

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

and

CONACHER KINGSTON HOLDINGS INC. and 5004591 ONTARIO INC.

Respondent

THIRD AFFIDAVIT OF SIMION KRONENFELD

I, **SIMION KRONENFELD**, of the City of Toronto, MAKE OATH AND SAY:

1. I am a director of AJGL Group Inc. (“AJGL”).
2. In paragraph 13 of my first affidavit regarding the motion scheduled for December 4, 2024 I attached as Exhibit 1 an offer to purchase the five properties on Islington Avenue in Toronto (2849, 2851, 2853, 2855 and 2857 Islington Avenue, hereinafter the “Properties”), for a purchase price of \$3 million.
3. As set out in the offer to purchase attached hereto as **Exhibit 1** (with the cover email and letter), I have submitted an amended offer, which increases the purchase price from \$3 million to \$3.3 million.

SWORN BEFORE ME at
the City of Toronto this 3rd day of
December, 2024.



Commissioner for Taking Affidavits (or as
may be)



SIMION KRONENFELD

This is **Exhibit 1** to the affidavit
of Simion Kronenfeld, sworn
before me this 3rd day of
December 2024.



A handwritten signature in blue ink, appearing to read 'S. J. Denis', is written over a horizontal dotted line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Commissioner for taking Affidavits (or as may
be)

DALE DENIS

Dale Denis

From: Dale Denis
Sent: December 3, 2024 9:00 PM
To: beatrice.loschiavo@paliareroland.com; wgreenspoon@garfinkle.com; dullmann@blaney.com; jwajs@stikeman.com; dmurdoch@stikeman.com; navis@stikeman.com; imarks@robapp.com; mgasch@robapp.com; rtaylor@cmlaw.ca; jwadden@tyrllp.com; ssherrington@tyrllp.com; jlee@cl-law.ca; ronald@davidzonlaw.com; adhanani@tdbadvisory.ca; btannenbaum@tdbadvisory.ca; smosonyi@robapp.com; peter@himprolaw.com; rsparano@himprolaw.com; jmorley@LN.law; paul@starkmanlawyers.com; calvin@starkmanlawyers.com; asamat@blaney.com; jkulathungam@teplitskyllp.com; arjun.anand@infinitydevelopment.ca
Cc: Jeff.Larry@paliareroland.com; Douglas.Montgomery@paliareroland.com; ryan.shah@paliareroland.com; Paul Rooney
Subject: CAMERON STEPHENS v. CONACHER KINGSTON et al. - CV-23-00701672-00CL - Revised Offer - Price increased to \$3.3 million
Attachments: Letter to Receiver with Agreement -revised (signed).pdf; Purchase Agreement for Islington lands -revised (Dec 2024 - signed by purchaser).pdf

Counsel,

Please see email below and the attached amended Purchase Agreement, now with an increased purchase price of \$3.3 million.

Regards

Dale Denis

Denis Litigation

Direct: (416) 479-3417

Email: dale@dilitigation.com

From: rooney@paulfrooneyprofcorp.com <rooney@paulfrooneyprofcorp.com>

Sent: December 3, 2024 8:47 PM

To: adhanani@tdbadvisory.ca

Cc: 'Avrom Brown' <abrown@GARFINKLE.com>; steve.keyzer@colliers.com

Subject: RE: Potential Sale by Receiver of lands on Islington Avenue

Gentlemen,

Further to my earlier correspondence of today, please see attached my additional correspondence, with attached revised Purchase Agreement, in relation to the above topic.

Yours very truly,

Paul F. Rooney

Paul F. Rooney Professional Corporation
Barrister & Solicitor,

121 King Street West, Suite 510
Toronto, ON M5H 3T9

Direct Line: 647-981-7838

Email: rooney@paulfrooneyprofcorp.com

This message is solicitor-client privileged and contains confidential information intended only for the person(s) named above. Any other distribution, copying or disclosure is strictly prohibited. If you have received this message in error, please notify us immediately by telephone and delete the message without making a copy.

From: rooney@paulfrooneyprofcorp.com <rooney@paulfrooneyprofcorp.com>

Sent: December 3, 2024 1:07 PM

To: adhanani@tdbadvisory.ca

Cc: 'Avrom Brown' <abrown@GARFINKLE.com>; steve.keyzer@colliers.com

Subject: Potential Sale by Receiver of lands on Islington Avenue

Gentlemen,

Please see attached my correspondence of today, with attached Purchase Agreement, deposit, and proof of available funds to close, in relation to the above topic.

Yours very truly,

Paul F. Rooney

Paul F. Rooney Professional Corporation
Barrister & Solicitor,
121 King Street West, Suite 510
Toronto, ON M5H 3T9

Direct Line: 647-981-7838

Email: rooney@paulfrooneyprofcorp.com

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Paul F. Rooney
Professional Corporation
Barrister & Solicitor

121 King Street West, Suite 510
Toronto, Ontario
M5H 3T9

Telephone: (647) 981-7838
Email: rooney@paulfrooneyprofcorp.com

BY EMAIL
December 3, 2024

Our File No. 19507

TDB Restructuring Limited,
11 King Street West, Suite 700
Toronto, Ontario M5H 4C7

Attention: Arif Dhanani adhanani@tdbadvisory.ca

AND TO
Garfinkle Biderman LLP
801-1 Adelaide Street East
Toronto, ON M5C 2V9
Attention: Avrom W. Brown abrown@garfinkle.com

AND TO

Colliers Macaulay Nicolls Inc.
181 Bay Street, Suite 1400
Toronto, ON M5J 2V1
Attention: Steve Keyzer steve.keyzer@colliers.com

Re: Re: Receivership of properties located at 2857 Islington Avenue, Toronto (the “Islington Properties”) and 311 Conacher Drive, Kingston (the “Kingston Property” and with the Toronto Property, the “Properties”)

This letter is further to my letter to you of earlier today on this topic.

My client is hereby submitting to the Receiver a revised offer to purchase the Islington Properties. The only revision is as to the price to be paid, which has been increased to \$3,300,000, and the deposit has correspondingly been increased to the amount of \$330,000 as required in your standard form of agreement. The additional \$30,000 of deposit will be provided within 24 hours of acceptance of the Agreement by the Receiver, as described in your standard agreement terms. Mr. Brown already has my client's bank draft for \$300,000 payable to his firm in trust. There is no due diligence condition, nor other conditions, save for being conditional on the obtaining of the Approval and Vesting Order in favour of this purchaser. This revised offer (signed and initialed by the purchaser) is open for acceptance by the Receiver until such date as the Court determines whether or not it should be accepted (and if

accepted, then until the date the Receiver obtains court approval for the Agreement). It is not necessary that the purchaser have access to the Confidential Data Room, and so there is also no need for a Confidentiality Agreement regarding the data in the Confidential Data Room. However if for some reason the Receiver shows a need for the Confidentiality Agreement, the purchaser is willing to provide a confidentiality agreement that is appropriate to this context.

The enclosures in my prior letter today continue to apply in relation to the revised offer and Agreement.

The existence of this revised offer and Agreement should be considered by the Receiver, and also made known to the Court in relation to the December 4 Motion. If the Receiver wishes additional information in respect of this revised Agreement, please let me know. If this revised offer and Agreement is not going to be recommended to the Court by you on December 4, my client will require additional time to prepare to respond to the Motion. Please advise me as to the forgoing as soon as possible.

Yours very truly,

Paul F. Rooney
Professional Corporation

per



Paul F. Rooney
PFR:md

AGREEMENT OF PURCHASE AND SALE

This AGREEMENT made as of the 4th day of December 2024.

