, Forestry and Recreation in an amount equivalent to one hundred and twenty percent (120%) of the monetary value of base park improvements to 14 Dundonald Street,

as required by the amended and restated Section 37 Agreement, to secure the Owner's delivery of said base park improvements to the satisfaction of the General Manager, Parks, Forestry & Recreation.



Schedule "C"

Form of Letter of Credit

(PRINTED ON BANK LETTERHEAD)

IRREVOCABLE STANDBY LETTER OF CREDIT

| | |
|---------------------------------|-------------|
| Beneficiary: City of Toronto | Issue Date: |
|---------------------------------|-------------|

| | | |
|---|---------------------------------|--|
| Letter of Credit Number: | Credit Amount (Canadian Funds): | Initial Expiry Date: <u>(12 months following issue date)</u> |
| We hereby authorize you, the City of Toronto, to draw on <u>(Bank name, address and branch)</u> (the "Bank") for the account of <u>(customer name and address)</u> _____, (the "Customer") up to an aggregate amount of \$ _____ Canadian Dollars (the "Credit Amount") available on demand up to <u>(date)</u> _____ (the "Initial Expiry Date") or a subsequent anniversary date, and is hereby given to you pursuant to an agreement between the City of Toronto, and <u>(name of customer)</u> with respect to <u>(insert municipal address of property, if applicable)</u> ., dated _____ (the "Agreement"). | | |

Pursuant to the request of the Customer, the Bank hereby establishes in your favour and gives to you an Irrevocable Standby Letter of Credit in the Credit Amount on which you may draw in whole or in part at any time and from time to time, subject to the terms herein.

A drawing under this Letter of Credit shall be made by you presenting to the Bank, at the address noted below, a demand in writing authorized by the City Treasurer or delegate.

Partial drawings are permitted.

Upon receipt of said demand, the Bank shall pay to you the amount stated in the demand, to be payable to you without inquiring whether you have a right as between yourself and the Customer to make such demand, and without recognizing any claim of the Customer or objection by the Customer to payment by the Bank.

This Letter of Credit will continue up to the Initial Expiry Date but shall be subject to the condition that it shall be deemed to be automatically extended without amendment for one year from the present or any future expiration date hereof, unless 60 days prior to any such expiration date the Bank notifies you by notice in writing delivered to the City of Toronto at the address noted below by registered mail that it shall not renew this Letter of Credit for any such additional period. Upon receipt by you of such notice, you may draw hereunder, for the available balance of this Letter of Credit by presenting a written demand together with confirmation that the amounts drawn will be retained and used by you to meet obligations incurred or to be incurred in connection with the Agreement. The demand must be authorized by the City Treasurer or delegate.

| | |
|------------------|----------------------|
| Bank Name: _____ | Countersigned: _____ |
| Address: _____ | Countersigned: _____ |

ADDRESS FOR NOTICE

1. NOTICE TO BANK

(bank to insert full address and contact information)

2. NOTICE TO CITY OF TORONTO

City of Toronto
Corporate Finance Division, Capital Markets
City Hall, 7th Floor, East Tower
100 Queen Street West
Toronto, Ontario, M5H 2N2

Sept 2013.doc

Schedule "D-1"

Form of Title Opinion For Registration Of This Agreement

Letterhead of Law Firm Giving Title Opinion

City of Toronto
 Legal Division
 Station 1260
 26th Floor, Metro Hall
 55 John Street
 Toronto ON M5V 3C6

Attention: Wendy Walberg, City Solicitor

Dear Madam/Sir:

Re: *[Include reference to Schedule "A" and brief legal description of the subject land defined to be (the "Land") as well as a description of the type of agreement being entered into (ie Agreement under Section • of the • Act] defined to be (the "Agreement")]*

We act as solicitors for • (the "Owner") in connection with the execution and delivery of a • Agreement (the "Agreement") with the City of Toronto (the "City") and in connection with the giving of a title opinion to the City for the purpose of registration of the Agreement against title to the Land.

For the purpose of this opinion, we have examined title to the Lands as disclosed by the records of the Land Registry Office for the *[insert Land Titles or Registry]* Division of • (No. •) (the "LRO"), conducted necessary investigations as to the existence of prior corporate owners of all or part of the Land as disclosed by the records of the LRO in order to confirm the existence of each corporation during their respective period of ownership, conducted searches to ascertain any writs of execution or certificates of lien filed against the Owner. We have obtained a realty tax certificate and have made enquires to the City related to work orders, deficiency notices, zoning compliance and water/sewer charges respecting the Land.

We have obtained and relied upon statutory declarations and certificates where appropriate and have considered applicable questions of law. We have assumed with respect to documents examined by us, the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity to authentic originals of all documents submitted to us as photocopies, facsimile, certified, conformed or notarial copies. We have also assumed the accuracy and currency of the indices and filing systems maintained at any public offices where we have conducted searches or made enquiries or caused such searches or enquiries to be conducted or made.

[NTD: If applicable, insert the following paragraph regarding any statutory declarations or certificates relied upon for the purpose of the opinion:

We have relied upon a statutory declaration of [Name of Owner / if Owner is a corporation or other entity, indicate the name and position of the signing officer], dated •, 20•, in connection with Section 44(1)1, 2, 3 and 4 of the Land Titles Act and certain factual matters which [is/ are] relevant for the purpose of providing our opinion expressed in paragraph 1 below. We have also relied upon a certificate of [Name of Owner / if Owner is a corporation or other entity, indicate the name and position of the signing officer], dated •, 20•, as to certain corporate matters, which [is/are] relevant for the purpose of providing our opinion expressed in paragraphs 3 and 4 below.]

We are solicitors qualified to carry on the practice of law in the Province of Ontario. The opinion expressed extends only to the laws of the Province of Ontario and the federal laws of Canada applicable therein in force as of the date of this opinion.

Our enquiries and searches with respect to the Land confirm:

- (a) the Land has not escheated to the Crown;

- (b) there are no arrears in the payment of realty taxes;
- (c) there are no outstanding work orders or deficiency notices and there is no record of non-compliance with applicable building or zoning by-laws; and
- (d) there are no outstanding accounts for the supply of water or sewer services to the Land.

Based upon and subject to the foregoing, we are of the opinion that, as at • [a.m./p.m.] on •, 20•:

1. The Owner is the registered owner in fee simple of the Land, free from encumbrances, liens or claims registered in the LRO or filed with the Sheriff, including any outstanding writs of execution that affect title to the Land, other than those liens, encumbrances, exceptions and qualifications to title set out in Parts I and II to Schedule B attached.
2. None of the documents identified in Schedule B, Part II referred to above, that are not being postponed, discharged or otherwise released, contain rights or remedies in favour of the parties thereto, or their respective successors or assigns, that could preclude, defeat or adversely affect, in any material respect, the rights and interests of the City arising from the Agreement.

[Where the Owner is a Corporation insert 3 and 4]

3. The Owner is an existing corporation pursuant to the • [insert applicable statute name] and has not been discontinued or dissolved.
4. The Owner has the corporate power and capacity to enter into and perform its obligations under the Agreement and has taken all necessary corporate action to authorize the execution and delivery of the Agreement.
5. The last registered instrument on title to the Land is • [insert Instrument #].

Notwithstanding that our fee for this opinion will be paid by the Owner, and that we act for the Owner in this transaction, we acknowledge that the City is relying upon this opinion and the opinions expressed herein for the purpose of confirming that the Owner has good title to the Lands and to verify the priority of registration of the Agreement on title to the Land. We consent and agree to such reliance. Although this opinion may be relied upon by the City and its authorized agents for the purposes contemplated herein, it may not be relied upon or quoted, in whole or in part, by any other person or entity for any other purpose without our prior written consent.

Yours truly,

[]

- [NOTES: *i) this opinion must be drafted with all applicable inserts and should accompany all agreements submitted to the City. It must be forwarded directly to the Legal Services Division and the assigned file lawyer or law clerk as applicable; and*
- ii) if the this opinion is signed by a "Law Firm" a cover letter must be attached confirming the name of the solicitor providing the opinion.]*

SCHEDULE "A"

LEGAL DESCRIPTION

Lands are registered in ["X"one]:

- ☐ REGISTRY
- ☐ LT ABSOLUTE
- ☐ LTCQ
- ☐ LT PLUS

[Insert PIN and brief legal description or a full metes and bounds description if the Lands are in Registry]

| | |
|-----------|---|
| REFERENCE | Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i> |
|-----------|---|

SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS
[Lands in LT ABSOLUTE]

PART I – General Qualifications

- 1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
- 2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
- 3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
- 4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 7, 8, 9, 10, 12 and 14.

PART II – Specific Encumbrances

[Insert if applicable and indicate where postponements, discharges, releases etc are to be provided]

| | |
|-----------|---|
| REFERENCE | Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i> |
|-----------|---|

**SCHEDULE “B”
ENCUMBRANCES/QUALIFICATIONS**

[Lands in LT CONVERSION QUALIFIED (LTCQ)]

PART I – General Qualifications

- 1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
- 2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
- 3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
- 4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 7, 8, 9, 10, 12 and 14.
- 5. The exceptions and qualifications contained in section 44(1) 11 of the *Land Titles Act* to the date of conversion to LTCQ.

PART II – Specific Encumbrances

[Insert if applicable and indicate where postponements, discharges, releases etc. are to be provided]

| | |
|-----------|---|
| REFERENCE | Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i> |
|-----------|---|

SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in LT PLUS]

PART I – General Qualifications

- 1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
- 2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
- 3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
- 4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 3, 7, 8, 9, 10, 12 and 14.
- 5. The exceptions and qualifications contained in section 44(1) 11 of the *Land Titles Act* to the date of conversion to LTCQ.

PART II – Specific Encumbrances

[Insert if applicable and insert where postponements, discharges, releases etc. are to be provided]

| | |
|-----------|---|
| REFERENCE | Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i> |
|-----------|---|

SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in REGISTRY]

PART I – General Qualifications

- 1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
- 2. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
- 3. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
- 4. Where the registered owner is or a previous owner was a railway company, any interest that may be or may have been created by an instrument deposited in the office of the Secretary of State of Canada or the Registrar General of Canada, as the case may be, under section 81 of the *Railway Act* (Canada), or any predecessor thereof.

PART II – Specific Encumbrances

[Insert if applicable and insert where postponements, discharges, releases etc. are to be provided]

| | |
|-----------|---|
| REFERENCE | Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i> |
|-----------|---|

Schedule "D-2"

Form Title Opinion For Registration Of Conveyances

| |
|---|
| Letterhead of Law Firm Giving Title Opinion |
|---|

City of Toronto
 Legal Division
 Station 1260
 26th Floor, Metro Hall
 55 John Street
 Toronto ON M5V 3C6

Attention: Wendy Walberg, City Solicitor

Dear Madam/Sir:

Re: *[Include reference to Schedule "A" and a brief legal description of the subject land defined to be (the "Land") as well as a description of the nature of the transfer to the City (ie conveyance in fee simple, granting of an easement interest)]*

We act as solicitors for ŷ (the "Owner") in connection with the *[conveyance of the Land in fee simple / conveyance of easement interest in the Land]* (the "Conveyance") to the City of Toronto (the "City") and in connection with the giving of a title opinion to the City with respect to the Land.

For the purpose of this opinion, we have examined the title to the Land as disclosed by the records of the Land Registry Office for the *[insert land Titles or Registry]* Division of ŷ (No. ŷ) (the "LRO"), conducted necessary investigations as to the existence of prior corporate owners of all or part of the Land as disclosed by the records of the LRO in order to confirm the existence of each corporation during their respective period of ownership, conducted searches to ascertain any writs of execution or certificates of lien filed against the Owner and have undertaken the required off title enquires and searches identified in Schedule C attached. In addition, we have made such other searches, enquiries and investigations as we considered necessary and relevant for the purposes of our title opinion having regard to the nature and location of the Land.

[NOTE: The enquiries/searches specified are the basic enquiries that must be carried out for the purpose conveying land interests to the City. However, the City relies on the opining solicitor to undertake such other searches and enquiries as they consider necessary or desirable having regard to the nature and location of the Land.]

We have obtained and relied upon statutory declarations and certificates where appropriate and have considered applicable questions of law. We have assumed with respect to documents examined by us, the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity to authentic originals of all documents submitted to us as photocopies, facsimile, certified, conformed or notarial copies. We have also assumed the accuracy and currency of the indices and filing systems maintained at any public offices where we have conducted searches or made enquiries or caused such searches or enquiries to be conducted or made.

[NTD: If applicable, insert the following paragraph regarding any statutory declarations or certificates relied upon for the purpose of the opinion:

We have relied upon a statutory declaration of [Name of Owner / if Owner is a corporation or other entity, indicate the name and position of the signing officer], dated ŷ, 20ŷ, in connection with Section 44(1) 1, 2, 3 and 4 of the Land Titles Act and certain factual matters which [is/are] relevant for the purpose of providing our opinion expressed in paragraph 1 below. We have also relied upon] a certificate of [Name of Owner / if Owner is a corporation or other entity, indicate the name and position of the signing officer], dated ŷ, 20ŷ, as to certain corporate matters which [is/are] relevant for the purpose of providing our opinion expressed in paragraphs 3 and 4 below.]

We are solicitors qualified to carry on the practice of law in the Province of Ontario. The opinion expressed extends only to the laws of the Province of Ontario and the federal laws of Canada applicable therein in force as of the date of this opinion.

Our enquiries and searches with respect to the Land confirm that:

- (a) the Land has not escheated to the Crown;
- (b) there are no unregistered easements affecting the Land claimed by Ontario Hydro or Toronto Hydro;
- (c) there are no outstanding work orders or deficiency notices and there is no record of non-compliance with applicable building or zoning by-laws;
- (d) there are no arrears in the payment of realty taxes;
- (e) there are no outstanding accounts for the supply of water or sewer services to the Land;
- (f) there are no regulations or restrictions imposed on the Land by the Toronto and Region Conservation Authority; and
- (g) according to the records of the Ministry of the Environment, the Land has never been used as a waste disposal site, the names in the chain of title to the Lands do not appear in the index record maintained by the Ministry and there are no outstanding violations or action request notices with respect to the Land;
- (h) *[if appropriate, insert determinations based on additional searches and enquiries that were undertaken as being considered necessary or desirable].*

Based upon and subject to the foregoing, we are of the opinion that, as at y p.m., y, 20y :

1. The Owner is the registered owner in fee simple of the Land, free from any encumbrances, claims or liens, including any outstanding writs of execution that affect title to the Land, other than those liens, encumbrances, exceptions and qualifications to title set out in Parts I and II to Schedule B attached .
2. None of the documents identified in Schedule B, Part II referred to above, that are not being postponed, discharged or otherwise released, contain rights or remedies in favour of the parties thereto, or their respective successors and assigns, that could preclude, defeat, adversely affect or interfere with the *[City's fee simple interest in the Land ability of the City to exercise the rights established through its easement interest in the Land]*.

[Where the Owner is a Corporation insert 3 and 4]

3. The Owner is an existing corporation pursuant to the y *[insert applicable statute name]* and has not been discontinued or dissolved.
4. The Owner has the corporate power and authority and has taken all necessary corporate action to authorize the *[conveyance of the Land / grant of easement with respect to the Land]* to the City .
5. The last registered instrument on title to the Land is y *[insert Instrument #]*.

Notwithstanding that our fee for this opinion will be paid by the Owner, and that we act for the Owner in this transaction, we acknowledge that the City is relying upon this title opinion. We consent and agree to such reliance. Although this opinion may be relied upon by the City and its authorized agents for the purposes contemplated herein, it may not be relied upon or quoted, in whole or in part, by any other person or entity for any other purpose without our prior written consent.

Yours truly,

[]

[NOTES: *i) this opinion must be drafted with all applicable inserts and should accompany all agreements submitted to the City. It must be forwarded directly to the Legal Services Division and the assigned file lawyer or law clerk as applicable; and*

ii) if the this opinion is signed by a "Law Firm" a cover letter must be attached confirming the name of the solicitor providing the opinion]

SCHEDULE "A"
LEGAL DESCRIPTION OF LAND

Lands are registered in ["X"one]:

- REGISTRY
- LT ABSOLUTE
- LTCQ
- LT PLUS

[Insert PIN and brief legal description or a full metes and bound description if the Lands are in Registry.]

| | |
|-----------|--|
| REFERENCE | Opinion for <i>[insert brief property reference]</i> dated <i>y</i> by <i>[insert name of opining solicitor]</i> |
|-----------|--|

SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in LT ABSOLUTE]

PART I – General Qualifications

- Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
- Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.

- 3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
- 4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 7, 8, 9, 10, 12 and 14.

PART II – Specific Encumbrances

[Insert if applicable]

| | |
|-----------|---|
| REFERENCE | Opinion for <i>[insert brief property reference]</i> dated y by <i>[insert name of opining solicitor]</i> |
|-----------|---|

**SCHEDULE “B”
ENCUMBRANCES/QUALIFICATIONS**

[Lands in LT CONVERSION QUALIFIED (LTCQ)]

PART I – General Qualifications

- 1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
- 2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
- 3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
- 4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 7, 8, 9, 10, 12 and 14.
- 5. The exceptions and qualifications contained in section 44(1) 11 of the *Land Titles Act* to the date of conversion to LTCQ.

PART II – Specific Encumbrances

[Insert if applicable]

| | |
|-----------|---|
| REFERENCE | Opinion for [insert brief property reference] dated y by [insert name of opining solicitor] |
|-----------|---|

SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in LT PLUS]

PART I – General Qualifications

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 3, 7, 8, 9, 10, 12 and 14.
5. The exceptions and qualifications contained in section 44(1) 11 of the *Land Titles Act* to the date of conversion to LTCQ.

PART II – Specific Encumbrances

[Insert if applicable]

| | |
|-----------|---|
| REFERENCE | Opinion for [insert brief property reference] dated y by [insert name of opining solicitor] |
|-----------|---|

SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in Registry]

PART I – General Qualifications

- 1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
- 2. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
- 3. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
- 4. Where the registered owner is or a previous owner was a railway company, any interest that may be or may have been created by an instrument deposited in the office of the Secretary of State of Canada or the Registrar General of Canada, as the case may be, under section 81 of the *Railway Act* (Canada), or any predecessor thereof.

PART II – Specific Encumbrances

[Insert if applicable]

| | |
|-----------|--|
| REFERENCE | Opinion for <i>[insert brief property reference]</i> dated <i>y</i> by <i>[insert name of opining solicitor]</i> |
|-----------|--|

SCHEDULE “C”

REQUIRED OFF TITLE SEARCHES AND ENQUIRIES

- Property taxes and local improvements (Tax Certificate to be obtained)
- City Building Division compliance certificate (as to existence of work orders, deficiency notices or non-compliance with applicable building or zoning by-laws)
- Local and provincial hydro as to existence of unregistered hydro easements
- Local water/sewer departments as to existence of arrears in charges
- Ministry of Environment requirements
- Toronto and Region Conservation requirements
- Applicable corporate searches and enquires

**EXAMPLES: OTHER OFF TITLE SEARCHES AND ENQUIRIES THAT MAY BE NECESSARY
DEPENDING ON THE NATURE AND LOCATION OF THE LAND (not all inclusive)**

Existing leases where City assuming
Electrical Safety Authority
Elevating Devices
Navigable Waters
Business Improvement Area search
Brownfields Site Registry

Crown Patent
Fire Department
Ontario Heritage Act
PPSA Search
Cemeteries

| | |
|-----------|---|
| REFERENCE | Opinion for <i>[insert brief property reference]</i> dated <i>y</i> by <i>[insert name of opining solicitor]</i> |
|-----------|---|

Schedule "E"

List of Drawings and Reports for Storm Sewer

SG-01 - Site Grading Plan – The One 1 Bloor West, Revision 4, dated October 31, 2019;

SS-01 – Site Servicing Plan – The One 1 Bloor West, Revision 4, dated October 31, 2019;

PP-01 – Plan and Profile Public Laneway – The One 1 Bloor West, Revision 4, dated October 31, 2019;

EC-01 – Erosion Control Plan – The One 1 Bloor West, Revision 4, dated October 31, 2019;

DD-01 – General Notes & Details – The One 1 Bloor West, Revision 4, dated October 31, 2019;

DD-02 – Cross Sections – The One 1 Bloor West, Revision 4, dated October 31, 2019;
and

Mizrahi Development Group (The One) Inc. - Stormwater Management Report – 1 Bloor Street West, dated October 2019

all prepared by Cole Engineering Group Ltd.

In addition to the Owner's obligations described elsewhere in this Agreement, prior to the earlier of Release for Construction of Services and the issuance of the first Above Grade Building Permit for a part or all of the Site, the Owner shall provide a certified cheque in an amount equal to five percent (5%) of the preliminary cost estimate attached hereto as Schedule "F" for the purpose of inspection fees.

Schedule "F"
Preliminary Cost Estimate For Storm Sewer

ESTIMATE FOR: THE ONE 1 BLOOR STREET WEST
Site Servicing

| ITEM NO. | DESCRIPTION | EST. QTY. | UNIT | UNIT PRICE | TOTAL PRICE |
|--------------------------------|---|-----------|----------------|---------------|---------------|
| B | SECTION B - STORM SEWERS | | | | |
| | Storm Sewer Pipes | | | | |
| B.1 | OGS STC300 - MH2, 300mm PVC | 7.0 | m | \$ 625.00 | \$ 4,375.00 |
| B.2 | MH2 - MH1, 300mm PVC | 32.6 | m | \$ 625.00 | \$ 20,375.00 |
| B.3 | MH1 - EX Concrete Box MH | 17.0 | m | \$ 675.00 | \$ 11,475.00 |
| | Storm Maintenance Hole | | | | |
| B.4 | OGS STC300 | 1.0 | L.S. | \$ 120,000.00 | \$ 120,000.00 |
| B.5 | MH2 | 1.0 | L.S. | \$ 15,000.00 | \$ 15,000.00 |
| B.6 | MH1 | 1.0 | L.S. | \$ 15,000.00 | \$ 15,000.00 |
| | Miscellaneous | | | | |
| B.7 | Install vertical bends on watermain required for storm sewer installation | 1.0 | L.S. | \$ 10,000.00 | \$ 10,000.00 |
| B.8 | Restoration of Laneway and Balmuto Street | 250.0 | m ² | \$ 200.00 | \$ 50,000.00 |
| TOTAL SECTION B - STORM SEWERS | | | | | \$ 246,225.00 |

This is Exhibit “U” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

PROPERTY DESCRIPTION: LT 16 PL 250E TORONTO; CITY OF TORONTO

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:

FIRST CONVERSION FROM BOOK

PIN CREATION DATE:

2003/07/28

OWNERS' NAMES

CITY OF TORONTO

CAPACITY

SHARE

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|---|------------|-----------------------------------|--------|--|--------------------------------|---------------|
| ** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2003/07/25 ** | | | | | | |
| **SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO: | | | | | | |
| ** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * | | | | | | |
| ** AND ESCHEATS OR FORFEITURE TO THE CROWN. | | | | | | |
| ** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF | | | | | | |
| ** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY | | | | | | |
| ** CONVENTION. | | | | | | |
| ** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES. | | | | | | |
| **DATE OF CONVERSION TO LAND TITLES: 2003/07/28 ** | | | | | | |
| CT481408 | 1981/06/12 | TRANSFER | | *** COMPLETELY DELETED *** | 473377 ONTARIO INC. | |
| CT509148 | 1981/11/30 | NOTICE OF LEASE | | *** COMPLETELY DELETED *** | VERITAS CONSULTANTS LIMITED | |
| AT4218706 | 2016/05/16 | APL CH NAME OWNER | | *** COMPLETELY DELETED *** 473377 ONTARIO INC. | VERITAS CONSULTANTS INC. | |
| AT4294404 | 2016/07/29 | CHARGE | | *** COMPLETELY DELETED *** VERITAS CONSULTANTS INC. | MIZRAHI REAL ESTATE GROUP INC. | |
| AT4426434 | 2016/12/06 | APL (GENERAL) | | *** COMPLETELY DELETED *** VERITAS CONSULTANTS INC. | | |
| | | REMARKS: DELETE CT509148 | | | | |
| AT4431920 | 2016/12/12 | TRANSFER | | *** COMPLETELY DELETED *** VERITAS CONSULTANTS INC. | 2495159 ONTARIO INC. | |
| | | REMARKS: PLANNING ACT STATEMENTS. | | | | |

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.

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|-----------|------------|---|--------|--|-----------------------|---------------|
| AT4431921 | 2016/12/12 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** MIZRAHI REAL ESTATE GROUP INC. | | |
| | | REMARKS: AT4294404. | | | | |
| AT4431922 | 2016/12/12 | CHARGE | | *** COMPLETELY DELETED *** 2495159 ONTARIO INC. | BRIDGING FINANCE INC. | |
| AT4431923 | 2016/12/12 | NO ASSGN RENT GEN | | *** COMPLETELY DELETED *** 2495159 ONTARIO INC. | BRIDGING FINANCE INC. | |
| | | REMARKS: AT4431922. AT4431922 | | | | |
| AT5470268 | 2020/07/09 | RESTRICTION-LAND | | *** COMPLETELY DELETED *** 2495159 ONTARIO INC. | | |
| | | REMARKS: NO DEALINGS WITHOUT THE CONSENT OF THE MIZRAHI DEVELOPMENT GROUP (THE ONE) INC. | | | | |
| AT5471478 | 2020/07/13 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** BRIDGING FINANCE INC. | | |
| | | REMARKS: AT4431922. | | | | |
| AT5472530 | 2020/07/14 | APL DELETE REST | | *** COMPLETELY DELETED *** 2495159 ONTARIO INC. | | |
| | | REMARKS: AT5470268. | | | | |
| AT5473716 | 2020/07/15 | RESTRICTION-LAND | | *** COMPLETELY DELETED *** 2495159 ONTARIO INC. | | |
| | | REMARKS: NO TRANSFER OR CHARGE WITHOUT THE CONSENT OF THE GENERAL MANAGER, PARKS, FORESTRY AND RECREATION FOR THE CITY OF TORONTO, OR THEIR DESIGNATE | | | | |
| AT5486576 | 2020/07/31 | NOTICE | | CITY OF TORONTO | | C |
| AT5569827 | 2020/11/12 | TRANSFER | \$2 | 2495159 ONTARIO INC. | CITY OF TORONTO | C |
| AT5593145 | 2020/12/08 | APL DELETE REST | | *** COMPLETELY DELETED *** CITY OF TORONTO | | |
| | | REMARKS: AT5473716. | | | | |

This is Exhibit “V” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

PROPERTY DESCRIPTION:

PART OF LOT 8 S/S DAVENPORT RD PLAN 689E TORONTO, DESIGNATED AS PART 2 ON PLAN 66R28729; SUBJECT TO AN EASEMENT AS IN AT3773749; SUBJECT TO AN EASEMENT AS IN AT3903195; TOGETHER WITH AN EASEMENT OVER THE COMMON ELEMENTS IN TORONTO STANDARD CONDOMINIUM PLAN NO. 2609 AS IN AT4681450; TOGETHER WITH AN EASEMENT OVER THE COMMON ELEMENTS ON LEVEL A & 1 IN TORONTO STANDARD CONDOMINIUM PLAN NO. 2609 AS IN AT4681450; TOGETHER WITH AN EASEMENT OVER THE COMMON ELEMENTS ON LEVEL 1 IN TORONTO STANDARD CONDOMINIUM PLAN NO. 2609 AS IN AT4681450; TOGETHER WITH AN EASEMENT OVER THE COMMON ELEMENTS ON LEVEL A IN TORONTO STANDARD CONDOMINIUM PLAN NO. 2609 AS IN AT4681450; SUBJECT TO AN EASEMENT OVER PART 2 ON PLAN 66R28729 IN FAVOUR OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2609 AS IN AT4681450; CITY OF TORONTO

PROPERTY REMARKS:

FOR THE PURPOSE OF THE QUALIFIER THE DATE OF REGISTRATION OF ABSOLUTE TITLE IS 2003/11/07.

ESTATE/QUALIFIER:

FEE SIMPLE
ABSOLUTE

RECENTLY:

DIVISION FROM 21196-0333

PIN CREATION DATE:

2017/09/21

OWNERS' NAMES

181 DAVENPORT RETAIL INC.

CAPACITY SHARE

ROWN

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/CHKD |
|-------------|---|--------------------|---------------------|--|--|-----------|
| ** PRINTOUT | INCLUDES ALL | DOCUMENT TYPES AND | DELETED INSTRUMENTS | SINCE 2017/09/21 ** | | |
| CT580772 | 1983/03/10 | AGREEMENT | | | THE CORPORATION OF THE CITY OF TORONTO | C |
| AT2841746 | 2011/10/17 | TRANSFER | | *** DELETED AGAINST THIS PROPERTY *** MIZRAHI SOARING DEVELOPMENTS INC. | MIZRAHI DEVELOPMENT GROUP (145 DAVENPORT) INC. | |
| | REMARKS: PLANNING ACT STATEMENTS | | | | | |
| AT2870850 | 2011/11/16 | TRANSFER | | *** DELETED AGAINST THIS PROPERTY *** FOSTER, ROBIN | MIZRAHI DEVELOPMENT GROUP (185 DAVENPORT) INC. | |
| AT2870883 | 2011/11/16 | TRANSFER | | *** DELETED AGAINST THIS PROPERTY *** VUKASOVIC, DRAGAN | MIZRAHI DEVELOPMENT GROUP (185 DAVENPORT) INC. | |
| AT2870923 | 2011/11/16 | TRANSFER | | *** DELETED AGAINST THIS PROPERTY *** NIKIC, BORIS SALIB, PATRICIA | MIZRAHI DEVELOPMENT GROUP (185 DAVENPORT) INC. | |
| AT2870954 | 2011/11/16 | TRANSFER | | *** DELETED AGAINST THIS PROPERTY *** NIKIC, BORIS NIKIC, VLADIMIR SALIB, PATRICIA ANNE | MIZRAHI DEVELOPMENT GROUP (185 DAVENPORT) INC. | |
| AT2870983 | 2011/11/16 | TRANSFER | | *** DELETED AGAINST THIS PROPERTY *** KEEFE, ORAL DENNIS | MIZRAHI DEVELOPMENT GROUP (185 DAVENPORT) INC. | |
| AT3364949 | 2013/07/31 | NOTICE | \$2 | CITY OF TORONTO | | C |
| | REMARKS: THIS NOTICE IS FOR AN INDETERMINATE PERIOD | | | | | |
| AT3428072 | 2013/10/10 | CHARGE | | *** DELETED AGAINST THIS PROPERTY *** | | |

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.

