






TDB Restructuring Limited
Licensed Insolvency Trustee

11 King St. W., Suite 700 
Toronto, ON M5H 4C7

info@tdbadvisory.ca 

416-575-4440 

416-915-6228 

tdbadvisory.ca

IN THE MATTER OF THE INTERIM RECEIVERSHIP OF

THOMAS DYLAN SUITOR

SUPPLEMENT TO THE SECOND REPORT OF THE INTERIM RECEIVER

MAY 23, 2025

Contents

1.0	INTRODUCTION	1
2.0	BACKGROUND	1
2.1	Libro’s Opposition to the Sales Process Order	1
2.2	Valuation of the 207 Ross Property	1
2.3	Alleged Default	2
3.0	POSITION OF THE INTERIM RECEIVER.....	3

APPENDICES

Libro's Registered Mortgage.....	A
The Libro Affidavit.....	B
Service Manager Contribution Agreement and Amendment Thereto	C

CONFIDENTIAL APPENDICES

The 2022 Appraisal.....	1
The 2025 Valuation.....	2

1.0 INTRODUCTION

1. This report (the “**Supplemental Report**”) filed by the Interim Receiver is a supplement to the Second Report of the Interim Receiver dated May 16, 2025 (the “**Second Report**”). Any capitalized terms not defined herein have the meanings given to them in the Second Report.

2.0 BACKGROUND

2.1 Libro’s Opposition to the Sales Process Order

2. Following the delivery of the Second Report and the Interim Receiver’s factum, counsel for the Interim Receiver was advised that Libro Credit Union Ltd. (“**Libro**”), the holder of a first mortgage in the principal amount of approximately \$190,000 on the property municipally known as 207 Ross Street, St. Thomas, Ontario (the “**207 Ross Property**”), intends to oppose the proposed Sales Process Order. Specifically, Libro seeks to have the 207 Ross Property carved out from the Sales Process.
3. On May 22, 2025, Libro filed an affidavit setting out its opposition to the Interim Receiver’s proposed Sales Process (the “**Libro Affidavit**”). Libro does not set out any concerns with respect to the proposed Sales Process; rather, Libro has just expressed its intention to enforce its security by attorning the rents and selling the 207 Ross Property under a power of sale or by seeking the appointment of a separate receiver. A copy of the Libro Affidavit is attached hereto as **Appendix “B”**.

2.2 Valuation of the 207 Ross Property

4. The Interim Receiver has reviewed a 2022 appraisal of the 207 Ross Property, prepared by Metrix Southwest Inc. (the “**2022 Appraisal**”). A copy of the 2022 Appraisal is attached hereto as **Confidential Appendix “1”**.
5. In February 2025, an opinion of value was obtained from a local real estate broker with experience in the St. Thomas area, Jake Ringwald, regarding the 207 Ross

Property (the “**2025 Opinion**”). A copy of the 2025 Opinion is attached hereto as **Confidential Appendix “2”**.

6. Lastly, as set out in Confidential Appendix “1” to the Second Report, CBRE has provided an opinion of value with respect to the 207 Ross Property which is consistent with the 2025 Opinion.
7. The 207 Ross Property is subject only to Libro’s mortgage and registrations in favour of The Corporation of the City of St. Thomas (the “**City**”), whose rights thereunder were postponed in favour of Libro. The Interim Receiver's understanding based on its preliminary review is that the City’s registrations of charges totaling \$1,009,704 arise from a *forgivable* loan it made to the borrower. Copies of a Service Manager Contribution Agreement between the City and the borrower dated May 16, 2016, together with an Amendment thereto dated August 2, 2022, are attached hereto as **Appendix “C”**.

2.3 Alleged Default

8. As set out in Exhibit “I” to the Libro Affidavit, the borrower has made all scheduled monthly payments in accordance with the terms of the Libro mortgage since the mortgage was first advanced in October, 2021. As confirmed in paragraph 12 of the Libro Affidavit, “*the Loan is current*”.
9. Paragraph 11 of the Libro Affidavit states:

The default provision of the Promissory Note is reproduced below:

If I [the Borrower] default in any scheduled payment under this promissory note, Libro, at its option, may demand immediate payment of all unpaid amounts due hereunder, including without limitation all principal and interest.

10. Notwithstanding that the borrower has made all scheduled payments in respect of the Libro mortgage, Libro issued a demand for repayment of the mortgage loan on or around April 25, 2025.

3.0 POSITION OF THE INTERIM RECEIVER

11. Based on the valuations noted above, there appears to be substantial equity in the 207 Ross Property. Even after accounting for reasonable transaction costs and professional fees, the Interim Receiver is of the view that there is no reasonable scenario that could result in Libro's mortgage not being repaid in full, including all principal, interest, and reasonable enforcement costs, from the proceeds of sale.
12. Given the clear equity cushion and the singular nature of Libro's secured interest, the Interim Receiver is of the opinion that Libro will not be prejudiced by the inclusion of the 207 Ross Property in the proposed Sales Process; conversely, should Libro carve out its property and incur costs associated with bringing a separate proceeding to appoint a receiver or enforce on its security in another manner, the impact on the surplus funds that would otherwise be available to the unsecured creditors of Mr. Suitor's estate could be significant, to the detriment of all stakeholders aside from Libro.
13. Further, the proposed Sales Process will result in a more cost-effective and expedient transaction. It is also unclear whether a receivership application or power of sale brought by Libro would be opposed by stakeholders and/or approved by the Court. In any event, the commencement of both types of processes will take more time than the implementation of the proposed Sales Process by the Interim Receiver. Accordingly, the Interim Receiver respectfully recommends that the 207 Ross Property not be excluded from the scope of the requested Sales Process Order.
14. The Interim Receiver respectfully requests that the Court include Confidential Appendices 1 and 2 in the sealing order requested by the Interim Receiver in the Second Report, as the disclosure of the 207 Ross Property valuations at this time could impact the ultimate sale price of the property.

All of which is respectfully submitted to this Court as of this 23rd day of May 2025.

TDB RESTRUCTURING LIMITED, solely in its capacity as
Interim Receiver of Thomas Dylan Suitor and not in its personal or
corporate capacity

Per: 

Jeffrey Berger, CPA, CA, CIRP, LIT
Managing Director

TAB A

Properties

PIN 35220 - 0174 LT Interest/Estate Fee Simple
Description LOT 65 PLAN 86, PART OF LOT 46 PLAN 86 AS IN E401586 & E411464; CITY OF ST. THOMAS
Address 207 ROSS STREET
 ST. THOMAS

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name MCWHIRTER-HORVATH PROPERTIES INC.
Address for Service 31 Woodhaven Court
 St. Thomas, ON
 N5P 3Z2

I, Jason McWhirter, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Chargee(s)	Capacity	Share
------------	----------	-------

Name	LIBRO CREDIT UNION LIMITED
Address for Service	217 York Street, 4th Floor London, On N6A 5P9

Provisions

Principal \$ 330,000.00 Currency CDN
Calculation Period
Balance Due Date on demand
Interest Rate Libro Credit Union Limited Prime Rate plus 5%
Payments
Interest Adjustment Date
Payment Date
First Payment Date
Last Payment Date
Standard Charge Terms 201417
Insurance Amount full insurable value
Guarantor

Signed By

Diane Marie Spinney	750 Talbot St., Suite 211 St. Thomas N5P 1E2	acting for Chargor(s)	Signed	2016 12 02
Tel 519-633-8838				
Fax 519-633-9361				

I have the authority to sign and register the document on behalf of the Chargor(s).

The applicant(s) hereby applies to the Land Registrar.

Submitted By

DONALD M. FERGUSON PROFESSIONAL CORPORATION

750 Talbot St., Suite 211
St. Thomas
N5P 1E2

2016 12 02

Tel 519-633-8838
Fax 519-633-9361

Fees/Taxes/Payment

Statutory Registration Fee \$63.35

Total Paid \$63.35

File Number

Chargor Client File Number : 16-1-285

Chargee Client File Number : 3122223

TAB B

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

**IN THE MATTER OF THE BANKRUPTCY OF THOMAS DYLAN SUITOR,
an individual with a locality of Burlington, Ontario**

AFFIDAVIT OF TERENA CALLARD

I, **TERENA CALLARD**, of the city of London, in the province of Ontario, **MAKE
OATH AND SAY:**

1. I am a director of collections and special accounts for Libro Credit Union Limited (“**Libro**”) and as such have knowledge of the matters to which I hereinafter depose.

Where the information is not from my direct knowledge, but is based upon information provided to me by others, I verily believe the information to be true.

The Parties and the Property

2. The moving party, TDB Restructuring Limited (“**TDB**”) is seeking an order authorizing TDB to sell the property known municipally as 207 Ross Street, St. Thomas, Ontario and legally described as follows:

PIN 35220-0174

Lot 65, Plan 86 and Part of Lot 46, Plan 86, as in E401586 and E411464
City of St. Thomas, County of Elgin

(the “**Property**”)

Attached hereto to this my affidavit and marked as Exhibit “A” is a true copy of the parcel register for the Property.

3. McWhirter-Horvath Properties Inc. (the “**Borrower**”) is the owner and mortgagor of the Property. Attached hereto to this my affidavit and marked as Exhibit “B” is a true copy of the corporate profile report for the Borrower (the “**Profile Report**”).
4. Libro is a Credit Union incorporated pursuant to the *Credit Unions and Caisse Populaires Act* of Ontario. Libro is the first mortgagee of the Property. Libro’s mortgage was registered against title to the Property as Instrument CT134021 on December 2, 2016 (the “**Mortgage**”). Attached hereto to this my affidavit and marked as Exhibit “C” is a true copy of the Mortgage.
5. Thomas Dylan Suitor (“**Mr. Suitor**”) is an individual residing in Burlington, Ontario. Mr. Suitor is indebted to Libro pursuant to the terms of the Suitor Guarantee (defined and described below). The Profile Report confirms that Mr. Suitor is the sole director of the Borrower.
6. 207 Ross Inc. (“**Ross**”) is indebted to Libro pursuant to the terms of the Ross Guarantee. Attached hereto to this my affidavit and marked as Exhibit “D” is a true copy of the corporate profile for Ross. Mr. Suitor is the sole director, president and secretary of Ross.