BETWEEN:

TDB RESTRUCTURING LIMITED (the "Receiver")

in its capacity as Court-Appointed Receiver over the lands and premises set out on Schedule "A" attached hereto and not in its personal or corporate capacity

(the "Vendor")

and

1001079582 ONTARIO INC., a corporation formed pursuant to the laws of Ontario

(the "Purchaser")

RECITALS:

- A. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated December 6, 2023, (the "Appointment Order") RSM Canada Limited was appointed as Receiver over the lands legally described in Schedule "A" attached hereto, effective December 22, 2023;
- B. Pursuant to the Substitution Order of the Ontario Court of Justice (Commercial List) dated March 1, 2024, (the "Substitution Order") the Receiver's name was substituted in the place of the name of RSM Canada Limited;
- C. The Vendor desires to sell and the Purchaser desires to purchase the Purchased Assets, as more particularly set out herein, subject to the terms and conditions hereof.

NOW THEREFORE in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged) the Parties covenant and agree as follows:

SECTION 1 - INTERPRETATION

1.1. Definitions

In this Agreement, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

- (a) **"Acceptance Date"** means the date that this Agreement is executed and delivered by the Parties;
- (b) **"Agent"** shall mean Colliers Macaulay Nicolls Inc.;
- (c) **"Agreement"** means this Agreement of Purchase and Sale, including the Schedules to this Agreement, as it or they may be amended or supplemented from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular Section or other portion of this Agreement;
- (d) **"Applicable Laws"** means, with respect to the Purchased Assets or to any Person, property, transaction or event, all laws, by-laws, rules, regulations, orders, judgments, decrees, decisions or other requirements having the force of law relating to or applicable to such Person, property, transaction or event;
- (e) **"Assumed Liabilities"** has the meaning ascribed to it in Section 2.10.
- (f) **"Business Day"** means a day on which banks and the Land Registry Office for the City of Toronto are open for business but does not include a Saturday, Sunday, or statutory holiday in the Province of Ontario;
- (g) Intentionally deleted.
- (h) **"Claim"** means any claim, demand, action, cause of action, damage, loss, cost, liability or expense (including legal fees on a substantial indemnity basis) and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing;
- (i) **"Closing"** means the successful completion of the Transaction;
- (j) **"Closing Date"** means that date that is six (6) business days immediately following the date upon which the Approval and Vesting Order is granted.
- (k) Intentionally Deleted
- (l) **"Court"** means the Court defined in the first recital of this Agreement;
- (m) Intentionally deleted.
 - (n) **"Data Room"** means the electronic data room established by or on behalf of the Vendor containing documents related to the Purchased Assets for review by the Purchaser;

(o) Intenti
onally
deleted.

- (p) Intentionally deleted.
- (q) "**Debtor or Debtors**" means all or any one of Kings Townhomes Limited (formerly Conacher Kingston Holdings Inc.) and 5004591 Ontario Inc.;
- (r) "**Deposit**" has the meaning ascribed to it in Section 2.5;
- (s) "**Encumbrance**" means any mortgage, charge, pledge, hypothecation, security interest, trust, deemed trust (statutory or otherwise) assignment, lien (statutory or otherwise), Claim, title retention agreement or arrangement, restrictive covenant, rights of way, easements, encroachments, reserves, or other encumbrance of any nature or any other arrangement or condition which, in substance, secures payment or performance of an obligation;
- (t) "**Environmental Condition**" has the meaning ascribed to it in Section 2.2(a).
- (u) "**Environmental Laws**" means all Applicable Laws concerning pollution or protection of the natural environment or otherwise relating to the environment or health or safety matters, including Applicable Laws pertaining to (i) reporting, licensing, permitting, investigating and remediating the presence of Hazardous Materials, and (ii) the storage, generation, use, handling, manufacture, processing, transportation, treatment, release and disposal of Hazardous Materials including without limiting the generality of the foregoing the following any written policies and guidelines and directives, administrative rulings or interpretations, that are in effect and applicable to the Vendor or the Property on the Closing Date, as well as the common law and any judicial or administrative order, consent decree or judgment that is in effect and applicable to the Vendor or the Property on the Closing Date, that relates to pollution or the protection of the environment, including, without limitation, the *Atomic Energy Control Act* (Canada), the *Canadian Environmental Protection Act* (Canada), the *Pest Control Products Act* (Canada), the *Transportation of Dangerous Goods Act* (Canada), the *Environmental Protection Act* (Ontario), the *Environmental Assessment Act* (Ontario), the *Ontario Water Resources Act* (Ontario) and the *Occupational Health & Safety Act* (Ontario), and the regulations and guidelines promulgated pursuant thereto or issued by any Government Authority in respect thereof, and equivalent or similar local and provincial ordinances and statutory programs and the regulations and guidelines promulgated pursuant thereto.
- (v) "**Ereg**" has the meaning ascribed to it in Section 5.7;
- (w) "**ETA**" means the *Excise Tax Act* (Canada), as it may be amended from time to time;

- (x) **"Excluded Assets"** means the assets, if any, listed in Schedule "C";
- (y) **"Final Order"** means, in respect of any order, such order after i) the expiry of applicable appeal periods; or (ii) in the event of an appeal or application for leave to appeal or to stay, vary, supersede, set aside or vacate such order, final determination of such appeal or application by the applicable court or appeal tribunal;
- (z) **"Governmental Authority"** means any person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal government having or claiming to have jurisdiction over part or all of the Purchased Assets, the Transaction or one or both of the Parties and shall include a board, commission, courts, bureau, agency or any quasi-governmental or private body exercising any regulatory authority including an association of insurance underwriters;
- (aa) **"Hazardous Materials"** means any contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Governmental Authority and any "contaminants", "dangerous substances", "hazardous materials", "hazardous substances", "hazardous wastes", "industrial wastes", "liquid wastes", "pollutants" and "toxic substances", all as defined in, referred to or contemplated in federal, provincial and/or municipal legislation, regulations, orders and/or ordinances relating to environmental, health or safety matters;
- (bb) **"HST"** means all goods and services taxes and harmonized sales tax payable under the ETA;
- (cc) **"Land Transfer Tax"** means all the taxes payable under the *Land Transfer Tax Act* (Ontario) and any other applicable provincial or municipal land transfer tax legislation, including all registration fees, license fees, and other like charges payable upon a transfer of real property, together with interest, penalties and additions thereto;
- (dd) **"Leases"** means any leases with any tenants relating to the Property;
- (ee) Intentionally deleted.
- (ff) **"Liabilities"** means all costs, expenses, charges, debts, liabilities, claims, demands and obligations, whether primary or secondary, direct or indirect, fixed, contingent, absolute or otherwise, liquidated or unliquidated under or in respect of any contract, agreement, arrangement, lease, commitment or undertaking, Applicable Law and Taxes.