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|---|------------|-------------------|--------|---|---|---------------|
| AT3484185 | 2013/12/19 | CHARGE | | MIZRAHI DEVELOPMENT GROUP (145 DAVENPORT) INC. MIZRAHI DEVELOPMENT GROUP (185 DAVENPORT) INC. *** DELETED AGAINST THIS PROPERTY *** MIZRAHI DEVELOPMENT GROUP (145 DAVENPORT) INC. MIZRAHI DEVELOPMENT GROUP (185 DAVENPORT) INC. | AVIVA INSURANCE COMPANY OF CANADA UNITED OVERSEAS BANK LIMITED | |
| AT3484186 | 2013/12/19 | POSTPONEMENT | | *** DELETED AGAINST THIS PROPERTY *** AVIVA INSURANCE COMPANY OF CANADA | UNITED OVERSEAS BANK LIMITED | |
| REMARKS: AT3428072 TO AT3484185 | | | | | | |
| AT3506298 | 2014/01/27 | NOTICE | \$2 | 133 HAZELTON INC. MIZRAHI DEVELOPMENT GROUP (185 DAVENPORT) INC. | CITY OF TORONTO | C |
| REMARKS: THIS OTICE IS FOR AN INDETERMINATE PERIOD | | | | | | |
| AT3506301 | 2014/01/27 | POSTPONEMENT | | AVIVA INSURANCE COMPANY OF CANADA | CITY OF TORONTO | C |
| REMARKS: AT3428072 TO AT3506298 | | | | | | |
| AT3506302 | 2014/01/27 | POSTPONEMENT | | *** DELETED AGAINST THIS PROPERTY *** UNITED OVERSEAS BANK LIMITED | CITY OF TORONTO | |
| REMARKS: AT3484185 TO AT3506298 | | | | | | |
| AT3506303 | 2014/01/27 | POSTPONEMENT | | *** DELETED AGAINST THIS PROPERTY *** 7537506 CANADA INC. | CITY OF TORONTO | |
| REMARKS: AT3493246 TO AT3506298. DELETED 2017/09/22. KS | | | | | | |
| AT3529940 | 2014/02/28 | APL CH NAME OWNER | | *** DELETED AGAINST THIS PROPERTY *** MIZRAHI DEVELOPMENT GROUP (145 DAVENPORT) INC. | ONE8ONE DAVENPORT INC. | |
| AT3529941 | 2014/02/28 | APL CH NAME OWNER | | *** DELETED AGAINST THIS PROPERTY *** MIZRAHI DEVELOPMENT GROUP (185 DAVENPORT) INC. | ONE8ONE DAVENPORT INC. | |
| AT3773749 | 2014/12/22 | TRANSFER EASEMENT | \$2 | ONE8ONE DAVENPORT INC. | ROGERS COMMUNICATIONS INC. | C |
| AT3788754 | 2015/01/16 | NOTICE | \$2 | CITY OF TORONTO | ONE8ONE DAVENPORT INC. | C |
| REMARKS: SITE PLAN AGREEMENT | | | | | | |
| AT3903195 | 2015/06/03 | TRANSFER EASEMENT | | ONE8ONE DAVENPORT INC. | ENBRIDGE GAS DISTRIBUTION INC. | C |
| AT4210592 | 2016/05/04 | APL CONSOLIDATE | | ONE8ONE DAVENPORT INC. | | C |
| 66R28729 | 2016/07/06 | PLAN REFERENCE | | | | |

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.

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|-----------|------------|-----------------------------------|--------------|---|-----------------------------------|---------------|
| AT4351798 | 2016/09/23 | NOTICE | | *** DELETED AGAINST THIS PROPERTY *** ONE8ONE DAVENPORT INC. | AVIVA INSURANCE COMPANY OF CANADA | |
| | | REMARKS: AT3428072 | | | | |
| AT4638149 | 2017/07/27 | NOTICE | | *** DELETED AGAINST THIS PROPERTY *** ONE8ONE DAVENPORT INC. | AVIVA INSURANCE COMPANY OF CANADA | |
| | | REMARKS: AT3428072 AND AT4351798 | | | | |
| AT4731894 | 2017/11/14 | NOTICE | \$2 | TORONTO STANDARD CONDOMINIUM CORPORATION NO. 2609 | ONE8ONE DAVENPORT INC. | C |
| AT4801468 | 2018/02/12 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** UNITED OVERSEAS BANK LIMITED | | |
| | | REMARKS: AT3484185. | | | | |
| AT4856567 | 2018/05/03 | TRANSFER | \$4,000,000 | ONE8ONE DAVENPORT INC. | 181 DAVENPORT RETAIL INC. | C |
| | | REMARKS: PLANNING ACT STATEMENTS. | | | | |
| AT4856568 | 2018/05/03 | CHARGE | \$4,500,000 | 181 DAVENPORT RETAIL INC. | KEB HANA BANK CANADA | C |
| AT4856570 | 2018/05/03 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** AVIVA INSURANCE COMPANY OF CANADA | | |
| | | REMARKS: AT3428072. | | | | |
| AT4856590 | 2018/05/03 | NO ASSGN RENT GEN | | 181 DAVENPORT RETAIL INC. | KEB HANA BANK CANADA | C |
| | | REMARKS: AT4856568 | | | | |
| AT4856625 | 2018/05/03 | CHARGE | \$12,000,000 | 181 DAVENPORT RETAIL INC. | BRIDGING FINANCE INC. | C |
| AT4856631 | 2018/05/03 | NO ASSGN RENT GEN | | 181 DAVENPORT RETAIL INC. | BRIDGING FINANCE INC. | C |
| | | REMARKS: AT4856625 | | | | |

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.

This is Exhibit “W” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A525

Message

From: Graham Marr [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DF3416578487481A9B11DC95E161E8B5-GRAHAM MARR]
Sent: 3/10/2021 9:14:15 AM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) [sam@mizrahidevelopments.ca]
Subject: 181 Extension
Importance: High

Hi Sam, as discussed, we need to update our files for the 181 loan as we are at the tail end of our audit and they are asking us about this file. I have drafted a simple extension to the prior extension basically showing that the loan is not out of maturity. I understand that Bruno from our team has liaised with Mark on the calculation of the balance. Can you please review and sign back at your earliest convenience?
Thank you

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca
www.bridgingfinance.ca

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A525

A526

Dated as of November 30, 2020

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, Ontario
M5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., Mizrahi Inc. and 2495159 Ontario Inc. (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

We confirm that the Lender has agreed, to amend the terms and conditions of the Loan Agreement and the Security as follows (all capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Loan Agreement):

1. As of December 31, 2020, the Obligors acknowledge and agree that there is \$45,892,107.79 outstanding under the Loan and that they do not dispute their liability to the Lender on any ground whatsoever. The Obligors further confirm that they have no claim, demand, setoff or counter-claim against the Lender on any basis whatsoever and that there is no matter, fact or thing which may be asserted by any of them in extinction or diminution of their indebtedness to the Lender or result in any bar to or delay in the recovery thereof. If there are any such claims for setoff, counter-claim, damages or otherwise, they are hereby expressly released and discharged
2. Effective the date hereof, the Maturity Date (as defined in the November Letter) is hereby extended to April 30, 2022.
3. The Borrower shall be responsible for all legal fees and disbursements incurred by the Lender in connection with the preparation and negotiation of this Agreement and all matters relating thereto which fees shall be paid within 10 days of request therefore. If not paid as aforesaid, such amounts may be paid by the Lender and added to the Loan and shall bear interest from the date of such payment in accordance with the terms of the Loan and shall be secured by the Security.
4. This Agreement is supplemental to and shall be read with and be deemed to be part of the Loan Agreement, the Promissory Note, the Guarantee and the Security, which shall be deemed to be amended *mutatis mutandis* as herein provided. Any reference to the Loan Agreement, the Promissory Note, the Guarantee, the Security and any agreements or documents entered into in connection with the Loan Agreement, the Promissory Note, the Guarantee and the Security shall mean the Loan Agreement, the Promissory Note, the Guarantee and the Security, all as amended hereby and all such agreements and documents are also hereby amended *pro tanto* to give effect to this Agreement.
5. All the terms and conditions of the Loan Agreement, the Promissory Note, the Guarantee and the Security, except insofar as the same are amended by the express provisions of this Agreement, are confirmed and ratified in all respects, shall survive and shall not merge with or be extinguished by the execution and delivery of this Agreement and shall hereafter continue in full force and effect, as amended.

A526

6. The Obligors agree to execute such further assurances with respect to this Agreement, the Loan Agreement, the Promissory Note, the Guarantee and the Security, as may be required to evidence the true intent and meaning of this Agreement.
7. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

Per: _____
Name:
Title:

We Acknowledge and Accept the terms and conditions of this Agreement as of this 30th day of November, 2018.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

MIZRAHI INC. (as Borrower and Obligor)

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**2495159 ONTARIO INC. (as Borrower and
Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have authority to bind the corporation

**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

MIZRAHI ENTERPRISES INC. (as Obligor)

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**MIZRAHI SOARING DEVELOPMENTS
INC. (as Guarantor and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**181 DAVENPORT RETAIL INC. (as
Guarantor and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

Witness:

Sam Mizrahi (as Obligor)

A530

Message

From: Sam Mizrahi [sam@mizrahidevelopments.ca]
Sent: 3/10/2021 10:17:48 AM
To: Graham Marr [GMarr@bridgingfinance.ca]
Subject: Re: 181 Extension

Hi Graham, what was the last one we signed as this one seems different on the initial read. Can you send me the one we did last time. Thanks

Sincerely,



Sam Mizrahi

President

125 Hazelton Avenue
Toronto, Ontario M5R 2E4

T. 416.922.4200 ext.4210

C. 416.818.5288

F. 1.866.300.0219

E. Sam@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

CONFIDENTIALITY NOTICE: All information contained herein is for the exclusive confidential use of the intended recipient. If you are not the intended recipient, please do not read, distribute or take action in reliance upon this message. If you have received this message in error, please notify the sender immediately and promptly delete this message and all its attachments from your computer system.

On Mar 10, 2021, at 9:14 AM, Graham Marr <GMarr@bridgingfinance.ca> wrote:

Hi Sam, as discussed, we need to update our files for the 181 loan as we are at the tail end of our audit and they are asking us about this file. I have drafted a simple extension to the prior extension basically showing that the loan is not out of maturity. I understand that Bruno from our team has liaised with Mark on the calculation of the balance. Can you please review and sign back at your earliest convenience?

Thank you

Graham Marr, CPA, CA, CFA

President | **Bridging Finance Inc.**

77 King St W, Suite 2925 | Toronto | ON | M5K 1K7

T: (416) 777-1794 | C: (416) 906-0395

E: gmarr@bridgingfinance.ca


www.bridgingfinance.ca

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<Bridging_Mizrahi_-_amending_agreement_(extension_to_April2022.DOC)>

A530

This is Exhibit "X" referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A532

Message

From: Graham Marr [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DF3416578487481A9B11DC95E161E8B5-GRAHAM MARR]
Sent: 3/30/2021 2:17:43 PM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) [sam@mizrahidevelopments.ca]
Subject: FW: 181 Extension

Hi Sam, can you please call me as soon as you can, thank you

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca

From: Graham Marr
Sent: March 10, 2021 9:14 AM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: 181 Extension
Importance: High

Hi Sam, as discussed, we need to update our files for the 181 loan as we are at the tail end of our audit and they are asking us about this file. I have drafted a simple extension to the prior extension basically showing that the loan is not out of maturity. I understand that Bruno from our team has liaised with Mark on the calculation of the balance. Can you please review and sign back at your earliest convenience?

Thank you

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca
www.bridgingfinance.ca

Canada's Premier Private Debt Provider

A532

A533

Dated as of November 30, 2020

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, Ontario
M5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., Mizrahi Inc. and 2495159 Ontario Inc. (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

We confirm that the Lender has agreed, to amend the terms and conditions of the Loan Agreement and the Security as follows (all capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Loan Agreement):

1. As of December 31, 2020, the Obligors acknowledge and agree that there is \$45,892,107.79 outstanding under the Loan and that they do not dispute their liability to the Lender on any ground whatsoever. The Obligors further confirm that they have no claim, demand, setoff or counter-claim against the Lender on any basis whatsoever and that there is no matter, fact or thing which may be asserted by any of them in extinction or diminution of their indebtedness to the Lender or result in any bar to or delay in the recovery thereof. If there are any such claims for setoff, counter-claim, damages or otherwise, they are hereby expressly released and discharged
2. Effective the date hereof, the Maturity Date (as defined in the November Letter) is hereby extended to April 30, 2022.
3. The Borrower shall be responsible for all legal fees and disbursements incurred by the Lender in connection with the preparation and negotiation of this Agreement and all matters relating thereto which fees shall be paid within 10 days of request therefore. If not paid as aforesaid, such amounts may be paid by the Lender and added to the Loan and shall bear interest from the date of such payment in accordance with the terms of the Loan and shall be secured by the Security.
4. This Agreement is supplemental to and shall be read with and be deemed to be part of the Loan Agreement, the Promissory Note, the Guarantee and the Security, which shall be deemed to be amended *mutatis mutandis* as herein provided. Any reference to the Loan Agreement, the Promissory Note, the Guarantee, the Security and any agreements or documents entered into in connection with the Loan Agreement, the Promissory Note, the Guarantee and the Security shall mean the Loan Agreement, the Promissory Note, the Guarantee and the Security, all as amended hereby and all such agreements and documents are also hereby amended *pro tanto* to give effect to this Agreement.
5. All the terms and conditions of the Loan Agreement, the Promissory Note, the Guarantee and the Security, except insofar as the same are amended by the express provisions of this Agreement, are confirmed and ratified in all respects, shall survive and shall not merge with or be extinguished by the execution and delivery of this Agreement and shall hereafter continue in full force and effect, as amended.

A533

6. The Obligors agree to execute such further assurances with respect to this Agreement, the Loan Agreement, the Promissory Note, the Guarantee and the Security, as may be required to evidence the true intent and meaning of this Agreement.
7. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

Per: _____
Name:
Title:

We Acknowledge and Accept the terms and conditions of this Agreement as of this 30th day of November, 2018.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

MIZRAHI INC. (as Borrower and Obligor)

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**2495159 ONTARIO INC. (as Borrower and
Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have authority to bind the corporation

**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

MIZRAHI ENTERPRISES INC. (as Obligor)

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**MIZRAHI SOARING DEVELOPMENTS
INC. (as Guarantor and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**181 DAVENPORT RETAIL INC. (as
Guarantor and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

Witness:

Sam Mizrahi (as Obligor)

This is Exhibit “Y” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A538

Message

From: Graham Marr [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DF3416578487481A9B11DC95E161E8B5-GRAHAM MARR]
Sent: 3/30/2021 2:29:47 PM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) [sam@mizrahidevelopments.ca]
Subject: RE: 181 Extension

As discussed

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca

From: Graham Marr
Sent: March 30, 2021 2:18 PM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: FW: 181 Extension

Hi Sam, can you please call me as soon as you can, thank you

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca

From: Graham Marr
Sent: March 10, 2021 9:14 AM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: 181 Extension
Importance: High

Hi Sam, as discussed, we need to update our files for the 181 loan as we are at the tail end of our audit and they are asking us about this file. I have drafted a simple extension to the prior extension basically showing that the loan is not out of maturity. I understand that Bruno from our team has liaised with Mark on the calculation of the balance. Can you please review and sign back at your earliest convenience?
Thank you

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca
www.bridgingfinance.ca

Canada's Premier Private Debt Provider

A538

A539

Dated as of November 30, 2020

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, Ontario
M5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

We confirm that the Lender has agreed, to amend the terms and conditions of the Loan Agreement and the Security as follows (all capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Loan Agreement):

1. As of December 31, 2020, the Obligors acknowledge and agree that there is \$45,892,107.79 outstanding under the Loan and that they do not dispute their liability to the Lender on any ground whatsoever. The Obligors further confirm that they have no claim, demand, setoff or counter-claim against the Lender on any basis whatsoever and that there is no matter, fact or thing which may be asserted by any of them in extinction or diminution of their indebtedness to the Lender or result in any bar to or delay in the recovery thereof. If there are any such claims for setoff, counter-claim, damages or otherwise, they are hereby expressly released and discharged
2. Effective the date hereof, the Maturity Date (as defined in the November Letter) is hereby extended to April 30, 2022.
3. The Borrower shall be responsible for all legal fees and disbursements incurred by the Lender in connection with the preparation and negotiation of this Agreement and all matters relating thereto which fees shall be paid within 10 days of request therefore. If not paid as aforesaid, such amounts may be paid by the Lender and added to the Loan and shall bear interest from the date of such payment in accordance with the terms of the Loan and shall be secured by the Security.
4. This Agreement is supplemental to and shall be read with and be deemed to be part of the Loan Agreement, the Promissory Note, the Guarantee and the Security, which shall be deemed to be amended *mutatis mutandis* as herein provided. Any reference to the Loan Agreement, the Promissory Note, the Guarantee, the Security and any agreements or documents entered into in connection with the Loan Agreement, the Promissory Note, the Guarantee and the Security shall mean the Loan Agreement, the Promissory Note, the Guarantee and the Security, all as amended hereby and all such agreements and documents are also hereby amended *pro tanto* to give effect to this Agreement.
5. All the terms and conditions of the Loan Agreement, the Promissory Note, the Guarantee and the Security, except insofar as the same are amended by the express provisions of this Agreement, are confirmed and ratified in all respects, shall survive and shall not merge with or be extinguished by the execution and delivery of this Agreement and shall hereafter continue in full force and effect, as amended.

A539

6. The Obligors agree to execute such further assurances with respect to this Agreement, the Loan Agreement, the Promissory Note, the Guarantee and the Security, as may be required to evidence the true intent and meaning of this Agreement.
7. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

Per: _____
Name:
Title:

We Acknowledge and Accept the terms and conditions of this Agreement as of this 30th day of November, 2020.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**MIZRAHI SOARING DEVELOPMENTS
INC. (as Guarantor and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**181 DAVENPORT RETAIL INC. (as
Guarantor and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

Witness:

Sam Mizrahi (as Obligor)

Dated as of November 30, 2020

Mizrahi Development Group Inc. 189
Forest Hill Road Toronto, Ontario M
5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., ~~Mizrahi Inc. and 2495159 Ontario Inc.~~ (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

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8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

Per: _____ Name:
Title:

We Acknowledge and Accept the terms and conditions of this Agreement as of this 30th day of November, ~~2018~~2020.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

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

~~**MIZRAHI INC. (as Borrower and Obligor)**~~

~~Per: _____ Name: _____
Title: President I have the authority to bind the
corporation~~

~~**2495159 ONTARIO INC. (as Borrower and
Obligor)**~~

~~Per: _____ Name: _____
Title: President I have authority to bind the
corporation~~

**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

A544

Per: _____ Name: S
Title: President I have the authority to bind the
corporation

~~MIZRAHI ENTERPRISES INC. (as Obligor)~~

~~Per: _____ Name: S~~
~~Title: President I have the authority to bind the~~
~~corporation~~

**MIZRAHI SOARING DEVELOPMENTS INC.
(as Guarantor and Obligor)**

Per: _____ Name: S
Title: President I have the authority to bind the
corporation

**181 DAVENPORT RETAIL INC. (as Guarantor
and Obligor)**

Per: _____ Name: S
Title: President I have the authority to bind the
corporation

Witness:

Sam Mizrahi (as Obligor)

This is Exhibit “Z” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A547

Message

From: Graham Marr [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DF3416578487481A9B11DC95E161E8B5-GRAHAM MARR]
Sent: 3/30/2021 2:52:34 PM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) [sam@mizrahidevelopments.ca]
Subject: RE: 181 Extension

Updated attached

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca

From: Graham Marr
Sent: March 30, 2021 2:30 PM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: RE: 181 Extension

As discussed

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca

From: Graham Marr
Sent: March 30, 2021 2:18 PM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: FW: 181 Extension

Hi Sam, can you please call me as soon as you can, thank you

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca

From: Graham Marr
Sent: March 10, 2021 9:14 AM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: 181 Extension
Importance: High

Hi Sam, as discussed, we need to update our files for the 181 loan as we are at the tail end of our audit and they are asking us about this file. I have drafted a simple extension to the prior extension basically showing that the loan is not out of maturity. I understand that Bruno from our team has liaised with Mark on the calculation of the balance. Can you please review and sign back at your earliest convenience?

Thank you

Graham Marr, CPA, CA, CFA

A547

A548

President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca
www.bridgingfinance.ca

Canada's Premier Private Debt Provider

A548

A549

Dated as of November 30, 2020

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, Ontario
M5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

We confirm that the Lender has agreed, to amend the terms and conditions of the Loan Agreement and the Security as follows (all capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Loan Agreement):

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2. Effective the date hereof, the Maturity Date (as defined in the November Letter) is hereby extended to April 30, 2022.
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4. This Agreement is supplemental to and shall be read with and be deemed to be part of the Loan Agreement, the Promissory Note, the Guarantee and the Security, which shall be deemed to be amended *mutatis mutandis* as herein provided. Any reference to the Loan Agreement, the Promissory Note, the Guarantee, the Security and any agreements or documents entered into in connection with the Loan Agreement, the Promissory Note, the Guarantee and the Security shall mean the Loan Agreement, the Promissory Note, the Guarantee and the Security, all as amended hereby and all such agreements and documents are also hereby amended *pro tanto* to give effect to this Agreement.
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A549

6. The Obligors agree to execute such further assurances with respect to this Agreement, the Loan Agreement, the Promissory Note, the Guarantee and the Security, as may be required to evidence the true intent and meaning of this Agreement.
7. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

Per: _____
Name:
Title:

We Acknowledge and Accept the terms and conditions of this Agreement as of this 30th day of November, 2020.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President

MIZRAHI ENTERPRISES INC. (as Obligor)

Per:
Name: Sam Mizrahi
Title: President

**MIZRAHI SOARING DEVELOPMENTS
INC. (as Guarantor and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**181 DAVENPORT RETAIL INC. (as
Guarantor and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

Dated as of November 30, 2020

Mizrahi Development Group Inc. 189
Forest Hill Road Toronto, Ontario M
5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

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8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

Per: _____ Name:
Title:

We Acknowledge and Accept the terms and conditions of this Agreement as of this 30th day of November, 2020.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

Per: _____ Name: S
Title: President I have the authority to bind the corporation

**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

Per: _____ Name: S
Title: President ~~I have the authority to bind the corporation~~

MIZRAHI ENTERPRISES INC. (as Obligor)

Per: Name: Sam Mizrahi Title: President

**MIZRAHI SOARING DEVELOPMENTS INC.
(as Guarantor and Obligor)**

Per: _____ Name: S
Title: President I have the authority to bind the
corporation

**181 DAVENPORT RETAIL INC. (as Guarantor
and Obligor)**

Per: _____ Name: S
Title: President I have the authority to bind the
corporation

Witness: _____ Sam Mizrahi (as Obligor)

This is Exhibit “AA” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A557

Message

From: Sam Mizrahi [sam@mizrahidevelopments.ca]
Sent: 3/30/2021 2:58:04 PM
To: Graham Marr [GMarr@bridgingfinance.ca]
Subject: Re: 181 Extension

Attached. As discussed.

Sincerely,



Sam Mizrahi
President

125 Hazelton Avenue
Toronto, Ontario M5R 2E4

T. 416.922.4200 ext.4210

C. 416.818.5288

F. 1.866.300.0219

E. Sam@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

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On Mar 30, 2021, at 2:52 PM, Graham Marr <GMarr@bridgingfinance.ca> wrote:

Updated attached

Graham Marr, CPA, CA, CFA

President | **Bridging Finance Inc.**

77 King St W, Suite 2925 | Toronto | ON | M5K 1K7

T: (416) 777-1794 | C: (416) 906-0395

E: gmarr@bridgingfinance.ca

From: Graham Marr

Sent: March 30, 2021 2:30 PM

To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>

Subject: RE: 181 Extension

As discussed

Graham Marr, CPA, CA, CFA

President | **Bridging Finance Inc.**

77 King St W, Suite 2925 | Toronto | ON | M5K 1K7

T: (416) 777-1794 | C: (416) 906-0395

E: gmarr@bridgingfinance.ca

A557

A558

From: Graham Marr
Sent: March 30, 2021 2:18 PM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: FW: 181 Extension

Hi Sam, can you please call me as soon as you can, thank you

Graham Marr, CPA, CA, CFA
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T: (416) 777-1794 | **C:** (416) 906-0395
E: gmarr@bridgingfinance.ca

From: Graham Marr
Sent: March 10, 2021 9:14 AM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: 181 Extension
Importance: High

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Thank you

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www.bridgingfinance.ca

Canada's Premier Private Debt Provider

<Bridging_Mizrahi_-_amending_agreement_(extension_to_April2022_Final.pdf)>

A558

A560

Dated as of November 30, 2020

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, Ontario
M5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

We confirm that the Lender has agreed, to amend the terms and conditions of the Loan Agreement and the Security as follows (all capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Loan Agreement):

1. As of December 31, 2020, the Obligors acknowledge and agree that there is \$45,892,107.79 outstanding under the Loan and that they do not dispute their liability to the Lender on any ground whatsoever. The Obligors further confirm that they have no claim, demand, setoff or counter-claim against the Lender on any basis whatsoever and that there is no matter, fact or thing which may be asserted by any of them in extinction or diminution of their indebtedness to the Lender or result in any bar to or delay in the recovery thereof.
2. Effective the date hereof, the Maturity Date (as defined in the November Letter) is hereby extended to April 30, 2022.
3. The Borrower shall be responsible for all legal fees and disbursements incurred by the Lender in connection with the preparation and negotiation of this Agreement and all matters relating thereto which fees shall be paid within 10 days of request therefore. If not paid as aforesaid, such amounts may be paid by the Lender and added to the Loan and shall bear interest from the date of such payment in accordance with the terms of the Loan and shall be secured by the Security.
4. This Agreement is supplemental to and shall be read with and be deemed to be part of the Loan Agreement, the Promissory Note, the Guarantee and the Security, which shall be deemed to be amended *mutatis mutandis* as herein provided. Any reference to the Loan Agreement, the Promissory Note, the Guarantee, the Security and any agreements or documents entered into in connection with the Loan Agreement, the Promissory Note, the Guarantee and the Security shall mean the Loan Agreement, the Promissory Note, the Guarantee and the Security, all as amended hereby and all such agreements and documents are also hereby amended *pro tanto* to give effect to this Agreement.
5. All the terms and conditions of the Loan Agreement, the Promissory Note, the Guarantee and the Security, except insofar as the same are amended by the express provisions of this Agreement, are confirmed and ratified in all respects, shall survive and shall not merge with or be extinguished by the execution and delivery of this Agreement and shall hereafter continue in full force and effect, as amended.

A560



6. The Obligors agree to execute such further assurances with respect to this Agreement, the Loan Agreement, the Promissory Note, the Guarantee and the Security, as may be required to evidence the true intent and meaning of this Agreement.
7. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

Per: _____
Name: _____
Title: _____

We Acknowledge and Accept the terms and conditions of this Agreement as of this 30th day of November, 2020.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

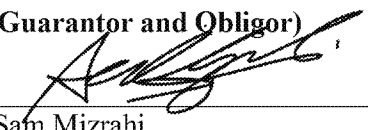
**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President

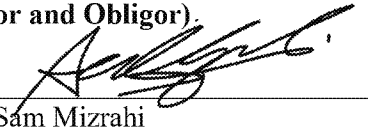
MIZRAHI ENTERPRISES INC. (as Obligor)

Per: _____
Name: Sam Mizrahi
Title: President

**MIZRAHI SOARING DEVELOPMENTS
INC. (as Guarantor and Obligor)**

Per: 
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**181 DAVENPORT RETAIL INC. (as
Guarantor and Obligor)**

Per: 
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

This is Exhibit “BB” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A565

Message

From: Graham Marr [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DF3416578487481A9B11DC95E161E8B5-GRAHAM MARR]
Sent: 3/30/2021 4:58:37 PM
To: Sam Mizrahi [sam@mizrahidevelopments.ca]
BCC: bchamp@bridgingfinance.ca [BChamp@bridgingfinance.ca]
Subject: RE: 181 Extension

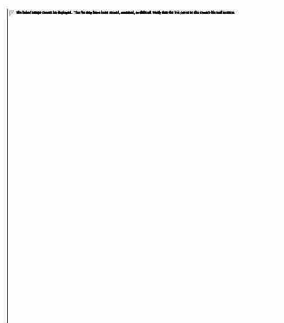
Sam, apologies, I realized that it was dated November 30th and referencing a Dec 31 balance. I've redated that attached December 31 to be consistent. If u you could please sign back, many thanks

Graham Marr, CPA, CA, CFA
 President | **Bridging Finance Inc.**
 77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
 T: (416) 777-1794 | C: (416) 906-0395
 E: gmarr@bridgingfinance.ca

From: Sam Mizrahi <sam@mizrahidevelopments.ca>
Sent: March 30, 2021 2:58 PM
To: Graham Marr <GMarr@bridgingfinance.ca>
Subject: Re: 181 Extension

Attached. As discussed.