The Indebtedness to Libro and the Security Held

7. As of May 22, 2025, the Borrower, Mr. Suitor and 207 Ross Inc. (“**Ross**”) are indebted to Libro in the amount of \$186,231.37 plus accruing interest and Libro’s

continuing costs of enforcement including legal costs and professional fees (collectively the “**Indebtedness**”) pursuant to financing advanced to the Borrower in accordance with the terms of a commitment letter dated October 14, 2016, as amended, restated, modified and/or supplemented (the “**Commitment Letter**”). Attached hereto to this my affidavit and marked collectively as Exhibit “E” is a true copy of the Commitment Letter and the amendment to the Commitment Letter dated October 19, 2022.

8. The Commitment Letter established the following credit facility in favour of the Borrower:

Facility A – Commercial Mortgage Loan - \$290,000 (the “**Loan**”)

The promissory note for the Loan is attached hereto to this my affidavit and marked as Exhibit “F” (the “**Promissory Note**”).

9. As security for the Commitment Letter, Libro requested and did receive the following:

- i. the Mortgage;
- ii. an unlimited guarantee from Mr. Suitor of the obligations due and owing by the Borrower dated October 19, 2022 (the “**Suitor Guarantee**”). Attached hereto to this my affidavit and marked as Exhibit “G” is a true copy of the Suitor Guarantee; and
- iii. an unlimited guarantee from Ross of the obligations due and owing by the Borrower dated October 19, 2022 (the “**Ross Guarantee**”). Attached hereto to this my affidavit and marked as Exhibit “H” is a true copy of the Ross Guarantee.

Default

10. The Loan is payable on demand.
11. The default provision of the Promissory Note is reproduced below:

If I [the Borrower] default in any scheduled payment under this promissory note, Libro, at its option, may demand immediate payment of all unpaid amounts due hereunder, including without limitation all principal and interest.
12. The payout and payment history for the Loan are attached hereto to this my affidavit and marked collectively as Exhibit "I". The Loan is current.
13. On April 25, 2025, Libro delivered a demand for payment and notice of intention to enforce security to the Borrower, Mr. Suitor and Ross (collectively the "**Demands**"). The Demands are attached hereto to this my affidavit and marked collectively as Exhibit "J".
14. The Borrower, Mr. Suitor and Ross failed or otherwise neglected to satisfy the Demands.

TDB as Receiver

15. Libro does not consent to the sale of the Property by TDB.
16. Libro intends to: (i) attorn the rents and sell the Property under power of sale; or (ii) appoint a receiver in the London Ontario Superior Court of Justice.
17. The Mortgage incorporates standard charge terms 201417 by reference (the "**Standard Charge Terms**"). The Standard Charge Terms are attached hereto to this my affidavit and marked as Exhibit "K".

18. Section 54 of the Standard Charge Terms authorizes Libro to appoint a receiver in the event of default.

SWORN by video conference from the)
city of London in the province of)
Ontario, before me in the City)
of London, in the province of Ontario this)
22nd day of May, 2025 in accordance)
with O.Reg 431/20, Administering Oath or)
Declaration Remotely)



Commissioner for Taking Affidavits (*or as may be*)



TERENA CALLARD

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

**IN THE MATTER OF THE BANKRUPTCY OF THOMAS DYLAN SUITOR,
an individual with a locality of Burlington, Ontario**

EXHIBITS

TABS "A" TO "K" ARE THE
EXHIBITS TO THE AFFIDAVIT OF
TERENA CALLARD
SWORN THIS 22nd DAY OF MAY, 2025



A Commissioner for taking Affidavits

TAB A

PROPERTY DESCRIPTION: LOT 65 PLAN 86, PART OF LOT 46 PLAN 86 AS IN E401586 & E411464; CITY OF ST. THOMAS

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:

CONSOLIDATION FROM 35220-0118, 35220-0119

PIN CREATION DATE:

2013/05/24

OWNERS' NAMES

MCWHIRTER-HORVATH PROPERTIES INC.

CAPACITY SHARE

ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
**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: 2005/08/22 **						
CT93296	2013/05/23	APL CONSOLIDATE		HORVATH, KEVIN MCWHIRTER, JASON		C
CT119952	2015/10/27	TRANSFER	\$107,000	HORVATH, KEVIN MCWHIRTER, JASON	MCWHIRTER-HORVATH PROPERTIES INC.	C
CT124799	2016/03/31	NOTICE		THE CORPORATION OF THE CITY OF ST. THOMAS	MCWHIRTER-HORVATH PROPERTIES INC.	C
CT127528	2016/06/17	CHARGE	\$960,000	MCWHIRTER-HORVATH PROPERTIES INC.	THE CORPORATION OF THE CITY OF ST. THOMAS	C
CT127529	2016/06/17	NO ASSGN RENT GEN		MCWHIRTER-HORVATH PROPERTIES INC.	THE CORPORATION OF THE CITY OF ST. THOMAS	C
REMARKS: CT127528						
CT131917	2016/10/06	CHARGE	\$49,704	MCWHIRTER-HORVATH PROPERTIES INC.	THE CORPORATION OF THE CITY OF ST. THOMAS	C
CT134021	2016/12/02	CHARGE	\$330,000	MCWHIRTER-HORVATH PROPERTIES INC.	LIBRO CREDIT UNION LIMITED	C
CT134269	2016/12/09	POSTPONEMENT		THE CORPORATION OF THE CITY OF ST. THOMAS	LIBRO CREDIT UNION LIMITED	C
REMARKS: CT127528 TO CT134021						

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
CT134270	2016/12/09	POSTPONEMENT		THE CORPORATION OF THE CITY OF ST. THOMAS	LIBRO CREDIT UNION LIMITED	C
		REMARKS: CT131917 TO CT134021				
CT245884	2024/09/18	APL GOVT ORDER		THE CORPORATION OF THE CITY OF ST THOMAS		C


TAB B

**Government
of Canada****Gouvernement
du Canada**

[Canada.ca](#) → [Innovation, Science and Economic Development Canada](#) → [Corporations Canada](#)

→ [Search for a Federal Corporation](#)

Federal Corporation Information - 925270-3

 Beware of scams and other suspicious activities. See [Corporations Canada's alerts](#).

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

925270-3

Business Number (BN)

806916193RC0001

Corporate Name

McWhirter-Horvath Properties Inc.


Status

Active

Governing Legislation

Canada Business Corporations Act - 2015-04-13

[Order a Corporate Profile](#) [[View PDF Sample](#)] [[View HTML Sample](#)].

[Find existing extra-provincial registrations of this corporation on Canada's Business registries](#) 

Registered Office Address

1 King St W
10th Floor

Hamilton ON L8P 1A4
Canada

i 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 11

Dylan Suitor
c/o Ross & McBride LLP
1 King St W
10th Floor ON L8P 1A4
Canada

i 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.

Individuals with significant control

Current individuals with significant control: 1

Dylan Suitor

1 King St W
10th Floor
Hamilton ON L8P 1A4
Canada

Type of interest or control:

Owns, controls or directs 25% or more of shares

This individual holds the shares:

Directly

This individual is an individual with significant control over the corporation:

Individually

This individual holds:

More than 75% of the shares

Start date (YYYY-MM-DD):

2022-08-23

i Note

Active CBCA corporations are required to update this information annually (with their annual return) and within 15 days of a change in their ISC register via the [Online Filing Centre](#). A corporation key is required. If you are not authorized to update this information, you can contact either the corporation or Corporations Canada. We will inform the corporation of its reporting obligations.

Annual Filings

Anniversary Date (MM-DD)

04-13

Date of Last Annual Meeting

2024-10-24

Annual Filing Period (MM-DD)

04-13 to 06-12

Type of Corporation

Non-distributing corporation with 50 or fewer shareholders

Status of Annual Filings

2025 - Due to be filed

2024 - Filed

2023 - Filed

Corporate History

Corporate Name History

2015-04-13 to Present

McWhirter-Horvath Properties Inc.

Certificates and Filings

Certificate of Incorporation

2015-04-13

[Order copies of corporate documents](#)[Start New Search](#)[Return to Search Results](#)

Date Modified:

2025-04-14

TAB C

Properties

PIN 35220 - 0174 LT Interest/Estate Fee Simple
Description LOT 65 PLAN 86, PART OF LOT 46 PLAN 86 AS IN E401586 & E411464; CITY OF ST. THOMAS
Address 207 ROSS STREET
ST. THOMAS

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name MCWHIRTER-HORVATH PROPERTIES INC.
Address for Service 31 Woodhaven Court
St. Thomas, ON
N5P 3Z2

I, Jason McWhirter, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Chargee(s)	Capacity	Share
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Name LIBRO CREDIT UNION LIMITED
Address for Service 217 York Street, 4th Floor
London, On
N6A 5P9

Provisions

Principal \$ 330,000.00 Currency CDN
Calculation Period
Balance Due Date on demand
Interest Rate Libro Credit Union Limited Prime Rate plus 5%
Payments
Interest Adjustment Date
Payment Date
First Payment Date
Last Payment Date
Standard Charge Terms 201417
Insurance Amount full insurable value
Guarantor

Signed By

Diane Marie Spinney	750 Talbot St., Suite 211 St. Thomas N5P 1E2	acting for Chargor(s)	Signed	2016 12 02
Tel 519-633-8838				
Fax 519-633-9361				

I have the authority to sign and register the document on behalf of the Chargor(s).

The applicant(s) hereby applies to the Land Registrar.

Submitted By

DONALD M. FERGUSON PROFESSIONAL CORPORATION

750 Talbot St., Suite 211
St. Thomas
N5P 1E2

2016 12 02

Tel 519-633-8838
Fax 519-633-9361

Fees/Taxes/Payment

Statutory Registration Fee \$63.35

Total Paid \$63.35

File Number

Chargor Client File Number : 16-1-285

Chargee Client File Number : 3122223

TAB D



Ministry of Public and
Business Service Delivery

Profile Report

207 ROSS INC. as of April 25, 2025

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	207 ROSS INC.
Ontario Corporation Number (OCN)	1000263610
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	July 20, 2022
Registered or Head Office Address	902 Second Street West, Suite 101, Cornwall, Ontario, K6J 1H7, Canada

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

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.