- (gg) "**Parties**" means the Vendor, the Purchaser and any other Person who may become a party to this Agreement. "**Party**" means any one of the foregoing;
- (hh) "**Permits**" means all permits, licenses and applications that may have been issued or applied for in the name of the Debtor and/or the Vendor in connection with the servicing and/or development of the Property;
- (ii) "**Permitted Encumbrances**" means those Encumbrances listed in Schedule "B" attached hereto;
- (jj) "**Person**" means an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;
- (kk) "**Plans**" means all plans and documentation in the possession or control of the Vendor relevant to the development of the Property including, without limitation, any project documents, engineering drawings, architectural plans and working drawings, landscaping plans, reports, project documents other documentation prepared to illustrate or define a particular aspect of the development of the Property, in each instance, to the extent forming part of the Data Room created by the Vendor in respect of the Transaction;
- (l) "**Property**" means the real property described in Schedule "A" attached hereto;
- (mm) "**Property Documents**" means the documents in the Data Room;
- (nn) "**Purchaser Closing Conditions**" has the meaning ascribed to it in Section 4.1;
- (oo) "**Purchase Price**" shall have the meaning ascribed to it in Section 2.4. For greater certainty, the Purchase Price shall be exclusive of Transfer Taxes and any other taxes payable as a result of or in connection with the Transaction;
- (pp) "**Purchaser's Solicitors**" means the law firm of Paul F. Rooney Professional Corporation;
- (qq) "**Purchased Assets**" means those assets being the lands which are the subject of this Agreement;
- (rr) "**Receiver**" has the meaning described thereto in the Recitals;

- (ss) **"Reports"** means collectively any written reports or documents received or obtained by the Receiver from any third party regarding any aspect of the Property;
- (tt) **"Rights"** has the meaning ascribed to it in Section 2.13;
- (uu) Intentionally deleted;
- (vv) Intentionally deleted.
- (ww) Intentionally deleted;
- (xx) Intentionally deleted;
- (yy) **"Transaction"** means the transaction of purchase and sale and assignment and assumption contemplated by this Agreement;
- (zz) **"Transfer Taxes"** means all HST, Land Transfer Tax, sales, excise, use, transfer, gross receipts, documentary, filing, recordation, value-added, stamp, stamp duty reserve, and all other similar taxes, duties or other like charges, however denominated together with interest, penalties and additional amounts imposed with respect thereto;
- (aaa) Intentionally deleted.
- (bbb) **"Vendor Closing Conditions"** has the meaning ascribed to it in Section 4.3;
- (ccc) **"Vendor's Solicitor"** means the law firm of Garfinkle Biderman LLP;
- (ddd) **"Approval and Vesting Order"** means the order of the Court approving the sale by the Receiver to the Purchaser of the Purchased Assets and vesting all rights, title and interest of the Purchased Assets in favour of the Purchaser free and clear of all Encumbrances (other than Permitted Encumbrances) (in a form to be agreed upon by the parties);
- (eee) **"Vesting Order Motion"** means a motion by the Receiver seeking the granting of the Approval and Vesting Order; and
- (fff) **"Work Orders"** means any work orders, deficiency notices, outstanding building permits, orders, or requirements to comply with any Applicable Laws or issued by any Governmental Authorities.

1.2. Interpretation Not Affected by Headings, etc.

The division of this Agreement into 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", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof

1.3. Extended Meanings

Words importing the singular include the plural and vice versa, words importing gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations, corporations and governmental authorities. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings.

1.4. Schedules

The following Schedules are incorporated in and form part of this Agreement;

- Schedule "A" Property
- Schedule "B" Permitted Encumbrances
- Schedule "C" Excluded Assets
- Schedule "D" Intentionally deleted

SECTION 2 - SALE AND PURCHASE AND ASSIGNMENT

2.1. Sale and Purchase of Purchased Assets

On the Closing Date, subject to the terms and conditions of this Agreement, the Vendor shall sell and the Purchaser shall purchase the Purchased Assets and the Purchaser shall assume the Assumed Liabilities, all in accordance with and pursuant to the terms hereof and the Approval and Vesting Order. The Purchaser acknowledges that it is not purchasing any other property or assets of the Debtor other than the Purchased Assets.

2.2. "As is, Where is"

The Purchaser acknowledges and agrees that:

- (a) the Vendor is selling and the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis subject to whatever defects, conditions, impediments, Hazardous Materials or deficiencies which may exist on the Closing Date, including, without limiting the generality of the foregoing, any latent or patent defects in the Purchased Assets. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets and that the Purchaser has conducted such inspections of the condition of and title to the Purchased Assets as it deems appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to any matter including, title, encumbrances, description, fitness for purpose or use, merchantability, condition, quantity or quality, latent defects, cost, size, value, state of repair, zoning,

permitted uses, permits, compliance with Applicable Laws of Government Authorities, threatened claims, litigation, the existence or non-existence of Hazardous Materials flowing onto or from the Property or any part thereof, or in the air, surface or ground water flowing through, onto or from the Property, or any part thereof, any non-compliance with Environmental Laws including any adverse matters contained in the Reports (the "Environmental Condition"), compliance with any or all Environmental Laws, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Vendor to sell or assign same save and except as expressly provided for in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply hereto and are hereby waived by the Purchaser. The descriptions of the Purchased Assets set out in this Agreement or in the Property Documents are for the purposes of identification only and no representation, warranty or condition has or will be given by the Vendor concerning the completeness or accuracy of such descriptions. The Purchaser further acknowledges that the Property Documents and all other written and oral information (including, without limitation, any analyses, financial information and projections, compilations, studies and the Plans) obtained by the Purchaser from the Vendor or the Agent with respect to the Purchased Assets or otherwise relating to the Transaction has been provided for the convenience of the Purchaser only and is not warranted to be accurate or complete. The Purchaser further acknowledges that the Vendor shall not be under any obligation to deliver the Purchased Assets to the Purchaser and that it shall be the Purchaser's responsibility to take possession of the Purchased Assets.

- (b) notwithstanding any statutory provisions to the contrary, the Purchaser has no right to submit requisitions on title or in regard to any outstanding Work Orders, and the Purchaser shall accept the title to the Property subject to the Permitted Encumbrances and the Environmental Condition.
- (c) the various parties who prepared the Property Documents may have restricted the use thereof to the Debtor only, in their respective retainers with the Debtor and any purported conveyance of any of the Property Documents by the Vendor to the Purchaser may be subject to such limitations.
- (d) Without limiting the generality of this Section 2.2, the Purchaser acknowledges and agrees that the parties have expressly agreed to exclude from this Agreement all express or implied representations and warranties with respect to the following matters:
 - (i) the compliance of the Property with Applicable Laws, by-laws or regulations including without limitation, municipal zoning by-laws and regulations;
 - (ii) any easements, rights of way, instruments, documents, agreements or other registered or unregistered interest in the Property which impacts the

- use, enjoyment, income or development opportunities connected with the Property;
- (iii) that the present use or any future use of the Purchased Assets intended by the Purchaser is or will be lawful or permitted;
 - (iv) the execution, good standing, validity, binding effect or enforceability of the Permitted Encumbrances;
 - (v) that the Vendor has any right, title or interest in any goodwill associated with the Purchased Assets, or the use of any name associated with the operation of the Purchased Assets;
 - (vi) the description, title, condition, value, state of repair and fitness for any purpose of the Purchased Assets; and
 - (vii) the compliance of the Property with Environmental Laws, Reports or the existence or non-existence of Hazardous Materials, environmental, soil or water contamination or pollution on or about the Property, or otherwise with respect to the environmental condition of the Property;
- (e) the Property Documents and any assets lists, information packages and other material concerning the Purchased Assets or the sale thereof provided by or on behalf of the Vendor and the Agent have been prepared solely for the convenience of the Purchaser and are not warranted or represented to be complete or accurate and are not part of this Agreement (unless specifically provided in such material) and the descriptions of the Purchased Assets provided to the Purchaser are for the purposes of identification only, no conditions, warranty or representation has been or will be given by the Vendor concerning the accuracy, completeness or any other matter concerning such descriptions;
- (f) the Vendor is entering into this Agreement solely in its capacity as Receiver of the Property pursuant to the Appointment Order and not in its personal or other capacity and the Vendor and its agents (including the Vendor's Solicitors), officers, directors and employees will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith;
- (g) save as to any valid objection to title made in respect of matters arising after the Acceptance Date, the Purchaser shall be conclusively deemed to have accepted the title to the Property and to have accepted the Property subject to the Permitted Encumbrances and the Environmental Condition and subject to all Applicable Laws, by-laws and regulations affecting its use. If any valid objection to title expressly permitted herein is made by the Purchaser prior to the Closing Date, which the Vendor is unwilling or unable to remove, remedy, or satisfy and which the Purchaser will not waive or is not satisfied by title insurance, then the Receiver may terminate this Agreement by notice to the Purchaser, whereupon, except as herein expressly set forth, the Deposit without interest accrued thereon shall be forthwith returned to the Purchaser in accordance with and subject to the

terms in Section 2.5 and 2.12 each of the Purchaser and the Receiver shall be released from all obligations under this Agreement;