Sincerely,



Sam Mizrahi
 President
 125 Hazelton Avenue
 Toronto, Ontario M5R 2E4
 T. 416.922.4200 ext.4210
 C. 416.818.5288
 F. 1.866.300.0219
 E. Sam@MizrahiDevelopments.ca
www.MizrahiDevelopments.ca

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On Mar 30, 2021, at 2:52 PM, Graham Marr <GMarr@bridgingfinance.ca> wrote:

Updated attached

Graham Marr, CPA, CA, CFA
 President | **Bridging Finance Inc.**

A565

A566

77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca

From: Graham Marr
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As discussed

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Subject: 181 Extension
Importance: High

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Thank you

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E: gmarr@bridgingfinance.ca
www.bridgingfinance.ca

Canada's Premier Private Debt Provider

<Bridging_Mizrahi_-_amending_agreement_(extension_to_April2022_Final.pdf)>

A566

A568

Dated as of December 31, 2020

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, Ontario
M5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

We confirm that the Lender has agreed, to amend the terms and conditions of the Loan Agreement and the Security as follows (all capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Loan Agreement):

1. As of December 31, 2020, the Obligors acknowledge and agree that there is \$45,892,107.79 outstanding under the Loan and that they do not dispute their liability to the Lender on any ground whatsoever. The Obligors further confirm that they have no claim, demand, setoff or counter-claim against the Lender on any basis whatsoever and that there is no matter, fact or thing which may be asserted by any of them in extinction or diminution of their indebtedness to the Lender or result in any bar to or delay in the recovery thereof.
2. Effective the date hereof, the Maturity Date (as defined in the November Letter) is hereby extended to April 30, 2022.
3. The Borrower shall be responsible for all legal fees and disbursements incurred by the Lender in connection with the preparation and negotiation of this Agreement and all matters relating thereto which fees shall be paid within 10 days of request therefore. If not paid as aforesaid, such amounts may be paid by the Lender and added to the Loan and shall bear interest from the date of such payment in accordance with the terms of the Loan and shall be secured by the Security.
4. This Agreement is supplemental to and shall be read with and be deemed to be part of the Loan Agreement, the Promissory Note, the Guarantee and the Security, which shall be deemed to be amended *mutatis mutandis* as herein provided. Any reference to the Loan Agreement, the Promissory Note, the Guarantee, the Security and any agreements or documents entered into in connection with the Loan Agreement, the Promissory Note, the Guarantee and the Security shall mean the Loan Agreement, the Promissory Note, the Guarantee and the Security, all as amended hereby and all such agreements and documents are also hereby amended *pro tanto* to give effect to this Agreement.
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A568

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7. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

Per: _____
Name:
Title:

We Acknowledge and Accept the terms and conditions of this Agreement as of this 31th day of December, 2020.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President

MIZRAHI ENTERPRISES INC. (as Obligor)

Per:
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This is Exhibit “CC” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A573

Message

From: Sam Mizrahi [sam@mizrahidevelopments.ca]
Sent: 3/30/2021 9:38:37 PM
To: Graham Marr [GMarr@bridgingfinance.ca]
Subject: Re: 181 Extension

Good evening Graham,

Please find attached. Wishing you a restful evening.



Sam Mizrahi
President

125 Hazelton Avenue
Toronto, Ontario M5R 2E4
T. 416.922.4200 ext.4210
C. 416.818.5288
F. 1.866.300.0219
E. Sam@MizrahiDevelopments.ca
www.MizrahiDevelopments.ca

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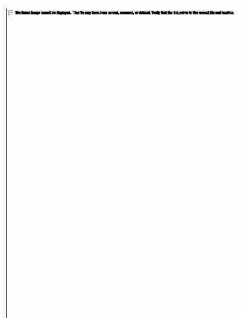
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E: gmarr@bridgingfinance.ca

From: Sam Mizrahi <sam@mizrahidevelopments.ca>
Sent: March 30, 2021 2:58 PM
To: Graham Marr <GMarr@bridgingfinance.ca>
Subject: Re: 181 Extension

Attached. As discussed.

Sincerely,



Sam Mizrahi
President

[125 Hazelton Avenue](https://www.MizrahiDevelopments.ca)
[Toronto, Ontario M5R 2E4](https://www.MizrahiDevelopments.ca)
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A573

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E: gmarr@bridgingfinance.ca

From: Graham Marr
Sent: March 30, 2021 2:30 PM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: RE: 181 Extension

As discussed

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To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: FW: 181 Extension

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E: gmarr@bridgingfinance.ca

From: Graham Marr
Sent: March 10, 2021 9:14 AM
To: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: 181 Extension
Importance: High

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A574

A575

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E: gmarr@bridgingfinance.ca

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Canada's Premier Private Debt Provider

<Bridging_Mizrahi_-_amending_agreement_(extension_to_April2022_Final.pdf)>

<Bridging_Mizrahi_-_amending_agreement_(extension_to_April2022_FinalGM.pdf)>

A575

A577

Dated as of December 31, 2020

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, Ontario
M5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

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A577



6. The Obligors agree to execute such further assurances with respect to this Agreement, the Loan Agreement, the Promissory Note, the Guarantee and the Security, as may be required to evidence the true intent and meaning of this Agreement.
7. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

Per: _____
Name:
Title:

We Acknowledge and Accept the terms and conditions of this Agreement as of this 31th day of December, 2020.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President

MIZRAHI ENTERPRISES INC. (as Obligor)

Per: _____
Name: Sam Mizrahi
Title: President

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I have the authority to bind the corporation

**181 DAVENPORT RETAIL INC. (as
Guarantor and Obligor)**

Per: _____
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

This is Exhibit “DD” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A582

Message

From: Graham Marr [GMarr@bridgingfinance.ca]
Sent: 3/30/2021 7:06:17 PM
To: Brian Champ [BChamp@bridgingfinance.ca]
Subject: Fwd: Commissions

Graham Marr, CPA, CA, CFA
President | Bridging Finance Inc.
77 King St W, Suite 2925 | Toronto ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca
www.bridgingfinance.ca
Canada's Premier Private Debt Provider

From: Mark Kilfoyle <mark@mizrahidevelopments.ca>
Sent: Tuesday, March 30, 2021 3:04:43 PM
To: Graham Marr <GMarr@bridgingfinance.ca>
Cc: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: Re: Commissions

Hi Graham,

The rough number is \$24M less any third party commissions we will be required to pay on any sales.

Best regards
Mark



Mark Kilfoyle
CFO and COO
125 Hazelton Avenue
Toronto, Ontario M5R 2E4
T. 416.922.4200 ext.4220
F. 1.866.300.0219
E. Mark@MizrahiDevelopments.ca
www.MizrahiDevelopments.ca

On Mar 30, 2021, at 2:19 PM, Graham Marr <GMarr@bridgingfinance.ca> wrote:

Hi Mark, our auditors are asking what the total commissions that Mizrahi is entitled to in respect of the sales from 1 Bloor. Can you please let me know at your earliest convenience what this rough number is? They are looking to sign off on our audit end of day today and they are trying to finalize their review of the Mizrahi loan.
Thank you in advance

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca
www.bridgingfinance.ca

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A582

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This is Exhibit “EE” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A585

Message

From: Graham Marr [GMarr@bridgingfinance.ca]
Sent: 3/30/2021 7:06:17 PM
To: Brian Champ [BChamp@bridgingfinance.ca]
Subject: Fwd: Commissions

Graham Marr, CPA, CA, CFA
President | Bridging Finance Inc.
77 King St W, Suite 2925 | Toronto ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca
www.bridgingfinance.ca
Canada's Premier Private Debt Provider

From: Mark Kilfoyle <mark@mizrahidevelopments.ca>
Sent: Tuesday, March 30, 2021 3:04:43 PM
To: Graham Marr <GMarr@bridgingfinance.ca>
Cc: Sam Mizrahi (sam@mizrahidevelopments.ca) <sam@mizrahidevelopments.ca>
Subject: Re: Commissions

Hi Graham,

The rough number is \$24M less any third party commissions we will be required to pay on any sales.

Best regards
Mark



Mark Kilfoyle
CFO and COO
125 Hazelton Avenue
Toronto, Ontario M5R 2E4
T. 416.922.4200 ext.4220
F. 1.866.300.0219
E. Mark@MizrahiDevelopments.ca
www.MizrahiDevelopments.ca

On Mar 30, 2021, at 2:19 PM, Graham Marr <GMarr@bridgingfinance.ca> wrote:

Hi Mark, our auditors are asking what the total commissions that Mizrahi is entitled to in respect of the sales from 1 Bloor. Can you please let me know at your earliest convenience what this rough number is? They are looking to sign off on our audit end of day today and they are trying to finalize their review of the Mizrahi loan.
Thank you in advance

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
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A585

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A586

This is Exhibit “FF” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A588

Message

From: Brian Champ [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=03E802EE499B4095AC18A73F4AEAE029-BRIAN CHAMP]
Sent: 3/30/2021 9:15:41 PM
To: Benson, Shereka [sherekabenson1@kpmg.ca]
CC: Jhajj, Amrita [ajhajj@kpmg.ca]
Subject: RE: KPMG Audit - Bridging Request -Mizrahi

Hi Shereka,

Sorry for the delay, imminent means something different to me than it does to counsel apparently! As discussed, the extension for the loan to April 2022 is attached.

Regarding the commissions, I have attached the email from Mizrahi's CFO that gives the estimate of \$24MM less any third party commissions they may be required to pay (if they engage other parties to conduct sales on their behalf).

Trust this is sufficient for your records.

Thanks,
Brian

From: Benson, Shereka <sherekabenson1@kpmg.ca>
Sent: Tuesday, March 30, 2021 2:09 PM
To: Brian Champ <BChamp@bridgingfinance.ca>; Bryan Chavez <bchavez@bridgingfinance.ca>; Michael Garofalo <mgarofalo@bridgingfinance.ca>
Cc: Jhajj, Amrita <ajhajj@kpmg.ca>
Subject: RE: KPMG Audit - Bridging Request -Mizrahi

Hi Brian,

We are trying to wrap up Mizrahi. Can you provide us with support (agreement, communication) that Mizrahi loan is not past due. If not available, an explanation as to why there is no updated agreement.

The initial loan portfolio listing you sent us indicated 2018 maturity which then changed to 'on demand'. Please let me know when you are available for a quick call.

Thank you.

Regards,
Shereka Benson
KPMG LLP | Audit | Financial Institutions & Real Estate
416-777-3752

From: Benson, Shereka
Sent: Monday, March 29, 2021 4:59 PM
To: 'Brian Champ' <BChamp@bridgingfinance.ca>; Bryan Chavez <bchavez@bridgingfinance.ca>; Michael Garofalo <mgarofalo@bridgingfinance.ca>
Cc: Jhajj, Amrita <ajhajj@kpmg.ca>
Subject: RE: KPMG Audit - Bridging Request -Mizrahi

Hi Brian,

A588

A589

As a reminder, we have not received your response or the requested regarding Mizrahi loan for the following:

- Mizrahi 2015 and 2016 agreements; and any other agreements after 2017 .
- Is the amount outstanding as of December 31, 2020 related to 181 Davenport or Bloor Street or other properties?;
- When was the maturity date prior to being placed "On Demand"?
- Are we able to obtain a copy of the quitclaim deed for 181 Davenport?

Can we obtain the documents (and your response) by end of day?

Thank you.

Regards,

Shereka Benson

KPMG LLP | Audit | Financial Institutions & Real Estate

416-777-3752

From: Jhajj, Amrita <ajhajj@kpmg.ca>

Sent: Sunday, March 28, 2021 12:25 PM

To: Michael Garofalo <mgarofalo@bridgingfinance.ca>; 'Brian Champ' <BChamp@bridgingfinance.ca>; Bryan Chavez <bchavez@bridgingfinance.ca>

Cc: Morettin, Sonja D <sonjamorettin@kpmg.ca>; Lupinski, Sydney <slupinski@kpmg.ca>; Benson, Shereka <sherekabenson1@kpmg.ca>

Subject: KPMG Audit - Bridging Request

Hi Bridging team,

Please see attached:

- Val questions for McKinsey attached – could you please forward to McKinsey ahead of our call late Monday/early Tuesday (which hasn't yet been set up)
- o/s PBC listing
- FS comments updated for some items we found over the weekend

Thanks,

Amrita Jhajj, CPA, CA

Manager, Audit

Financial Institutions and Real Estate

KPMG LLP

333 Bay Street, Suite 4600

Toronto, Ontario, M5H 2S5

T 416 791 2055

ajhajj@kpmg.ca

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At KPMG we are passionate about earning your trust and building a long-term relationship through service excellence. This extends to our communications with you. A589

A590

Our lawyers have recommended that we provide certain disclaimer language with our messages. Rather than including them here, we're drawing your attention to the following links where the full legal wording appears.

- [Disclaimer concerning confidential and privileged information/unintended recipient](http://disclaimer.kpmg.ca) (<http://disclaimer.kpmg.ca>).
- [Disclaimer concerning tax advice](http://taxdisclaimer.kpmg.ca) (<http://taxdisclaimer.kpmg.ca>).

If you are unable to access the links above, please cut and paste the URL that follows the link into your browser.

A590

A591

Message

From: Graham Marr [GMarr@bridgingfinance.ca]
Sent: 3/30/2021 3:06:17 PM
To: Brian Champ [BChamp@bridgingfinance.ca]
Subject: Fwd: Commissions

Graham Marr, CPA, CA, CFA
President | Bridging Finance Inc.
77 King St W, Suite 2925 | Toronto ON | M5K 1K7
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From: Mark Kilfoyle <mark@mizrahidevelopments.ca>
Sent: Tuesday, March 30, 2021 3:04:43 PM
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Subject: Re: Commissions

Hi Graham,

The rough number is \$24M less any third party commissions we will be required to pay on any sales.

Best regards
Mark



Mark Kilfoyle
CFO and COO
125 Hazelton Avenue
Toronto, Ontario M5R 2E4
T. 416.922.4200 ext.4220
F. 1.866.300.0219
E. Mark@MizrahiDevelopments.ca
www.MizrahiDevelopments.ca

On Mar 30, 2021, at 2:19 PM, Graham Marr <GMarr@bridgingfinance.ca> wrote:

Hi Mark, our auditors are asking what the total commissions that Mizrahi is entitled to in respect of the sales from 1 Bloor. Can you please let me know at your earliest convenience what this rough number is? They are looking to sign off on our audit end of day today and they are trying to finalize their review of the Mizrahi loan.
Thank you in advance

Graham Marr, CPA, CA, CFA
President | **Bridging Finance Inc.**
77 King St W, Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 777-1794 | C: (416) 906-0395
E: gmarr@bridgingfinance.ca
www.bridgingfinance.ca

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Dated as of December 31, 2020

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, Ontario
M5P 2N3

Dear Mr. Mizrahi:

Re: Bridging Finance Inc. as agent for Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) (the “**Lender**”) loan to Northern Citadel Capital Inc., (collectively, the “**Borrower**”) pursuant to a loan agreement among, *inter alia*, the Borrower and the Lender dated as of December 17, 2014, as amended by letter agreements dated February 24, 2015, March 11, 2015, April 10, 2015, November 27, 2015, June 30, 2016, November 30, 2016 (the “**November Letter**”), November 1, 2017 and May 2, 2018 (collectively, the “**Loan Agreement**”)

We confirm that the Lender has agreed, to amend the terms and conditions of the Loan Agreement and the Security as follows (all capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Loan Agreement):

1. As of December 31, 2020, the Obligors acknowledge and agree that there is \$45,892,107.79 outstanding under the Loan and that they do not dispute their liability to the Lender on any ground whatsoever. The Obligors further confirm that they have no claim, demand, setoff or counter-claim against the Lender on any basis whatsoever and that there is no matter, fact or thing which may be asserted by any of them in extinction or diminution of their indebtedness to the Lender or result in any bar to or delay in the recovery thereof.
2. Effective the date hereof, the Maturity Date (as defined in the November Letter) is hereby extended to April 30, 2022.
3. The Borrower shall be responsible for all legal fees and disbursements incurred by the Lender in connection with the preparation and negotiation of this Agreement and all matters relating thereto which fees shall be paid within 10 days of request therefore. If not paid as aforesaid, such amounts may be paid by the Lender and added to the Loan and shall bear interest from the date of such payment in accordance with the terms of the Loan and shall be secured by the Security.
4. This Agreement is supplemental to and shall be read with and be deemed to be part of the Loan Agreement, the Promissory Note, the Guarantee and the Security, which shall be deemed to be amended *mutatis mutandis* as herein provided. Any reference to the Loan Agreement, the Promissory Note, the Guarantee, the Security and any agreements or documents entered into in connection with the Loan Agreement, the Promissory Note, the Guarantee and the Security shall mean the Loan Agreement, the Promissory Note, the Guarantee and the Security, all as amended hereby and all such agreements and documents are also hereby amended *pro tanto* to give effect to this Agreement.
5. All the terms and conditions of the Loan Agreement, the Promissory Note, the Guarantee and the Security, except insofar as the same are amended by the express provisions of this Agreement, are confirmed and ratified in all respects, shall survive and shall not merge with or be extinguished by the execution and delivery of this Agreement and shall hereafter continue in full force and effect, as amended.

A593



6. The Obligors agree to execute such further assurances with respect to this Agreement, the Loan Agreement, the Promissory Note, the Guarantee and the Security, as may be required to evidence the true intent and meaning of this Agreement.
7. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

[Signature Page Follows]

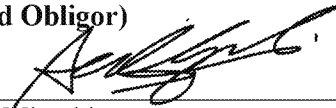
Provided that the foregoing meets with your approval, kindly execute where indicated and return two original copies of this letter to the Lender.

**BRIDGING FINANCE INC., as agent for
BRIDGING INCOME FUND LP**

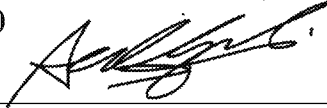
Per: 
Name: Brian Champ
Title: Portfolio Manager

We Acknowledge and Accept the terms and conditions of this Agreement as of this 31st day of December, 2020.

**NORTHERN CITADEL CAPITAL INC. (as
Borrower and Obligor)**

Per: 
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

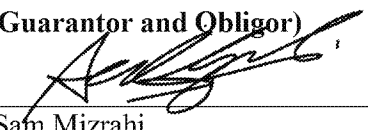
**ONE8ONE DAVENPORT INC. (as Guarantor
and Obligor)**

Per: 
Name: Sam Mizrahi
Title: President

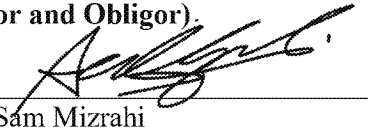
MIZRAHI ENTERPRISES INC. (as Obligor)

Per: 
Name: Sam Mizrahi
Title: President


**MIZRAHI SOARING DEVELOPMENTS
INC. (as Guarantor and Obligor)**

Per: 
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

**181 DAVENPORT RETAIL INC. (as
Guarantor and Obligor)**

Per: 
Name: Sam Mizrahi
Title: President
I have the authority to bind the corporation

This is Exhibit “GG” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

Bridging Finance and Northern Citadel Capital

Mark Kilfoyle <mark@mizrahidevelopments.ca>

Tue, Sep 28, 2021 at 2:25 PM

To: "Tyler Ray (CA)" <tyler.ray@pwc.com>

Cc: Sam Mizrahi <sam@mizrahidevelopments.ca>, "Michael McTaggart (CA)" <michael.mctaggart@pwc.com>, "Christine Sinclair (CA)" <christine.l.sinclair@pwc.com>, "Graham Page (CA)" <graham.page@pwc.com>

Hi Tyler,

In answer to the four points raised in your email dated September 21, 2021, I advise as follows:

1. The "Project" defined in the Loan Agreement and subsequent amendments is not the 1 Bloor project. Sections 1.1(w) and (x) of the Loan Agreement, dated December 17, 2014, define "Project" as the residential condominium project to be constructed on "the lands and premises in the City of Toronto, Province of Ontario, municipally known as [145 Davenport Road](#) and [185 Davenport Road](#)" and as described in Schedule "A" attached to the Loan Agreement. These lands are not the 1 Bloor lands.
 - o The definition of "Project" has never been changed or revised by any subsequent amendments to the Loan Agreement.
 - o Section 9.1(i) of the Loan Agreement refers to information in respect of the "Project", namely the 181 Davenport project. That section has never been changed or revised by any subsequent amendments to include the 1 Bloor project.
 - o You are misinterpreting the use of the word "Project" in the November 30, 2016 amendment. The 1 Bloor project is referred to in the amendment for the sole purpose of altering the term of the loan (section 6) and dealing with the application of commissions to pay down the loan. There is nothing in the amendment that requires production of the information outlined in section 9.1(i) of the Loan Agreement in respect of the 1 Bloor Project.
2. At no time have we ever suggested that any amounts earned as commissions were directed towards "construction costs" or "other non-real estate broker costs". The reference to "costs" in my September 15 email was in respect of the fees payable to real estate brokers as shown on the spreadsheet provided to you on August 31, 2021. As you know from that spreadsheet, sales commissions were applied against external commissions, staff commissions and listing fees all of which are permitted deductions under section 14 of the November 1, 2017 amendment. The balance of the commissions was paid to Bridging. No commissions payable to Bridging have been directed to any costs other than those identified in section 14. In fact, no deductions have been taken on account of reimbursements related to the Presentation Gallery or the parkland dedication, even though such deductions are expressly permitted. Your new threat of an "Event of Default" in these circumstances is without foundation and certainly not conducive to resolving the outstanding issues we have been discussing.
3. Attached is a copy of the 2019 financial statements for the 181 Davenport project, which have previously been provided to Bridging. The 2020 financial statements will be provided once available, although they are unlikely to show any material difference from 2019. There is no obligation, contractual or otherwise, to provide financial information in respect of "other entities". The Loan Agreement limits disclosure of financial information and financial statements to the "Borrower" defined as Northern Citadel Capital Inc. and "Subsidiaries" defined as Mizrahi Soaring Developments Inc. and One8One Davenport Inc.. These two entities merged into One8One for which the 2019 financial statement is attached. Although in November 2016, the term "Borrower" was amended to include Mizrahi Inc. and 249 Ontario on account of the \$6.5 million loan for the Presentation Gallery at 181 Davenport and the 14 Dundonald parkland, that loan was paid off with interest and fees in 2020, following which the parties entered into an amendment on December 31, 2020, removing Mizrahi Inc. and 249 Ontario from the definition of "Borrower".
4. The documents you provided to us in your September 21 email shows that the \$8,000,000 was applied to reduce the loan balance from \$45,430,356.63 to \$37,430,356.63 and interest was calculated on the reduced loan balance. It is unclear on what basis you say that the \$8,000,000 is not a credit. Your email is the first time we have heard about an internal, partial re-allocation from Bridging Income Fund to Bridging SMA 2. I am not aware of any record or notified of a re-allocation. Please provide us with all of the details in respect of this re-allocation, including the date of the re-allocation, Bridging's accounting records confirming the re-allocation and any other documents and communications that support the re-allocation.

We look forward to hearing from you at your earliest convenience.

A599

Best regards
Mark



Mark Kilfoyle
CFO and COO

125 Hazelton Avenue
Toronto, Ontario M5R 2E4

T. 416.922.4200 ext.4220

F. 1.866.300.0219

E. Mark@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

On Sep 21, 2021, at 3:59 PM, Tyler Ray (CA) <tyler.ray@pwc.com> wrote:

Hi Mark,

Thanks for your email. We agree that both parties should work towards a commercially reasonable solution with respect to the repayment of the monies owing from the Mizrahi entities to Bridging under the Loan Agreement. We note that providing the Receiver with visibility into the financial situation of the Mizrahi entities (as is required under the Loan Agreement) will only assist in that regard, particularly in light of the \$49,689,164.12 balance owing under the Loan Agreement as at August 31, 2021 and the fact that your email below appears to suggest that the Mizrahi entities do not yet have a commercially reasonable plan for repayment.

There are a few points from your email dated September 15 that we want to clarify below. We will respond to the balance of your email, if necessary, in due course.

1. With respect to the requested information:

- The Loan Amendment dated November 30, 2016 defines the Project as "1 Bloor Street West". The requests in my email dated September 3, 2021 for Project information under section 9.1(i) should be read in the context of this definition of Project.
- I reiterate my previous request for cash flow projections (9.1(i)(ii)), sales reports for the Project (9.1(i)(v)), and status reports regarding construction of the Project and work completed to date (9.1(i)(vi)). We consider this a reasonable request in context of the 1 Bloor sales commissions, discussed below.

2. With respect to the sales commissions from 1 Bloor:

- The Loan Amendment dated November 1, 2017 notes "The Obligors shall ensure that 100% of all sales commissions, less payments made to any unaffiliated or related co-operating real estate brokers (provided said percentage does not exceed 50%)" shall be directed to the Lender as repayment of the loan. It appears you are asserting that any of these amounts earned as commissions can be directed towards construction costs or other non-real estate broker costs.

A599

- All real estate commissions earned on the 1 Bloor Project, net of only allowed payments to unaffiliated or related co-operating real estate brokers and nothing else, must be directed towards repayment of the Bridging loan. Any action to use these commissions for any purpose other than repayment of the Bridging loan is contrary to the Loan Agreement and constitutes an "Event of Default" under section 12.1(a) of the Loan Agreement for failing to observe or perform any term involving the payment of money.
 - Please indicate to us whether any earned commission amounts that are properly payable to Bridging have been diverted to other non-approved costs.
3. In lieu of the availability of certain audited financial statements, the Receiver is requesting any available financial information for each of the various borrowers and guarantors (and all subsidiaries of the guarantors). This could include *pro forma* or unaudited information from fiscal 2020. We have seen no evidence that any waivers for financial information have previously been provided by Bridging, and the Receiver's position is that it is entitled to recent financial information for all parties that have borrowed or guaranteed the Mizrahi loan facility.
4. With respect to the \$8,000,000 amount you have indicated was a credit:
- Bridging undertook an internal reallocation of the Mizrahi loan facility on December 4, 2020. This was not a credit, but instead a partial reallocation from Bridging Income Fund to Bridging SMA 2. An internal reallocation between Bridging funds certainly does not indicate that the amount was repaid or that amount is not still owing by the Mizrahi entities.
 - I attach the December 2020 monthly loan statements showing the internal reallocation; the amount outstanding at that point in time was the sum of the two subfacilities.
 - This \$8,000,000, in addition to the remaining loan balance, is still owing by the Mizrahi entities.

A600

Please let me know if you have any further questions on the above. We look forward to your responses.

Thanks,

Tyler Ray, CPA, CA (he/him)

PwC | Senior Manager, Consulting & Deals

T: +1 416 687 8200

Email: tyler.ray@pwc.com

PricewaterhouseCoopers Inc. LIT

PwC Tower, 18 York Street, Suite 2600, Toronto ON M5J 0B2

On Wed, Sep 15, 2021 at 5:17 PM Mark Kilfoyle <mark@mizrahidevelopments.ca> wrote:

Good evening Tyler,

We write in response to your email dated September 3, 2021.

1. With respect to the information you have requested in connection with sections 9.1(i)(ii), 9.1(i)(v) and 9.1(i)(vi) of the Loan Agreement, we advise as follows:
 - The Project is complete such that there are no cashflow projections, sales reports or status reports beyond what was contained in the last Altus (Quantity Surveyor) report delivered to Bridging in July 2020, as per the attached email; and
 - The final payouts to Bridging were made on July 27, 2020 when the last unit closed, again as per the attached email. All payouts and funds released were approved and directed by Bridging.
2. With respect to sales commissions flowing from 1 Bloor:
 - The spreadsheet provided to you on August 31, 2021, shows that more sales commissions were earned but they were applied as against costs, leaving \$10,000 available for release to Bridging;
 - There are 90 units remaining with a value of \$562,259,450. The commissions expected are \$24,424,877 assuming the sales prices remain unchanged. However a significant portion of these commissions will likely be paid out in construction and selling costs. The quantum of those costs is unclear at this stage. The 1/3rd amount referred to in your email is expected at the closing of the units,

A600

which we anticipate will occur in or around December 2023. With that said, given the current environment, it is challenging for us to provide any guarantees about timelines such that December 2023 is an anticipated, but not guaranteed, timeframe.

A601

3. With respect to audited statements, the Bridging Credit Committee waived this requirements years ago because they were receiving monthly reporting, including from Altus (Quantity Surveyor), that were reviewed and approved by Bridging's credit committee. In light of this, and given that the project is now complete, we are not in a position to arrange for audited financial statements. To undertake this task will create a financial hardship to the project in circumstances where there is no money available given the Project is complete. We disagree with your assertion that the absence of audited financial statements is a default under the Loan Agreement, and any attempt to enforce what you describe as an "Event of Default" will be met with a strong response.
4. Finally, with respect to the \$8,000,000, you should make the necessary inquiries within Bridging as they would have in their possession the details of this amount. Our understanding is that it was counted as an additional credit in respect of the Dundonald property, which was financed by Bridging and fully repaid. Bridging recorded the transaction in their books and records. See the attached statement. In light of this, we are confused by your assertion that Bridging's records indicate that no payment was received. The \$8 million is a credit that is reflected on Bridging's own records, as attached.

Notwithstanding your problematic assertions of default and attempts at after-the-fact technical contract compliance, we would like to work with you to find a solution and close out the Loan Agreement. Earlier this year, we had a without prejudice discussion about how best to proceed and, in light of that, we invite you to reach out to us to discuss options for a mutually acceptable commercial solution, including in respect of the issues we raised in our August 31 email but to which you have not responded.