Minimum Number of Directors 1
Maximum Number of Directors 10

Active Director(s)
Name DYLAN SUITOR
Address for Service 902 Second Street West, Suite 101, Cornwall, Ontario, K6J 1H7, Canada
Resident Canadian Yes
Date Began July 20, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

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	DYLAN SUITOR
Position	President
Address for Service	902 Second Street West, Suite 101, Cornwall, Ontario, K6J 1H7, Canada
Date Began	July 20, 2022

Name	DYLAN SUITOR
Position	Secretary
Address for Service	902 Second Street West, Suite 101, Cornwall, Ontario, K6J 1H7, Canada
Date Began	July 20, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

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	207 ROSS INC.
Effective Date	July 20, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

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 Business Names

This corporation 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 Public and Business Service Delivery.

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 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 Public and Business Service Delivery.

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: DYLAN SUITOR	March 18, 2024
CIA - Initial Return PAF: Dylan SUITOR	July 20, 2022
BCA - Articles of Incorporation	July 20, 2022

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 Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

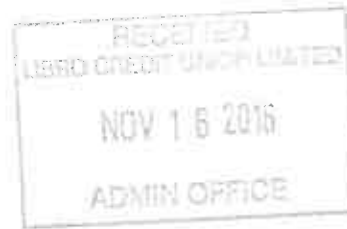
This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, 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.

TAB E



libro.ca
ST. THOMAS BRANCH
1073 Talbot Street
St. Thomas, ON N5P 1G4

T 519-631-6195
F 519-631-6196
feedback@libro.ca



October 14, 2016

McWhirter-Horvath Properties Inc.
31 Woodhaven Crt.
St. Thomas, ON N5P 3Z2

Dear Jason, Amy, Kevin & Susanne:

Thank you for your recent enquiry for financing. I am pleased to advise that Libro Credit Union Limited ("**Libro**") has approved your request for the following credit facilities, as outlined in the attachment:

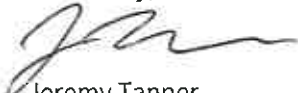
	Facility	Amount
Facility A	Commercial Mortgage Loan	\$290,000.00

By accepting this commitment you acknowledge that, if in the opinion of Libro, a material adverse change in risk occurs, including without limiting the generality of the foregoing, any material adverse change in the financial condition of the Borrower, any obligation to advance some or all of the above credit facilities may be withdrawn or cancelled. This commitment cancels and supersedes all such previous commitments or understandings in respect to the credit facilities provided in this commitment.

On this understanding, we request your acceptance of the following by signing and returning one complete copy of this commitment by **October 14, 2016**.

I wish to thank you for approaching Libro for your financial requirements and look forward to an ongoing and mutually beneficial relationship in the years to come. Please feel free to contact me if you have any questions or concerns regarding the terms and conditions of this commitment.

Yours truly,


Jeremy Tanner
Account Manager

LETTER OF COMMITMENT

BORROWER: McWhirter-Horvath Properties Inc., jointly and severally (the “Borrower”) **OWNER NO:** 3122223

FACILITY A

Amount: \$290,000.00

Loan Type: Commercial Mortgage Loan

Loan Purpose: To finish construction of housing facility

Amortization: 20 years

Term: 5 years

Construction

Terms: During the construction phase of the project the Borrower shall adhere to the following conditions:

1. Funds are to be advanced in a maximum 5 draws. Construction must be completed within 12 months from the first advance.
2. The Construction draws are to be authorized by Libro upon completion of an inspection report from an appraiser confirming the following:
 - a) The value of the completed work
 - b) The project is being built according to plans and specifications
 - c) The estimated cost to complete the project
 - d) The percentage of the project completed
 - e) The un-advanced portion of the loan is sufficient to complete the construction
 - f) The project is proceeding in a timely manner
3. Cost overruns will be funded from the Borrower's own resources.
4. Holdbacks are required under the Construction Liens Act and 10% of the total loan will be withheld on the final draw for 45 days after the completion of the project in compliance with the Act.
5. Interest only payments are required on a monthly basis beginning one month after the advancement of the loan. Interest only payments will end on the earlier of (a) substantial completion of construction or (b) one year anniversary of the initial funding date.
6. The loan rate shall be a 5 Year Variable Rate Closed during the construction phase. Once construction is complete you have the option to keep the variable rate or to choose a fixed rate term for the remaining balance of the original 5 year term or longer.

Interest Rate: 5 Year Variable Rate Closed Mortgage: Libro Prime Rate plus 1.69%

Prime Rate shall mean the rate of interest declared by Libro from time to time to be its "prime rate" for Canadian dollar loans. The loan rate shall vary automatically on the date the Prime Rate is varied by Libro. As of today's date, Libro Prime Rate is **2.70%**.

Repayment: Repayment on demand, unless otherwise provided in the promissory note entered into by the Borrower in favor of Libro.

SECURITY

The present and future indebtedness and liability of the Borrower to Libro shall be secured by the following security set forth in Schedule "A".

TERMS AND CONDITIONS

The facilities will only be disbursed once all proper documentation is in place and the conditions below are met.

1. Receipt of confirmation of grants and funding from government agencies for capital and construction costs. *(received)*
2. Receipt of a signed agreement with the City of St. Thomas regarding approval of this project. *(received)*
3. Signed lease agreements between CMHA-Elgin branch and McWhirter-Horvath Properties Inc. for the New Property. *(received)*
4. Receipt of an AACI appraisal on the New Property, as if complete, conducted on behalf of and by a firm or individual acceptable to Libro Credit Union confirming a value of not less than \$825,000.00. *(received)*
5. A search of title will be conducted, at a cost to the Borrower, on the New Property prior to advance(s).
6. Libro is to be named as first loss payee or first mortgagee on the fire insurance policy over the New and Existing Property.
7. The Borrower is to provide a Certificate of Builder's All Risk Insurance for the New Property prior to receiving the first construction draw and/or prior to registration of the charge.
8. A duly executed copy of this Agreement
9. If a corporation, the Borrower and/or Guarantor(s) are to provide certified true copies of Articles of Incorporation or Letters Patent along with the appropriate ownership documentation or such other documentation as Libro may reasonably require.
10. The Security provided for herein, registered, as required, to the satisfaction of Libro
11. Such financial and other information or documents relating to the Borrower or any Guarantor if applicable as Libro may reasonably require
12. Such other authorizations, approvals, opinions and documentation as Libro may reasonably require.

13. The Borrower will ensure that all remittances required to be made by the Borrower to the Federal, Provincial and Municipal Governments have been made, will be kept up to date and there are not outstanding arrears. Without limiting the foregoing, all employee source deductions (including Income Taxes, Employment Insurance and Canada Pension Plan) sales taxes both Provincial and Federal, corporate income taxes, payroll taxes and Workman's Compensation dues will be paid and kept up to date.
14. All information provided to Libro by the Borrower(s) and Guarantor(s), as applicable, shall be true and accurate as of the date that funds are requested under the facility. The undersigned agree to update Libro immediately of any change in the information provided, and hereby consent to Libro obtaining such personal or credit information from third parties as it deems advisable from time to time. In the event that any information provided by the Borrower(s) or Guarantor(s) is inaccurate or materially changed, Libro shall have the option of demanding immediate repayment of any or all facilities then outstanding with the Borrower(s) and/or Guarantors.

REPORTING COVENANTS

The Borrower shall provide Libro with each of the following:

1. Notice to Reader financial statements are to be provided annually within 4 months of your fiscal year end in a format satisfactory to Libro. Your annual review date is April 30, 2017.
2. Detailed statement of net worth from the Borrower and/or Guarantor(s) in a format satisfactory to Libro to be provided annually or upon request.
3. Personal tax returns and Notice of Assessment or Reassessment for Borrower and/or Guarantor(s) to be provided annually.
4. Satisfactory evidence that all government remittances are current, including HST and Employee Remittances (income tax, CPP & EI) for present time and on an annual basis.
5. Annual confirmation verifying property taxes are up-to-date. The Borrower will be notified by Libro when confirmation is to be provided.
 - If confirmation is not received, a \$100.00 fee will be charged by Libro to verify the status of property taxes directly with the municipality.

FINANCIAL COVENANTS

1. The Borrower is to maintain a minimum Debt Service Ratio of not less than 1.25:1, defined as:

$$\frac{(\text{Earnings} + \text{Interest} + \text{Depreciation} / \text{Amortization} - \text{Dividends} +/- \text{Shareholder Loans})}{\text{Current Principal due within 1 year} + \text{Interest}}$$

FEES

All costs and expenses in connection with the matters contemplated by this commitment letter are to be paid by the Borrower, whether or not funds are advanced, including without limitation the following:

1. An application fee of \$850.00 is to be paid at the time of advance.

2. A \$100.00 inspection/draw fee will apply to each construction draw.
3. A \$75.00 property search fee is to be paid at the time of each advance.
4. An annual review fee of \$150.00 will be collected from your current account upon completion of your next review.
5. Regular banking and service charges will be levied on your account.
6. All other fees incurred (legal, appraisal etc.) are the responsibility of the Borrower.
7. Late reporting fees will be charged at the discretion of Libro.

OTHER

1. I/We acknowledge that the Libro Service Agreement (as may be updated from time to time by Libro) shall apply herein and form part of this Letter of Commitment. I/We have been provided with a current copy of such agreement.