- (h) the Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title except such of the foregoing as are in the possession or control of the Receiver;
- (i) the Purchaser acknowledges that, the Vendor has provided the Purchaser access to the Data Room and that the Purchaser has had sufficient opportunity to review, and has satisfied itself with respect to, the Property Documents. If for any reason the transaction is not completed, the Purchaser shall forthwith return the Property Documents, and delete any electronic copies of them in its possession or control. The Vendor makes no representation or warranty, express or implied, as to the accuracy or completeness of any information contained in any of the Property Documents; and

in entering into this Agreement, the Purchaser has relied and will rely entirely and solely upon its own inspections and investigations with respect to the Property and the Purchased Assets, including the physical condition and the Environmental Condition of the Purchased Assets including compliance with Applicable Laws and has relied solely upon its own judgement resulting from doing so and has not relied and will not rely on any information, written or oral, furnished by the Vendor or any other person or entities on behalf of or at the direction of the Vendor including the Agent, including with respect to value of the Purchased Assets, the development potential of the Property, adequacy, marketability, quantity, location, condition, quality, fitness or state of repair. The information in the Data Room and description of the Purchased Assets in any marketing material, listing information, and any like material delivered or made available by the Vendor and/or the Agent, the Vendor's agents or any other party on its behalf to the Purchaser or its representatives are believed to be correct, but if any misstatement, error, inaccuracy or omission (collectively the "Inaccuracies") is found in the them, the Purchaser shall not be entitled to any abatement, damages, reimbursement, costs or to termination of this Agreement as a result of them and the Purchaser releases the Vendor and its agents from any Claims the Purchaser had, has or may have as a result of such Inaccuracies.

2.3. Permitted Encumbrances

The Purchaser acknowledges that the Vendor is selling the Purchased Assets subject to the Assumed Liabilities and that the Vendor undertakes no obligation to discharge the Permitted Encumbrances on Closing or thereafter.

2.4. Purchase Price

The purchase price payable by the Purchaser to the Vendor for the Purchased Assets (the "Purchase Price") shall be an amount of ~~\$2,000,000.00~~, allocated as set out in paragraph 2.7.

\$3,300,000.00

SR

11
SC
\$ 330,000.00

2.5. Deposit

The Parties acknowledge and agree that the sum of ~~\$500,000.00~~, being ten (10%) percent of the Purchase Price (the "Deposit") will be delivered by the Purchaser to the Vendor's solicitor in trust within 24 hours of acceptance of an executed copy of the Agreement by the Purchaser and the Vendor. The Deposit shall be held in a non-interest bearing account of a Canadian chartered bank or trust company, in trust and to be disbursed in accordance with the following provisions:

- (a) if the purchase and sale of the Purchased Assets is completed on the Closing Date, then the Deposit shall be released from trust and applied towards payment of the Purchase Price;
- (b) if the purchase and sale of the Purchased Assets is not completed on the Closing Date for any reason other than the default of the Purchaser hereunder, then the Deposit shall, subject to any Claim by the Vendor for damages under Section 2.12(d) herein, be released from trust and paid to the Purchaser in full satisfaction of all Claims incurred by the Purchaser as a result of such non-completion; or
- (c) if the purchase and sale of the Purchased Assets is not completed on the Closing Date as a result of the Purchaser's default hereunder, then the Deposit shall be forfeited to the Vendor and released from trust as liquidated damages and not as a penalty and paid to the Vendor without prejudice to the Vendor's rights to reimbursement on account of any Claim of the Vendor against the Purchaser as a result of such failure and the Vendor shall be entitled to pursue all of its rights and remedies against the Purchaser, including the resale of the Purchased Assets. Upon any such resale, the Purchaser shall pay to the Vendor: (i) an amount equal to the amount, if any, by which the Purchase Price under the Agreement exceeds the net purchase price received by the Vendor pursuant to such resale (net of any commissions and costs and expenses incurred to effect the completion of such resale including legal costs on a full indemnity basis), and (ii) an amount equal to all costs and expenses incurred by the Vendor in respect of the Transaction or occasioned by the Purchaser's failure to comply with this Agreement.

2.6 Payment of Purchase Price

The Purchase Price shall be paid and satisfied as follows:

- (a) on Closing, the Deposit shall be released from trust and credited against the Purchase Price in accordance with Section 2.5(a); and
- (b) on Closing, the Purchase Price, subject to adjustments and minus the amount paid to the Vendor pursuant to Section 2.6(a), shall be paid to the Vendor or as the Vendor may direct in writing by way of wire transfer using the Large Value Transfer System.

2.7 Intentionally deleted.

2.8 Adjustment of Purchase Price

- (1) The Purchase Price shall be adjusted as of the Closing Date in accordance with the terms of this Agreement for any property taxes (including interest thereon, if applicable), utilities and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets in the context of a Court supervised sale (the "Adjustments"). The Receiver shall prepare a statement of adjustments and deliver same to the Purchaser for its approval by no later than 3 Business Days prior to the Closing Date. If the amount of any Adjustments required to be made pursuant to this Purchase Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be made by the Vendor as of the Closing Date based upon the best information available to the Vendor at such time. When such cost or amount is determined, the Vendor or Purchaser, as the case may be, shall, within 30 days of determination, provide a complete statement thereof to the other and within 30 days thereafter the Vendor and the Purchaser shall make a final adjustment as of the Closing Date for the item in question. In the absence of agreement by the Parties the final cost or amount of an item shall be determined by an accountant or such other financial professional appointed jointly by the Vendor and the Purchaser, with the cost of such accountant's or other financial professional's determination being shared equally between the Parties. All re-adjustments shall be requested in a detailed manner on or before the 60th day after the Closing Date, after which time neither party shall have any right to request re-adjustment.
- (2) Other than as provided for in this section 2.8, there shall be no Adjustments to the Purchase Price.

2.9 Excluded Liabilities

Other than the Assumed Liabilities, the Purchaser shall not assume and shall not be liable for any other Liabilities of the Vendor or the Debtor.

2.10 Assumed Liabilities

From and after Closing, the Purchaser shall assume and be liable for the Assumed Liabilities. The Assumed Liabilities shall consist only of the Liabilities incurred under or in respect of:

- (a) Permitted Encumbrances;
- (b) the use of the Purchased Assets from and after the Closing Date to the extent relating to periods from and after the Closing Date; and

- (c) the Environmental Condition, and any and all Liabilities for the remediation of the soil and groundwater in, on, over, under or flowing through, onto or from the Property or any part thereof.

(the foregoing being the "Assumed Liabilities").