We look forward to hearing from you.

Best regards
Mark



Mark Kilfoyle
CFO and COO

125 Hazelton Avenue
Toronto, Ontario M5R 2E4

T. [416.922.4200](tel:416.922.4200) ext.4220

F. [1.866.300.0219](tel:1.866.300.0219)

E. Mark@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

On Sep 15, 2021, at 12:19 PM, Tyler Ray (CA) <tyler.ray@pwc.com> wrote:

Hi Sam,

I hope all is well with you & your family as well.

I am following up on the various requests from August 23rd and September 3rd. Please let me know if you have any questions, and when we can expect a response on these points.

Thanks,

Tyler Ray, CPA, CA (he/him)
PwC | Senior Manager, Consulting & Deals

A601

T: +1 416 687 8200
Email: tyler.ray@pwc.com
PricewaterhouseCoopers Inc. LIT
PwC Tower, 18 York Street, Suite 2600, Toronto ON M5J 0B2

A602

On Fri, Sep 10, 2021 at 5:13 PM Sam Mizrahi <sam@mizrahidevelopments.ca> wrote:

Good afternoon Tyler,

I trust you and your family are well.

We are in receipt of your email below.

Due to the Jewish holidays this past week, we have not had an opportunity to go through your requests.

We will get back to you next week.

Wishing you a restful weekend.

Sincerely,



Sam Mizrahi

President

125 Hazelton Avenue
Toronto, Ontario M5R 2E4

T. [416.922.4200](tel:416.922.4200) ext.4210

C. [416.818.5288](tel:416.818.5288)

F. [1.866.300.0219](tel:1.866.300.0219)

E. Sam@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

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On Sep 3, 2021, at 12:36 PM, Tyler Ray (CA) <tyler.ray@pwc.com> wrote:

Hi Mark,

A602

Thanks very much for your response dated August 31, 2021.

With reference to the information required pursuant to section 9.1(i) of the Loan Agreement - we appreciate your confirmation that the borrower will begin providing these updates. We are not in a position to waive any defaults under this section or any other section of the Loan Agreement but note that the borrower has until September 23, 2021 to cure the defaults noted in our email dated August 24, 2021 before they constitute "events of default" under the Loan Agreement. We recognize that certain portions of section 9.1(i) are less relevant based on the current status of the project. In particular, we are requesting the following information:

- Cash flow projections (9.1(i)(ii))
- Sales reports for the Project (9.1(i)(v))
- Status report regarding construction of the Project and work completed to date (9.1(i)(vi))

Further, there are a few areas on the sales commission reporting where we would appreciate further clarification:

- A repayment was made on the loan in June 2018, which appears to be for commissions earned to that date (\$1,445,280.00). The schedule provided implies no further commissions have been earned (as evidenced by only \$10k remaining to be remitted). Have sales been made on the Project since June 2018?
- Can you please provide an accounting of remaining units, and the commissions expected to be earned on those units?
- When would the second tranche of commissions expect to be received on the units already sold (i.e., the 1/3 amount not accounted for on your listing)?

We have also compared the loan accounting you provided with the Bridging internal records. You have noted a payment of \$8,000,000 on December 4, 2020. Bridging's records indicate that no payment was received on that date. Could you please clarify and provide any documentation showing that the payment was made?

The above list is not meant to be exhaustive, and does not waive the Receiver's rights under the Loan Agreement to request other information noted in section 9.1(i) or any other information related to the financial position of the borrower or the business of the borrower that may be reasonably requested from time to time under section 9.1(m).

In addition to the reporting noted above, please provide audited financial statements for each fiscal year since 2018 for the borrower and each of the subsidiaries, including all of the guarantors and all subsidiaries of the guarantors pursuant to section 9.1(m) of the Loan Agreement. We note that the financial statements for the fiscal years 2018, 2019 and 2020 have not been provided in accordance with section 9.1(m) of the Loan Agreement. These are defaults under the Loan Agreement and will constitute "Events of Default" if they continue for a period of at least 30 days from today's date.

Thanks very much for your assistance. We are available to discuss.

A604

Tyler Ray, CPA, CA (he/him)
PwC | Senior Manager, Consulting & Deals
T: +1 416 687 8200
Email: tyler.ray@pwc.com
PricewaterhouseCoopers Inc. LIT
PwC Tower, 18 York Street, Suite 2600, Toronto ON M5J 0B2

On Tue, Aug 31, 2021 at 1:57 PM Mark Kilfoyle <mark@mizrahidevelopments.ca> wrote:
Good afternoon Tyler,

We write in response to your email dated August 24, 2021.

We attach an excel sheet of the loan history accounting from the inception of the Project to July 31, 2021, which we understand accords with Bridging's records. The excel sheet also reflects the Bloor's sales commissions, which only a minor payment of approximately \$10,380 is outstanding. No marketing or advertising fees were paid by Bloor to MI that would be reimbursed to Bridging. The amount associated with the Bloor Sales Office and FF&E plus interest was paid out in July of 2020.

Your assertion that the required reporting has not been provided to Bridging is incorrect. The Credit Parties have consistently kept Bridging informed of the Project's status including financial reporting. Among other things:

1. Since 2012, we regularly met with Graham Marr, the senior portfolio manager at Bridging with whom PWC is currently working, to discuss and update him in respect of the Project. These meetings became increasingly frequent in 2019 and 2020 as the Project progressed towards completion. Based on our records, there were more than 35 such meetings over the life of the Project, as well as frequent tele-conferences during which the parties discussed the Project's status and finances in detail;
2. In addition to these meetings, we regularly provided Mr. Marr with written updates in respect of the Project, including:
 - Altus reports, up to and including July 2020, which contain detailed financial and project information in respect of the Project's budget, capital costs, cost-to-complete, cashflows, sales and other financial information. These reports also attach as schedules the developer's General Ledger, Sales Reports, Progress Updates, and other information in respect of the status of the Project;
 - Email exchanges setting out and discussing, in detail, trust reconciliations, commission payments, sales and closings, cashflows and costs-to-complete, draw requests, payment schedules and funds transfers;
3. We consistently provided Mr. Marr with timely responses to any and all information requests concerning the Project; and
4. More recently, following PWC's appointment as receiver and manager over Bridging, we have repeatedly spoke by tele-conference with members of the PWC team to apprise them of the Project's and Bloor's status and to facilitate their understanding of the Project's status and the credit facility.

At no time during any of these meetings, tele-conferences, email exchanges or otherwise, did Bridging or PWC indicate that the reporting provided by the Credit Parties was insufficient, incomplete or unsatisfactory. Nor has

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there ever been any allegation of default under the Loan Agreement, which has been and continues to be serviced in accordance with its terms, as amended from time to time. Given the parties' history and practice, and the absence of any concerns expressed by Bridging at any time, we are surprised by PWC's assertion of default and request that you immediately withdraw it.

As you can appreciate, it is in the parties' respective interests that they cooperate and work together to identify avenues for reducing the outstanding loan balance. We also need to address the issues and losses caused by Bridging's breach of its written commitment in respect of the 180 Steeles Avenue Project, including that a \$50,000 deposit was paid to confirm that the funds would be advanced, and upon which the Mizrahi entities relied in making other commitments to third parties. In addition, Bridging has not removed the mortgage registration in respect of the 181 Davenport retail unit following full repayment of the loans in respect of the sales gallery and the 14 Dundonald property, despite its commitment to do so as confirmed by Mr. Marr and Bridging's counsel at Chaitons.

It is our hope that we can work together to resolve these various issues. As a starting point, we will undertake to provide you with written monthly reports, which will include the information required pursuant to section 9.1(i) of the Loan Agreement. However, given the Project is essentially at its conclusion, some of the information required by section 9.1(i) is no longer relevant and/or has been previously provided to Bridging, such as copies of material project agreements, zoning and permit status reporting, construction reports, etc.

We look forward to speaking with you once you have had an opportunity to review the enclosed information.

Best regards
Mark



Mark Kilfoyle
CFO and COO

125 Hazelton Avenue
Toronto, Ontario M5R 2E4

T. [416.922.4200](tel:416.922.4200) ext.4220

F. [1.866.300.0219](tel:1.866.300.0219)

E. Mark@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

On Aug 31, 2021, at 8:52 AM, Tyler Ray (CA) <tyler.ray@pwc.com> wrote:

Morning Sam,

Thanks very much for confirming receipt of my previous email. Let us know if we can expect to receive the requested information today, or if there is anything I can help clarify on this request.

Cheers,

Tyler Ray, CPA, CA (he/him)
PwC | Senior Manager, Consulting & Deals
T: +1 416 687 8200
Email: tyler.ray@pwc.com

On Wed, Aug 25, 2021 at 9:07 AM Sam Mizrahi <sam@mizrahidevelopments.ca> wrote:

Good afternoon Tyler,

I confirm receipt of your email and will respond shortly to your email.

Sincerely,



Sam Mizrahi

President

125 Hazelton Avenue
Toronto, Ontario M5R 2E4

T. [416.922.4200](tel:416.922.4200) ext.4210

C. [416.818.5288](tel:416.818.5288)

F. [1.866.300.0219](tel:1.866.300.0219)

E. Sam@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

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On Aug 24, 2021, at 2:54 AM, Tyler Ray (CA) <tyler.ray@pwc.com> wrote:

Hi Sam,

I hope all is well. Thanks for the call last month.

Further to our call and in accordance with section 9.1(i) of the Loan Agreement, please provide us with a detailed breakdown of any amounts received by Mizrahi Inc. or any of the other Credit Parties in respect of the Accounts (as defined in the

loan amendment dated November 1, 2017). The Accounts include, but are not limited to, the following items:

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- sales commissions, less payments made to any unaffiliated or related co-operating real estate brokers;
- marketing and advertising fees; and
- reimbursement of all costs incurred in respect of the Presentation Gallery, including, without limitation, leasehold improvements and furniture.

Please provide us with the above-noted information, including a general ledger or other detailed accounting of all amounts received in respect of the Accounts from the inception of the Project until today's date, by no later than 5:00 p.m. (ET) on Tuesday, August 31, 2021.

Further, please note that the Credit Parties have not provided Bridging or the Receiver with the monthly reporting required under section 9.1(i) of the Loan Agreement, nor have the Credit Parties met with Bridging or the Receiver to provide monthly updates with respect to the Project. These are defaults under the Loan Agreement and will constitute "Events of Default" if they continue for a period of at least 30 days from today's date.

Please confirm receipt of this email and let us know if you have any questions or would like to jump on a call to discuss. We look forward to receiving the foregoing information.

Thanks,

Tyler Ray, CPA, CA (he/him)
PwC | Senior Manager, Consulting & Deals
T: +1 416 687 8200
Email: tyler.ray@pwc.com
PricewaterhouseCoopers Inc. LIT
PwC Tower, 18 York Street, Suite 2600, Toronto ON M5J 0B2

On Mon, Jul 26, 2021 at 4:37 PM Sam Mizrahi <sam@mizrahidevelopments.ca> wrote:

Good afternoon Tyler,

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Wednesday at 4 PM works for Mark and I. Thanks in advance for the invite.

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Sincerely,



Sam Mizrahi
President

125 Hazelton Avenue
Toronto, Ontario M5R 2E4

T. [416.922.4200](tel:416.922.4200) ext.4210

C. [416.818.5288](tel:416.818.5288)

F. [1.866.300.0219](tel:1.866.300.0219)

E. Sam@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

On Jul 26, 2021, at 10:12 PM, Tyler Ray (CA) <tyler.ray@pwc.com> wrote:

Thanks very much Sam. We're available tomorrow 1-3:30pm or Wednesday after 1:30pm. Let me know what works for you & your team and I can send an invite.

Cheers,

Tyler Ray, CPA, CA (he/him)

PwC | Senior Manager, Consulting & Deals

T: +1 416 687 8200

Email: tyler.ray@pwc.com

PricewaterhouseCoopers Inc. LIT

PwC Tower, 18 York Street, Suite 2600, Toronto ON M5J 0B2

On Mon, Jul 26, 2021 at 3:38 PM Sam Mizrahi
<sam@mizrahidevelopments.ca> wrote:

Good afternoon Tyler,

Thank you for your email.

Let me know some times and dates for a call thats convenient for all.

Thanks in advance.

Sincerely,

Sam Mizrahi
President

125 Hazelton Avenue

A608



Building Futures.

Toronto, Ontario M5R 2E4

T. 416.922.4200 ext.4210

C. 416.818.5288

F. 1.866.300.0219

E. Sam@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

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On Jul 24, 2021, at 9:37 PM, Tyler Ray (CA)
<tyler.ray@pwc.com> wrote:

Hi Sam,

Hope all is well. I am emailing on behalf of PwC, as Receiver of Bridging Finance Inc. and various related entities. As you are aware, PwC was appointed as Receiver and manager over various Bridging entities on April 30, 2021 pursuant to an order of the Ontario Superior Court of Justice (Commercial List).

We are hoping to schedule a call with you this upcoming week to discuss the status of the loans between Northern Citadel Capital Inc. (among others) and Bridging. In particular, we will be looking to discuss:

- avenues for reducing the outstanding loan balance
- further details on sales commission, marketing & advertising fees, and presentation gallery cost reimbursements earned thus far on the One Bloor project, as referenced in the November 2017 and May 2018 loan amendments
- updates from the PwC side on the impending Sale & Investor Solicitation Process the Receiver will be running for the Bridging business

Looking forward to discussing further. Thanks very much!

Tyler Ray, CPA, CA (he/him)

PwC | Senior Manager, Consulting & Deals

T: +1 416 687 8200

Email: tyler.ray@pwc.com

PricewaterhouseCoopers Inc. LIT

PwC Tower, 18 York Street, Suite 2600, Toronto ON
M5J 0B2

A609

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destinataire par suite de décisions ou de mesures fondées sur le contenu de cette communication ou autrement. Si vous avez reçu ce courriel par erreur, veuillez communiquer avec son expéditeur et en détruire toutes les copies.

A612

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<SMA2_Mizrahi_December 2020.pdf><BIF_Mizrahi_December 2020.pdf>

 **One8One (2019-FS).pdf**
156K

A613

This is Exhibit “HH” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely.*



A Commissioner for taking affidavits

ADAM DRIEDGER

November 2, 2021

PRIVATE & CONFIDENTIAL

VIA EMAIL

Mizrahi Development Group Inc.
125 Hazelton Avenue
Toronto, ON
M5R 2E4

Attention: Mark Kilfoyle

Dear Mark:

Re: Indebtedness of Northern Citadel Capital Inc., Mizrahi Inc., and 2495159 Ontario Inc. (collectively, the “Borrower”) to Bridging Finance Inc. (“BFI”) in its capacity as agent (in such capacity, the “Agent”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (the “Lender”)

We are the lawyers for PricewaterhouseCoopers Inc. in its capacity as the court-appointed receiver and manager (in such capacity, the “**Receiver**”) of all of the property, assets, and undertakings of BFI, the Lender, and certain related entities and investment funds (collectively, “**Bridging**”).

We refer to the non-revolving term credit facility (the “**Loan**”) made available to the Borrower by the Agent, on behalf of the Lender, pursuant to the loan agreement dated December 14, 2014 (the “**Original Loan Agreement**”), as amended by a first amending agreement dated February 24, 2015, a second amending agreement dated March 11, 2015, a third amending agreement dated April 10, 2015, a fourth amending agreement dated November 27, 2015, a fifth amending agreement dated June 30, 2016, a sixth amending agreement dated November 30, 2016 (the “**Sixth Amendment**”), a seventh amending agreement dated November 1, 2017 (the “**Seventh Amendment**”), an eighth amending agreement dated May 2, 2018, and a ninth amending agreement (the “**Ninth Amendment**”) dated December 31, 2020 (collectively, the “**Loan Agreement**”). Unless otherwise specified, each capitalized term used herein has the meaning given in the Loan Agreement.

We wish to address and confirm the Receiver’s position with respect to certain factual disputes and other issues referenced in the emails exchanged between the Credit Parties and the Receiver between July 24, 2021 and September 28, 2021.

Amount Outstanding Under the Loan

You suggest in your emails dated August 31, 2021, September 15, 2021, and September 28, 2021 that the principal amount of the Loan was reduced by \$8,000,000 on December 4, 2020. The transaction referenced in your emails was not a repayment or other reduction of the amount of the Obligations but the internal assignment or syndication of the principal amount of \$8,000,000 owing under the Loan from Bridging Income Fund LP to Bridging SMA 2 LP that took place on or around December 4, 2020 (the “**Syndication**”). Section 14.5 of the Original Loan Agreement expressly permits the assignment by the Lender of some or all of its rights under the Loan Agreement.

As a result of the Syndication, Bridging SMA 2 LP effectively acquired an \$8,000,000 interest in the Loan from Bridging Income Fund LP. As the Receiver has noted in its reports to the Court, this type of transaction was routinely carried out between the Bridging funds. We also note that the Ninth Amendment, which is dated after the Syndication, confirms that the amount outstanding under the Loan was \$45,892,107.79 as at December 31, 2020, which amount does not reflect the \$8,000,000 reduction to the Loan as suggested in your email.

Mizrahi Inc. and 2495159 Ontario Inc. Remain as Borrower

As noted in your email to the Receiver dated September 28, 2021, pursuant to the Sixth Amendment the definition of “Borrower” under the Loan Agreement was amended to include Mizrahi Inc. and 2495159 Ontario Inc. (“**249**”). Contrary to your email, however, neither Mizrahi Inc. nor 249 was removed from the definition of “Borrower” under the Ninth Amendment.

Section 5 of the Ninth Amendment confirms that all of the terms and conditions of the Loan Agreement (including the Sixth Amendment) continue in full force and effect, unless amended by the express provisions of the Ninth Amendment. Since the Ninth Amendment does not expressly amend the definition of “Borrower”, Mizrahi Inc. and 249, together with Northern Citadel Capital Inc., continue to comprise the Borrower pursuant to the Loan Agreement.

Request for Documents and Information

The Credit Parties are required by the Loan Agreement to provide certain reporting to the Lender, including monthly cash flow projections in respect of the Borrower (section 9.1(i)(ii) of the Original Loan Agreement), and, pursuant to section 9.1(m) of the Original Loan Agreement, annual financial statements of the Borrower and each of the Subsidiaries¹ (including a balance sheet and statements of income and retained earnings), and any other information concerning the financial position and business operations of the Borrower (including, but not limited to, the

¹ “Subsidiaries” is defined in the Loan Agreement to mean the Guarantors and any other subsidiary of such entities at any time or from time to time.

supporting schedules to the financial statements) which the Lender may from time to time request, acting reasonably.

As you know, since July 24, 2021, the Receiver has made multiple requests for certain documents and information that the Lender is entitled to receive under the Loan Agreement. In particular, the Receiver has requested: (i) an accounting with respect to all amounts received by Mizrahi Inc. or any of the other Credit Parties in respect of the Accounts (as defined in the Seventh Amendment); (ii) cash flow projections in respect of the Borrower; and (iii) financial statements and other general financial information in respect of each of the Credit Parties.

Notwithstanding the Receiver's requests and the requirements under the Loan Agreement, as of today's date, we understand that the Credit Parties have only provided the Receiver with the following three documents: (i) a spreadsheet setting out the outstanding amount under the Loan Agreement (incorrectly reflecting the \$8,000,000 reduction described above) and providing the total amount of sales commissions earned by Mizrahi Inc. in connection with the 1 Bloor Street West project (the "**1 Bloor Project**") but without sufficient detail or accounting information in support of such amounts; (ii) an Altus report from 2020, which was already delivered to Bridging in July 2020; and (iii) the 2019 unaudited financial statements of One8One Davenport Inc.

These three documents provide fragmented and incomplete information, and fall well short of satisfying the reporting requirements under the Loan Agreement. The Receiver has significant concerns regarding the apparent reluctance of Mizrahi Inc. and the other Credit Parties to provide basic financial reporting, particularly given the imminent Maturity Date.

Further to the Receiver's previous requests, we require the Credit Parties to deliver to the Receiver the following documents and information (collectively, the "**Reporting**") by no later than November 16, 2021. The basis upon which the Credit Parties are obligated to deliver the Reporting to the Lender is set out below:

1. **The Accounts.** Pursuant to the Sixth Amendment, Mizrahi Inc., granted to the Lender a security interest in the Accounts, which include, among other things, sales commissions, marketing fees and advertising fees earned and actually received by Mizrahi Inc. from Mizrahi Development Group (The One) Inc. ("**The One**") in connection with the 1 Bloor Project. Pursuant to the Sixth Amendment and the Seventh Amendment, the Obligors agreed that they would ensure the Accounts shall be directed to the Lender to be applied as a permanent reduction of the Loan.

As previously communicated to you, the spreadsheet provided to the Receiver by Mark Kilfoyle on August 31, 2021 only contains an overview of the sales commissions earned by Mizrahi Inc. in connection with the 1 Bloor Project and does not contain sufficient detail to allow the Receiver to independently verify the amount of the Accounts payable to the Lender. Accordingly, the Receiver requires the following: (i) a report detailing each sale or other transaction involving the 1 Bloor

Project to and including the date of your response; (ii) a detailed statement of all of the amounts comprising the Accounts to and including the date of your response, including, for certainty, all marketing fees and advertising fees paid to Mizrahi Inc., costs with respect to the Presentation Gallery reimbursed to Mizrahi Inc. and the parkland dedication costs in respect of the Dundonald Property reimbursed to Mizrahi Inc., in each case together with a reconciliation to the amount of such item as set out in the Budget (as defined in the Sixth Amendment); and (iii) a full accounting of all of the “costs” referred to in your email to the Receiver dated September 15, 2021, which apparently resulted in sales commissions of only \$10,000 payable to the Lender by Mizrahi Inc.

Although the Loan Agreement does not specifically require the Credit Parties to provide the foregoing information with respect to the Accounts, section 9.1(m) of the Original Loan Agreement provides that the Credit Parties must provide any information concerning the financial position and business operations of the Borrower not specifically referenced therein that the Lender may from time to time request, acting reasonably. The foregoing information is necessary for the Receiver to assess both the scope and value of the collateral subject to the Lender’s security and is consistent with the information regarding the Project (181 Davenport Road) that the Credit Parties are obligated to deliver to the Lender on a monthly basis pursuant to section 9.1(i) of the Original Loan Agreement. Accordingly, the foregoing information request satisfies the reasonableness requirement referenced above.

2. **Cash Flow Projections.** Pursuant to section 9.1(i)(ii) of the Original Loan Agreement, the Borrower (which, as noted above, includes Mizrahi Inc.) is obligated to provide cash flow projections to the Lender. Accordingly, the Receiver requires each of Northern Citadel Capital Inc., Mizrahi Inc. and 249 to deliver to the Lender cash flow projections for fiscal years 2021 and 2022. In particular, please provide an accounting with respect to all of the units at the 1 Bloor Project that have not yet been sold, an estimate of the commissions payable to Mizrahi Inc. from the sale of such units, and an estimate of the timing for such payments. In addition to the obligation to provide this information pursuant to section 9.1(i)(ii) of the Original Loan Agreement, the Borrower is also obligated to provide this information pursuant to section 9.1(m) of the Original Loan Agreement as the cash flow projections relate to the financial position and business operations of the Borrower. As with the information requested regarding the Accounts, the cash flow projections are necessary for the Receiver to assess both the scope and value of the collateral subject to the Lender’s security, with the result that this request satisfies the reasonableness requirement in section 9.1(m) of the Original Loan Agreement.
3. **Financial Statements.** Pursuant to section 9.1(m) of the Original Loan Agreement, each of Northern Citadel Capital Inc., Mizrahi Inc. and 249 is required to deliver to

the Lender its annual financial statements within 120 days of the close of its financial year, together with the annual financial statements for its Subsidiaries. We therefore require the annual financial statements for each of Northern Citadel Capital Inc., Mizrahi Inc. and 249, as well as each of its respective Subsidiaries, for each fiscal year since 2018. This includes financial statements for 2018, 2019, 2020, and 2021² for each of Mizrahi Inc., 249, Northern Citadel Capital Inc., Mizrahi Soaring Developments Inc., 181 Davenport Retail Inc., and One8One Davenport Inc., together with all other entities that are “Subsidiaries” under the Loan Agreement. If audited financial statements are unavailable, please provide *pro forma* or unaudited financial statements or other general financial information. If any such entity does not have any operations, assets, and liabilities, please so advise.

4. **List of Subsidiaries.** In accordance with section 9.1(m) of the Original Loan Agreement, please provide a list of all entities that are “Subsidiaries” under the Loan Agreement.

If the Credit Parties fail to provide the Reporting to the Receiver by November 16, 2021, the Receiver reserves its right to declare that a default has occurred under the Loan Agreement pursuant to section 12.1(b) of the Original Loan Agreement and, if such default is not remedied within the 30 day period referenced in section 12.2 of the Original Loan Agreement, to declare that an Event of Default has occurred.

Except as expressly waived in writing by the Receiver, no act or failure to act by the Receiver, nor anything said or done in any discussions, correspondence or other dealings among the Receiver and any of the Credit Parties or any of the Credit Parties’ respective shareholders, affiliates, subsidiaries, related parties, officers, directors, employees, agents or representatives shall be construed as a waiver of any breach, default or Event of Default under the Loan Agreement, or any of the rights or remedies of the Agent, the Lender or the Receiver. There is no agreement by the Receiver to forbear from enforcing any of the rights and remedies of the Receiver, the Agent or the Lender with respect to any breach, default or Event of Default under the Loan Agreement which has occurred or which may occur in the future. The Receiver reserves the right to immediately exercise all such rights and remedies at any time.

² To the extent available.

Yours truly,

Thornton Grout Finnigan LLP

A handwritten signature in black ink, appearing to be 'G. Moffat', followed by the initials 'C/O'.

Grant B. Moffat

cc: Michael McTaggart, Christine Sinclair, Tyler Ray – PricewaterhouseCoopers Inc.

This is Exhibit “II” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER



Electronically issued
Délivré par voie électronique : 24-May-2022
Toronto

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

(Court Seal)

CERIECO CANADA CORP.

Plaintiff

and

SAM MIZRAHI, JENNY COCO, BOSCO CHAN (a.k.a. Ye Chen), MIZRAHI COMMERCIAL (THE ONE) LP, MIZRAHI COMMERCIAL (THE ONE) GP INC., MIZRAHI DEVELOPMENT GROUP (THE ONE) INC., MIZRAHI INC., LIVESOLAR CAPITAL CORP., 10216267 CANADA CORP., COCO PAVING INC, 12823543 CANADA LTD. and SAM M INC.

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

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

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

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

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

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

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue, 9th Floor
Toronto ON M5G 1R7

TO: Coco Paving Inc
949 Wilson Ave
North York, ON M3K 1G2

AND TO: 12823543 Canada Ltd.
949 Wilson Ave
North York, ON M3K 1G2

AND TO: Bosco Chan (a.k.a. Ye Chen)
1015 Markwick Crescent
Ottawa, ON K4A 4X5

AND TO: Livesolar Capital Corp.
577 Somerset St. W
Ottawa, ON K1R 5K1

AND TO: 10216267 Canada Corp.
c/o Bosco Chan a.k.a. Ye Chen
1 Yonge Street, Suite 1801
Toronto ON M5E 1W7

AND TO: Sam Mizrahi
189 Forest Hill Road
Toronto, ON M5P 2N3

AND TO: Jenny Coco
362 Russell Hill Road
Toronto, ON M4V 2T9

AND TO: Mizrahi Commercial (The One) LP
189 Forest Hill Road
Toronto, ON M5P 2N3

AND TO: Mizrahi Commercial (The One) GP Inc.
125 Hazelton Avenue
Toronto, ON M5R 2E4

AND TO: Mizrahi Development Group (The One) Inc.
189 Forest Hill Road
Toronto, ON M5P 2N3

AND TO: Mizrahi Inc.
189 Forest Hill Road
Toronto, ON M5P 2N3

AND TO: Sam M Inc.
189 Forest Hill Road
Toronto, ON M5P 2N3

CLAIM

1. The Plaintiff, CERIECO Canada Corp. (“**CERIECO**”), claims the following against the Defendants, Sam Mizrahi (“**Sam**”), Jenny Coco (“**Jenny**”), Bosco Chan a.k.a. Ye Chen (“**Bosco**”), Coco Paving Inc. (“**Coco Paving**”), Mizrahi Commercial (The One) LP (“**MCLP**”), Mizrahi Commercial (The One) GP Inc. (“**MCGP**”), Mizrahi Development Group (The One) Inc. (“**Mizrahi Development Group**”), Mizrahi Inc., 12823543 Canada Ltd. (“**128 Canada**”), Sam M Inc. (“**SMI**”), 1021627 Canada Corp. (“**102 Canada**”) and Livesolar Capital Corp. (“**Livesolar**”):

- (a) damages for fraud, conspiracy, breach of fiduciary duty, knowing assistance in breach of fiduciary duty, knowing assistance of fraud, breach of trust and knowing receipt in an amount to be determined prior to trial;
- (b) the following relief under the oppression remedy provisions of the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16 (“**OBCA**”), and the *Canada Business Corporations Act*, R.S.C. 1985, c. C.44 (“**CBCA**”):
 - (i) a declaration that: (a) the acts or omissions of Sam, Jenny, Bosco, Coco Paving, MCGP, Mizrahi Development Group, Mizrahi Inc., 128 Canada, SMI, 102 Canada and Livesolar have effected a result, (b) the business or affairs of Coco Paving, MCGP, Mizrahi Development Group, Mizrahi Inc., 128 Canada, SMI, 102 Canada and Livesolar have been carried on or conducted in a manner, or (c) the powers of Sam, as a director of MCGP, Mizrahi Development Group, SMI and Mizrahi Inc.; Jenny, as a director of MCGP, Mizrahi Development Group, 128 Canada and Coco Paving; and Bosco, as a director of CERIECO, Livesolar and 102 Canada, have been

exercised in a manner, that is oppressive or unfairly prejudicial to and that unfairly disregards the interests of CERIECO;

- (ii) an order under the oppression remedy provisions of the OBCA and the CBCA directing an investigation into the conduct and affairs of Coco Paving, MCGP, 128 Canada, SMI, Mizrahi Development Group, Mizrahi Inc. 102 Canada and Livesolar with respect to the wrongful conduct described herein the full extent of which is within the Defendants' knowledge;
- (iii) In connection with the investigation referred to in subparagraph 1(b)(ii) above:
 - (1) an order appointing an independent and impartial inspector to conduct the investigation, and to issue a report to the Court as to the results of the investigation;
 - (2) an order authorizing the inspector to retain such legal or non-legal experts as may be necessary, in its discretion;
 - (3) an order fixing the compensation of the inspector and of such experts, in such amounts as the Court may consider just and appropriate, and requiring Coco Paving, MCGP, 128 Canada, SMI, Mizrahi Development Group, Mizrahi Inc., 102 Canada and Livesolar to pay such compensation;

- (c) an order pursuant to the oppression remedy provisions of the OBCA and CBCA, or otherwise, to set aside the Release, and the SCA Amendment (as defined below), both of which were signed by Bosco without the knowledge or approval of CERIECO, as a result of conduct on the part of the Defendants that was deceitful, unconscionable, misleading, oppressive, unfairly prejudicial and that unfairly disregarded CERIECO's interests;
- (d) damages for breach of contract as against SMI, 128 Canada, Coco Paving and Mizrahi Development Group in the amount of at least \$200,000,000.00, or such other amount to be determined prior to trial;
- (e) an order that the Defendants pay punitive damages to CERIECO in the amount of \$2,000,000.00;
- (f) pre-judgment and post-judgment interest at the contractual rate of 8 percent per annum, compounded annually;
- (g) in the alternative, pre-judgment and post-judgment interest in accordance with sections 128, 129 and 130 of the *Courts of Justice Act*, R.S.O. 1990, c. C.45, as amended;
- (h) the costs of this action on a full indemnity basis, plus all applicable taxes; and
- (i) such further and other relief as this Honourable Court deems just.