INSURANCE COVERAGE

Borrower to initial one option only

<p>CUMIS COVERAGE</p> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input type="checkbox"/> <input type="checkbox"/> </div>	<div style="display: flex; align-items: center;"> <div style="border: 1px solid black; width: 40px; height: 40px; margin-right: 10px; position: relative;"> </div> <div> <p>WAIVER</p> <p>I/We acknowledge notice that Insurance Coverage is available to provide Life, Disability and other types of Insurance Protection on my/our loan with the Credit Union. My/our initial(s) indicate that I/we elect to "DECLINE ALL COVERAGES". While I/we understand the benefits of protecting my/our loan, it is my/our decision to decline applying for these coverages.</p> </div> </div>
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Libro reserves the right to rescind this offer at any time prior to final disbursement should misrepresentation of the facts or a significant change in circumstances come to our attention.

EXECUTION AND DELIVERY OF AGREEMENT

This agreement may be executed and delivered as an original, or by electronic means. It may also be signed by all parties together or in counterpart. All such deliveries shall be binding upon the party or parties executing same.

ACKNOWLEDGEMENT

Terms and conditions as outlined above accepted this 14 day of November, 2016 by:

McWhirter-Horvath Properties Inc.



Jason L. McWhirter, President

I/We have the authority to bind the corporation.



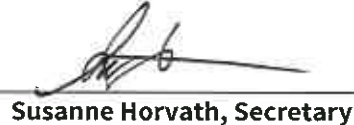
Amy McWhirter, Authorized Signing Officer

I/We have the authority to bind the corporation.



Kevin J. Horvath, Authorized Signing Officer

I/We have the authority to bind the corporation.



Susanne Horvath, Secretary

I/We have the authority to bind the corporation.

GUARANTORS

The undersigned have read, understand and accept the terms and conditions of this commitment letter each in their capacity as a Guarantor of the obligations of the Borrower therein.



Jason L. McWhirter

Amy McWhirter

Kevin J. Horvath

Susanne Horvath

SCHEDULE "A"

1. New FIRST collateral charge against lands and premises located at:
207 Ross Street, St. Thomas in the amount of \$500,000.00
(the "**New Property**")
2. Existing unlimited personal guarantee and postponement of claim in favour of Libro from Amy McWhirter, Jason L. Mc Whirter, Kevin J. Horvath & Susanne Horvath, jointly and severally, supported by any and all existing security held by Libro
3. Existing General Security Agreement executed by the Borrower providing a FIRST charge over all present and after acquired accounts receivable, inventory, motor vehicles and equipment registered in Ontario under the Personal Property Security Act (PPSA) together with adequate insurance with loss payable to Libro.



libro.ca
ST. THOMAS BRANCH
1073 Talbot Street, St.
Thomas ON N5P 1G4

T 519-631-6195
F 519-631-6196
feedback@libro.ca

October 19, 2022

McWhirter-Horvath Properties Inc.
1 King Street West, 10th Floor
Hamilton, ON L8P 1A4

Dear Dylan:

Re: Owner No.: 3122223
Commercial Mortgage Loan

Further to our Commitment Letter dated October 14, 2016, we confirm such Commitment Letter shall be amended as follows upon receipt by Libro Credit Union Limited of your signed acknowledgement of the below:

Delete clause:

REPORTING COVENANTS

1. Notice to Reader financial statements are to be provided annually within 4 months of your fiscal year end in a format satisfactory to Libro. Your annual review date is April 30, 2017.

FEES

4. An annual review fee of \$150.00 will be collected from your current account upon completion of your next review.

SCHEDULE "A"

2. Existing unlimited personal guarantee and postponement of claim in favour of Libro from Amy McWhirter, Jason L. Mc Whirter, Kevin J. Horvath & Susanne Horvath, jointly and severally, supported by any and all existing security held by Libro

Insert clause:

Reporting Covenants: The Borrower shall provide Libro with each of the following within 120 days of the Borrower's fiscal year end or as requested by Libro from time to time:

Description	Frequency
1. Financial Statements as at the Borrower/Guarantor(s) fiscal year end, prepared in minimum statement engagement level as below:	Annual

Entity	Minimum Statement Engagement
Mcwhirter-Horvath Properties Inc.	Compilation Engagement

FEES

4. An annual management fee of \$250.00 will be collected from your account four months after your fiscal year end.

SCHEDULE "A"

2. New unlimited personal guarantee and postponement of claim in favour of Libro from Dylan Sutor, supported by any and all existing security held by Libro.
- 2a. New unlimited corporate guarantee and postponement of claim in favour of Libro from 207 Ross Inc., supported by any and all existing security held by Libro.

All other terms and conditions of the Commitment Letter dated October 14, 2016, shall remain in full force and effect, and shall be amended only in accordance with the above.

This amendment may be executed and delivered as an original, or by electronic means. It may also be signed by all parties together or in counterpart. All such deliveries shall be binding upon the party or parties executing same

Please indicate your acceptance below and return a copy of this letter to our office by November 2, 2022.

Yours truly,

E-SIGNED by Kym Riley
on 2022-10-19 15:41:34 EDT

Kim Riley
Relationship Manager

Accepted on 2022-10-19, by

EXECUTION AND DELIVERY OF AGREEMENT

This agreement may be executed and delivered as an original, or by electronic means. It may also be signed by all parties together or in counterpart. All such deliveries shall be binding upon the party or parties executing same.

BORROWER

Mcwhirter-Horvath Properties Inc.

E-SIGNED by Dylan Suitor
on 2022-10-19 16:52:00 EDT

Dylan Suitor, President

/We have the authority to bind the corporation.

GUARANTOR

207 Ross Inc.

E-SIGNED by Dylan Suitor
on 2022-10-19 16:52:02 EDT

Dylan Suitor, President

/We have the authority to bind the corporation.

E-SIGNED by Dylan Suitor
on 2022-10-19 16:52:04 EDT

Dylan Suitor

TAB F

I promise to pay to Libro Credit Union Limited ("Libro") the principal amount (as set forth below) together with interest (as set forth below) on the following terms and conditions:

Principal Amount:	The principal amount is \$290,000.00 , which amount has been advanced by Libro and received by me.
Interest:	Interest at a variable nominal rate per annum equivalent to Libro Prime Rate (as herein defined) plus 1.69% (the "Loan Rate") on the outstanding principal amount shall be calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and judgement, with interest on overdue interest at the Loan Rate. Prime Rate shall mean the rate of interest declared by Libro from time to time to be its "prime rate" for Canadian dollar loans. The Loan Rate shall vary automatically on the date the Prime Rate is varied by Libro without notice to the undersigned. As at the date hereof the Loan Rate is 4.39% per annum. Notwithstanding the foregoing, and provided the Loan is not in a Construction Phase (as defined below), the above Loan Rate may be converted to a fixed rate of interest, at the option of the Owner by written notice to Libro of not less than 30 days, for the remaining balance of the original 5 year Term. The Loan Rate shall thereafter be the fixed rate then offered by Libro for the period which represents the balance of the Term at conversion.
Term:	Until default by the undersigned, or demand by Libro, the Term shall be 5 years from the initial advance of funds. I will make equal monthly payments of \$1,811.34 beginning November 30, 2016 and continuing thereafter monthly until October 30, 2021 , at which time the balance of the unpaid principal amount and outstanding interest shall be paid. Notwithstanding the foregoing, at the option of Libro, the Payment amount may be adjusted as required periodically to reflect the intended Amortization Period defined below. In the event of an increase to the Payment, Libro will notify the Borrower in writing.
Construction Phase:	Notwithstanding anything herein to the contrary, if the Loan herein is a construction loan, during the period which commences on the initial funding date and ends on the earlier of: (a) substantial completion of construction, and (b) the 1 year anniversary of the initial funding date, (such period referred to herein as the "Construction Phase"), monthly payments herein shall consist of interest only. The Loan Rate shall remain variable during the Construction Phase.
Prepayment:	There shall be no prepayment privileges during the term of this Note.
Application of Payments:	All amounts received in payment under this promissory note will be applied first against the interest and any costs of collection, and then against the principal amount.
Amortization Period:	The calculation of the Payment amount above is initially based upon a 20yrs amortization period (the "Amortization Period") and on the initial Loan Rate set forth above. If the Loan Rate changes, Libro shall have the option, but not the obligation, to adjust the Loan Rate. To the extent the Loan Rate is not adjusted, I recognize that if the Loan Rate decreases, I will pay down more principal during the Term and, conversely, if the Loan Rate increases, the amount of principal that is paid off will be reduced.
Default:	If I default in any scheduled payment under this promissory note, Libro, at its option, may demand immediate payment of all unpaid amounts due hereunder, including without limitation all principal and interest.
Method of Payment:	All payments due hereunder shall be by automatic withdrawal from my designated account with Libro or as otherwise directed by Libro.
Several Borrowers:	If more than one party executes this promissory note, each party shall be individually liable to pay the principal amount and interest under this promissory note and all grammatical changes shall be made.
Collateral Security:	All amounts payable to Libro under this promissory note shall be secured by any and all security granted to Libro by one or more of the undersigned from time to time.
Waiver of Presentment:	This promissory note is a negotiable instrument and I waive any demand and presentment for payment, and notice of non-payment, and notice of every kind and waive any defences based upon indulgences which may be granted by Libro to one or more of the parties liable on this promissory note.
Costs and Expenses:	I agree to pay all costs and expenses paid or incurred in collecting the outstanding principal amount or any interest due under this promissory note.



Susanne Horvath, Secretary

I/We have the Authority to Bind the Corporation



Kevin J. Horvath, Authorized Signing Officer

I/We have the Authority to Bind the Corporation



Date:



Date:

TAB G



Guarantee and Postponement of Claim

For valuable consideration, I, the undersigned guarantor, agree with Libro Credit Union Limited ("Libro"), and any successor and assigns of Libro, as follows:

The name of the borrower whose debts I am guaranteeing is: Mcwhirter-Horvath Properties Inc. (the "Borrower")

I guarantee payment to Libro of all the debts and liabilities, present or future, direct or indirect, absolute or contingent, mature or not, at any time owing by the Borrower to Libro (the "Borrower's Debt"). I agree to postpone and assign any claim I have at any time against the Borrower in favour of Libro. My liability under this Guarantee is:

(INITIAL AS APPROPRIATE)

☐

Unlimited.