2.11 Taxes

In addition to the Purchase Price, the Purchaser or the beneficial owner of the Property if different from the Purchaser shall pay all applicable Transfer Taxes exigible in connection with the purchase and sale of the Purchased Assets, including, without limitation, HST and Land Transfer Tax.

The Purchaser will be an HST registrant and a prescribed recipient under the ETA on or before the Closing Date and will provide its registration number to the Vendor on or before the Closing Date.

The Purchaser shall deliver, prior to Closing, a certificate in form prepared by the Vendor acting reasonably certifying that the Purchaser shall be liable for, shall self-assess and shall remit to the appropriate Government Authority all HST payable in respect of the Transaction. The Purchaser's certificate shall also include certification of the Purchaser's prescription and/or registration as the case may be, and the Purchaser's HST registration number together and the Purchaser shall indemnify and hold harmless the Vendor from and against any and all Claims, HST, penalties, costs and any interest that may become payable by or assessed against the Vendor for all Transfer Taxes arising out of, related to or connected in any way with the Property or this Transaction. If the Purchaser shall fail to deliver its certificate, then the Purchaser shall tender to the Vendor at Closing, in addition to the balance due on Closing, an amount equal to the HST that the Vendor shall be obligated to collect and remit in connection with the Transaction.

2.12 Inspections

The Vendor will permit the Purchaser, its consultants, agents and representatives to carry out, at the Purchaser's sole expense and risk, such investigations, soil tests, and environmental audits as the Purchaser, acting reasonably, may deem necessary with respect to the Property, subject to and conditional upon the following terms and conditions:

- (a) any invasive testing shall require the Vendor's written approval prior to such testing;
- (b) the Purchaser shall provide at least two Business Days' notice to the Vendor of any such tests and inspections and the Vendor will be entitled to have a representative present during all such tests and inspections;
- (c) all soil tests or environmental audits shall be coordinated with the Vendor;

- (d) any damage to the Property caused by such tests and inspections will be promptly repaired by the Purchaser and the Purchaser will indemnify and save the Vendor harmless from all Claims which the Vendor may suffer as a result of the said tests and inspections or any other breach of this Section by the Purchaser; and
- (e) prior to entering the Property to conduct the Purchaser's tests and investigations, the Purchaser shall deliver (or shall cause its representatives completing the Purchaser's investigations on its behalf to deliver) to the Vendor evidence of liability insurance coverage for at least \$2,000,000.

The Purchaser agrees that the Vendor shall be entitled to deduct from the Deposit the amount of any Claims which the Vendor may suffer as a result of a breach of this Section 2.12 by the Purchaser. To the extent that the Purchaser commissions any reports in connection with its tests and investigations of the Property, copies of all such reports shall be delivered to the Vendor at no cost to the Vendor within three (3) Business Days of issuance.

2.13 Non-Transferable and Non-Assignable Purchased Assets

To the extent that any of the Purchased Assets to be transferred to the Purchaser on the Closing, or any Claim, right or benefit arising under or resulting from such Purchased Assets (collectively, the "**Rights**") is not capable of being transferred without the approval, consent or waiver of any third Person, or if the transfer of a Right would constitute a breach of any obligation under, or a violation of, any Applicable Law unless the approval, consent or waiver of such third Person is obtained, then, except as expressly otherwise provided in this Agreement and without limiting the rights and remedies of the Purchaser contained elsewhere in this Agreement, this Agreement shall not constitute an agreement to transfer such Rights unless and until such approval, consent or waiver has been obtained. After Closing and for a period of sixty (60) days following Closing, the Vendor shall:

- (a) maintain its existence and hold the Rights in trust for the Purchaser;
- (b) comply with the terms and provisions of the Rights as agent for the Purchaser at the Purchaser's cost and for the Purchaser's benefit;
- (c) cooperate with the Purchaser in any reasonable and lawful arrangements designed to provide the benefits of such Rights to the Purchaser; and
- (d) enforce, at the reasonable request of the Purchaser and at the expense and for the account of the Purchaser, any rights of the Vendor arising from such Rights against any third Person, including the right to elect to terminate any such Rights in accordance with the terms of such Rights upon the written direction of the Purchaser.

In order that the full value of the Rights may be realized for the benefit of the Purchaser,

the Vendor shall, at the request and expense and under the direction of the Purchaser, in the name of the Vendor or otherwise as the Purchaser may specify, take all such action and do or cause to be done all such things as are, in the reasonable opinion of the Vendor, necessary or proper in order that the obligations of the Vendor under such Rights may be performed in such manner that the value of such Rights is preserved and ensures to the benefit of the Purchaser. To the extent that such approval, consent or waiver has not been obtained by the 60th day following the Closing, such Right shall be deemed to be an excluded Purchased Asset and the Vendor may terminate any agreement pertaining to such Right unless otherwise agreed to by the Parties. The Purchaser shall indemnify and hold the Vendor harmless from and against any Claim under or in respect of such Rights arising because of any action of the Vendor taken in accordance with this Section.

2.14 Intentionally deleted.

2.15 Approval and Vesting Order

- (a) The Receiver and the Purchaser acknowledge that:
 - i. this Agreement is subject to Court approval; and
 - ii. closing of the Transaction is subject to the issuance of the Approval and Vesting Order.
- (b) If this Agreement is accepted by both parties, the Receiver shall use its commercially reasonable efforts to promptly thereafter file and serve the Vesting Order Motion on notice to the necessary parties.
- (c) If the Receiver accepts this Agreement, the Purchaser shall provide all information if any, and take any such actions as may be reasonable requested by the Receiver to assist the Receiver in obtaining the Approval and Vesting Order and any other order of the Court reasonably necessary to consummate the Transaction.
- (d) From and after the Acceptance Date, the Receiver shall provide such prior notice as may be reasonable under the circumstances before filing any materials with the Court that relate, in whole or in part, to this Agreement, the Purchaser, or the Approval and Vesting Order and shall consult in good faith with the Purchaser regarding the content of such materials prior to any such filing (provided that the Receiver shall not be obligated to incorporate the comments of the Purchaser and do any such filings).

2.16 Closing Certificate

The parties hereto acknowledge and agree that the Receiver shall be entitled to file with

the Court a certificate, substantially in the form attached to the Approval and Vesting Order (the "**Closing Certificate**") upon receiving written confirmation from the Purchaser that all conditions to close under this Agreement have been satisfied or waived. The Receiver shall have no liability to the Purchaser or any other person as a result of filing the Closing Certificate.

2.17 Receiver's Capacity

The Purchaser acknowledges and agrees that in all matters pertaining to this Agreement, including in its execution, the Receiver has acted and is acting solely in its capacity as Receiver and manager of the Property pursuant to the Appointment Order and not in its personal, corporate or any other capacity and the Receiver and its agents, officers, directors, employees and representatives will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith.

SECTION 3 - REPRESENTATIONS AND WARRANTIES

3.1 Purchaser's Covenants

The Purchaser covenants and agrees that it will, effective on and after the Closing Date, assume and be fully responsible for:

- (a) all obligations which are to be observed or performed from and after completion of this Transaction under the Permitted Encumbrances; and
- (b) the Assumed Liabilities and any other obligations and liabilities assumed by the Purchaser as provided for by this Agreement.