A. OVERVIEW

2. In 2017, the plaintiff CERIECO agreed to advance a contractor's loan in the amount of \$213,000,000 to MCLP in connection with the first stage of construction of "The One", a proposed 85-storey retail, hotel and residential tower that was to be constructed at the corner of Yonge St. and Bloor St. in downtown Toronto (defined herein as the "**Project**"). The Project was owned 50/50 by the defendants Sam Mizrahi and Jenny Coco (through the corporate defendants described herein).

3. This action relates to the wrongful, dishonest and oppressive conduct of Sam, Jenny, and Bosco Chan, as directors and controlling minds of the corporate defendants described herein (in Bosco's case, as a director of CERIECO) in connection with the contractor's loan.

4. In or around 2016, China-East Resources Import & Export Company ("**CERIECO China**") began looking for opportunities to participate in the development and construction of real estate projects in Canada. CERIECO China was introduced to Bosco, a Chinese and Canadian citizen living in Ottawa who held himself out as an individual with extensive business connections in Canada.

5. CERIECO China engaged Bosco to assist with locating suitable real estate projects in Toronto. Thereafter, Bosco presented CERIECO China with an opportunity to participate in the Project. Bosco explained to CERIECO China that the Project was to be developed by Sam, who Bosco said was a well-known and reputable real estate developer in Toronto. According to Bosco, Sam had purchased the Project lands and was looking to finance the first stage of construction.

6. In reliance on Bosco's representations, CERIECO China proceeded to negotiate the terms on which it would participate in the Project.

7. CERIECO China also incorporated the plaintiff CERIECO as a Canadian subsidiary to participate directly in the Project.

8. Long Hai Wang (“**Wang**”), the President of CERIECO China, was originally to be the only director of CERIECO. Legal counsel (Dentons in Ottawa) for CERIECO prepared and filed the incorporation documents, and recommended that CERIECO appoint Bosco as a second director to meet Canadian residency requirements.

9. Notwithstanding Bosco’s appointment as a director of CERIECO, it was at all times clearly communicated by CERIECO to legal counsel and Bosco that Bosco was not to have the authority to execute documents on behalf of CERIECO. Nor was Bosco permitted to hold himself out as having such authority.

10. As a result, Dentons drafted and CERIECO adopted the following provision as part of CERIECO’s By-Law No. 1:

Contracts, documents or instruments in writing requiring the signature of the Corporation **shall only be signed on behalf of the Corporation by Mr. Long Hai Wang.** [Emphasis added].

11. CERIECO’s participation in the Project is primarily as a contractor advancing trade credit to the owner (MCLP), while simultaneously paying advances to the subcontractor (Mizrahi Inc.) as construction work progressed.

12. CERIECO also participated in the project by way of a Profit-Sharing Agreement (the “**Profit Sharing Agreement**”) through which distributable cash generated by the Project was to be divided 55 percent to CERIECO, and 45 percent to MCLP’s limited partners (after the repayment of capital accounts and preferred returns to the limited partners).

13. During the course of the discussions and negotiations leading up to formalizing CERIECO's participation, it was made clear to MCLP and all of the individuals and other entities involved (including Sam and Jenny) that CERIECO China had strict, non-negotiable project evaluation criteria that must be satisfied in order for CERIECO to approve the contractor's loan. Such criteria included, among other things:

- (a) the granting of comprehensive security interests encumbering the Project lands in favour of CERIECO (defined below as the "**CERIECO Security**"); and
- (b) the provision of guarantees for the repayment of all present and future indebtedness and obligations of MCLP to CERIECO, in a form acceptable to CERIECO, in its sole discretion (defined below as the "**Guarantees**").

14. CERIECO's project evaluation criteria also required that additional guarantees be obtained from third parties with equity at book value equal to at least 2.0 times the value of the loan. This requirement was communicated to and understood by all parties.

15. In accordance with these mandatory requirements, Sam and Jenny, and the entities related to them, granted CERIECO comprehensive security interests encumbering the Project lands. Sam and Jenny also arranged for a number of parties to provide guarantees for the repayment of all present and future indebtedness from MCLP to CERIECO.

16. Jenny arranged for Coco Paving to provide such a guarantee in favour of CERIECO. However, because Coco Paving did not satisfy the required equity-to-loan value ratio on its own, Jenny was required to locate an additional guarantor. Jenny arranged for Bridging Income Fund LP ("**Bridging**"), an investment vehicle managed and promoted by Bridging Finance Inc.

(“**Bridging Finance**”), to act as the additional guarantor. Jenny was a part owner and a director of Bridging Finance. Bridging otherwise had nothing whatsoever to do with the Project, and it had no business reason to agree to the guarantee.

17. Bridging’s assets had significantly less value than was represented by Jenny and MCLP, and in any event, such assets are now subject to the Receivership Order, as defined and described below.

18. On or about August 24, 2017, Coco Paving, Bridging, Mizrahi Development Group and SMI executed the Joint and Several Guarantee (as defined below). Under the Joint and Several Guarantee, the parties unconditionally guaranteed, on a joint and several basis, payment and performance to CERIECO of all present and future indebtedness, liabilities and obligations owing to CERIECO by MCLP, forthwith on demand.

19. The Joint and Several Guarantee was signed by Natasha Sharpe, who purported to be a signing officer of an entity called Sprott Genpar Ltd., the general partner of Bridging. The Joint and Several Guarantee was also signed by Jenny on behalf of Coco Paving, and by Sam on behalf of SMI and Mizrahi Development Group.

20. The names of Coco Paving and Bridging were redacted from certain versions of the Joint and Several Guarantee, and these parties were instead referred to as the “**Confidential Guarantors**”. The signature pages for the Confidential Guarantors were also removed. The redactions (and removal of the signature pages) were not made at CERIECO’s request, and CERIECO has no knowledge of why this was done.

21. In June 2021, MCLP failed to repay the first installment due under the contractor's loan in the amount of \$61,337,287.67.

22. After sending several written demands for payment over a number of months, CERIECO attempted to enforce its rights under the guarantees. It then learned, for the first time, that Bosco had allegedly entered into agreements that had CERIECO purportedly releasing the Confidential Guarantors from their obligations under the guarantees (the "**Release**").

23. CERIECO did not authorize any such Release and had no knowledge of the Release prior to learning of it through the Confidential Guarantors. The Release was signed by Bosco, purportedly on behalf of CERIECO. To the knowledge of the defendants, Bosco did not have the authority to execute documents on CERIECO's behalf.

24. When confronted by CERIECO in 2022, Bosco admitted that he acted alone in connection with the purported Release, without the knowledge or authority of anyone at CERIECO, and without the involvement of any legal counsel acting on behalf of CERIECO.

25. Bosco also purported to execute an agreement in May 2021 (the "**SCA Amendment**") whereby Bosco (purportedly on behalf of 102 Canada as agent for CERIECO) agreed to sign the Release in exchange for a "release fee" of \$7,500,000.00 to be paid from Coco Paving to CERIECO. Bosco admitted that he acted alone and did not involve legal counsel in the negotiation and execution of the SCA Amendment.

26. None of the purported cash consideration for the Release was paid to CERIECO as provided under the SCA Amendment. Bosco admitted that he accepted a personal payment of \$4,500,000.00 in connection with signing the purported Release and SCA Amendment, and that

he directed a further \$3,000,000.00 (purportedly also owing to CERIECO) to be paid to Sam's personal bank account.

27. Bosco, Sam and Jenny (and their respective corporate alter egos described herein) have also, since at least 2019, conspired to use Bosco, without CERIECO's knowledge, to execute agreements and other documents (purportedly on CERIECO's behalf) that are highly prejudicial to CERIECO's interests as a creditor of the Project.

28. The Defendants had actual or constructive knowledge that Bosco lacked authority to bind CERIECO throughout this period, and actual or constructive knowledge of the fraud and misconduct described herein.

29. Among other things, at the same time that Sam and Jenny were negotiating the Release with Bosco (who they knew did not have the assistance of legal counsel), they were communicating separately with Wang in connection CERIECO's demands for payment and were urging CERIECO to forbear from enforcing the guarantees. They were also promising Wang that payment would be made within weeks (which it never was). No mention was ever made in any such communications regarding any purported release.

30. Once the Release was signed, Sam and Jenny stopped responding to CERIECO's demands for payment.

31. Further, Sam accepted a personal payment of \$3,000,000.00 that was to be paid to CERIECO in exchange for the purported Release. Sam knew that Bosco lacked authority, and he conspired with Bosco and Jenny to abuse this knowledge to enrich himself to CERIECO's detriment.

32. The Defendants' conduct as described in more detail herein is oppressive, unfairly prejudicial to and unfairly disregards CERIECO's interests as a creditor of the Project and the beneficiary of the guarantees, and as a party to the Profit Sharing Agreement. The purported Release and the underlying SCA Amendment were executed without CERIECO's knowledge or authority and should be set aside.

33. The full extent of Bosco's (and the Defendants') wrongful conduct is not known to CERIECO, and CERIECO continues to investigate these matters to the best of its ability.

34. CERIECO seeks an order to set aside the SCA Amendment and the purported release, and an order under the oppression remedy directing an investigation into the matters described herein. Such investigation may give rise to further claims, including with respect to the purported subordination of CERIECO's security interest in the Project as described below.

35. CERIECO also seeks damages under the oppression remedy, at common law and in equity for fraud, conspiracy, breach of fiduciary duty, knowing assistance in breach of fiduciary duty, knowing assistance of fraud and/or breach of trust, and knowing receipt.

A. THE PARTIES

i. The Plaintiff - CERIECO

36. CERIECO is a corporation incorporated under the CBCA, with its registered office in Markham, Ontario. CERIECO is wholly owned by CERIECO China, which is in turn wholly owned by China Machinery Engineering Corporation ("CMEC"). CMEC is a Chinese state-owned enterprise.

ii. The Individual Defendants

37. The Defendant, Bosco Chan (also known as Ye Chen) (“**Bosco**”), is an individual who resides in Ottawa. At all material times Bosco was the sole shareholder, director, officer and controlling mind of Livesolar and 102 Canada (all as defined below). Bosco was a director of CERIECO from on or around January 23, 2017, until he was removed from that position on February 25, 2022, as described herein.

38. The Defendant, Sam Mizrahi (“**Sam**”), is an individual and real estate developer who resides in Toronto. At all material times Sam was an officer, director and controlling mind of Mizrahi Development Group, SMI, Mizrahi Inc. and MCGP (all as defined below). At all material times Sam indirectly owned a 50 percent beneficial interest in the Project through his 100 percent interest in SMI.

39. The Defendant, Jenny Coco (“**Jenny**”), is an individual who resides in Toronto. At all material times Jenny was an officer, director and controlling mind of Coco Paving, Mizrahi Development Group and MCGP (all as defined below). At all material times she was also a director and controlling mind of 128 Canada. Jenny indirectly owns, or owned, a 50 percent beneficial interest in the Project through her 100 percent interest in 128 Canada.

iii. The Corporate and Partnership Defendants

40. The Defendant, Livesolar Capital Corp. (“**Livesolar**”), is a corporation incorporated under the CBCA, with its registered office in Ottawa.

41. The Defendant, 10216267 Canada Corp. (“**102 Canada**”), is a corporation incorporated under the CBCA, with its registered office in Ottawa.

42. The Defendant, Mizrahi Commercial (The One) LP (“**MCLP**”), is a limited partnership formed under the laws of Ontario that purports to be in the business of identifying, acquiring and developing real property located in Canada. At all material times MCLP was the registered owner of the Project, as described herein.

43. The Defendant, Mizrahi Commercial (The One) GP Inc. (“**MCGP**”), is a corporation incorporated under the OBCA. At all material times MCGP was the general partner of MCLP.

44. The Defendant, Sam M Inc. (“**SMI**”) is a corporation incorporated under the OBCA. At all material times SMI was a limited partner of MCLP and owned a 50 percent beneficial interest in the Project.

45. The Defendant, 12823543 Canada Ltd. (formerly 8891303 Canada Inc.) (together, “**128 Canada**”), is a corporation incorporated under the CBCA.¹ At all material times 128 Canada was a limited partner of MCLP and owned a 50 percent beneficial interest in the Project.

46. The Defendant, Mizrahi Development Group (The One) Inc. (“**Mizrahi Development Group**”), is a corporation incorporated under the OBCA, with its registered office in Toronto.

47. The Defendant, Mizrahi Inc., is a corporation incorporated under the OBCA, with its registered office in Toronto.

¹ 128 Canada was formed in 2021 through the amalgamation of 8891303 Canada Inc. (“889 Canada”) and 12787601 Canada Ltd. (“127 Canada”). Between 2014 and 2021, Jenny’s 50 percent interest in the Project was held through 889 Canada. To the best of CERIECO’s knowledge, such interest was transferred to 128 Canada in 2021 when 889 Canada amalgamated with 127 Canada and was continued as 128 Canada.

48. The Defendant, Coco Paving Inc. (“**Coco Paving**”), is a corporation incorporated under the OBCA, with its registered office in Toronto. Coco Paving is in the business of project and construction management, among other things.

49. SB Fund GP Inc. (“**SB Fund**”) is a corporation incorporated under the OBCA. At all material times since on or around July 28, 2017, SB Fund was the general partner of Bridging Income Fund LP (“**Bridging**”).

50. Bridging is a limited partnership formed under the laws of Ontario that is or was an investment vehicle managed and promoted by Bridging Finance Inc. (“**Bridging Finance**”). On April 30, 2021, the Ontario Superior Court of Justice granted an order appointing a receiver over all of the assets, undertakings and properties of Bridging Finance, including Bridging (the “**Receivership Order**”).

B. BACKGROUND – INTRODUCTION TO BOSCO

51. CERIECO China is in the business of, among other things, importing and exporting various types of industrial products and equipment, and participating in construction projects on an “engineering, procurement and construction” (“**EPC**”) basis.

52. In or around 2016, CERIECO China began looking for opportunities to participate in the development and construction of real estate projects in Canada. CERIECO China was introduced to Bosco, a Chinese and Canadian citizen living in Ottawa who held himself out as an individual with extensive business connections in Canada.

53. Bosco communicated with representatives of CERIECO in China, including Long Hai Wang (“**Wang**”), the President of CERIECO China. Bosco represented to Wang that he had significant knowledge of, and connections to, real estate developers in Canada.

54. CERIECO China agreed to engage Bosco to assist with locating suitable real estate projects in Toronto. Thereafter, Bosco presented CERIECO China with an opportunity to participate in the construction of a proposed 85-storey mixed use residential tower to be located at the south-west corner of Yonge Street and Bloor Street in downtown Toronto, marketed as “The One” (the “**Project**”).

55. Bosco explained to CERIECO China that the Project was to be developed by Jenny and Sam, who Bosco said were well-known and reputable businesspeople and real estate developers in Toronto. According to Bosco, Jenny and Sam had purchased the Project lands and were looking to finance the first stage of construction.

56. In reliance on Bosco’s representations, CERIECO China proceeded to negotiate the terms on which it would provide construction financing to the Project, as described below.

57. On Bosco’s introduction and recommendation, CERIECO retained legal counsel Philip Rimer (“**Rimer**”), a partner of Dentons Canada LLP (“**Dentons**”) in Ottawa, to act for it with respect to its participation in the Project.

58. CERIECO would later learn (in February 2022, as described below) that Bosco had a pre-existing relationship with Sam, with whom he socialized occasionally. CERIECO would also later learn that Bosco had a pre-existing professional relationship with Dentons and Rimer, either

personally or through Livesolar and 102 Canada, companies Bosco owned and controlled. None of Bosco, Sam or Rimer disclosed these relationships to CERIECO at the time.

C. THE FORMATION OF CERIECO

59. On or about January 23, 2017, CERIECO China incorporated CERIECO as a Canadian subsidiary to facilitate its participation in the Project. Dentons and Rimer prepared and filed the incorporation documents. CERIECO's registered office was listed as 99 Bank Street, Suite 1420, Ottawa, Ontario (the street address of Dentons' Ottawa office).

60. CERIECO intended to appoint Wang as the sole director of CERIECO. However, Rimer advised CERIECO that under Canadian law, at least one director had to be a Canadian resident (which Wang was not). Accordingly, CERIECO agreed to appoint Bosco as a second director, in addition to Wang.

61. Notwithstanding Bosco's appointment as a director of CERIECO, it was at all times clearly communicated by CERIECO to Rimer, Dentons and Bosco that Bosco was not to have the authority to execute documents on behalf of CERIECO, nor was Bosco permitted to hold himself out as having such authority.

62. In fact, CERIECO specifically advised Dentons and Bosco that the only individual who was authorized to bind CERIECO and execute documents on its behalf was Wang. Dentons drafted the following provision as part of CERIECO's By-Law No. 1:

Contracts, documents or instruments in writing requiring the signature of the Corporation **shall only be signed on behalf of the Corporation by Mr. Long Hai Wang.** [Emphasis added].

63. Wang executed By-Law No. 1 on or around January 23, 2017, and such By-Law has at all times remained in effect. At no time did Wang (or anyone at CERIECO) authorize Bosco, in any form whatsoever, to execute any documents purporting to bind CERIECO.

64. Notwithstanding By-Law No. 1, CERIECO reasonably expected that Bosco would at all times discharge his duties as a director of CERIECO honestly, in good faith and in the best interests of CERIECO (which he did not, as described below).

65. CERIECO also entered into a commission agreement with Bosco through which Bosco, directly or indirectly, received a commission for his involvement in the Project in the amount of approximately \$500,000.00. Such commission was the only compensation CERIECO agreed to pay Bosco for his involvement in the Project.

D. CERIECO'S PARTICIPATION IN THE PROJECT

66. By early 2017, CERIECO was in the process of negotiating the terms of its participation in the first stage of construction of the Project, which was expected to include 5 storeys below grade, and an approximately 11 storey podium above grade (the “**Complex Retail Phase**” of the Project).

67. CERIECO understood that the Project was owned by a limited partnership, MCLP, that was in turn owned 50 percent by Sam (through SMI), and 50 percent by Jenny (through what was then 889 Canada).

68. Dentons and Rimer acted for CERIECO during the negotiation and execution of the necessary documentation with MCLP and other parties.

69. CERIECO communicated to MCLP that its project evaluation criteria required the CERIECO's participation to be structured as an EPC contract, rather than as a passive investment. As a result, the parties executed two agreements: (i) a Prime Construction Contract for Complex Retail Phase between CERIECO and MCGP on behalf of MCLP, dated June 26, 2017 (the "**PCC**"), and (ii) a Subcontract for Construction of Complex Retail Phase between CERIECO and Mizrahi Inc. (the "**Subcontract**").

70. Under the PCC, CERIECO assumed the role of contractor for the construction of the Complex Retail Phase of the Project. However, under the Subcontract, Mizrahi Inc. assumed all of the construction-related obligations of CERIECO under the PCC (except for the obligation to advance trade credit to MCLP) in exchange for payment of the contract price.

71. Accordingly, CERIECO's financing of the Project is as a contractor advancing trade credit to the owner (MCLP), while simultaneously paying advances to the subcontractor (Mizrahi Inc.) as construction work progressed.

72. Under the PCC, CERIECO agreed to advance trade credit to MCLP in the total amount of \$213,000,000.00 (the "**Credit Amount**"). All advances were to be (and were) tracked and evidenced by promissory notes issued by MCLP to CERIECO, as described below.

73. MCLP and CERIECO also entered a Profit Sharing Agreement ("**Profit Sharing Agreement**") through which distributable cash generated by the Project was to be divided 55 percent to CERIECO, and 45 percent to MCLP's limited partners (after the repayment of capital accounts and preferred returns to the limited partners).

74. The Profit Sharing Agreement was required under CERIECO's project evaluation criteria, which required that the Complex Retail Phase of the Project achieve a minimum gross profit of 5 percent (plus 4 percent contingencies). The gross profit of the Complex Retail Phase was expected to fall below that threshold, so CERIECO required MCLP to pay additional amounts to CERIECO (via the Profit Sharing Agreement) to satisfy this condition.

75. Each of the PCC, Subcontract and Profit Sharing Agreement were negotiated and executed by Wang as the sole signing officer of CERIECO. Further, it was explicitly stated in the PCC and the Subcontract that all written notices thereunder were to be sent to Wang and other representatives of CERIECO's parent companies located in Beijing, China (or electronically to the same parties via e-mail).

76. Sam, Jenny, Rimer, Bosco and others travelled to China during negotiations and were hosted personally by Wang. All the individuals and entities involved in such negotiations knew at all times that Wang was the only representative of CERIECO with the authority to bind CERIECO.

77. At no time during the negotiation of CERIECO's participation in the Project was Bosco held out by CERIECO, directly or indirectly, as an individual having the actual or apparent authority to bind CERIECO.

E. THE CERIECO SECURITY

78. CERIECO also clearly communicated to MCLP and all the individuals and other entities involved in the negotiations that CERIECO China and CMEC had strict, non-negotiable project evaluation criteria that must be satisfied in order for CERIECO to approve the contractor's loan. Such criteria included, among other things:

- (a) the granting of comprehensive security interests encumbering the Project lands in favour of CERIECO (the “**CERIECO Security**”);
- (b) the provision of guarantees for the repayment of all present and future indebtedness and obligations of MCLP to CERIECO, in a form acceptable to CERIECO, in its sole discretion (the “**Guarantees**”); and
- (c) the execution by each Guarantor (as defined below) of a negative covenant agreement not to grant any further guarantees or indemnities so long as the Guarantees are outstanding (the “**Negative Pledges**”).

79. In 2017, in satisfaction of the CERIECO Security, the Guarantees and the Negative Pledges, MCLP executed, or caused to be executed, a number of documents, including the following:

- (a) A Debenture made by Mizrahi Development Group, as nominee, and MCLP by its general partner, MCGP, as beneficial owner, in favour of CERIECO (the “**Debenture**”);
- (b) A Pledge of Investment Collateral – Non-Public made by 889 Canada (now 128 Canada) in respect of its capital and partnership interest in MCGP and MCLP, in favour of CERIECO (the “**889 Pledge**”);
- (c) A Pledge of Investment Collateral – Non-Public made by SMI in respect of its capital and partnership interest in MCGP and MCLP, in favour of CERIECO (the “**SMI Pledge**”);

- (d) A Joint and Several Limited Guarantee and Indemnity Agreement from Coco Paving, Bridging, SMI and Mizrahi Development Group (collectively with 128 Canada, the “**Guarantors**”) in favour of CERIECO dated August 24, 2017 (“**Joint and Several Guarantee**”);
- (e) A Limited Recourse Guarantee from 889 Canada in favour of CERIECO dated 2017 (“**889 Limited Recourse Guarantee**”);
- (f) A Limited Recourse Guarantee from SMI in favour of CERIECO dated 2017 (“**SMI Limited Recourse Guarantee**”);
- (g) A Joint and Several Undertaking from 889 Canada and SMI in favour of CERIECO dated 2017 (“**Joint and Several Undertaking**”);
- (h) A Negative Pledge, Representation and Undertaking Agreement from Coco Paving in favour of CERIECO dated June 8, 2017 (“**Coco Negative Pledge**”); and
- (i) A Negative Pledge, Representation and Undertaking Agreement from Bridging in favour of CERIECO dated 2017 (“**Bridging Negative Pledge**”).

80. On or around June 29, 2017, Rimer and Dentons registered financing statements under the *Personal Property Security Act* (“**PPSA**”) reflecting the CERIECO Security. Rimer reported directly to Wang regarding the PPSA registrations.

81. On or around August 29, 2017, Rimer and Dentons registered the Debenture on title to the Project lands in the form of a charge in favour of CERIECO, in the principal sum of \$213,000,000.

82. CERIECO reasonably expected that the priority position of the CERIECO Security would be preserved in the event the Project obtained additional financing at a later date. CERIECO further expected that Dentons, Rimer and Bosco would not take steps to subordinate or otherwise prejudice CERIECO's security interest in favour of any other party, without CERIECO's express authorization through Wang.

F. THE CONFIDENTIAL GUARANTORS

83. CERIECO's project evaluation criteria also required that additional guarantees be obtained from third parties with equity at book value equal to at least 2.0 times the value of the loan. This requirement was communicated to and understood by all parties.

84. Jenny arranged for Coco Paving to provide a guarantee in favour of CERIECO. However, because Coco Paving did not satisfy the required equity-to-loan value ratio on its own, Jenny was required to locate an additional guarantor. Jenny arranged for Bridging, an investment vehicle managed and promoted by Bridging Finance, to act as the additional guarantor. Jenny was a part owner and a director of Bridging Finance. Bridging otherwise had nothing whatsoever to do with the Project, and it had no business reason to agree to the guarantee.

85. Bridging's assets had significantly less value than was represented by Jenny and MCLP, and in any event, such assets are now subject to the Receivership Order as described above.

86. On or about August 24, 2017, the Joint and Several Guarantee (as defined above) was executed by Coco Paving, Bridging, Mizrahi Development Group and SMI. Under the Joint and Several Guarantee, the parties unconditionally guaranteed, on a joint and several basis, payment and performance to CERIECO of all present and future indebtedness, liabilities and obligations owing to CERIECO by MCLP, forthwith on demand.

87. The Joint and Several Guarantee was signed by Natasha Sharpe, who purported to be a signing officer of an entity called Sprott Genpar Ltd., the general partner of Bridging. The Joint and Several Guarantee was signed by Jenny on behalf of Coco Paving, and by Sam on behalf of SMI and Mizrahi Development Group.

88. The names of Coco Paving and Bridging were redacted from certain versions of the Joint and Several Guarantee, and these parties were instead referred to as the “**Confidential Guarantors**”.

89. The signature pages of the Joint and Several Guarantee for the Confidential Guarantors were also removed, and it was specifically indicated that the agreement was to be accepted by the Confidential Guarantors under separate confidential agreement. The redactions (and removal of the signature pages) were not made at CERIECO’s request, and CERIECO has no knowledge of why this was done.

90. The involvement of the Confidential Guarantors in the financing was of critical importance to CERIECO. The Confidential Guarantors were held out to CERIECO as entities with assets available to satisfy the present and future indebtedness of MCLP to CERIECO, and thus to induce CERIECO to advance funds to the Project. CERIECO expected that the Confidential Guarantors would remain subject to the Joint and Several Guarantee at all times.

91. Further, Sam and Jenny knew at all times that the involvement of the Confidential Guarantors was necessary to satisfy CERIECO’s project evaluation criteria, and that a release of the Confidential Guarantors (without acceptable replacement) would be in breach of such criteria.

92. Under the Joint and Several Undertaking, MCGP also agreed (through 889 Canada and SMI) to appoint Wang as an officer and director of MCGP. Wang was also to be granted mandatory signing authority over the Project's bank accounts. SMI and 889 Canada have failed or refused take any such steps.

G. THE OUTSTANDING INDEBTEDNESS

93. CERIECO has advanced a total of \$200,000,000.00 in accordance with the PCC (the “**Outstanding Indebtedness**”). The Outstanding Indebtedness bears interest at the rate of 8 percent per annum, compounded annually, in addition to certain fees payable to CERIECO.