☐

Limited to the principal sum of \$ plus interest and costs in accordance with the terms and conditions of this guarantee.

This Guarantee shall be a continuing all accounts guarantee and shall be governed by the laws of Ontario.

1. **Payment on Demand.** I will immediately pay Libro on demand the amount of the Borrower's Debt plus all costs (including all legal fees and disbursements) incurred by Libro in enforcing any of Libro's rights under this Guarantee; together with any interest accrued (including interest on overdue interest, compounded monthly) on unpaid amounts due under this Guarantee calculated from the date on which those amounts were originally demanded until payment is made in full, both before and after judgment, at the rates applicable to the corresponding Borrower's Debts.
2. **Making Demand.** Any demand or notice given under this Guarantee shall be conclusively considered to have been delivered to me on the date it is mailed to the most recent address known to Libro, or alternatively on the date that it is personally delivered to that address. I will give Libro immediate written notice of any change of my address.
3. **No Setoff or Counterclaim.** I will make all payments required to be made under this Guarantee without regard to any right of setoff or counterclaim that I have or may have against the Borrower or Libro.
4. **Exhausting Recourse.** Libro does not need to exhaust its recourse against the Borrower or enforce under any security interest Libro may from time to time hold on any assets ("Security") before being entitled to full payment from me under this Guarantee.
5. **Absolute Liability.** My liability under this Guarantee is absolute and unconditional. It will not be limited or reduced, nor will Libro be responsible or owe any duty to me, nor will Libro's rights under this Guarantee be prejudiced, by the existence or occurrence (with or without my knowledge or consent) of any one or more of the following:
 - (a) any termination, invalidity, unenforceability or release by Libro of any of its rights against the Borrower;
 - (b) any increase, reduction, renewal, substitution or other change in, or discontinuance of, the terms relating to the Borrower's Debt or to any credit extended by Libro to the Borrower; or any agreement granting any extensions of time or any other indulgences or concessions to the Borrower; any taking or giving up of any Security; abstaining from taking, perfecting or registering any Security; allowing any Security to lapse (whether by failing to make or maintain any registration or otherwise); or any neglect or omission by Libro in respect of any of the foregoing;
 - (c) any unenforceability or loss of or in respect of any Security held from time to time by Libro from me, or the Borrower, whether the loss is due to the means or timing of any registration, disposition or realization of any collateral that is the subject of that Security or otherwise due to Libro's fault or any other reason;
 - (d) the death of the Borrower; any change in the Borrower's name; or any reorganization (whether by way of amalgamation, merger, transfer, sale, lease or otherwise) of the Borrower or the Borrower's business;
 - (e) any change in my financial condition or that of the Borrower or any other Guarantor;
 - (f) any incapacity, disability, or lack or limitation of status or of the power of the Borrower or of the Borrower's directors, managers, officers, partners or agents; the discovery that the Borrower is not or may not be a legal entity; or any irregularity, defect or informality in the incurring of any of the Borrower's Debts; or

- (g) any event whatsoever that might be a defense available to, or result in a reduction or discharge of me or the Borrower in respect of either the Borrower's Debt or my liability under this Guarantee.
6. **All Accounts Guarantee.** All moneys and liabilities for all accounts of the Borrower, whether matured or not matured, present or future, direct or indirect, absolute or contingent due and owing to Libro by the Borrower will be deemed to form part of the Borrower's Debt which is guaranteed by the Guarantor under this Guarantee.
7. **Continuing Guarantee.** This is a continuing guarantee of the Borrower's Debt.
8. **Terminating Further Liability.** I may discontinue any further liability to pay the Borrower's Debt by written notice to Libro. I will, however, continue to be liable under this Guarantee for any of the Borrower's Debt that the Borrower incurs up to and including the 30th day after Libro receives my notice.
9. **Statement Conclusive.** Except for demonstrable errors or omissions, the amount appearing due in any account stated by Libro or settled between Libro and the Borrower will be conclusive as to that amount being due.
10. **Assignment and Postponement of Claim.** I postpone in favor of Libro all debts and liabilities that the Borrower now owes or later may from time to time owe to me in any manner until Libro is paid in full. I further assign to Libro all such debts and liabilities, to the extent of the Borrower's Debts, until Libro is paid in full. If I receive any moneys in payment of any of such debts and liabilities, I will hold them in trust for, and will immediately pay them to, Libro without reducing my liability under this Guarantee.
11. **Consent to Disclose Information.** Libro may from time to time give any credit or other information about me to, or receive such information from, any credit bureau, credit reporting agency or other similar party.
12. **Assignment to Third Parties.** Libro may without notice of any kind sell, assign or transfer to any third party all or any of the Borrower's indebtedness and liability to Libro, and in such event each and every immediate and successive assignee, transferee or holder of all or any of such indebtedness and liability shall have the right to enforce this Guarantee by suit or otherwise for the benefit of such assignee, transferee or holder as fully as if such assignee, transferee or holder were herein by name specifically given such rights, powers and benefits, but Libro shall have an unimpaired right, prior and superior to that of any such assignee, transferee or holder, to enforce this Guarantee as to so much of such indebtedness and liability as Libro may not have sold, assigned or transferred.
13. **General.** Any provision of this Guarantee that is void or unenforceable in a jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions. If the Guarantor is a Corporation or Partnership, then the provisions hereof shall be read with all necessary grammatical changes. The Guarantee is in addition and without prejudice to any security of any kind now or in the future held by Libro. There are no representations, collateral agreements or conditions with respect to, or affecting my liability under, this Guarantee other than as contained in this Guarantee.

Witness

E-SIGNED by Dylan Suitor
on 2022-10-19 16:52:19 EDT

Dylan Suitor

2022-10-19

Date

Owner Number: 3122223

TAB H



Guarantee and Postponement of Claim

For valuable consideration, I, the undersigned guarantor, agree with Libro Credit Union Limited ("Libro"), and any successor and assigns of Libro, as follows:

The name of the borrower whose debts I am guaranteeing is:

Mcwhirter-Horvath Properties Inc.

(the "Borrower")

I guarantee payment to Libro of all the debts and liabilities, present or future, direct or indirect, absolute or contingent, mature or not, at any time owing by the Borrower to Libro (the "Borrower's Debt"). I agree to postpone and assign any claim I have at any time against the Borrower in favour of Libro. My liability under this Guarantee is:

(INITIAL AS APPROPRIATE)

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------

D.S.

Unlimited.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Limited to the principal sum of \$ _____ plus interest and costs in accordance with the terms and conditions of this guarantee.

This Guarantee shall be a continuing all accounts guarantee and shall be governed by the laws of Ontario.

1. **Payment on Demand.** I will immediately pay Libro on demand the amount of the Borrower's Debt plus all costs (including all legal fees and disbursements) incurred by Libro in enforcing any of Libro's rights under this Guarantee; together with any interest accrued (including interest on overdue interest, compounded monthly) on unpaid amounts due under this Guarantee calculated from the date on which those amounts were originally demanded until payment is made in full, both before and after judgment, at the rates applicable to the corresponding Borrower's Debts.
2. **Making Demand.** Any demand or notice given under this Guarantee shall be conclusively considered to have been delivered to me on the date it is mailed to the most recent address known to Libro, or alternatively on the date that it is personally delivered to that address. I will give Libro immediate written notice of any change of my address.
3. **No Setoff or Counterclaim.** I will make all payments required to be made under this Guarantee without regard to any right of setoff or counterclaim that I have or may have against the Borrower or Libro.
4. **Exhausting Recourse.** Libro does not need to exhaust its recourse against the Borrower or enforce under any security interest Libro may from time to time hold on any assets ("Security") before being entitled to full payment from me under this Guarantee.
5. **Absolute Liability.** My liability under this Guarantee is absolute and unconditional. It will not be limited or reduced, nor will Libro be responsible or owe any duty to me, nor will Libro's rights under this Guarantee be prejudiced, by the existence or occurrence (with or without my knowledge or consent) of any one or more of the following:
 - (a) any termination, invalidity, unenforceability or release by Libro of any of its rights against the Borrower;
 - (b) any increase, reduction, renewal, substitution or other change in, or discontinuance of, the terms relating to the Borrower's Debt or to any credit extended by Libro to the Borrower; or any agreement granting any extensions of time or any other indulgences or concessions to the Borrower; any taking or giving up of any Security; abstaining from taking, perfecting or registering any Security; allowing any Security to lapse (whether by failing to make or maintain any registration or otherwise); or any neglect or omission by Libro in respect of any of the foregoing;
 - (c) any unenforceability or loss of or in respect of any Security held from time to time by Libro from me, or the Borrower, whether the loss is due to the means or timing of any registration, disposition or realization of any collateral that is the subject of that Security or otherwise due to Libro's fault or any other reason;
 - (d) the death of the Borrower; any change in the Borrower's name; or any reorganization (whether by way of amalgamation, merger, transfer, sale, lease or otherwise) of the Borrower or the Borrower's business;
 - (e) any change in my financial condition or that of the Borrower or any other Guarantor;
 - (f) any incapacity, disability, or lack or limitation of status or of the power of the Borrower or of the Borrower's directors, managers, officers, partners or agents; the discovery that the Borrower is not or may not be a legal entity; or any irregularity, defect or informality in the incurring of any of the Borrower's Debts; or