3.2 Purchaser's Representations and Warranties

The Purchaser represents and warrants to the Vendor, which representation and warranties the Vendor is relying upon, that:

- (a) the Purchaser is and will be as of Closing, a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and is duly qualified to purchase and own the Purchased Assets;
- (b) the Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and to perform its obligations and the execution and delivery of this Agreement and the consummation of the Transaction has been duly authorized by all necessary corporate action on the part of the Purchaser;
- (c) no consent or approval of or registration, declaration or filing with any Government Authority is required for the execution or delivery of this Agreement by the Purchaser, the validity or enforceability of this Agreement against the Purchaser, or the performance by the Purchaser of

any of its obligations hereunder;

- (d) the Purchaser is not a party to, bound or affected by or subject to any indenture, agreement, instrument, charter or by-law provision, order, judgment or decree which would be violated, contravened or breached by the execution and delivery by it of this Agreement or the performance by it of any of the terms contained herein;
- (e) there is no suit, action, litigation, arbitration proceeding or governmental proceeding, including appeals and applications for review, in progress, pending or, to the best of the Purchaser's knowledge, threatened against or relating to the Purchaser or any judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator which, in any case, might adversely affect the ability of the Purchaser to enter into this Agreement or to consummate the Transaction and the Purchaser is not aware of any existing ground on which any action, suit or proceeding may be commenced with any reasonable likelihood of success;
- (f) this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party have been or will be, as of Closing, duly and validly executed and delivered by the Purchaser and constitute or will, as of Closing, constitute legal, valid and binding obligations of the Purchaser, as the case may be, enforceable in accordance with the terms hereof or thereof;
- (g) the Purchaser is not a non-Canadian person as defined in the *Investment Canada Act*;
- (h) The Purchaser has now and will have on the Closing Date the financial resources to complete this transaction in accordance with the terms of this Agreement; and
- (i) the Purchaser is registered or will be registered on Closing under Part IX of the ETA.

3.3 Record of Site Condition in the Environmental Registry

If at any time following Closing the Purchaser, in its sole discretion, elects to file a Record of Site Condition ("RSC") in respect of any Property, then the following clause will be deemed to have formed part of this Agreement as at the time of execution hereof, in respect only of the Property for which the RSC is filed:

"The Purchaser covenants and agrees that following the Closing, it shall file, at its sole cost and expense, a Record of Site Condition in the Environmental Registry as contemplated under s.168.4 of the Environmental Protection Act for the Property."

On Closing, the Purchaser shall deliver an indemnity in favour of the Vendor in which it

agrees to indemnify and save the Vendor harmless from any and all Claims incurred by the Vendor in the event the Purchaser fails to make such filings.

3.4 Receiver's Representations

The Receiver represents and warrants to the Purchaser as follows:

- (a) the Receiver has been duly appointed as the receiver of the Purchased Assets pursuant to the Appointment Order and has full right, power and authority, subject to obtaining the Approval and Vesting Order prior to Closing, to sell the Purchased Assets, in accordance with the terms and conditions of this Agreement and the Approval and Vesting Order; and
- (b) the Receiver is not a non-resident of Canada for purposes of Section 116 of the *Income Tax Act* (Canada).

3.5 Survival of Representations, Warranties and Covenants

The representations, warranties, agreements and covenants made by the Purchaser herein or in any other agreement, certificate or instrument delivered by the Purchaser to the Vendor pursuant to this Agreement shall survive the Closing, and notwithstanding the Closing, shall continue in full force and effect for the benefit of the Vendor, without limitation.

SECTION 4 - CONDITIONS

4.1 Purchaser Closing Conditions

The obligation of the Purchaser to complete the Transaction is subject to the following conditions precedent being fulfilled or performed at or prior to the Closing Date (the "**Purchaser Closing Conditions**"):

- (a) all representations and warranties of the Vendor contained in this Agreement shall be true as of the Closing Date in all material respects with the same effect as though made on and as of that date;
- (b) the Vendor shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at Closing all the documents contemplated in Section 5.3 or elsewhere in this Agreement;
- (c) intentionally deleted;
- (d) the Appointment Order and the Approval and Vesting Order shall be Final Orders and no order shall have been issued which restrains or prohibits the completion of the Transaction; and

The Purchaser Closing Conditions are for the exclusive benefit of the Purchaser. Any Purchaser Closing Condition may be waived by the Purchaser in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing.

4.2 Purchaser Closing Conditions Not Fulfilled

If any Purchaser Closing Condition has not been fulfilled at or prior to Closing, then the Purchaser in its sole discretion may, either:

- (a) terminate this Agreement by notice to the Vendor, in which event the Purchaser shall be released from its obligations under this Agreement and the Deposit shall be promptly returned to the Purchaser in accordance with and subject to the provisions of Section 2.5 hereof; or
- (b) waive compliance with any such Purchaser Closing Condition, without prejudice to its right of termination in the event of non-fulfillment of any other Purchaser Closing Condition.

4.3 Vendor Closing Conditions

The obligation of the Vendor to complete the Transaction is subject to the following conditions being fulfilled or performed at or prior to the Closing Date (the "**Vendor Closing Conditions**"):

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true as of the Closing Date in all material respects with the same effect as though made on and as of that date;
- (b) the Purchaser shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents contemplated in Section 5.2 or elsewhere in this Agreement;
- (c) there shall be no litigation or proceedings pending against the Vendor, in respect of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper; and
- (d) On the Closing Date, the Appointment Order and the Approval and Vesting Order shall be Final Orders and no order shall have been issued which restrains or prohibits the completion of the Transaction.

The foregoing conditions are for the exclusive benefit of the Vendor. Any condition may be waived by the Vendor in whole or in part. Any such waiver shall be binding on the Vendor only if made in writing. The Closing of the Transaction shall deem all conditions to be waived or satisfied.

4.4 Vendor Closing Conditions Not Fulfilled

If any Vendor Closing Condition shall not have been fulfilled at or prior to Closing, then the Vendor in its sole subjective discretion may, without limiting any rights or remedies available to the Vendor at law or in equity, either:

- (a) terminate this Agreement by notice to the Purchaser in which event the Vendor shall be released from all obligations under this Agreement and, unless the Vendor Closing Condition(s) that was not fulfilled was the Vendor Closing Condition contained in Section 4.3(c) or (d), the Deposit shall be retained by the Vendor in accordance with the provisions of Section 2.5 hereof; or
- (b) waive compliance with any such Vendor Closing Condition without prejudice to its right of termination in the event of non-fulfillment of any other Vendor Closing Condition.

4.5 Approval and Vesting Order

The obligations of the Vendor and the Purchaser hereunder are subject to the mutual condition that the Vesting Order shall have been made by the Court on a date to be determined by the Receiver approving this Agreement and the Transaction and vesting in the Purchaser all the right, title and interest of the Debtor in the Purchased Assets free and clear of all Encumbrances, other than the Permitted Encumbrances. The Parties hereto acknowledge that the foregoing condition has been inserted for the mutual benefit of the Parties and is incapable of waiver. In the event that said condition has not been fulfilled by the aforesaid date, the Transaction shall automatically be deemed to be null and void and of no further force and effect as of said date and provided that the Purchaser is not in default of its obligations hereunder, the Deposit shall be promptly returned to the Purchaser in accordance with and subject to the provisions of Section 2.5 hereof. The Parties further acknowledge that the Application to the Court for the Vesting Order will be made as soon as reasonably practical after the binding Agreement is entered into by the Parties.

SECTION 5 - CLOSING

5.1 Closing

The completion of the Transaction shall take place on the Closing Date as specified in this Agreement or as otherwise determined by mutual agreement of the Parties in writing.