94. MCLP has signed promissory notes in respect of the principal and interest owing for each advance it received.

95. Under the PCC, repayment of the Credit Amount (the sum of \$213,000,000, plus interest) to CERIECO was to be made according to the following schedule:

| Repayment Date (from “Commencement Date”) | Actual Repayment Date | Principal Amount Due (not including interest) |
|---|-----------------------|---|
| 1460 days from Commencement Date (i.e. 4 years) | June 25, 2021 | \$53,250,000.00 |
| 1825 days from Commencement Date (i.e. 5 years) | June 25, 2022 | \$74,550,000.00 |
| 2190 days from Commencement Date (i.e. 6 years) | June 25, 2023 | \$85,200,000.00 |
| <u>TOTAL PRINCIPAL TO BE REPAID</u> | - | <u>\$213,000,000.00</u> |

Fig. 1. CERIECO repayment schedule under Prime Construction Contract

96. As such, the first repayment in the principal amount of \$53,250,000.00 (plus interest) was due to CERIECO by June 25, 2021.

H. MCLP FAILS TO REPAY CERIECO

97. On May 6, 2021, Wang wrote on behalf of CERIECO to Sam and Jenny as principals of MCLP to remind them that the first repayment under the PCC was due on June 25, 2021, in the amount of \$61,337,287.67 (\$53,250,000.00 plus interest of \$8,087,287.67).

98. MCLP never responded to Wang's letter and failed to make repayment on June 25, 2021.

99. On August 25, 2021, Wang wrote to MCLP again to demand repayment. On September 9, 2021, MCLP responded, acknowledging that the first repayment due on June 25, 2021 had been missed, and asking for an extension until September 24, 2021.

100. On September 27, 2021, MCLP again wrote to CERIECO asking for a further extension until October 30, 2021.

101. On October 1, 2021, Wang wrote to MCLP (with a copy to Coco Paving and Bridging) stating that if CERIECO did not receive repayment by October 30, 2021, CERIECO intended to take legal action for recovery of all indebtedness and liabilities owed to CERIECO, including legal action against the Guarantors jointly and severally.

102. On October 29, 2021, MCLP wrote to CERIECO asking that CERIECO forbear from taking enforcement steps and requesting a further extension until November 30, 2021.

103. On November 2, 2021, Wang wrote to MCLP (copying Coco Paving and Bridging) again demanding repayment and stating that CERIECO had retained counsel to take further action.

104. CERIECO never received a response to its November 2, 2021 letter.

105. None of MCLP, Sam, Jenny, Coco Paving or Bridging ever mentioned, in any way, the SCA Amendment or a “release” of the Confidential Guarantors during the course of the above described communications in 2021 concerning payment of the amounts due and owing in June 2021.

106. CERIECO would later learn that at or around the same time MCLP was urging CERIECO (through Wang) to forbear from taking enforcement steps, it was in the process of improperly and oppressively purporting to negotiate such a release through Bosco (in the absence of legal counsel), as described below. MCLP had also purportedly already obtained Bosco’s commitment (purportedly on behalf of CERIECO) to deliver the release under the SCA Amendment.

I. CERIECO DISCOVERS THE PURPORTED RELEASE

107. On February 22, 2022, CERIECO wrote to Coco Paving through counsel to assert CERIECO’s rights under the Joint and Several Guarantee, and to request information about a possible pending sale transaction involving Coco Paving.

108. In response, Coco Paving informed CERIECO, for the first time, that CERIECO had “released” Coco Paving and Bridging from their obligations under the Joint and Several Guarantee. Thereafter, CERIECO obtained a copy of a document dated November 3, 2021 purporting to be such release (the “**Release**”).

109. The Release purports to be executed by 102 Canada as “agent” for and on behalf of CERIECO. Bosco is the sole officer, director and controlling mind of 102 Canada. Bosco

purported to sign the Release on behalf of 102 Canada and on behalf of CERIECO. Bosco acted without any involvement of legal counsel.

110. CERIECO had no knowledge whatsoever of the Release prior to learning of its existence in February 2022. At no time did Wang authorize the release of Coco Paving and/or Bridging from the Joint and Several Guarantee (nor did Wang authorize Bosco or 102 Canada to do so).

111. The Release is inconsistent with CERIECO's project evaluation criteria (including the loan-to-equity ratio requirements for the guarantees as described above) and Bosco, Sam and Jenny knew, or ought to have known, that CERIECO would not have approved it.

112. The timing of the Release is suspicious on its face. It is dated November 3, 2021, just one day after CERIECO wrote to Sam and Jenny (through MCLP, Coco Paving and Bridging) notifying them that it had retained counsel to enforce its rights against the Guarantors. CERIECO would not have, on the one hand, informed Sam and Jenny that it intended to take legal action against the Confidential Guarantors (on November 2, 2021), but on the other, agree to release the Confidential Guarantors from their obligations (on November 3, 2021).

113. Jenny and Sam knew that Bosco was not communicating with Wang regarding the Release. Among other things, Jenny and Sam continued to write to Wang in September and October 2021 (promising that payment would be made within weeks, which it never was), while they worked with Bosco alone (who had no legal counsel) to obtain the Release. Sam and Jenny structured their communications in this way to deliberately deceive and avoid detection by CERIECO.

J. THE \$7.5 MILLION PAYMENTS TO SAM AND BOSCO

114. Further, as described above, CERIECO later discovered that Bosco had also signed an Amendment to Supplier Credit Agreement Regarding Release of Confidential Guarantors dated May 12, 2021 (as defined above, the “**SCA Amendment**”), and had directed millions of dollars, purportedly to be paid to CERIECO under the SCA Amendment, to instead be paid to himself and Sam personally.

115. Under the SCA Amendment, Bosco (purportedly on behalf of 102 Canada as agent for CERIECO) agreed to sign the Release in exchange for a “release fee” of \$7,500,000.00 to be paid by Coco Paving or an affiliated entity to CERIECO in two tranches: \$5,000,000.00 upon execution of the SCA Amendment, and \$2,500,000.00 at a future date. The Release was to be signed at the time of the SCA Amendment and held in escrow pending delivery of the funds.

116. Bosco acted alone and did not involve legal counsel in the negotiation and execution of the SCA Amendment.

117. The parties to the SCA Amendment were MCLP, Mizrahi Development Group, 128 Canada, SMI, 102 Canada (as agent for CERIECO) and CERIECO. Neither Coco Paving nor Bridging were parties to the SCA Amendment.

118. The timing of the execution of the SCA Amendment is also suspicious, as it was signed on May 12, 2021, just six days after Wang wrote to Sam and Jenny as principals of MCLP to remind them of the upcoming repayment due date of June 25, 2021 under the PCC.

119. In any event, none of the purported cash consideration for the Release was paid to CERIECO as provided under the SCA Amendment. CERIECO later learned that the entirety of

the \$7,500,000.00 was disbursed from the trust account of McCarter Grespan Beynon Weir PC (the Mizrahi parties' counsel) in accordance with a direction provided by Bosco, as follows:

- (a) \$3,000,000.00 was paid to personal bank accounts belonging to Sam on or around May 13, 2021;
- (b) \$2,000,000.00 was paid to the trust account of Bosco's personal lawyer, Peter Liston, on or around May 13, 2021; and
- (c) A further \$2,500,000.00 was paid to Mr. Liston's trust account on or around November 3, 2021.

120. The SCA Amendment and the Release were executed by Bosco alone (with no involvement of legal counsel) and without the knowledge or authority of CERIECO. These agreements are invalid and of no force and effect, and the \$7,500,000.00 "release fee" advanced by Coco Paving should be returned to it.

K. CERIECO CONFRONTS BOSCO

121. CERIECO confronted Bosco upon learning of the Release and the SCA Amendment. Bosco admitted that he acted without CERIECO's authority, entirely of his own initiative and without the knowledge or approval of anyone else at CERIECO, and that he did not engage legal counsel.

122. CERIECO immediately called an emergency shareholders' meeting and terminated Bosco as a director of CERIECO and any other position with CERIECO he may declare himself to hold, effective February 25, 2022.

123. Bosco told CERIECO that he acted on Sam's directions, and that Sam "persuaded" him to personally accept the \$4,500,000.00 payment that was supposed to be paid to CERIECO.

124. Bosco also admitted that he had directed \$3,000,000.00 to be paid to Sam personally.

125. Bosco admitted that he had instructed his personal lawyer, Mr. Liston, to disburse the remaining \$4,500,000.00 to his personal bank account. Bosco claimed that such amounts were ultimately paid to third parties, purportedly on behalf of CERIECO. For instance, Bosco claimed he paid over \$1,600,000.00 to an entity called "Console and Partners" for consulting fees.

126. Bosco also claimed that he paid \$300,000 to an entity called Callian Capital ("**Callian**") and a further \$360,000.00 to Callian's law firm, Gowling WLG (Canada) LLP.

127. Bosco was asked to produce to CERIECO copies of any written agreements or other documents substantiating the payments he says he made on CERIECO's behalf, but he has failed or refused to do so.

128. Bosco claimed to have disbursed the balance of the funds he received to pay for expenses associated with a number of proposed transactions he purported to have been negotiating on behalf of CERIECO, again without the knowledge or approval of Wang or anyone else at CERIECO. CERIECO is continuing to investigate these matters and trace the funds to the best of its ability.

L. THE SUBORDINATION AGREEMENTS

129. CERIECO has also since discovered that Bosco has, since at least 2019, entered into several other agreements purportedly on CERIECO's behalf that have prejudiced CERIECO's interest in the Project, in favour of MCLP or other lenders, and have thereby potentially caused significant damage to CERIECO.

130. These agreements include a Priority, Subordination and Standstill Agreement between (among others) 102 Canada as agent for CERIECO, KEB Hana Bank Canada (“**KEB**”) and MCLP dated August 30, 2019 (the “**KEB Subordination Agreement**”) and a Priority Agreement between (among others) 102 Canada as agent for CERIECO and Aviva Insurance Company of Canada (“**Aviva**”) dated July 11, 2019 (the “**Aviva Subordination Agreement**”; together with the KEB Subordination Agreement, the “**Subordination Agreements**”).

131. As a result of the Subordination Agreements, CERIECO understands that the CERIECO Security (which otherwise would have ranked ahead of KEB and Aviva) has now been contractually subordinated behind charges over the Project lands in the amount of at least \$957,000,000.00 (in favour of KEB) and \$210,000,000.00 (in favour of Aviva).

132. Bosco also executed other documents purporting to give himself the authority to sign agreements on CERIECO’s behalf, without requiring Wang’s authorization. Such documents include an Agency Agreement between CERIECO and 102 Canada dated July 11, 2019 (“**Agency Agreement**”) and an Authorization and Direction from CERIECO to MCLP dated July 11, 2019 (“**102 Canada Authorization**”).

133. Pursuant to the Agency Agreement and the 102 Authorization, CERIECO purportedly appointed 102 Canada as its exclusive “agent” with respect to the SCA, and authorized MCLP to deal exclusively with 102 Canada with respect to the SCA and “all other documents entered into by the Agent, as agent for CERIECO, until further written notice is delivered by CERIECO”.

134. The Agency Agreement and the 102 Authorization were executed by Bosco alone on behalf of CERIECO. Bosco never reported to Wang regarding the Agency Agreement or the 102

Authorization, and CERIECO had no knowledge of these agreements whatsoever until learning of their existence in connection with the discovery of Bosco's wrongful conduct, as described herein.

M. DENTONS' AND RIMER'S PURPORTED JOINT RETAINER

135. Dentons and Rimer purported to act jointly for the Project and CERIECO during the negotiation and execution of the Subordination Agreements in connection with the larger financing transaction in 2019 (the "**Joint Retainer**").

136. Dentons and Rimer retroactively documented the terms of the Joint Retainer in a letter dated September 26, 2019 addressed to Sam (with a copy to Bosco). Dentons did not report to Wang (or anyone else at CERIECO, other than Bosco) regarding the change in the terms of its representation.

137. Dentons' September 26, 2019 letter does not explain the conflict of interest between MCLP, on the one hand (who wanted to attract new lenders to the Project) and CERIECO, on the other (who would not have wanted to subordinate its priority in favour of new lenders).

138. Dentons' September 26, 2019 letter also explicitly stated that Dentons would accept instructions from anyone at CERIECO with "apparent authority" regarding the matter, unless "you" (*i.e.* Sam) instruct us otherwise. This is contrary to Wang's instructions and the specific directive in CERIECO's by-laws (that Dentons itself drafted).

139. At no time did Dentons or Rimer report to Wang regarding the Joint Retainer. Dentons and Rimer knew that CERIECO (through Wang) would not have consented to the Joint Retainer.

140. Bosco also admitted that he and Rimer had discussed that if the particulars of the SCA and the Subordination Agreements were reported to Wang and other representatives of CERIECO and

CMEC in China, such agreements would not be approved, as they did not satisfy CERIECO's project evaluation criteria and other restrictions imposed by CMEC.

141. According to Bosco, Rimer and Dentons drafted the Agency Agreement and 102 Authorization specifically so that Bosco could purport to obtain the authority to execute documents on CERIECO's behalf on his own, without the need for approval from Wang (or any other CERIECO representatives in China).

N. THE UNAUTHORIZED RESOLUTIONS

142. CERIECO also learned that Bosco signed several Resolutions of the Board of Directors of CERIECO, purporting to grant any single officer or director of CERIECO the authority to execute documents on CERIECO's behalf (the "**Unauthorized Resolutions**"), including the Agency Agreement, the 102 Authorization, the Subordination Agreements and other documents.

143. The Unauthorized Resolutions were presented by Bosco as having been signed by Wang (and Bosco).

144. At no time were any of the Unauthorized Resolutions sent to, reviewed by, or signed by Wang. The signatures purporting to be Wang's have been forged or were otherwise improperly affixed to the signature block above Wang's name. Some of Wang's signatures appear to be an image or picture. Such Unauthorized Resolutions are invalid and have no force and effect.

145. When confronted by CERIECO, Bosco admitted that he never sent the Unauthorized Resolutions to Wang, and Wang did not sign them.

146. CERIECO reasonably expected that Dentons and Rimer would have taken steps to communicate with Wang or other representatives of CERIECO to confirm Wang's authorization and the authenticity of Wang's signature (which Dentons and Rimer did not).

O. THE UNAUTHORIZED LOAN TRANSACTIONS

147. Bosco was also attempting to enter into a number of additional unauthorized transactions purportedly on CERIECO's behalf between late 2020 and February 2022 (when CERIECO discovered the Release and Bosco's other misconduct).

148. The potential transactions would have involved the Project obtaining additional financing from several purported lenders (the "**Unauthorized Loan Transactions**"), including, among others, an entity called Discernment LLC, an entity called Cirrus Real Estate Partners, an individual named Alistair Sean Jeffries, and an individual named Walter Castillo (collectively, the "**Lenders**").

149. Bosco purported to retain Stephen Morris, a partner of DLA Piper (Canada) LLP ("**DLA Piper**") to act for CERIECO on the Unauthorized Loan Transactions. Some or all the Lenders were represented by Mark Ledwell of Gowling WLG.

150. The structure of the Unauthorized Loan Transactions purportedly included the creation of a special purpose vehicle of CERIECO called Callian CCC Capital Ltd. ("**Callian CCC**"), which was jointly owned 50/50 by Bosco and Michael Decaunti ("**Decaunti**"), Callian's principal.

151. Under the Unauthorized Loan Transactions, the Lenders were to advance funds to Callian CCC. Callian CCC would in turn lend the same funds to CERIECO and other entities associated with the Project. Sam and Bosco purportedly intended to use some of the funds to repay some of

the amounts owing to CERIECO under the PCC. A portion of such funds were also purportedly to be used to pay a “subordination fee” to CERIECO, on behalf of MCLP, in the amount of \$6,875,000.00.

152. To the best of CERIECO’s knowledge, none of the Unauthorized Loan Transactions closed, and no funds were advanced to CERIECO (or anyone else) by the Lenders. However, some of the Lenders purported to charge CERIECO “good faith” or “underwriting” fees of hundreds of thousands of dollars. Bosco used CERIECO’s funds to pay all such fees, which the Lenders never returned to CERIECO after they simply walked away and disappeared.

153. The Unauthorized Loan Transactions were part of an ongoing scheme designed to have Bosco advance funds (on behalf of CERIECO) to the Lenders on the false pretense that such Lenders were going to loan money to the Project (which they never did). Sam, DLA Piper, Decaunti, Ledwell and Gowling knew or ought to have known that the Lenders were not bona fide and had no intention of closing the Unauthorized Loan Transactions.

154. Bosco also used CERIECO’s money to pay other parties’ legal fees in connection with the Unauthorized Loan Transactions or otherwise, including \$360,000.00 paid to Gowling WLG (counsel to the Lenders) and \$250,000.00 paid to McCarter Grespan Beynon Weir (counsel to Sam and the other Mizrahi entities). When confronted by CERIECO, Bosco was unable to explain why CERIECO was or should be responsible for paying for legal services purportedly rendered to other parties.

P. THE CALLIAN GUARANTEES

155. CERIECO has further learned that Bosco (purportedly on behalf of CERIECO) also executed certain guarantee agreements pursuant to which CERIECO guaranteed the payment and

performance of significant liabilities owed by Callian to third parties (the “**Callian Guarantees**”).

The Callian Guarantees include:

- (a) A Relief from Forfeiture and Release of Claims agreement dated March 27, 2021 (“**Relief Agreement**”) and an Indemnity Agreement dated March 29, 2021 (“**Indemnity Agreement**”) in favour of FCP (BOPC) Ltd., ARI FCP Holdings Inc. and CPPIB FCP Holdings Inc. (collectively, the “**Landlord**”), pursuant to which CERIECO guaranteed the payment of all rent to the Landlord (Callian’s landlord for its offices in Toronto); and
- (b) A Demand Promissory Note dated April 7, 2021, whereby CERIECO guaranteed repayment of a loan in the amount of USD \$600,000.00 purportedly advanced to Callian from an entity called G Builders LLC (“**G Builders**”).

156. Bosco entered into the Callian Guarantees without the knowledge or authority of anyone at CERIECO. There is no business reason why CERIECO would have agreed to guarantee Callian’s obligations to its Landlord or to G Builders.

157. CERIECO learned of the Callian Guarantees for the first time after being served with a Notice of Garnishment (from the Landlord) and a demand letter (from G Builders) in or around April 2022.

158. CERIECO also learned that the Landlord had commenced an application in the Ontario Superior Court of Justice against CERIECO and Callian on or about May 31, 2021, seeking to enforce its rights under the Relief Agreement and Indemnity Agreement. The application was heard by a judge, and decided without any involvement or knowledge of CERIECO.

159. CERIECO is taking steps to preserve and enforce its rights with respect to the Callian Guarantees.

160. CERIECO is continuing to investigate Bosco's unauthorized and improper conduct. The full extent of Bosco's conduct is within his knowledge.

Q. LIABILITY OF THE DEFENDANTS

i. Fraud, Knowing Assistance

161. The Defendants are liable to CERIECO for knowing assistance in the commission of a fraud and the other misconduct described herein.

162. Sam and Jenny (and their respective corporate alter egos) at all times knew, or ought to have known, that Bosco had no authority to execute documents on CERIECO's behalf. Among other things:

- (a) **Knowledge of CERIECO investment criteria:** Sam and Jenny (and thus, Coco Paving and Bridging) were well aware of the significance of the Guarantees to CERIECO. It was clearly understood by all parties that CERIECO China would not extend the credit facility without guarantors that met the required equity-to-loan ratio. After extended negotiations on this issue in 2017, the Defendants knew or ought to have known that a single director of CERIECO lacked the authority to abrogate project evaluation criteria imposed by CERIECO's parent companies in China;
- (b) **Timing of communications:** Sam and Jenny communicated with Bosco in secret, while they continued to communicate separately with CERIECO (through Wang),

including repeatedly promising Wang that payments would be made (which they never were), and urging Wang to forbear from enforcing the guarantees. Once the Release was signed by Bosco, Sam and Jenny stopped responding to CERIECO's demands for payment;

- (c) **Lack of legal representation:** Sam and Jenny knew that Bosco did not engage or involve legal counsel at all during the negotiation of the SCA Amendment and Release;
- (d) **Fraud:** Sam accepted a personal payment of \$3,000,000.00 that he knew was intended to be paid to CERIECO in exchange for the purported Release. Sam knew that Bosco had no authority, and he abused this knowledge to personally enrich himself to CERIECO's detriment;
- (e) **No business reason for release:** It made no sense for CERIECO to simply "release" the Confidential Guarantors, without any replacement, for a purported payment of \$7,500,000.00 (that Sam and Jenny knew CERIECO never received), and at a time when the Project was experiencing significant financial difficulties (making the involvement of the Confidential Guarantors even more essential for CERIECO's protection);
- (f) **Lopsided deal:** Even if CERIECO had received the \$7,500,000.00 in exchange for the Release (which it did not), the purported consideration was unconscionable (just 3.5 percent of the amount of the credit facility) in relation to the rights CERIECO was purportedly giving up, at a time when MCLP had already been in default of its obligations to CERIECO for months. The deal was so obviously lopsided that Coco

Paving and Bridging knew that no CERIECO director acting in good faith could have accepted it.

163. By working with Bosco to negotiate and execute the Release, the SCA Amendment and the other purported agreements described herein, the Defendants knowingly assisted and/or participated in the breach of fiduciary duties owed by Bosco and the commission of a fraud. CERIECO has accordingly suffered damages, for which the Defendants are jointly and severally liable.

ii. Oppression

164. The Defendants' conduct as described above is oppressive, unfairly prejudicial to and unfairly disregards CERIECO's interests as a creditor of the Project and a party to the Profit Sharing Agreement.

165. CERIECO reasonably expected, among other things:

- (a) That it would be treated fairly, honestly and in good faith by the Defendants;
- (b) That Bosco would discharge his duties as a director of CERIECO honestly, in good faith and in the best interests of CERIECO;
- (c) That the priority position of the CERIECO Security would be preserved in the event the Project obtained additional financing;
- (d) That the Defendants would not take steps to subordinate or otherwise prejudice CERIECO's security interest in favour of any other party, without CERIECO's clear and express authorization (through Wang);

- (e) That the Confidential Guarantors would remain subject to the Joint and Several Guarantee at all times until the credit facility was fully repaid to CERIECO;
- (f) That MCLP would repay CERIECO according to the payment schedule set out in the PCC;
- (g) That the Defendants would not misappropriate (for their own enrichment) funds that they knew were intended to be paid to CERIECO; and
- (h) That the Defendants would not conspire to prejudice CERIECO's interests in the Project and otherwise.

166. The Defendants' conduct is contrary to each of CERIECO's reasonable expectations. CERIECO is entitled, pursuant to section 241 of the CBCA and section 248 of the OBCA, to the remedies sought in paragraph 1 above.

iii. Conspiracy

167. The Defendants are also liable to CERIECO for the tort of conspiracy.

168. The Defendants participated and co-conspired in the fraud and other misconduct alleged herein and entered into agreements, including but not limited to the SCA Amendment and the Release, which facilitated or directly resulted in the commission of the fraud.

169. The Defendants further acted in concert and/or with a common design or intention. Such conduct was directed towards CERIECO, and the Defendants knew or ought to have known that injury to CERIECO was likely to result.

170. As a result of the Defendants' conduct, CERIECO has suffered actual harm and injury.

iv. *Knowing Assistance in Breach of Fiduciary Duties*

171. The Defendants are further liable to CERIECO for knowing assistance in the breach of fiduciary duties owed by Bosco to CERIECO.

172. The Defendants at all times knew that Bosco owed fiduciary duties to CERIECO. The Defendants further knew or were wilfully blind to the fact that Bosco was in breach of his fiduciary duties to CERIECO in perpetrating the fraud and the other misconduct described herein.

173. By improperly working with Bosco (alone and without any involvement of legal counsel) to negotiate and execute the Release, the SCA Amendment and the other agreements described above, the Defendants knowingly assisted and/or participated in the breach of fiduciary duties. The Defendants are accordingly liable to CERIECO for the harm caused by Bosco's conduct.

v. *Knowing Receipt*

174. Sam, SMI, Bosco, 102 Canada and Livesolar are also liable to CERIECO for the tort of knowing receipt.

175. Sam and Bosco (and their corporate alter egos) received at least \$7,500,000.00 that was intended to be paid to CERIECO in exchange for the purported Release. Sam and Bosco accepted such funds with actual or constructive knowledge the fraud.

176. Sam and Bosco (and their corporate alter egos) received a benefit in connection with their receipt of the funds described above and were thereby unjustly enriched at CERIECO's expense.

177. CERIECO is accordingly entitled to recover the amount of its loss from Sam, SMI, Bosco, 102 Canada, Livesolar, and such other Defendants who received such funds (if the Release is not set aside).

vi. *The Release, SCA and SCA Amendment Should be Set Aside*

178. To the knowledge of the Defendants, the Release and SCA Amendment were entered into by Bosco without the knowledge or authority of CERIECO.

179. As described above, the circumstances of the execution of the Release and SCA Amendment raised obvious red flags that did or should have put the Defendants on notice that further inquiries were required before relying on Bosco's purported authority to execute such agreements.

180. In the alternative, even if the Defendants did not have actual knowledge that Bosco lacked authority to bind CERIECO (which they did), the Defendants were wilfully blind to the fact that in entering such agreements, they were participating in a fraud or breach of fiduciary duties.

181. Accordingly, the SCA Amendment and Release should be set aside, and any amounts purportedly advanced by Coco Paving in exchange for the Release should be returned to it.

vii. *Investigation*

182. The full extent of the Defendants' conduct is solely within the Defendants' knowledge. The Defendants have concealed their behaviour from CERIECO. In the circumstances, CERIECO is entitled to an order directing an investigation into the conduct and affairs of Coco Paving, MCGP, 128 Canada, SMI, Mizrahi Development Group, Mizrahi Inc. 102 Canada and Livesolar with respect to the wrongful conduct described herein, and to all of the relief sought at paragraph 1(b)(ii) and (iii) above.

viii. Breach of Contract

183. MCLP has breached its contractual obligations to CERIECO under the PCC as described above. Under the Guarantees, Coco Paving, 128 Canada and Mizrahi Development Group guaranteed the payment and performance of MCLP's obligations to CERIECO under the PCC.

184. As a result of MCLP's breaches, CERIECO has suffered damages in the sum of at least \$200,000,000.00, for which Coco Paving, 128 Canada and Mizrahi Development Group are liable.

ix. Punitive Damages

185. The Defendants' conduct towards CERIECO, as described herein, was reprehensible, egregious and illustrated a callous disregard for common decency and CERIECO's rights.

186. Ordinary damages are not sufficient to compensate CERIECO in respect of the Defendants' conduct and to deter the Defendants from acting similarly in the future. Nor are they sufficient to censure the Defendants for such conduct, which offends ordinary standards of decency and morality in the community.

187. CERIECO therefore requests an award of punitive, aggravated and exemplary damages in the amount of \$2,000,000.00.

x. Other Matters

188. CERIECO relies on s. 18(2) of the *CBCA*.

189. CERIECO proposes that this action be tried in Toronto.

May 20, 2022

BABIN BESSNER SPRY LLP

185 Frederick St., Suite 101
Toronto, ON M5A 4L4

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ebabin@babinbessnerspry.com

Cynthia L. Spry (LSO#: 52045N)

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Tel: 416-637-3244

Fax: 416-637-3243

Lawyers for the Plaintiff

A668

CERIECO CANADA CORP. and SAM MIZRAHI et al.
Plaintiff Defendants

Court File No.

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

STATEMENT OF CLAIM

BABIN BESSNER SPRY LLP
185 Frederick St., Suite 101
Toronto, ON M5A 4L4

Edward J. Babin (LSO#: 27195H)

Cynthia L. Spry (LSO#: 52045N)

Michael Bookman (LSO#: 65047W)

Brendan Monahan (LSO#: 72319W)

Tel: 416-637-3244

Fax: 416-637-3243

Lawyers for the Plaintiff

A668

This is Exhibit “JJ” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

A670

Message

From: Jenny Coco [JCoco@cocogroup.com]
Sent: 4/21/2017 7:33:29 PM
To: N Sharpe [NSharpe@bridgingfinance.ca]
Subject: Fw: This morning discussions

Thanks!
Jenny

Jenny Coco, CEO
Coco Group

----- Original Message -----

Subject: Re: This morning discussions
From: Jenny Coco
To: Sam Mizrahi
CC:

Hi Sam,

First of all, thank you for the discission.

Yes, we agree as outlined!

Secondly, we need to get China repaid within 18 months!!

Have a good weekend!

Thanks!
Jenny

Jenny Coco, CEO
Coco Group

----- Original Message -----

Subject: This morning discussions
From: Sam Mizrahi
To: Jenny Coco
CC:

Hi Jenny,

Great to see you this morning.

Just to recap what you confirmed to me this morning in regards to your new proposal for us on The One.

A670

A671

1. My development fees of the \$30 Million, of which \$10 Million was already received, and balance of the \$20 Million are fully earned and With no issues regarding Apple Condition etc. This has always been and has already been agreed to.
2. You and I are 50/50 as we have always been.
3. The 5% share being given to Natasha is for Bridging/Sprott putting up its balance sheet and guarantees so that we can get rid of China in the next 18 month period we have with them and that would allow us as discussed to have full 100% ownership and you and I having 47.5% each and Natasha having 5%, respectively.
4. No voting rights for Natasha's 5%. 2.5% coming from me and 2.5% coming from you. And all decisions stay as per the original and current agreements, being just you and I.

Just wanted to confirm. Have a great weekend!

Sincerely,



Sam Mizrahi

President

[125 Hazelton Avenue](#)

[Toronto, Ontario M5R 2E4](#)

T. [416.922.4200 ext. 4210](#)

C. [416.818.5288](#)

F. [1.866.300.0219](#)

Sam@MizrahiDevelopments.ca

www.MizrahiDevelopments.ca

CONFIDENTIALITY NOTICE: All information contained herein is for the exclusive confidential use of the intended recipient. If you are not the intended recipient, please do not read, distribute or take action in reliance upon this message. If you have received this message in error, please notify the sender immediately and promptly delete this message and all its attachments from your computer system.