- (g) any event whatsoever that might be a defense available to, or result in a reduction or discharge of me or the Borrower in respect of either the Borrower's Debt or my liability under this Guarantee.
6. **All Accounts Guarantee.** All moneys and liabilities for all accounts of the Borrower, whether matured or not matured, present or future, direct or indirect, absolute or contingent due and owing to Libro by the Borrower will be deemed to form part of the Borrower's Debt which is guaranteed by the Guarantor under this Guarantee.
7. **Continuing Guarantee.** This is a continuing guarantee of the Borrower's Debt.
8. **Terminating Further Liability.** I may discontinue any further liability to pay the Borrower's Debt by written notice to Libro. I will, however, continue to be liable under this Guarantee for any of the Borrower's Debt that the Borrower incurs up to and including the 30th day after Libro receives my notice.
9. **Statement Conclusive.** Except for demonstrable errors or omissions, the amount appearing due in any account stated by Libro or settled between Libro and the Borrower will be conclusive as to that amount being due.
10. **Assignment and Postponement of Claim.** I postpone in favor of Libro all debts and liabilities that the Borrower now owes or later may from time to time owe to me in any manner until Libro is paid in full. I further assign to Libro all such debts and liabilities, to the extent of the Borrower's Debts, until Libro is paid in full. If I receive any moneys in payment of any of such debts and liabilities, I will hold them in trust for, and will immediately pay them to, Libro without reducing my liability under this Guarantee.
11. **Consent to Disclose Information.** Libro may from time to time give any credit or other information about me to, or receive such information from, any credit bureau, credit reporting agency or other similar party.
12. **Assignment to Third Parties.** Libro may without notice of any kind sell, assign or transfer to any third party all or any of the Borrower's indebtedness and liability to Libro, and in such event each and every immediate and successive assignee, transferee or holder of all or any of such indebtedness and liability shall have the right to enforce this Guarantee by suit or otherwise for the benefit of such assignee, transferee or holder as fully as if such assignee, transferee or holder were herein by name specifically given such rights, powers and benefits, but Libro shall have an unimpaired right, prior and superior to that of any such assignee, transferee or holder, to enforce this Guarantee as to so much of such indebtedness and liability as Libro may not have sold, assigned or transferred.
13. **General.** Any provision of this Guarantee that is void or unenforceable in a jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions. If the Guarantor is a Corporation or Partnership, then the provisions hereof shall be read with all necessary grammatical changes. The Guarantee is in addition and without prejudice to any security of any kind now or in the future held by Libro. There are no representations, collateral agreements or conditions with respect to, or affecting my liability under, this Guarantee other than as contained in this Guarantee.

207 Ross Inc.

Per: E-SIGNED by Dylan Suitor
on 2022-10-19 16:52:35 EDT
Dylan Suitor, President
I/We have the Authority to Bind the Corporation

2022-10-19
Date:

Per: _____
I/We have the Authority to Bind the Corporation

Date:

I/We have the Authority to Bind the Corporation

Date:

Owner Number: 3122223

TAB I

Account: Loan 1

Payouts Information

Status	<input type="text" value="pending"/>	Payout Date	<input type="text" value="22May2025"/>	Principal Balance Outstanding	\$	185,754.20
Interest:		Up To + Excluding	<input type="text" value="22May2025"/>	+		477.17
Accrued Late Payment:				+		0.0000
Bonus:	Prepayment Bonus	<input type="text" value="3m"/>	= \$			1,995.47
	Interest Differential			+		0.00
Recoverable Loan Costs:				+		0.00
Fees Outstanding:				-		0.00
Tax Account Balance:				+		0.00
Discharge Fee:						0.00
Disability Insurance Premium Refund:						
Life Insurance Premium Refund:						
Total Required To Pay Out:				= \$		186,231.37
Per Diem Thereafter:				\$		21.69
Total Received:				\$		0.00
SHORTAGE				\$		-186,231.37
Reason Closed	<input type="text" value="Refinance Libro"/>	Write Off?	<input type="text" value="no"/>			

Add

Update

Clear

Summary

Changes

Audit

Exit

Payments

Calculate

Payout

Reverse

Customer: 3122223 Loan 1

Efdate	Fund	Amount	Tran	Balance
30Apr2025	CAD	1,696.89	ti	-185,754.20
Interest	-676.09	Principal	1,020.80	
curacct	1			
30Mar2025	CAD	1,696.89	ti	-186,775.00
Interest	-657.91	Principal	1,038.98	
curacct	1			
28Feb2025	CAD	1,696.89	ti	-187,813.98
Interest	-639.56	Principal	1,057.33	
curacct	1			
30Jan2025	CAD	1,696.89	ti	-188,871.31
Interest	-687.32	Principal	1,009.57	
curacct	1			
30Dec2024	CAD	1,696.89	ti	-189,880.88
Interest	-668.76	Principal	1,028.13	
curacct	1			
30Nov2024	CAD	1,696.89	ti	-190,909.01
Interest	-694.67	Principal	1,002.22	
curacct	1			
30Oct2024	CAD	1,696.89	ti	-191,911.23
Interest	-675.84	Principal	1,021.05	
curacct	1			
30Sep2024	CAD	1,696.89	ti	-192,932.28
Interest	-701.97	Principal	994.92	
curacct	1			
30Aug2024	CAD	1,696.89	ti	-193,927.20
Interest	-705.56	Principal	991.33	
curacct	1			
30Jul2024	CAD	1,696.89	ti	-194,918.53
Interest	-686.34	Principal	1,010.55	
curacct	1			
30Jun2024	CAD	1,696.89	ti	-195,929.08
Interest	-712.78	Principal	984.11	
curacct	1			
30May2024	CAD	1,696.89	ti	-196,913.19
Interest	-693.30	Principal	1,003.59	
curacct	1			
30Apr2024	CAD	1,696.89	ti	-197,916.78
Interest	-719.95	Principal	976.94	
curacct	1			
30Mar2024	CAD	1,696.89	ti	-198,893.72
Interest	-700.21	Principal	996.68	
curacct	1			
29Feb2024	CAD	1,696.89	ti	-199,890.40
Interest	-703.70	Principal	993.19	

Customer: 3122223 Loan 1

Efdate	Fund	Amount	Tran	Balance
	curacct 1			
30Jan2024	CAD	1,696.89	ti	-200,883.59
	Interest -730.64	Principal 966.25		
	curacct 1			
30Dec2023	CAD	1,696.89	ti	-201,849.84
	Interest -710.54	Principal 986.35		
	curacct 1			
30Nov2023	CAD	1,696.89	ti	-202,836.19
	Interest -737.69	Principal 959.20		
	curacct 1			
30Oct2023	CAD	1,696.89	ti	-203,795.39
	Interest -717.32	Principal 979.57		
	curacct 1			
30Sep2023	CAD	1,696.89	ti	-204,774.96
	Interest -744.69	Principal 952.20		
	curacct 1			
30Aug2023	CAD	1,696.89	ti	-205,727.16
	Interest -748.12	Principal 948.77		
	curacct 1			
30Jul2023	CAD	1,696.89	ti	-206,675.93
	Interest -727.38	Principal 969.51		
	curacct 1			
30Jun2023	CAD	1,696.89	ti	-207,645.44
	Interest -755.03	Principal 941.86		
	curacct 1			
30May2023	CAD	1,696.89	ti	-208,587.30
	Interest -734.06	Principal 962.83		
	curacct 1			
30Apr2023	CAD	1,696.89	ti	-209,550.13
	Interest -761.90	Principal 934.99		
	curacct 1			
30Mar2023	CAD	1,696.89	ti	-210,485.12
	Interest -740.68	Principal 956.21		
	curacct 1			
28Feb2023	CAD	1,696.89	ti	-211,441.33
	Interest -719.30	Principal 977.59		
	curacct 1			
30Jan2023	CAD	1,696.89	ti	-212,418.92
	Interest -772.25	Principal 924.64		
	curacct 1			
30Dec2022	CAD	1,696.89	ti	-213,343.56
	Interest -750.66	Principal 946.23		
	curacct 1			
30Nov2022	CAD	1,696.89	ti	-214,289.79

Customer: 3122223 Loan 1

Efdate	Fund	Amount	Tran	Balance
	Interest -779.00	Principal 917.89		
	curacct 1			
30Oct2022	CAD	1,696.89	ti	-215,207.68
	Interest -757.16	Principal 939.73		
	curacct 1			
30Sep2022	CAD	1,696.89	ti	-216,147.41
	Interest -785.70	Principal 911.19		
	curacct 1			
30Aug2022	CAD	1,696.89	ti	-217,058.60
	Interest -788.99	Principal 907.90		
	curacct 1			
30Jul2022	CAD	1,696.89	ti	-217,966.50
	Interest -766.79	Principal 930.10		
	curacct 1			
30Jun2022	CAD	1,696.89	ti	-218,896.60
	Interest -795.62	Principal 901.27		
	curacct 1			
30May2022	CAD	1,696.89	ti	-219,797.87
	Interest -773.19	Principal 923.70		
	curacct 1			
30Apr2022	CAD	1,696.89	ti	-220,721.57
	Interest -802.19	Principal 894.70		
	curacct 1			
30Mar2022	CAD	1,696.89	ti	-221,616.27
	Interest -779.54	Principal 917.35		
	curacct 1			
28Feb2022	CAD	1,696.89	ti	-222,533.62
	Interest -756.73	Principal 940.16		
	curacct 1			
30Jan2022	CAD	1,696.89	ti	-223,473.78
	Interest -812.13	Principal 884.76		
	curacct 1			
30Dec2021	CAD	1,696.89	ti	-224,358.54
	Interest -789.10	Principal 907.79		
	curacct 1			
30Nov2021	CAD	1,696.89	ti	-225,266.33
	Interest -818.59	Principal 878.30		
	curacct 1			
30Oct2021	CAD	0.00	renw	-226,144.63
	Principal 0.00			
	Entered 02Nov2021			
	Description: Renewal			
30Oct2021	CAD	0.00	mat	-226,144.63
	Principal 0.00			