The Closing Date shall be subject to the approval of the Vesting Order, and to any approvals required from the City of Toronto pursuant to Instrument AT4601555 and related restrictions having been received. If either of the approval of the Vesting Order or any approvals required from the City of Toronto pursuant to Instrument AT4601555 and related restrictions have not been received by the initial Closing Date, then the Closing Date shall be extended ("Extended Closing Date") for a further period of 60 days. In the event that the approvals have not been received by the Extended Closing Date, then the Purchaser shall have the right to terminate this Agreement in writing to the Vendor

or to the Vendor's Solicitor at his absolute and sole discretion and the Deposit shall be returned to the Purchaser in full without interest or deduction.

5.2. Purchaser's Deliveries on Closing

On or before Closing, the Purchaser shall execute or deliver as applicable, to the Vendor the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:

- (a) payment of the Purchase Price;
- (b) a certificate, dated as of the Closing Date, confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;
 - (c) an acknowledgement dated as of the Closing Date, that each of the Purchaser Closing Conditions have been fulfilled, performed or waived as of the Closing Date;
- (d) assignment of the Purchased Assets and assumption of the Assumed Liabilities with an indemnification by the Purchaser in favour of the Vendor for any Claims under the Assumed Liabilities;
- (e) the certificate and indemnity provided for under Section 2.11;
- (f) an undertaking to re-adjust any item on or omitted from the statement of adjustments subject to 60 day limitation period in Section 2.8;
- (g) an environmental release and indemnity indemnifying and holding the Vendor harmless from any and all damages, claims, actions, losses, costs, liabilities or expenses (collectively "Damages") suffered or incurred by the Vendor, directly or indirectly, as a result of or in connection with any of the following, and without restricting the generality of the foregoing, which include Damages incurred in addressing an administrative order by a Government Authority or in addressing a notice, investigation or other process which could reasonably be anticipated to result in such an order:
 - (i) the presence, release, or the threat of a release of any Hazardous Materials in, on or under the Property;
 - (ii) the presence of any Hazardous Materials in, on or under properties adjoining or proximate to the Property;
 - (iii) any other environmental matters relating to the Property;
 - (iv) the breach of any Environmental Laws applicable to the Property;
 - (v) the release or threatened release of any Hazardous Materials owned, managed, generated, disposed of, controlled or transported by or on behalf of the Purchaser;

- (vi) the Environmental Condition; or
- (vii) the Indemnity provided for in Schedule 3.3; and
- (h) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

5.3 Vendor's Deliveries on Closing

- (a) On or before the Closing, the Vendor shall execute and deliver to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:
 - (i) statement of adjustments;
 - (ii) an acknowledgement dated as of the Closing Date, that each of the Vendor Closing Conditions have been fulfilled, performed or waived as of the Closing Date;
 - (iii) an assignment of the Purchased Assets and assumption of the Assumed Liabilities with an indemnification by the Purchaser in favour of the Vendor for any Claims under the Assumed Liabilities;
 - (iv) assignment of all Leases;
 - (v) the Approval and Vesting Order; and
 - (vi) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.
- (b) Upon the completion of the deliveries pursuant to Section 5.2 and 5.3(a), the Vendor shall immediately file a certificate with the Court (the "**Receiver's Certificate**") that the Transaction has been completed and title to the Property shall vest in the Purchaser effective immediately upon the filing with the Court of the Receiver's Certificate and shall deliver to the Purchaser a copy of same.

5.4 Risk

The Purchased Assets shall be and remain at the risk of the Vendor until Closing. From and after Closing, the Purchased Assets shall be at the risk of the Purchaser. In the event that the Purchased Assets shall be damaged prior to Closing, then the Vendor shall advise the Purchaser in writing within twenty-four (24) hours of the Vendor learning of same. In the event that the Purchased Assets shall be materially damaged prior to Closing then the Vendor shall be entitled, in its sole and absolute discretion, to elect to terminate this Agreement by notice, in writing, to the Purchaser and in such event the Parties hereto shall be released from all obligations and liabilities hereunder. If the Vendor shall not elect to terminate this Agreement as set out above, then the Transaction shall be completed in accordance with the terms and conditions hereof and the Purchaser shall be entitled to all proceeds of insurance payable in respect thereof, if any.

5.5 Termination

If either the Vendor or the Purchaser validly terminates this Agreement pursuant to the provisions of Sections 4.2, 4.4, 4.5 or 5.4:

- (a) all the obligations of both the Vendor and Purchaser pursuant to this Agreement shall be at an end; and
- (b) the Purchaser shall have no right to specific performance or any other remedy against, or any right to recover on account of any Claim it may have from, the Vendor.

5.6 Breach by Purchaser

If all of the Purchaser Closing Conditions have been complied with or waived by the Purchaser and the Purchaser fails to comply with the terms of this Agreement, the Vendor may by notice to the Purchaser elect to treat this Agreement as having been repudiated by the Purchaser. In addition, the Purchaser shall pay to the Vendor, on demand, the deficiency, if any, arising upon such resale (after deducting the expenses of resale) together with interest and all other damages or charges occasioned by or resulting from the default by the Purchaser.

5.7 Electronic Registration

In the event that a system for electronic registration ("**Ereg**") is operative and mandatory in the applicable land registry office, the Purchaser agrees to cause all necessary procedures to be taken, as may be required by the Vendor or the Vendor's solicitors, to complete the Transaction using Ereg in accordance with the Law Society of Ontario's (the "**LSO**") guidelines. If Ereg is operative on the Closing Date, (i) the Purchaser agrees to use a lawyer authorized to use Ereg and who is in good standing with the LSO, (ii) the Purchaser's solicitors will enter into the Vendor's solicitors' standard form of escrow closing agreement or document registration agreement, which will establish the procedures for closing the Transaction provided same are in accordance with LSO guidelines, and (iii) if the Purchaser's solicitors are unwilling or unable to complete the Transaction using Ereg, then the Purchaser's solicitors must attend at the Vendor's solicitors' office or at another location designated by the Vendor's solicitors at such time on Closing as directed by the Vendor's solicitors to complete the Transaction using Ereg utilizing the Vendor's solicitors' computer facilities, in which event, the Purchaser shall pay to the Vendor's solicitors a reasonable fee therefor.

SECTION 6 - GENERAL

6.1. Further Assurances

Each of the Parties shall, from time to time after the Closing Date, at the request and expense of the other, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such documents and further assurances as may be reasonably necessary to give effect to this Agreement.

6.2. Notice

Any notice or other communication under this Agreement shall be in writing and may be

delivered personally or transmitted by electronic transmission, addressed
in the case of the Purchaser, as follows:

Attention: Simion Kronenfeld

Telephone No: 416-520-7111

Email: simion@ajglgroup.com

and in the case of the Vendor, as follows:

TDB Restructuring Limited, Court-Appointed
Receiver of 5004591 Ontario Inc.
11 King Street West
Suite 700, PO Box 27
Toronto, ON M5H 4C7

Attention: Arif Dhanani
Email: adhanani@tdbadvisory.ca

with a copy to:

Garfinkle Biderman LLP
801-1 Adelaide Street East
Toronto, ON M5C 2V9

Attention: Avrom W. Brown
Email: abrown@garfinkle.com

and a copy to:

Colliers Macaulay Nicolls Inc.
181 Bay Street, Suite 1400
Toronto, ON M5J 2V1

Attention: Steve Keyzer
Email: steve.keyzer@colliers.com

Any such notice or other communication, if given by personal delivery, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by electronic transmission before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on that Business Day, and if transmitted by electronic transmission after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

6.3. Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendor and the Purchaser or by their respective solicitors.

6.4. Currency

Except where otherwise indicated, all references herein to money amounts are in Canadian currency.