A671

This is Exhibit “KK” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

May 2, 2022

PRIVATE & CONFIDENTIAL

VIA EMAIL

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, ON
M5P 2N3

Attention: Sam Mizrahi

Dear Sir:

Re: Indebtedness of Northern Citadel Capital Inc., Mizrahi Inc., and 2495159 Ontario Inc. (collectively, the “Borrower”) to Bridging Finance Inc. (“BFI”) in its capacity as agent (in such capacity, the “Agent”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (collectively, the “Lender”)

We are the lawyers for PricewaterhouseCoopers Inc. in its capacity as court-appointed receiver and manager (in such capacity, the “**Receiver**”) of all of the property, assets, and undertakings of the Agent, the Lender, and certain related entities and investment funds (collectively, “**Bridging**”).

We refer to the non-revolving term credit facility (the “**Loan**”) made available to the Borrower by the Agent, on behalf of the Lender, pursuant to the loan agreement dated December 14, 2014 (the “**Original Loan Agreement**”), as amended by a first amending agreement dated February 24, 2015, a second amending agreement dated March 11, 2015, a third amending agreement dated April 10, 2015, a fourth amending agreement dated November 27, 2015, a fifth amending agreement dated June 30, 2016, a sixth amending agreement dated November 30, 2016, a seventh amending agreement dated November 1, 2017, an eighth amending agreement dated May 2, 2018, and a ninth amending agreement dated December 31, 2020 (collectively, the “**Loan Agreement**”). All capitalized terms not expressly defined herein are defined in the Loan Agreement.

Notice of Default

As you are aware, pursuant to the Loan Agreement, the Term of the Loan expired on April 30, 2022. Pursuant to section 3.4 of the Original Loan Agreement, the full amount of the outstanding principal together with accrued interest shall be due and payable on the expiry of the Term. The

Borrower failed to repay the full amount outstanding under the Loan on the expiry of the Term, contrary to section 3.4 of the Original Loan Agreement (the “**Payment Default**”). The Payment Default is continuing as at the date hereof. The Receiver has not waived the Payment Default.

Pursuant to section 12.1(a) of the Original Loan Agreement, an Event of Default occurs if the Borrower fails to observe or perform any term, condition, covenant, or undertaking involving the payment of money under the Loan Agreement or the other Loan Documents. Pursuant to section 12.2 of the Original Loan Agreement, a default referred to under section 12.1 shall not constitute an Event of Default unless, in the case of default in payment of money, it has continued for at least 10 days after the due date for payment.

The Payment Default constitutes a default in payment of money under section 12.1(a) of the Original Loan Agreement. Pursuant to section 12.2 of the Original Loan Agreement, the Payment Default will constitute an Event of Default if the Borrower fails to repay the full amount outstanding under the Loan within 10 days of expiry of the Term.

In the event that the Credit Parties fail to repay the full amount outstanding under the Loan within 10 days of expiry of the Term, the Receiver reserves its right to immediately exercise all of the rights and remedies of the Agent and the Lender pursuant to the Loan Agreement or otherwise, including, without limitation, immediately taking steps to register any or all of the Security (including the security interest granted by Mizrahi Inc. in respect of the Accounts) and immediately taking steps to enforce the Security.

Except as expressly waived in writing by the Receiver, no act or failure to act by the Receiver, nor anything said or done in any discussions, correspondence or other dealings among the Receiver and any of the Credit Parties or any of the Credit Parties’ respective shareholders, affiliates, subsidiaries, related parties, officers, directors, employees, agents or representatives shall be construed as a waiver of any breach, default (including the Payment Default) or Event of Default under the Loan Agreement, or any of the rights or remedies of the Agent, the Lender or the Receiver. There is no agreement by the Receiver to forbear from enforcing any of the rights and remedies of the Receiver, the Agent or the Lender with respect to any breach, default (including the Payment Default) or Event of Default under the Loan Agreement which has occurred or which may occur in the future. The Receiver reserves the right to immediately exercise all such rights and remedies at any time.

Yours truly,

Thornton Grout Finnigan LLP

A handwritten signature in black ink, appearing to read 'G. Moffat', with a stylized flourish at the end.

Grant B. Moffat

cc: Michael McTaggart, Christine Sinclair, Tyler Ray – PricewaterhouseCoopers Inc.

This is Exhibit “LL” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

May 12, 2022

PRIVATE & CONFIDENTIAL

VIA EMAIL

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, ON
M5P 2N3

Northern Citadel Capital Inc.
189 Forest Hill Road
Toronto, ON
M5P 2N3

Attention: Sam Mizrahi

Dear Sir:

Re: Indebtedness of Northern Citadel Capital Inc., Mizrahi Inc., and 2495159 Ontario Inc. (collectively, the “Borrower”) to Bridging Finance Inc. (“BFI”) in its capacity as agent (in such capacity, the “Agent”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (collectively, the “Lender”)

We are the lawyers for PricewaterhouseCoopers Inc. in its capacity as court-appointed receiver and manager (in such capacity, the “**Receiver**”) of all of the property, assets, and undertakings of the Agent, the Lender, and certain related entities and investment funds (collectively, “**Bridging**”).

The Loan Agreement & Security

We refer to the non-revolving term credit facility (the “**Loan**”) made available to Northern Citadel Capital Inc. (“**NCCI**”) and the other entities that comprise the Borrower by the Agent, on behalf of the Lender, pursuant to the loan agreement dated December 14, 2014 (the “**Original Loan Agreement**”), as amended by a first amending agreement dated February 24, 2015, a second amending agreement dated March 11, 2015, a third amending agreement dated April 10, 2015, a fourth amending agreement dated November 27, 2015, a fifth amending agreement dated June 30, 2016, a sixth amending agreement dated November 30, 2016, a seventh amending agreement dated November 1, 2017, an eighth amending agreement dated May 2, 2018, and a ninth amending agreement dated December 31, 2020 (collectively, the “**Loan Agreement**”). All capitalized terms not expressly defined herein are defined in the Loan Agreement.

NCCI and the other Credit Parties are indebted to the Lender under the Loan in the amount of \$53,995,059.27 as at the date hereof as set out at **Schedule “A”** hereto (the “**Indebtedness**”).

As security for all of the present and future indebtedness and obligations of NCCI to the Lender under the Loan, NCCI granted to the Agent and the Lender, among other things, security over all of its personal property, assets, and undertakings pursuant to a general security agreement dated December 17, 2014 (the “GSA”).

Event of Default & Registration of Security

As described in our letter dated May 2, 2022, the Term of the Loan expired on April 30, 2022. NCCI and the other Credit Parties failed to repay the full amount outstanding under the Loan on the expiry of the Term, contrary to section 3.4 of the Original Loan Agreement (the “**Payment Default**”). The Payment Default is continuing as at the date hereof. The Receiver has not waived the Payment Default.

Pursuant to section 12.1(a) of the Original Loan Agreement, an Event of Default occurs if the Borrower fails to observe or perform any term, condition, covenant, or undertaking involving the payment of money under the Loan Agreement or the other Loan Documents. Pursuant to section 12.2 of the Original Loan Agreement, a default referred to under section 12.1 shall not constitute an Event of Default unless, in the case of default in payment of money, it has continued for at least 10 days after the due date for payment.

As at the date hereof, the Payment Default, which constitutes a default in payment of money under section 12.1(a) of the Original Loan Agreement, has continued for at least 10 days after the due date for payment. As such, pursuant to section 12.2 of the Original Loan Agreement, the Payment Default constitutes an Event of Default under the Loan Agreement.

Pursuant to section 5.1(d) of the Original Loan Agreement, upon the occurrence of an Event of Default, which has not been remedied, the Lender shall be permitted to register in respect of all of the Credit Parties under the PPSA. We confirm that the Receiver, on behalf of the Agent and the Lender, has made a registration against NCCI pursuant to the PPSA.

Demand for Payment

In accordance with section 12.1 of the Original Loan Agreement, the Indebtedness is immediately due and payable as a result of the occurrence of the Event of Default described above. On behalf of the Receiver, the Agent and the Lender, we hereby demand payment from NCCI of \$53,995,059.27 in respect of the Indebtedness, together with interest thereon and all costs, including all legal, consultant and other agent fees and disbursements incurred by the Receiver, the Agent, and/or the Lender to the date of payment in accordance with the terms of the Loan Agreement. Pursuant to the Loan Agreement, interest accrues on the Indebtedness at the rate of 12% per annum. As at May 12, 2022, interest is accruing on the Indebtedness at the rate of \$17,682.04 per day.

We also enclose at this time a Notice of Intention to Enforce Security pursuant to the *Bankruptcy and Insolvency Act* (Canada) together with a consent thereto (the “**Consent**”). If NCCI consents

to the Receiver, on behalf of the Agent and the Lender, enforcing its rights and remedies without further delay, please date and execute one copy of the Consent and return same to the undersigned by e-mail forthwith.

In the event that NCCI fails to pay the sum indicated, the Receiver, on behalf of the Agent and the Lender, shall pursue all of its rights and remedies against NCCI.

Yours truly,

Thornton Grout Finnigan LLP

A handwritten signature in black ink, appearing to be 'G. B. Moffat', followed by the initials 'c/o'.

Grant B. Moffat

cc: Michael McTaggart, Christine Sinclair, Tyler Ray – PricewaterhouseCoopers Inc.

Schedule “A”

**Indebtedness of Northern Citadel Capital Inc.
to the Agent and the Lender as at May 12, 2022**

| Facility | Principal Balance | Accrued Interest¹ & Fees | Total | Per Diem on Principal |
|---------------------------------|------------------------------|--|-----------------|------------------------------|
| Non-Revolver Credit Facility | \$53,782,874.77 | \$212,184.49 | \$53,995,059.27 | \$17,682.04 |

¹ Interest accrues at the rate of 12% per annum.

**NOTICE OF INTENTION TO ENFORCE SECURITY
PURSUANT TO SECTION 244 OF THE
BANKRUPTCY AND INSOLVENCY ACT (CANADA)**

TO: NORTHERN CITADEL CAPITAL INC. (“NCCI”)

Take notice that:

1. Pursuant to a loan agreement dated as of December 17, 2014 (as amended from time to time, the “**Loan Agreement**”), Bridging Finance Inc., in its capacity as agent (in such capacity, the “**Agent**”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (collectively, the “**Lender**”), made available to NCCI and certain related entities a non-revolving term credit facility.
2. By orders of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated April 30, 2021, May 3, 2021, and May 14, 2021 (collectively, the “**Appointment Orders**”), PricewaterhouseCoopers Inc. was appointed as receiver and manager (in such capacity, the “**Receiver**”) of the Agent, the Lender, and certain related entities and investment funds (as defined in the Appointment Orders, the “**Respondents**”).
3. The Receiver, on behalf of the Agent and the Lender, each a secured creditor of NCCI (together, the “**Secured Creditors**”), intends to enforce the Secured Creditors’ security on NCCI’s property described below:
 - (a) all present and after-acquired personal property of NCCI; and
 - (b) all proceeds of the foregoing collateral.
4. The security that is to be enforced is in the form of a general security agreement dated as of December 17, 2014 (the “**Security**”).
5. As at May 12, 2022, the total amount of the indebtedness secured by the Security is \$53,995,059.27 (the “**Indebtedness**”), plus interest accruing thereafter and all costs incurred by or charged to the Agent or the Lender, including, without limitation, legal and consultant fees and disbursements. Interest accrues on the Indebtedness at the rate of 12% per annum. As at today’s date, interest is accruing on the Indebtedness in the amount of \$17,682.04 per day.
6. The Receiver, on behalf of the Agent and the Lender, will not have the right to enforce the Security until the expiry of the 10-day period after this notice is sent, unless NCCI consents to an earlier enforcement.

Dated at Toronto, Ontario, this 12th day of May, 2022.

PRICEWATERHOUSECOOPERS INC., solely in its capacity as court-appointed receiver and manager of the Agent, the Lender, and the other Respondents (each as defined herein), and not in its personal capacity, by Thornton Grout Finnigan LLP, its solicitors herein

A handwritten signature in black ink, appearing to read 'G. B. Moffat', with a small 'c/o' written below the signature.

Per:

Grant B. Moffat

CONSENT

TO: PRICEWATERHOUSECOOPERS INC., in its capacity as court-appointed receiver and manager of the Agent, the Lender, and the other Respondents (the “Receiver”)

FROM: NORTHERN CITADEL CAPITAL INC. (“NCCI”)

NCCI acknowledges receipt of a Notice of Intention to Enforce Security delivered by the Receiver, on behalf of the Agent and the Lender (together, the “**Secured Creditors**”) on May 12, 2022 (the “**Notice**”).

For consideration received, the receipt and sufficiency of which are hereby irrevocably acknowledged, NCCI hereby consents to the immediate enforcement by the Receiver of the Security (as defined in the Notice), and for the same consideration waives completely all rights to any delay by or any further notice from the Receiver with respect to the enforcement of the Security and the exercise of any other remedies of the Agent and the Lender against NCCI.

DATED at _____ this _____ day of May, 2022.

NORTHERN CITADEL CAPITAL INC.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

May 12, 2022

PRIVATE & CONFIDENTIAL

VIA EMAIL

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, ON
M5P 2N3

One8One Davenport Inc.
125 Hazelton Avenue
Toronto, ON
M5R 2E4

Attention: Sam Mizrahi

Dear Sir:

Re: Indebtedness of Northern Citadel Capital Inc., Mizrahi Inc., and 2495159 Ontario Inc. (collectively, the “Borrower”) to Bridging Finance Inc. (“BFI”) in its capacity as agent (in such capacity, the “Agent”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (collectively, the “Lender”)

We are the lawyers for PricewaterhouseCoopers Inc. in its capacity as court-appointed receiver and manager (in such capacity, the “**Receiver**”) of all of the property, assets, and undertakings of the Agent, the Lender, and certain related entities and investment funds (collectively, “**Bridging**”).

The Loan Agreement

We refer to the non-revolving term credit facility (the “**Loan**”) made available to the Borrower by the Agent, on behalf of the Lender, pursuant to the loan agreement dated December 14, 2014 (the “**Original Loan Agreement**”), as amended by a first amending agreement dated February 24, 2015, a second amending agreement dated March 11, 2015, a third amending agreement dated April 10, 2015, a fourth amending agreement dated November 27, 2015, a fifth amending agreement dated June 30, 2016, a sixth amending agreement dated November 30, 2016 (the “**November 2016 Amendment**”), a seventh amending agreement dated November 1, 2017, an eighth amending agreement dated May 2, 2018, and a ninth amending agreement dated December 31, 2020 (collectively, the “**Loan Agreement**”). All capitalized terms not expressly defined herein are defined in the Loan Agreement.

The Borrower and the other Credit Parties are indebted to the Lender under the Loan in the amount of \$53,995,059.27 as at the date hereof as set out at **Schedule “A”** hereto (the “**Indebtedness**”).

The Guarantee & Security

We also refer to the unlimited joint and several guarantee by One8One Davenport Inc. (“**One8One**”)¹ and 181 Davenport Retail Inc. (“**181 Retail**”)² of the “Obligations”³ of the Borrower under the Loan Agreement dated December 17, 2014, as amended from time to time (the “**Guarantee**”). The indebtedness and obligations of One8One pursuant to the Guarantee are secured by a general security agreement granted by the Borrower and One8One to the Agent, on behalf of the Lender, dated December 17, 2014 (the “**GSA**”).

Pursuant to section 4.1 of the Guarantee: (i) the Lender shall be entitled to make demand upon One8One at any time upon the occurrence of any Event of Default (as defined in the Loan Agreement) and upon such Event of Default the Lender may treat all Obligations as due and payable and may forthwith collect from One8One the total amount guaranteed thereunder whether or not such Obligations are yet due and payable at the time of demand for payment; and (ii) One8One shall make payment to the Lender of the total amount guaranteed thereunder forthwith after demand therefor is made and One8One shall pay all reasonable costs and expenses incurred by the Lender in enforcing the Guarantee.

Event of Default & Registration of Security

As described in our letter dated May 2, 2022, the Term of the Loan expired on April 30, 2022. The Borrower and the other Credit Parties failed to repay the full amount outstanding under the Loan on the expiry of the Term, contrary to section 3.4 of the Original Loan Agreement (the “**Payment Default**”). The Payment Default is continuing as at the date hereof. The Receiver has not waived the Payment Default.

¹ The former One8One Davenport Inc. (Ontario Corporation Number: 1912202) (“**191**”) amalgamated with Mizrahi Soaring Developments Inc. (Ontario Corporation Number: 1822736) (“**182**”) on January 1, 2015 to create One8One Davenport Inc. (Ontario Corporation Number: 1927751), which is defined and referred to herein as “One8One”. Each of 191 and 182 is a “Guarantor” under the Guarantee and a “Debtor” under the GSA. The Guarantee is binding on One8One as a successor to 191 and 182 pursuant to section 6.1 of the Guarantee. The GSA is binding on One8One as a successor to 191 and 182 pursuant to section 5.8 of the GSA.

² Pursuant to section 2 of the November 2016 Amendment, 181 Retail was added as a Guarantor of the Loan on a joint and several basis as though it were an original party to the Loan Agreement and the Existing Security (which is defined to include, among other things, the Guarantee dated December 17, 2014). Pursuant to section 4 of the November 2016 Amendment, 181 Retail acknowledged and agreed that it received a copy of the Loan Agreement and the Existing Security and agreed to be bound by same as though it were an original party thereto.

³ “Obligations” is defined in the Guarantee to mean all of the debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Borrower to the Lender or remaining unpaid by the Borrower to the Lender together with interest thereon as provided in the Loan Agreement.

Pursuant to section 12.1(a) of the Original Loan Agreement, an Event of Default occurs if the Borrower fails to observe or perform any term, condition, covenant, or undertaking involving the payment of money under the Loan Agreement or the other Loan Documents. Pursuant to section 12.2 of the Original Loan Agreement, a default referred to under section 12.1 shall not constitute an Event of Default unless, in the case of default in payment of money, it has continued for at least 10 days after the due date for payment.

As at the date hereof, the Payment Default, which constitutes a default in payment of money under section 12.1(a) of the Original Loan Agreement, has continued for at least 10 days after the due date for payment. As such, pursuant to section 12.2 of the Original Loan Agreement, the Payment Default constitutes an Event of Default under the Loan Agreement.

Pursuant to section 5.1(d) of the Original Loan Agreement, upon the occurrence of an Event of Default, which has not been remedied, the Lender shall be permitted to register in respect of all of the Credit Parties under the PPSA. We confirm that the Receiver, on behalf of the Agent and the Lender, has made a registration against One8One pursuant to the PPSA.

Demand for Payment

In accordance with section 4.1 of the Guarantee, the Indebtedness is immediately due and payable as a result of the occurrence of the Event of Default described above. On behalf of the Receiver, the Agent and the Lender, we hereby demand payment from One8One of \$53,995,059.27 in respect of the Indebtedness, together with interest thereon and all costs, including all legal, consultant and other agent fees and disbursements incurred by the Receiver, the Agent, and/or the Lender to the date of payment in accordance with the terms of the Loan Agreement. Pursuant to the Loan Agreement, interest accrues on the Indebtedness at the rate of 12% per annum. As at May 12, 2022, interest is accruing on the Indebtedness at the rate of \$17,682.04 per day.

We also enclose at this time a Notice of Intention to Enforce Security pursuant to the *Bankruptcy and Insolvency Act* (Canada) together with a consent thereto (the “**Consent**”). If One8One consents to the Receiver, on behalf of the Agent and the Lender, enforcing its rights and remedies without further delay, please date and execute one copy of the Consent and return same to the undersigned by e-mail forthwith.

In the event that One8One fails to pay the sum indicated, the Receiver, on behalf of the Agent and the Lender, shall pursue all of its rights and remedies against One8One.

Yours truly,

Thornton Grout Finnigan LLP

A handwritten signature in black ink, appearing to read 'G. B. Moffat', with a small square mark at the end.

Grant B. Moffat

cc: Michael McTaggart, Christine Sinclair, Tyler Ray – PricewaterhouseCoopers Inc.

Schedule “A”

**Indebtedness of Northern Citadel Capital Inc.
to the Agent and the Lender as at May 12, 2022**

| Facility | Principal Balance | Accrued Interest⁴ & Fees | Total | Per Diem on Principal |
|---------------------------------|------------------------------|--|-----------------|------------------------------|
| Non-Revolver Credit Facility | \$53,782,874.77 | \$212,184.49 | \$53,995,059.27 | \$17,682.04 |

⁴ Interest accrues at the rate of 12% per annum.

**NOTICE OF INTENTION TO ENFORCE SECURITY
PURSUANT TO SECTION 244 OF THE
BANKRUPTCY AND INSOLVENCY ACT (CANADA)**

TO: ONE8ONE DAVENPORT INC. (“One8One”)

Take notice that:

1. Pursuant to a loan agreement dated as of December 17, 2014 (as amended from time to time, the “**Loan Agreement**”), Bridging Finance Inc., in its capacity as agent (in such capacity, the “**Agent**”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (collectively, the “**Lender**”) made available to Northern Citadel Capital Inc. and certain related entities (collectively, the “**Borrower**”) a non-revolving term credit facility (the “**Loan**”).
2. One8One has guaranteed the indebtedness and obligations of the Borrower to the Agent and the Lender under the Loan.
3. By orders of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated April 30, 2021, May 3, 2021, and May 14, 2021 (collectively, the “**Appointment Orders**”), PricewaterhouseCoopers Inc. was appointed as receiver and manager (in such capacity, the “**Receiver**”) of the Agent, the Lender, and certain related entities and investment funds (as defined in the Appointment Orders, the “**Respondents**”).
4. The Receiver, on behalf of the Agent and the Lender, each a secured creditor of One8One (together, the “**Secured Creditors**”), intends to enforce the Secured Creditors’ security on One8One’s property described below:
 - (a) all present and after-acquired personal property of One8One; and
 - (b) all proceeds of the foregoing collateral.
5. The security that is to be enforced is in the form of a general security agreement dated as of December 17, 2014 (the “**Security**”).
6. As at May 12, 2022, the total amount of the indebtedness secured by the Security is \$53,995,059.27 (the “**Indebtedness**”), plus interest accruing thereafter and all costs incurred by or charged to the Agent or the Lender, including, without limitation, legal and consultant fees and disbursements. Interest accrues on the Indebtedness at the rate of 12% per annum. As at today’s date, interest is accruing on the Indebtedness in the amount of \$17,682.04 per day.

7. The Receiver, on behalf of the Agent and the Lender, will not have the right to enforce the Security until the expiry of the 10-day period after this notice is sent, unless One8One consents to an earlier enforcement.

Dated at Toronto, Ontario, this 12th day of May, 2022.

PRICEWATERHOUSECOOPERS INC., solely in its capacity as court-appointed receiver and manager of the Agent, the Lender, and the other Respondents (each as defined herein), and not in its personal capacity, by Thornton Grout Finnigan LLP, its solicitors herein



Per:

Grant B. Moffat

CONSENT

TO: PRICEWATERHOUSECOOPERS INC., in its capacity as court-appointed receiver and manager of the Agent, the Lender, and the other Respondents (the “Receiver”)

FROM: ONE8ONE DAVENPORT INC. (“One8One”)

One8One acknowledges receipt of a Notice of Intention to Enforce Security delivered by the Receiver, on behalf of the Agent and the Lender (together, the “**Secured Creditors**”) on May 12, 2022 (the “**Notice**”).

For consideration received, the receipt and sufficiency of which are hereby irrevocably acknowledged, One8One hereby consents to the immediate enforcement by the Receiver of the Security (as defined in the Notice), and for the same consideration waives completely all rights to any delay by or any further notice from the Receiver with respect to the enforcement of the Security and the exercise of any other remedies of the Agent and the Lender against One8One.

DATED at _____ this _____ day of May, 2022.

ONE8ONE DAVENPORT INC.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

May 12, 2022

PRIVATE & CONFIDENTIAL

VIA EMAIL

Mizrahi Development Group Inc.
189 Forest Hill Road
Toronto, ON
M5P 2N3

181 Davenport Retail Inc.
189 Forest Hill Road
Toronto, ON
M5P 2N3

Attention: Sam Mizrahi

Dear Sir:

Re: Indebtedness of Northern Citadel Capital Inc., Mizrahi Inc., and 2495159 Ontario Inc. (collectively, the “Borrower”) to Bridging Finance Inc. (“BFI”) in its capacity as agent (in such capacity, the “Agent”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (collectively, the “Lender”)

We are the lawyers for PricewaterhouseCoopers Inc. in its capacity as court-appointed receiver and manager (in such capacity, the “**Receiver**”) of all of the property, assets, and undertakings of the Agent, the Lender, and certain related entities and investment funds (collectively, “**Bridging**”).

The Loan Agreement

We refer to the non-revolving term credit facility (the “**Loan**”) made available to the Borrower by the Agent, on behalf of the Lender, pursuant to the loan agreement dated December 14, 2014 (the “**Original Loan Agreement**”), as amended by a first amending agreement dated February 24, 2015, a second amending agreement dated March 11, 2015, a third amending agreement dated April 10, 2015, a fourth amending agreement dated November 27, 2015, a fifth amending agreement dated June 30, 2016, a sixth amending agreement dated November 30, 2016 (the “**November 2016 Amendment**”), a seventh amending agreement dated November 1, 2017, an eighth amending agreement dated May 2, 2018, and a ninth amending agreement dated December 31, 2020 (collectively, the “**Loan Agreement**”). All capitalized terms not expressly defined herein are defined in the Loan Agreement.

The Borrower and the other Credit Parties are indebted to the Lender under the Loan in the amount of \$53,995,059.27 as at the date hereof as set out at **Schedule “A”** hereto (the “**Indebtedness**”).

The Guarantee & Security

We also refer to the unlimited joint and several guarantee by 181 Davenport Retail Inc. (“**181 Retail**”)¹ and One8One Davenport Inc. (“**One8One**”)² of the “Obligations”³ of the Borrower under the Loan Agreement dated December 17, 2014, as amended from time to time (the “**Guarantee**”). The indebtedness and obligations of 181 Retail pursuant to the Guarantee are secured by a general security agreement granted by 181 Retail to the Agent, on behalf of the Lender, dated May 2, 2018 (the “**GSA**”). In accordance with section 14(a)(ii) of the November 2016 Amendment, the Agent made a registration against 181 Retail pursuant to the PPSA.

Pursuant to section 4.1 of the Guarantee: (i) the Lender shall be entitled to make demand upon 181 Retail at any time upon the occurrence of any Event of Default (as defined in the Loan Agreement) and upon such Event of Default the Lender may treat all Obligations as due and payable and may forthwith collect from 181 Retail the total amount guaranteed thereunder whether or not such Obligations are yet due and payable at the time of demand for payment; and (ii) 181 Retail shall make payment to the Lender of the total amount guaranteed thereunder forthwith after demand therefor is made and 181 Retail shall pay all reasonable costs and expenses incurred by the Lender in enforcing the Guarantee.

Event of Default

As described in our letter dated May 2, 2022, the Term of the Loan expired on April 30, 2022. The Borrower and the other Credit Parties failed to repay the full amount outstanding under the Loan on the expiry of the Term, contrary to section 3.4 of the Original Loan Agreement (the “**Payment Default**”). The Payment Default is continuing as at the date hereof. The Receiver has not waived the Payment Default.

¹ Pursuant to section 2 of the November 2016 Amendment, 181 Retail was added as a Guarantor of the Loan on a joint and several basis as though it were an original party to the Loan Agreement and the Existing Security (which is defined to include, among other things, the Guarantee dated December 17, 2014). Pursuant to section 4 of the November 2016 Amendment, 181 Retail acknowledged and agreed that it received a copy of the Loan Agreement and the Existing Security and agreed to be bound by same as though it were an original party thereto.

² The former One8One Davenport Inc. (Ontario Corporation Number: 1912202) (“**191**”) amalgamated with Mizrahi Soaring Developments Inc. (Ontario Corporation Number: 1822736) (“**182**”) on January 1, 2015 to create One8One Davenport Inc. (Ontario Corporation Number: 1927751), which is defined and referred to herein as “One8One”. Each of 191 and 182 is a “Guarantor” under the Guarantee and a “Debtor” under the GSA. The Guarantee is binding on One8One as a successor to 191 and 182 pursuant to section 6.1 of the Guarantee. The GSA is binding on One8One as a successor to 191 and 182 pursuant to section 5.8 of the GSA.

³ “Obligations” is defined in the Guarantee to mean all of the debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Borrower to the Lender or remaining unpaid by the Borrower to the Lender together with interest thereon as provided in the Loan Agreement.

Pursuant to section 12.1(a) of the Original Loan Agreement, an Event of Default occurs if the Borrower fails to observe or perform any term, condition, covenant, or undertaking involving the payment of money under the Loan Agreement or the other Loan Documents. Pursuant to section 12.2 of the Original Loan Agreement, a default referred to under section 12.1 shall not constitute an Event of Default unless, in the case of default in payment of money, it has continued for at least 10 days after the due date for payment.

As at the date hereof, the Payment Default, which constitutes a default in payment of money under section 12.1(a) of the Original Loan Agreement, has continued for at least 10 days after the due date for payment. As such, pursuant to section 12.2 of the Original Loan Agreement, the Payment Default constitutes an Event of Default under the Loan Agreement.