Customer: 3122223 Loan 1

Efdate	Fund	Amount	Tran	Balance
30Oct2021	CAD	2,050.00	ti	-226,144.63
	Interest -773.86	Principal 1,276.14		
	curacct 1			
30Sep2021	CAD	2,050.00	ti	-227,420.77
	Interest -804.03	Principal 1,245.97		
	curacct 1			
30Aug2021	CAD	2,050.00	ti	-228,666.74
	Interest -808.39	Principal 1,241.61		
	curacct 1			
30Jul2021	CAD	2,050.00	ti	-229,908.35
	Interest -786.62	Principal 1,263.38		
	curacct 1			
30Jun2021	CAD	2,050.00	ti	-231,171.73
	Interest -817.17	Principal 1,232.83		
	curacct 1			
30May2021	CAD	2,050.00	ti	-232,404.56
	Interest -795.09	Principal 1,254.91		
	curacct 1			
30Apr2021	CAD	2,050.00	ti	-233,659.47
	Interest -825.88	Principal 1,224.12		
	curacct 1			
30Mar2021	CAD	2,050.00	ti	-234,883.59
	Interest -803.49	Principal 1,246.51		
	curacct 1			
28Feb2021	CAD	2,050.00	ti	-236,130.10
	Interest -780.88	Principal 1,269.12		
	curacct 1			
30Jan2021	CAD	2,050.00	ti	-237,399.22
	Interest -839.00	Principal 1,211.00		
	curacct 1			
30Dec2020	CAD	2,050.00	ti	-238,610.22
	Interest -816.12	Principal 1,233.88		
	curacct 1			
30Nov2020	CAD	2,050.00	ti	-239,844.10
	Interest -847.56	Principal 1,202.44		
	curacct 1			
30Oct2020	CAD	2,050.00	ti	-241,046.54
	Interest -824.39	Principal 1,225.61		
	curacct 1			
30Sep2020	CAD	2,050.00	ti	-242,272.15
	Interest -856.07	Principal 1,193.93		
	curacct 1			
30Aug2020	CAD	2,050.00	ti	-243,466.08

Customer: 3122223 Loan 1

Efdate	Fund	Amount	Tran	Balance
	Interest -860.25 Principal	1,189.75		
	curacct 1			
30Jul2020	CAD	2,050.00	ti	-244,655.83
	Interest -836.63 Principal	1,213.37		
	curacct 1			
30Jun2020	CAD	2,050.00	ti	-245,869.20
	Interest -868.67 Principal	1,181.33		
	curacct 1			
30May2020	CAD	2,050.00	ti	-247,050.53
	Interest -844.75 Principal	1,205.25		
	curacct 1			
30Apr2020	CAD	2,050.00	ti	-248,255.78
	Interest -877.03 Principal	1,172.97		
	curacct 1			
30Mar2020	CAD	2,050.00	ti	-249,428.75
	Interest -1,030.61 Principal	1,019.39		
	curacct 1			
29Feb2020	CAD	2,050.00	ti	-250,448.14
	Interest -1,165.09 Principal	884.91		
	curacct 1			
30Jan2020	CAD	2,050.00	ti	-251,333.05
	Interest -1,207.95 Principal	842.05		
	curacct 1			
30Dec2019	CAD	2,050.00	ti	-252,175.10
	Interest -1,173.05 Principal	876.95		
	curacct 1			
30Nov2019	CAD	2,050.00	ti	-253,052.05
	Interest -1,216.15 Principal	833.85		
	curacct 1			
30Oct2019	CAD	2,050.00	ti	-253,885.90
	Interest -1,180.95 Principal	869.05		
	curacct 1			
30Sep2019	CAD	2,050.00	ti	-254,754.95
	Interest -1,224.26 Principal	825.74		
	curacct 1			
30Aug2019	CAD	2,050.00	ti	-255,580.69
	Interest -1,228.21 Principal	821.79		
	curacct 1			
30Jul2019	CAD	2,050.00	ti	-256,402.48
	Interest -1,192.55 Principal	857.45		
	curacct 1			
30Jun2019	CAD	2,050.00	ti	-257,259.93
	Interest -1,236.21 Principal	813.79		
	curacct 1			

Customer: 3122223 Loan 1

Efdate	Fund	Amount	Tran	Balance
30May2019	CAD	2,050.00	ti	-258,073.72
	Interest	-1,200.27	Principal	849.73
	curacct	1		
30Apr2019	CAD	2,050.00	ti	-258,923.45
	Interest	-1,244.14	Principal	805.86
	curacct	1		
30Mar2019	CAD	2,050.00	ti	-259,729.31
	Interest	-1,207.91	Principal	842.09
	curacct	1		
28Feb2019	CAD	2,050.00	ti	-260,571.40
	Interest	-1,171.58	Principal	878.42
	curacct	1		
30Jan2019	CAD	2,050.00	ti	-261,449.82
	Interest	-1,302.32	Principal	747.68
	curacct	1		
29Jan2019	CAD	10,000.00	prin	-262,197.50
	Principal	10,000.00		
	Description:	Mtg anniversary		
30Dec2018	CAD	2,050.00	ti	-272,197.50
	Interest	-1,265.44	Principal	784.56
	curacct	1		
30Nov2018	CAD	2,050.00	ti	-272,982.06
	Interest	-1,311.16	Principal	738.84
	curacct	1		
30Oct2018	CAD	1,965.00	ti	-273,720.90
	Interest	-1,225.30	Principal	739.70
	curacct	1		
30Sep2018	CAD	1,965.00	ti	-274,460.60
	Interest	-1,259.65	Principal	705.35
	curacct	1		
30Aug2018	CAD	1,965.00	ti	-275,165.95
	Interest	-1,262.88	Principal	702.12
	curacct	1		
30Jul2018	CAD	1,965.00	ti	-275,868.07
	Interest	-1,202.77	Principal	762.23
	curacct	1		
30Jun2018	CAD	1,945.00	ti	-276,630.30
	Interest	-1,210.83	Principal	734.17
	curacct	1		
30May2018	CAD	1,945.00	ti	-277,364.47
	Interest	-1,175.02	Principal	769.98
	curacct	1		
30Apr2018	CAD	1,945.00	ti	-278,134.45
	Interest	-1,217.37	Principal	727.63

Customer: 3122223 Loan 1

Efdate	Fund	Amount	Tran	Balance
	curacct 1			
30Mar2018	CAD	1,945.00	ti	-278,862.08
	Interest	-1,181.32	Principal 763.68	
	curacct 1			
28Feb2018	CAD	1,945.00	ti	-279,625.76
	Interest	-1,145.21	Principal 799.79	
	curacct 1			
30Jan2018	CAD	1,848.10	ti	-280,425.55
	Interest	-1,190.49	Principal 657.61	
	curacct 1			
30Dec2017	CAD	1,848.10	ti	-281,083.16
	Interest	-1,132.59	Principal 715.51	
	curacct 1			
30Nov2017	CAD	1,848.10	ti	-281,798.67
	Interest	-1,173.16	Principal 674.94	
	curacct 1			
30Oct2017	CAD	1,848.10	ti	-282,473.61
	Interest	-1,138.35	Principal 709.75	
	curacct 1			
02Oct2017	CAD	1,848.10	ti	-283,183.36
	Interest	-1,163.39	Principal 684.71	
	curacct 1			
30Aug2017	CAD	1,848.10	ti	-283,868.07
	Interest	-1,121.54	Principal 726.56	
	curacct 1			
30Jul2017	CAD	1,811.34	ti	-284,594.63
	Interest	-1,053.07	Principal 758.27	
	curacct 1			
30Jun2017	CAD	1,811.34	ti	-285,352.90
	Interest	-1,066.71	Principal 744.63	
	curacct 1			
30May2017	CAD	1,811.34	ti	-286,097.53
	Interest	-1,035.10	Principal 776.24	
	curacct 1			
30Apr2017	CAD	1,811.34	ti	-286,873.77
	Interest	-1,072.36	Principal 738.98	
	curacct 1			
30Mar2017	CAD	1,811.34	ti	-287,612.75
	Interest	-1,040.56	Principal 770.78	
	curacct 1			
28Feb2017	CAD	1,811.34	ti	-288,383.53
	Interest	-1,008.66	Principal 802.68	
	curacct 1			
30Jan2017	CAD	1,811.34	ti	-289,186.21

Customer: 3122223 Loan 1

Efdate	Fund	Amount	Tran	Balance
	Interest -997.55 Principal	813.79		
	curacct 1			
23Jan2017	CAD	0.00	fadv	-290,000.00
	Principal 0.00			
23Jan2017	CAD	-29,000.00	adv	-290,000.00
	Principal -29,000.00			
30Dec2016	CAD	753.40	ti	-261,000.00
	Interest -753.40 Principal	0.00		
	curacct 1			
06Dec2016	CAD	-261,000.00	adv	-261,000.00
	Principal -261,000.00			

TAB J

Harrison Pensa

LAWYERS

Michael Cassone

Direct Line: (519) 661-6765
mcassone@harrisonpensa.com

Assistant: Brianna O'Leary
Direct Line: (519) 850-5592
boleary@harrisonpensa.com

April 25, 2025

SENT BY REGULAR AND REGISTERED MAIL

Mcwhirter-Horvath Properties Inc.
31 Woodhaven Court
St. Thomas, ON N5P 3Z2

Mcwhirter-Horvath Properties Inc.
1 King Street West, 10th Floor
Hamilton, ON L8P 1A4

**RE: Your Indebtedness to Libro Credit Union Limited
Our File No. 207125**

We act as the solicitors for Libro Credit Union Limited ("**Libro**").

You are indebted to Libro pursuant to the terms of Commitment Letter dated October 14, 2016, as amended (the "**Commitment Letter**").

The Commitment Letter establishes the following outstanding credit facility:

Facility A – Commercial Mortgage Loan (the "**Loan**")

The Loan is secured by a mortgage registered as instrument CT134021 against title to the property known municipally as 207 Ross Street, St. Thomas, Ontario (the "**Mortgage**").

The amount due and owing by you to Libro is \$189,086.77 as of April 14, 2025, the particulars of which are as follows:

The Loan

Amount owing as of April 14, 2025 \$189,086.77

Together with interest in the amount of \$21.81 per day from April 14, 2025 until the date of payment, in full.

(the "**Indebtedness**")

Please also take notice that Libro is claiming prejudgment and postjudgment interest pursuant to the terms of the Loan and the Mortgage.

Harrison Pensa LLP

130 Dufferin Avenue, Suite 1101, P.O. Box 3237, London, Ontario N6A 4K3 Phone: 519.679.9660 Fax: 519.667.3362
harrisonpensa.com

The Loan and Mortgage are payable on demand. On behalf of Libro, we demand payment of the Indebtedness together with interest and all legal costs incurred to the date of payment in full.