6.5. Benefit of Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns, provided that the Purchaser shall not assign the benefit of this Agreement without the prior written consent of the Vendor; provided the Purchaser may assign its rights and obligations under this Agreement to an "affiliate" of the Purchaser (as such term is defined in the *Business Corporations Act* (Ontario)), provided that the Purchaser remains liable, jointly, with such affiliate for all the obligations of the Purchaser hereunder. To the extent that any such assignment occurs, this Agreement and all provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

6.6. Amendments and Waiver

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Purchaser and the Vendor. The Vendor and the Purchaser may consent to any such amendment at any time prior to the Closing with the prior authorization of their respective boards of directors.

6.7. Entire Agreement

This Agreement and the attached Schedules constitute the entire agreement between the Parties with respect to the subject matter and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Parties. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed by the Party to be bound thereby. Subject to the Approval and Vesting Order being issued by the Court, this Agreement is intended to create binding obligations on the part of the Vendor as set

forth herein and on acceptance by the Purchaser, is intended to create binding obligations on the part of the Purchaser, as set out herein.

6.8. Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

6.9. Severability

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision's validity or enforceability in any other jurisdiction.

6.10. Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the Laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

6.11. Commission

The Vendor shall be responsible for any commissions to the Agent. Any other commissions payable to any other party shall be the responsibility of the Purchaser.

6.12. Certain Words

In this Agreement, the words "including" and "includes" means "including (or includes) without limitation", and "third party" means any Person who is not a Party.

6.13. Statutory References

All references to any statute is to that statute or regulation as now enacted or as may from time to time be amended, re-enacted or replaced and includes all regulations made thereunder, unless something in the subject matter or context is inconsistent therewith or unless expressly provided otherwise in this Agreement.

6.14. Actions to be Performed on a Business Day

Whenever this Agreement provides for or contemplates that a covenant or obligation is to be performed, or a condition is to be satisfied or waived on a day which is not a Business Day, such covenant or obligation shall be required to be performed, and such condition shall be required to be satisfied or waived on the next Business Day following

such day.

6.15. No Registrations

The Purchaser hereby covenants and agrees not to register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Agreement against title to the Property. Should the Purchaser be in default of its obligations under this Section, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Agreement, caution, certificate of pending litigation or other document providing evidence of this Agreement or any assignment of this Agreement from the title to the Property and the Purchaser shall be deemed to be in default of its obligations hereunder. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Property. The Purchaser acknowledges and agrees that until Closing, the Purchaser has no interest in the Property whatsoever, notwithstanding anything to the contrary herein.

6.16. Strict Construction

Each Party acknowledges that it and its legal counsel have reviewed and participated in settling the terms of this Agreement and the Parties agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applicable in the interpretation of this Agreement.

6.17. No Third Party Beneficiaries

This Agreement shall be binding upon and enure solely to the benefit of each of the Parties hereto and its permitted assigns and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement. Nothing in this Agreement shall be construed to create any rights or obligations except between the Parties, and no person or entity shall be regarded as a third party beneficiary of this Agreement. Each of the Parties agrees that all provisions of this Agreement, and all provisions of any and all documents and security delivered in connection herewith, shall not merge and except where otherwise expressly stipulated herein, survive the closing of the Transaction.

6.18. Planning Act

This Agreement is entered into subject to the express conditions that it is to be effective only if the provisions of Section 50 of the *Planning Act* (Ontario) and amendments, are complied with.

6.19. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or electronic mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

6.21 Expenses

Each Party shall be responsible for its own legal and other expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the Transaction and for the payment of any broker's commission, finder's fee or like payment payable by it in respect of the purchase and sale of the Purchased Assets pursuant to this Agreement.

(Remainder of this page intentionally left blank)

6.22 Announcements

Except as required by law including applicable regulatory and stock exchange requirements, all public announcements concerning the Transaction shall be jointly approved as to form, substance and timing by the Parties after consultation.

The Parties have executed this Agreement by their duly authorized officers.

**TDB RESTRUCTURING LIMITED in its
capacity as Court-Appointed Receiver and not in
its personal capacity**

Per: _____
Name: Arif Dhanani, CPA, CA, CIRP, LIT
Title: Managing Director

1001079582 ONTARIO INC.

PER _____
Name:
Title:

Schedule "A"

Property

PIN No. 10306-0064 (LT) - 2849 Islington Avenue

Part Lot 22 Concession 6 WYS Township of York as in NY735134; Toronto (N York), City of Toronto

PIN No. 10306-0035 (LT) - 2857 Islington Avenue

Part Lot 2 Plan 9059 North York as in 18379983; Toronto (N York), City of Toronto

PIN No. 10306-0034 (LT)- 2855 Islington Avenue

Part Lot 2 Plan 9059 North York as in 18379984; Toronto (N York), City of Toronto

PIN No. 10306-0033 (LT)- 2853 Islington Avenue

Part Lot 1 Plan 9059 North York as in 18221318; Toronto (N York), City of Toronto

PIN No. 10306-0032 (LT)- 2851 Islington Avenue

Part Lot 1 Plan 9059 North York as in TR92058; Toronto (N York), City of Toronto

Schedule "B"**Permitted Encumbrances**

"Permitted Encumbrances" means the following:

1. The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act*, R.S.O. 1990, and any amendments thereto or any successor legislation, except paragraph 11;
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown;
3. Any registered or unregistered easements or rights of way in favour of any governmental authority or public utility provided that none of the foregoing interfere in any material adverse respect with the current use of the Property;
4. Inchoate liens for taxes, assessments, public utility charges, governmental charges or levies not at the time due;
5. All agreements and easements, registered or otherwise, for utilities and services for hydro, water, heat, power, sewer, drainage, cable and telephone serving the Property, adjacent or neighbouring properties, provided none of the foregoing interfere in any material adverse respect with the current use of the Property;
6. Any encroachments, minor defects or irregularities indicated on any survey of the Property or which may be disclosed on an up-to-date survey of the Property provided that in either case same do not materially adversely impair the use, operation, or marketability of the Property;
7. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations, work orders, deficiency notices and any other noncompliance;
8. Any breaches of any Applicable Laws, including Work Orders;
9. Any subdivision agreements, site plan agreements, developments and any other agreements with the Municipality, Region, publicly regulated utilities or other governmental authorities having jurisdiction;
10. Minor title defects, if any, that do not in the aggregate materially affect the use of the Property for the purposes for which it is used on the date of acceptance of this Agreement;
11. The following specific instruments registered on title against the Property:

Permitted Encumbrances related to the Property
(unaffected by the Approval and Vesting Order)

Reg. Num.	Date	Instrument Type	Parties To
NY524794	November 21, 1967	Agreement	The Corporation of the Borough of North York
NY579166	July 20, 1970	By-law exempting Part Lot Control	
NY593705	May 12, 1971	Agreement	The Borough of North York
NY608306	December 29, 1971	Agreement	The Corporation of the Borough of North York
NY620929	July 28, 1972	Municipal By-law	
NY632269	January 29, 1973	Notice of Airport Zoning Regulations	Department of Transportation
TB379984	December 29, 1986	Statutory Declaration of Anthony Dilena	
TR57844	March 27, 2000	Notice	Her Majesty the Queen in Right of the Department of Transport Canada
AT4601553	June 19, 2017	Section 37 Agreement	City of Toronto
AT4601554	June 19, 2017	Rental Housing Agreement	City of Toronto
AT4601555	June 19, 2017	Restriction preventing any Transfer or Charge of the lands or any part thereof without the prior written consent of the Chief Planner, of the City of Toronto	
AT4867240	May 18, 2018	Site Plan Agreement	City of Toronto

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Schedule "C"

Excluded Assets