Demand for Payment

In accordance with section 4.1 of the Guarantee, the Indebtedness is immediately due and payable as a result of the occurrence of the Event of Default described above. On behalf of the Receiver, the Agent and the Lender, we hereby demand payment from 181 Retail of \$53,995,059.27 in respect of the Indebtedness, together with interest thereon and all costs, including all legal, consultant and other agent fees and disbursements incurred by the Receiver, the Agent, and/or the Lender to the date of payment in accordance with the terms of the Loan Agreement. Pursuant to the Loan Agreement, interest accrues on the Indebtedness at the rate of 12% per annum. As at May 12, 2022, interest is accruing on the Indebtedness at the rate of \$17,682.04 per day.

We also enclose at this time a Notice of Intention to Enforce Security pursuant to the *Bankruptcy and Insolvency Act* (Canada) together with a consent thereto (the “**Consent**”). If 181 Retail consents to the Receiver, on behalf of the Agent and the Lender, enforcing its rights and remedies without further delay, please date and execute one copy of the Consent and return same to the undersigned by e-mail forthwith.

In the event that 181 Retail fails to pay the sum indicated, the Receiver, on behalf of the Agent and the Lender, shall pursue all of its rights and remedies against 181 Retail.

Yours truly,

Thornton Grout Finnigan LLP



Grant B. Moffat

cc: Michael McTaggart, Christine Sinclair, Tyler Ray – PricewaterhouseCoopers Inc.

Schedule “A”

**Indebtedness of Northern Citadel Capital Inc.
to the Agent and the Lender as at May 12, 2022**

| Facility | Principal Balance | Accrued Interest⁴ & Fees | Total | Per Diem on Principal |
|---------------------------------|------------------------------|--|-----------------|------------------------------|
| Non-Revolver Credit Facility | \$53,782,874.77 | \$212,184.49 | \$53,995,059.27 | \$17,682.04 |

⁴ Interest accrues at the rate of 12% per annum.

**NOTICE OF INTENTION TO ENFORCE SECURITY
PURSUANT TO SECTION 244 OF THE
BANKRUPTCY AND INSOLVENCY ACT (CANADA)**

TO: 181 DAVENPORT RETAIL INC. (“181 Retail”)

Take notice that:

1. Pursuant to a loan agreement dated as of December 17, 2014 (as amended from time to time, the “**Loan Agreement**”), Bridging Finance Inc., in its capacity as agent (in such capacity, the “**Agent**”) on behalf of Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP) and the related investment funds from time to time acting as lender (collectively, the “**Lender**”) made available to Northern Citadel Capital Inc. and certain related entities (collectively, the “**Borrower**”) a non-revolving term credit facility (the “**Loan**”).
2. 181 Retail has guaranteed the indebtedness and obligations of the Borrower to the Agent and the Lender under the Loan.
3. By orders of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated April 30, 2021, May 3, 2021, and May 14, 2021 (collectively, the “**Appointment Orders**”), PricewaterhouseCoopers Inc. was appointed as receiver and manager (in such capacity, the “**Receiver**”) of the Agent, the Lender, and certain related entities and investment funds (as defined in the Appointment Orders, the “**Respondents**”).
4. The Receiver, on behalf of the Agent and the Lender, each a secured creditor of 181 Retail (together, the “**Secured Creditors**”), intends to enforce the Secured Creditors’ security on 181 Retail’s property described below:
 - (a) all present and after-acquired personal property of 181 Retail; and
 - (b) all proceeds of the foregoing collateral.
5. The security that is to be enforced is in the form of a general security agreement dated as of May 2, 2018 (the “**Security**”).
6. As at May 12, 2022, the total amount of the indebtedness secured by the Security is \$53,995,059.27 (the “**Indebtedness**”), plus interest accruing thereafter and all costs incurred by or charged to the Agent or the Lender, including, without limitation, legal and consultant fees and disbursements. Interest accrues on the Indebtedness at the rate of 12% per annum. As at today’s date, interest is accruing on the Indebtedness in the amount of \$17,682.04 per day.

7. The Receiver, on behalf of the Agent and the Lender, will not have the right to enforce the Security until the expiry of the 10-day period after this notice is sent, unless 181 Retail consents to an earlier enforcement.

Dated at Toronto, Ontario, this 12th day of May, 2022.

PRICEWATERHOUSECOOPERS INC., solely in its capacity as court-appointed receiver and manager of the Agent, the Lender, and the other Respondents (each as defined herein), and not in its personal capacity, by Thornton Grout Finnigan LLP, its solicitors herein



Per:

Grant B. Moffat

CONSENT

TO: PRICEWATERHOUSECOOPERS INC., in its capacity as court-appointed receiver and manager of the Agent, the Lender, and the other Respondents (the “Receiver”)

FROM: 181 DAVENPORT RETAIL INC. (“181 Retail”)

181 Retail acknowledges receipt of a Notice of Intention to Enforce Security delivered by the Receiver, on behalf of the Agent and the Lender (together, the “**Secured Creditors**”) on May 12, 2022 (the “**Notice**”).

For consideration received, the receipt and sufficiency of which are hereby irrevocably acknowledged, 181 Retail hereby consents to the immediate enforcement by the Receiver of the Security (as defined in the Notice), and for the same consideration waives completely all rights to any delay by or any further notice from the Receiver with respect to the enforcement of the Security and the exercise of any other remedies of the Agent and the Lender against 181 Retail.

DATED at _____ this _____ day of May, 2022.

181 DAVENPORT RETAIL INC.

Per: _____
Name:
Title:

I have the authority to bind the corporation.

This is Exhibit “MM” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



A Commissioner for taking affidavits

ADAM DRIEDGER

Court File No. CV-22_____-00CL

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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and
in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

B E T W E E N:

PRICEWATERHOUSECOOPERS INC.

(solely in its capacity as court-appointed receiver and manager of
Bridging Finance Inc. and certain related entities and investment funds)

Applicant

- and –

**NORTHERN CITADEL CAPITAL INC., ONE8ONE DAVENPORT INC., and 181
DAVENPORT RETAIL INC.**

Respondents

**CONSENT
(Appointment of Receiver)**

Richter Inc. (“**Richter**”) hereby consents to act as the court-appointed receiver and manager of all of the assets, properties and undertaking of each of Northern Citadel Capital Inc., One8One Davenport Inc., and 181 Davenport Retail Inc. in accordance with an order substantially in the form requested by the Applicant, or as such order may be amended in a manner satisfactory to Richter.

Dated at Toronto this 5th day of August, 2022

RICHTER INC.

By:



Name: Adam Sherman
Title: Senior Vice President

This is Exhibit “NN” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely.*



A Commissioner for taking affidavits

ADAM DRIEDGER

A702

Message

From: Kevin Skells [KSkells@cocogroup.com]
Sent: 3/12/2015 6:28:33 PM
To: N Sharpe [NSharpe@bridgingfinance.ca]
Subject: RE: Return of investor funds

Hi Natasha,

Here's what we're going to do:

- 1) Invest \$101,137.72 into 8891303, the Yonge-Bloor venture. This will bring your investment up to 5%, or \$1,500,000.
- 2) Inject \$31,000 into Bridging Finance. This will then have your investment in this company at the 33% level to the Cococo's 66%.

Let me know if you have any questions.

Kevin

From: N Sharpe [mailto:NSharpe@bridgingfinance.ca]
Sent: March-12-15 9:29 AM
To: Kevin Skells
Subject: Re: Return of investor funds

Do whatever Jenny wants and then just put it in an email to me for your records. Thanks

Natasha Sharpe

CEO & Chief Investment Officer

Bridging Finance Inc.

77 King St W | Suite 2925 | Toronto | ON | M5K 1K7

T: (416) 909-0301

nsharpe@bridgingfinance.ca

From: Kevin Skells [mailto:KSkells@cocogroup.com]
Sent: Thursday, March 12, 2015 09:26 AM
To: N Sharpe
Subject: RE: Return of investor funds

Thanks Natasha,

I'll be moving the funds returned around today to bring your investment in 1 Bloor up to the 5%, and Bridging Finance to 33%, but will seek your approval for all transactions.

Kevin

From: N Sharpe [mailto:NSharpe@bridgingfinance.ca]
Sent: March-12-15 9:23 AM
To: Kevin Skells
Subject: Re: Return of investor funds

Approved

Natasha Sharpe

CEO & Chief Investment Officer

Bridging Finance Inc.

A702

A703

77 King St W | Suite 2925 | Toronto | ON | M5K 1K7
T: (416) 909-0301
nsharpe@bridgingfinance.ca

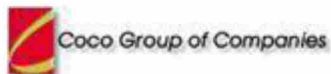
From: Kevin Skells [<mailto:KSkells@cocogroup.com>]
Sent: Thursday, March 12, 2015 08:57 AM
To: N Sharpe
Subject: Return of investor funds

Hi Natasha,

Please find attached a bank transfer request for you approval returning the Northern Citadel funds received yesterday to Cococo. And Sharpeco. In a 95-5% fashion. Amounts have been deducted to cover the Chaiton's invoices which we are paying today.

Let me know if you have any questions, otherwise I await your approval.

Kevin Skells, CPA, CA
Director, Finance



949 Wilson Avenue
Toronto, ON M3K 1G2
Phone: 1-416-633-9670
Mobile: 1-416-888-5909
Fax: 1-416-633-8801
Email: kskells@cocogroup.com

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This message has been scanned for viruses and dangerous content by [MailScanner](#), and is believed to be clean.

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This message has been scanned for viruses and dangerous content by [MailScanner](#), and is believed to be clean.

A703

A704

COCO GROUP OF COMPANIES

Date: 12-Mar-15

TO: BANK OF MONTREAL

ATTENTION: Joan Ogletree

FROM: Kevin Skells

RE: PLEASE TRANSFER

TODAY'S DATE

31,000.00 CDN FROM 8156379 Canada

2-1974-525 TO Bridging Finance

2-1952-588

N. Sharpe

A704

A705

COCO GROUP OF COMPANIES

Date: 11-Mar-15

TO: BANK OF MONTREAL

ATTENTION: Joan Ogletree

FROM: Kevin Skells

RE: PLEASE TRANSFER

TODAY'S DATE

101,137.72 CDN FROM 8156379 Canada

2-1974-525 TO 2333065 Ontario

2-1974-533

N. Sharpe

A705

A706

COCO GROUP OF COMPANIES

Date: 11-Mar-15

TO: BANK OF MONTREAL

ATTENTION: Joan Ogletree

FROM: Kevin Skells

RE: PLEASE TRANSFER

TODAY'S DATE

101,137.72 CDN FROM 2333065 Ontario

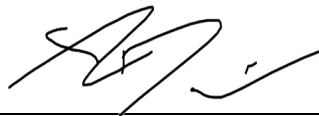
2-1974-533 TO 8891303 Canada

2-1974-525

N. Sharpe

A706

This is Exhibit “OO” referred to in the Affidavit of Tyler Ray sworn by Tyler Ray at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario this 8th day of August 2022 in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.

A handwritten signature in black ink, appearing to read 'AD', is positioned above a horizontal line.

A Commissioner for taking affidavits

ADAM DRIEDGER

A708

Message

From: N Sharpe [NSharpe@bridgingfinance.ca]
Sent: 12/6/2016 6:56:08 PM
To: Jenny Coco [jcoco@cocogroup.com]
Subject: RE: FW: 14 Dundonald

Okay I wasn't sure what you had in mind but wanted to have a viable plan developed. Will pursue.
Natasha

On Tue, Dec 6, 2016 at 6:54 PM -0500, "Jenny Coco" <JCoco@cocogroup.com> wrote:

Precisely!

Natasha, he only advised today of the inability to secure an extension...he is disorganized!
I am going to share a story from Sam Ciccolini upon my return...thankfully Sam wants our project to succeed, but we need a builder on site and good CFO!

Jenny Coco

Chief Executive Officer

**Coco Group**

949 Wilson Avenue
Toronto, ON M3K 1G2
Phone: 1-416-633-9670
Fax: 1-416-633-6765
Email: jcoco@cocogroup.com

From: N Sharpe [mailto:NSharpe@bridgingfinance.ca]
Sent: December 6, 2016 6:38 PM
To: Jenny Coco <JCoco@cocogroup.com>
Subject: Re: FW: 14 Dundonald

I have thought about that and asked Sam to procure term sheets for mortgage financing. He is unable to find someone who can close in six days so I think the only alternative is for bridging to bridge to a new mortgage provider.

I expect him to use a mortgage broker to find term sheets from known lenders. Hopefully he will have something to show you by your return.

Is this what you had in mind? I did not expect you to want me to reach out to Fiera and this was the only alternative i could come up with for the timing.

On Tue, Dec 6, 2016 at 6:31 PM -0500, "Jenny Coco" <JCoco@cocogroup.com> wrote:

Hi Natasha,

A708

A709

Alternative financing shall need to be secured as we are unable to obtain from Coco.

Jenny

Jenny Coco

Chief Executive Officer



Coco Group

949 Wilson Avenue

Toronto, ON M3K 1G2

Phone: 1-416-633-9670

Fax: 1-416-633-6765

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A709

IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended

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| <p>PRICEWATERHOUSECOOPERS INC. (solely in its capacity as court-appointed receiver and manager of Bridging Finance Inc. and certain related entities and investment funds)</p> <p>Applicant</p> | - and - | <p>NORTHERN CITADEL CAPITAL INC., ONE8ONE DAVENPORT INC., and 181 DAVENPORT RETAIL INC.</p> <p>Respondents</p> |
| | Court File No. CV-22-_____-00CL | |
| | <p>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceedings commenced at Toronto, Ontario</p> | |
| | AFFIDAVIT OF TYLER RAY | |
| | <p>Thornton Grout Finnigan LLP TD West Tower, Toronto-Dominion Centre 3200 –100 Wellington Street West Toronto, ON M5K 1K John L. Finnigan (LSO# 24040L) Email: jfinnigan@tgf.ca</p> <p>Grant B. Moffat (LSO# 32380L) Email: gmoffat@tgf.ca</p> <p>Adam Driedger (LSO# 77296F) Email: adriedger@tgf.ca</p> <p>Tel: 416-304-1616</p> <p>Lawyers for the Applicant</p> | |

TAB 3

Court File No. CV-22 _____-00CL

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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended,
and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3,
as amended*

| | | |
|------------------------|---|------------------------|
| THE HONOURABLE |) | ▶, THE ▶ |
| |) | |
| CHIEF JUSTICE MORAWETZ |) | DAY OF SEPTEMBER, 2022 |

B E T W E E N:

PRICEWATERHOUSECOOPERS INC.
(solely in its capacity as court-appointed receiver and manager of
Bridging Finance Inc. and certain related entities and investment funds)

Applicant

- and -


**NORTHERN CITADEL CAPITAL INC., ONE8ONE DAVENPORT INC., and 181
DAVENPORT RETAIL INC.**

Respondents

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by PricewaterhouseCoopers Inc., solely in its capacity as court-appointed receiver and manager of Bridging Finance Inc. and certain related entities and investment funds (in such capacity, the “**Applicant**”), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing Richter

Inc. (“**Richter**”) as receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of each of Northern Citadel Capital Inc. (“**Northern Citadel**”), One8One Davenport Inc. (“**One8One**”), and 181 Davenport Retail Inc. (“**181 Retail**” and together with Northern Citadel and One8One, the “**Respondents**”), was heard this day by videoconference.

ON READING the Affidavit of Tyler Ray sworn August 8, 2022 and the Exhibits thereto (the “**Ray Affidavit**”), and on hearing the submissions of counsel for the Applicant, counsel for the proposed Receiver, and such other parties listed on the counsel slip, no one else appearing although duly served as appears from the Affidavit of Service of Adam Driedger sworn , 2022, and on reading the consent of Richter to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record of the Applicant is hereby abridged and validated such that this Application is properly returnable today, further service thereof is hereby dispensed with, and substitute service thereof via electronic mail is authorized.

INTERPRETATION

2. **THIS COURT ORDERS** that all references herein to the “Respondents” shall mean the Respondents or any one or more of the Respondents.

APPOINTMENT

3. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Richter is hereby appointed Receiver, without security, of all of the present and future

assets, undertakings, and properties of each of the Respondents acquired for, or used in relation to the business carried on by the Respondents, and all proceeds thereof (collectively, the “**Property**”).

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories of the Property, accessing and taking control of the Respondents’ bank accounts and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Respondents (the “**Business**”), including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the Business, or disclaim or cease to perform any contracts of the Respondents or in respect of the Property;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, insurance brokers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the Business or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Respondents and to exercise all remedies of the Respondents in collecting such monies, including, without limitation, to enforce any security held by the Respondents and to apply for and collect any tax refund owing;
- (g) to settle, extend or compromise any indebtedness owing to the Respondents;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Respondents, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Respondents, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to undertake any investigations considered appropriate by the Receiver with respect to the Business or the Property, including, without limitation, with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;
 - (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may consider appropriate;
 - (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business as follows:
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver considers advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Respondents;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Respondents, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any Property owned or leased by the Respondents;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Respondents may have;
- (s) to examine under oath any person the Receiver reasonably considers to have knowledge of the Property or the affairs of the Respondents in accordance with Rule 34 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194 (the “**Rules of Civil Procedure**”), including, without limitation, any current or former directors or officers of the Respondents or any other entities that have (or at any time had) any liabilities or obligations in respect of the Loan (as defined in the Ray Affidavit);

- (t) if considered appropriate by the Receiver, to cause the Respondents to file an application for bankruptcy under the BIA and Richter shall be authorized and empowered, but not obligated, to act as trustee in bankruptcy; and
- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to the Respondents,

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. **THIS COURT ORDERS** that (i) the Respondents; (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel, financial advisors and shareholders, and all other persons acting on their instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Business, the Property, or the affairs of the Respondents, and any computer programs, computer tapes, computer disks, or

other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

8. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver’s intention to remove any fixtures from any leased premises at least

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

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY

10. **THIS COURT ORDERS** that no Proceeding against or in respect of the Respondents or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Respondents or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that all rights and remedies against the Respondents, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided

that nothing in this paragraph shall: (i) empower the Receiver or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on; (ii) exempt the Receiver or the Respondents from compliance with statutory or regulatory provisions relating to health, safety, or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

Respondents or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

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

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

Legislation”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

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

RECEIVER’S ACCOUNTS

19. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property and any funds held by the Receiver on account of the Receiver’s Borrowings (as defined below), as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or

otherwise, in favour of any Person (collectively, “**Encumbrances**”), but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

FUNDING OF THE RECEIVERSHIP

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable (the “**Receiver’s Borrowings**”), provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures and the fees and expenses of the Receiver and its counsel. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the Receiver’s Borrowings, together with interest and charges thereon, in priority to

all Encumbrances, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

24. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any Receiver's Borrowings pursuant to this Order.

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

SERVICE AND NOTICE

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

URL: <https://www.richter.ca/insolvencycase/northern-citadel-capital-inc--one8one-davenport-inc--and-181-davenport-retail-inc/>.

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

GENERAL

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

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

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

may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

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

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

34. **THIS COURT ORDERS** that the Receiver, its counsel and counsel for the Applicant may serve or distribute this Order, or any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the creditors or any other stakeholders or other interested parties of the Respondents and their advisors (if any). For greater certainty, any such distribution or

service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

SCHEDULE “A”

Receiver’s Certificate

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Richter Inc., the receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of each of Northern Citadel Capital Inc. (“**Northern Citadel**”), One8One Davenport Inc. (“**One8One**”), and 181 Davenport Retail Inc. (“**181 Retail**” and together with Northern Citadel and One8One, the “**Respondents**”), acquired for, or used in relation to a business carried on by the Respondents (collectively, the “**Property**”), appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the ► of September, 2022 (the “**Order**”) made in an application having Court File No. CV-22-_____-00CL, has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$►, being part of the total principal sum of \$500,000 which the Receiver is authorized to borrow under and pursuant to the Order.

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

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the

Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

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

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

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

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

DATED the _____ day of MONTH, 2022.

Richter Inc., solely in its capacity as Receiver of the Property of the Respondents, and not in its personal capacity

Per:

Name:

Title:

IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended

PricewaterhouseCoopers Inc. (solely in its capacity as receiver and manager of Bridging Finance Inc. and certain related entities and investment funds) - and - **Northern Citadel Capital Inc., One8One Davenport Inc., and 181 Davenport Retail Inc.**

Applicant Respondents

Court File No. CV-22-00CL

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

Proceedings commenced at Toronto, Ontario

**ORDER
(Appointing Receiver)**

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Lawyers for the Applicant

TAB 4

Revised: January 21, 2014
~~s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver~~

Court File No. ~~—~~ CV-22 —00CL

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

IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended,
 and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3,
 as amended

THE HONOURABLE) ~~WEEKDAY~~, THE #
 JUSTICE) ~~DAY OF MONTH, 20YR~~
)

CHIEF JUSTICE MORAWETZ) DAY OF SEPTEMBER, 2022
)

B E T W E E N:

PLAINTIFF[†]

~~Plaintiff~~

PRICEWATERHOUSECOOPERS INC.
(solely in its capacity as court-appointed receiver and manager of
Bridging Finance Inc. and certain related entities and investment funds)

Applicant

- and -

DEFENDANT

~~Defendant~~

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

NORTHERN CITADEL CAPITAL INC., ONE8ONE DAVENPORT INC., and 181 DAVENPORT RETAIL INC.

Respondents

ORDER
(~~appointing~~Appointing Receiver)

THIS ~~MOTION~~APPLICATION made by ~~the Plaintiff~~²PricewaterhouseCoopers Inc., solely in its capacity as court-appointed receiver and manager of Bridging Finance Inc. and certain related entities and investment funds (in such capacity, the “Applicant”), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “CJA”), appointing ~~[RECEIVER'S NAME]~~Richter Inc. (“Richter”) as receiver ~~[and manager]~~ (in such ~~capacities~~capacity, the “Receiver”), without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME] (the “Debtor”) acquired for, or used in relation to a business carried on by the Debtor~~each of Northern Citadel Capital Inc. (“Northern Citadel”), One8One Davenport Inc. (“One8One”), and 181 Davenport Retail Inc. (“181 Retail” and together with Northern Citadel and One8One, the “Respondents”), was heard this day ~~at 330 University Avenue, Toronto, Ontario~~by videoconference.

ON READING the ~~affidavit~~Affidavit of ~~[NAME]~~Tyler Ray sworn ~~[DATE]~~August 8, 2022 and the Exhibits thereto (the “Ray Affidavit”), and on hearing the submissions of counsel for ~~[NAMES]~~the Applicant, counsel for the proposed Receiver, and such other parties listed on

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

the counsel slip, no one else appearing ~~for~~ ~~[NAME]~~ although duly served as appears from the ~~affidavit~~ Affidavit of ~~service~~ Service of ~~[NAME]~~ Adam Driedger sworn ~~[DATE]~~ , 2022, and on reading the consent of ~~[RECEIVER'S NAME]~~ Richter to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Motion~~ Application and the ~~Motion~~ Application Record of the Applicant is hereby abridged and validated³ ~~so~~ such that this ~~motion~~ Application is properly returnable today ~~and hereby dispenses with~~, further service thereof is hereby dispensed with, and substitute service thereof via electronic mail is authorized.

INTERPRETATION

2. THIS COURT ORDERS that all references herein to the “Respondents” shall mean the Respondents or any one or more of the Respondents.

APPOINTMENT

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

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

RECEIVER'S POWERS

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

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

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

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the ~~business of the Debtor~~ Business or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the ~~Debtor~~ Respondents and to exercise all remedies of the ~~Debtor~~ Respondents in collecting such monies, including, without limitation, to enforce any security held by the ~~Debtor~~ Respondents and to apply for and collect any tax refund owing;
- (g) to settle, extend or compromise any indebtedness owing to the ~~Debtor~~ Respondents;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the ~~Debtor~~ Respondents, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the ~~Debtor~~ Respondents, the Property or the Receiver, and to settle or compromise any such proceedings.⁴ The authority hereby conveyed shall extend to such appeals or

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

applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

(j) to undertake any investigations considered appropriate by the Receiver with respect to the Business or the Property, including, without limitation, with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;

(k) ~~(j)~~ to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may ~~deem~~consider appropriate;

(l) ~~(k)~~ to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business; as follows:

- (i) without the approval of this Court in respect of any transaction not exceeding \$~~_____~~100,000, provided that the aggregate consideration for all such transactions does not exceed \$~~_____~~500,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

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

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

(m) ~~(+)~~ to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

(n) ~~(+)~~ to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver ~~deems~~considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver ~~deems~~considers advisable;

(o) ~~(+)~~ to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

(p) ~~(+)~~ to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the ~~Debtor~~Respondents;

(q) ~~(+)~~ to enter into agreements with any trustee in bankruptcy appointed in respect of the ~~Debtor~~Respondents, including, without limiting the generality of the

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

foregoing, the ability to enter into occupation agreements for any ~~property~~Property owned or leased by the ~~Debtor~~Respondents;

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

(s) to examine under oath any person the Receiver reasonably considers to have knowledge of the Property or the affairs of the Respondents in accordance with Rule 34 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194 (the “**Rules of Civil Procedure**”), including, without limitation, any current or former directors or officers of the Respondents or any other entities that have (or at any time had) any liabilities or obligations in respect of the Loan (as defined in the Ray Affidavit);

(t) if considered appropriate by the Receiver, to cause the Respondents to file an application for bankruptcy under the BIA and Richter shall be authorized and empowered, but not obligated, to act as trustee in bankruptcy; and

(u) ~~(+)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to the Respondents,

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

6. ~~5.~~ **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the ~~business~~Business, the Property, or the affairs of the ~~Debtor~~Respondents, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph ~~56~~ or in paragraph ~~67~~ of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

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

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE ~~DEBTOR~~RESPONDENTS OR THE PROPERTY

10. ~~9.~~ **THIS COURT ORDERS** that no Proceeding against or in respect of the ~~Debtor~~Respondents or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently underway against or in respect of the ~~Debtor~~Respondents or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. ~~10.~~ **THIS COURT ORDERS** that all rights and remedies against the ~~Debtor~~Respondents, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall: (i) empower the Receiver or the ~~Debtor~~Respondents to carry on any business which the ~~Debtor is~~Respondents are not lawfully entitled to carry on; (ii) exempt the Receiver or the ~~Debtor~~Respondents from compliance with statutory or regulatory provisions relating to health, safety, or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

RECEIVER TO HOLD FUNDS

14. ~~13.~~ **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order

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

EMPLOYEES

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

PIPEDA

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

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

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

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

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

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

FUNDING OF THE RECEIVERSHIP

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

priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

26. ~~25.~~ **THIS COURT ORDERS** that the ~~E-Service Protocol of the~~ Guide Concerning Commercial List E-Service (the **"Protocol"**) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at ~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>~~ <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the

Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.richter.ca/insolvencycase/northern-citadel-capital-inc--one8one-davenport-inc--and-181-davenport-retail-inc/>.

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

GENERAL

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

29. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the ~~Debtor~~[Respondents](#).

30. ~~29.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States

to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

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

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

34. THIS COURT ORDERS that the Receiver, its counsel and counsel for the Applicant may serve or distribute this Order, or any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the creditors or any other stakeholders or other interested parties of the Respondents and their advisors (if any). For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

SCHEDULE "A"Receiver's Certificate**RECEIVER CERTIFICATE**

CERTIFICATE

NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ Richter Inc., the receiver and manager (the "Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ of each of Northern Citadel Capital Inc. ("Northern Citadel"), One8One Davenport Inc. ("One8One"), and 181 Davenport Retail Inc. ("181 Retail" and together with Northern Citadel and One8One, the "Respondents"), acquired for, or used in relation to a business carried on by the ~~Debtor, including all proceeds thereof~~ Respondents (collectively, the "Property"), appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ____ day of ____ September, 20__2022 (the "Order") made in an ~~action~~ application having Court ~~file number~~ CL File No. CV-22-____-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$____, being part of the total principal sum of \$____ 500,000 which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the _____ day of _____ MONTH, ~~20~~ 2022.

[RECEIVER'S
NAME] Richter
Inc., solely in its
capacity as
Receiver of the

Property of the
Respondents, and
not in its personal
capacity

Per
:

Name:

Title:

| | | | |
|---|--|---|-----------------------------------|
| <u>PricewaterhouseCoopers Inc. (solely in its capacity as receiver and manager - and - of Bridging Finance Inc. and certain related entities and investment funds)</u> | | <u>Applicant</u> | <u>Respondents</u> |
| | | | <u>Court File No. CV-22 -00CL</u> |
| | | <u>ONTARIO</u> <u>SUPERIOR COURT OF JUSTICE</u> <u>(COMMERCIAL LIST)</u> <u>Proceedings commenced at Toronto, Ontario</u> | |
| | | <u>ORDER</u> <u>(Appointing Receiver)</u> | |
| | | <u>Thornton Grout Finnigan LLP</u> <u>TD West Tower, Toronto-Dominion Centre</u> <u>100 Wellington Street West, Suite 3200</u> <u>Toronto, ON M5K 1K7</u> <u>Fax: (416) 304-1313</u> <u>John L. Finnigan (LSO# 24040L)</u> <u>Email: jfinnigan@tgf.ca</u> <u>Grant B. Moffat (LSO# 32380L)</u> <u>Email: gmoffat@tgf.ca / Tel: (416) 304-0599</u> <u>Adam Driedger (LSO #77296F)</u> <u>Email: adriedger@tgf.ca / Tel: (416) 304-1152</u> <u>Lawyers for the Applicant</u> | |

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IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended

PRICEWATERHOUSECOOPERS INC.

(solely in its capacity as court-appointed receiver and manager of Bridging Finance Inc. and certain related entities and investment funds)

Applicant

- and - **NORTHERN CITADEL CAPITAL INC., ONE8ONE DAVENPORT INC., and 181 DAVENPORT RETAIL INC.**

Respondents

Court File No. CV-22-00685200-00CL

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

Proceedings commenced at Toronto, Ontario

APPLICATION RECORD

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