We have been instructed to commence whatever further legal proceedings are deemed necessary unless payment or arrangements satisfactory to Libro are made within ten (10) days of the date hereof. No intermediate acts, negotiations or indulgences shall act as a waiver to Libro's rights, or demand as set out herein, unless so expressly stated in writing.

Enclosed please find a Notice of Intent to Enforce Security which is served upon you pursuant to the provisions of the Bankruptcy and Insolvency Act. Kindly date, sign and return the enclosed Waiver if you consent to early enforcement.

Please govern yourself accordingly.

Yours very truly,

HARRISON PENSA ^{LLP}

A handwritten signature in black ink, appearing to be 'MC' with a stylized flourish extending to the right.

Michael Cassone
MEC/bol
[Encl.]

NOTICE OF INTENTION TO ENFORCE SECURITY

(Section 244(1) of the *Bankruptcy and Insolvency Act*)

TO: **Mcwhirter-Horvath Properties Inc., an insolvent corporation**

TAKE NOTICE THAT:

Libro Credit Union Limited ("**Libro**") a secured creditor, intends to enforce its security on the property of the insolvent person described as:

207 Ross Street, St. Thomas, Ontario (the "**Property**")

The security that is to be enforced is in the form of:

Mortgage registered against title to the Property as Instrument CT134021


The total amount of indebtedness secured by the security is \$189,086.77, plus interest as set out in the Loan and the Mortgage plus all costs of enforcement on a solicitor and client basis.

The secured creditor will not have the right to enforce its security until after the expiry of the 10 day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at London, Ontario this 25th day of April, 2025

LIBRO CREDIT UNION LIMITED
by its solicitors, Harrison Pensa^{LLP}

Per: _____


Michael E. Cassone
Harrison Pensa^{LLP}
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2
(519) 679-9660
(519) 667-3362

WAIVER

Receipt of Notice of Intention to Enforce Security is acknowledged.

The undersigned hereby waives the notice period therein and consents to the immediate enforcement of the security.

DATED the _____ day of _____, 2025

MCWHIRTER-HORVATH PROPERTIES INC.

Name:

Title:

I have the authority to bind the corporation

Harrison Pensa

LAWYERS

Michael Cassone

Direct Line: (519) 661-6765
mcassone@harrisonpensa.com

Assistant: Brianna O'Leary
Direct Line: (519) 850-5592
boleary@harrisonpensa.com

April 25, 2025

SENT BY REGULAR AND REGISTERED MAIL

Dylan Suitor
1 King Street West 10 Floor
Hamilton, ON L8P 1A4

Dylan Suitor
902 Second Street West, Suite 101
Cornwall, ON K6J 1H7

**RE: Your Indebtedness to Libro Credit Union Limited
Our File No. 207125**

We act as the solicitors for Libro Credit Union Limited ("**Libro**").

You guaranteed the obligations owing by Mcwhirter-Horvath Properties Inc. (the "**Borrower**") to Libro pursuant to a guarantee dated October 19, 2022 (the "**Guarantee**").

The Borrower is indebted to Libro in the amount of \$189,086.77 as of April 14, 2025 (demand enclosed).

The Guarantee is payable on demand.

On behalf of Libro we hereby demand payment of the above noted sum plus interest and all legal costs incurred.

Please also take notice that Libro is claiming prejudgment and postjudgment interest pursuant to the terms of the Guarantee.

We have been instructed to commence whatever further legal proceedings are deemed necessary unless payment or arrangements satisfactory to our client are made within ten (10) days of the date hereof. No intermediate acts, negotiations or indulgences shall act as a waiver of Libro's rights, or demand as set out herein, unless so expressly stated in writing.

Harrison Pensa LLP

130 Dufferin Avenue, Suite 1101, P.O. Box 3237, London, Ontario N6A 4K3 Phone: 519.679.9660 Fax: 519.667.3362
harrisonpensa.com

Please govern yourself accordingly.

Yours very truly,

HARRISON PENZA ^{LLP}

A handwritten signature in black ink, appearing to be 'MC' with a stylized flourish extending to the right.

Michael Cassone
MEC/bol
[Encl.]

Harrison Pensa

LAWYERS

Michael Cassone

Direct Line: (519) 661-6765
mcassone@harrisonpensa.com

Assistant: Brianna O'Leary
Direct Line: (519) 850-5592
boleary@harrisonpensa.com

April 25, 2025

SENT BY REGULAR AND REGISTERED MAIL

Mcwhirter-Horvath Properties Inc.
31 Woodhaven Court
St. Thomas, ON N5P 3Z2

Mcwhirter-Horvath Properties Inc.
1 King Street West, 10th Floor
Hamilton, ON L8P 1A4

**RE: Your Indebtedness to Libro Credit Union Limited
Our File No. 207125**

We act as the solicitors for Libro Credit Union Limited ("**Libro**").

You are indebted to Libro pursuant to the terms of Commitment Letter dated October 14, 2016, as amended (the "**Commitment Letter**").

The Commitment Letter establishes the following outstanding credit facility:

Facility A – Commercial Mortgage Loan (the "**Loan**")

The Loan is secured by a mortgage registered as instrument CT134021 against title to the property known municipally as 207 Ross Street, St. Thomas, Ontario (the "**Mortgage**").

The amount due and owing by you to Libro is \$189,086.77 as of April 14, 2025, the particulars of which are as follows:

The Loan

Amount owing as of April 14, 2025 \$189,086.77

Together with interest in the amount of \$21.81 per day from April 14, 2025 until the date of payment, in full.

(the "**Indebtedness**")

Please also take notice that Libro is claiming prejudgment and postjudgment interest pursuant to the terms of the Loan and the Mortgage.

Harrison Pensa LLP

130 Dufferin Avenue, Suite 1101, P.O. Box 3237, London, Ontario N6A 4K3 Phone: 519.679.9660 Fax: 519.667.3362
harrisonpensa.com

The Loan and Mortgage are payable on demand. On behalf of Libro, we demand payment of the Indebtedness together with interest and all legal costs incurred to the date of payment in full.

We have been instructed to commence whatever further legal proceedings are deemed necessary unless payment or arrangements satisfactory to Libro are made within ten (10) days of the date hereof. No intermediate acts, negotiations or indulgences shall act as a waiver to Libro's rights, or demand as set out herein, unless so expressly stated in writing.

Enclosed please find a Notice of Intent to Enforce Security which is served upon you pursuant to the provisions of the Bankruptcy and Insolvency Act. Kindly date, sign and return the enclosed Waiver if you consent to early enforcement.

Please govern yourself accordingly.

Yours very truly,

HARRISON PENSA ^{LLP}

A handwritten signature in black ink, appearing to be 'MC' with a stylized flourish extending to the right.

Michael Cassone
MEC/bol
[Encl.]

NOTICE OF INTENTION TO ENFORCE SECURITY

(Section 244(1) of the *Bankruptcy and Insolvency Act*)

TO: **Mcwhirter-Horvath Properties Inc., an insolvent corporation**

TAKE NOTICE THAT:

Libro Credit Union Limited ("**Libro**") a secured creditor, intends to enforce its security on the property of the insolvent person described as:

207 Ross Street, St. Thomas, Ontario (the "**Property**")

The security that is to be enforced is in the form of:

Mortgage registered against title to the Property as Instrument CT134021


The total amount of indebtedness secured by the security is \$189,086.77, plus interest as set out in the Loan and the Mortgage plus all costs of enforcement on a solicitor and client basis.

The secured creditor will not have the right to enforce its security until after the expiry of the 10 day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at London, Ontario this 25th day of April, 2025

LIBRO CREDIT UNION LIMITED
by its solicitors, Harrison Pensa^{LLP}

Per: _____


Michael E. Cassone
Harrison Pensa^{LLP}
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2
(519) 679-9660
(519) 667-3362

WAIVER

Receipt of Notice of Intention to Enforce Security is acknowledged.

The undersigned hereby waives the notice period therein and consents to the immediate enforcement of the security.

DATED the _____ day of _____, 2025

MCWHIRTER-HORVATH PROPERTIES INC.

Name:

Title:

I have the authority to bind the corporation

Harrison Pensa

LAWYERS

Michael Cassone

Direct Line: (519) 661-6765
mcassone@harrisonpensa.com

Assistant: Brianna O'Leary
Direct Line: (519) 850-5592
boleary@harrisonpensa.com

April 25, 2025

SENT BY REGULAR AND REGISTERED MAIL

207 Ross Inc.
902 Second Street West, Suite 101
Cornwall, ON K6J 1H7

**RE: Your Indebtedness to Libro Credit Union Limited
Our File No. 207125**

We act as the solicitors for Libro Credit Union Limited ("**Libro**").

You guaranteed the obligations owing by Mcwhirter-Horvath Properties Inc. (the "**Borrower**") to Libro pursuant to a guarantee dated October 19, 2022 (the "**Guarantee**").

The Borrower is indebted to Libro in the amount of \$189,086.77 as of April 14, 2025 (demand enclosed).

The Guarantee is payable on demand.

On behalf of Libro we hereby demand payment of the above noted sum plus interest and all legal costs incurred.

Please also take notice that Libro is claiming prejudgment and postjudgment interest pursuant to the terms of the Guarantee.

We have been instructed to commence whatever further legal proceedings are deemed necessary unless payment or arrangements satisfactory to our client are made within ten (10) days of the date hereof. No intermediate acts, negotiations or indulgences shall act as a waiver of Libro's rights, or demand as set out herein, unless so expressly stated in writing.

Harrison Pensa LLP

130 Dufferin Avenue, Suite 1101, P.O. Box 3237, London, Ontario N6A 4K3 Phone: 519.679.9660 Fax: 519.667.3362
harrisonpensa.com

Please govern yourself accordingly.

Yours very truly,

HARRISON PENZA ^{LLP}

A handwritten signature in black ink, appearing to be 'MC' with a long, sweeping horizontal stroke extending to the right.

Michael Cassone
MEC/bol
[Encl.]

Harrison Pensa

LAWYERS

Michael Cassone

Direct Line: (519) 661-6765
mcassone@harrisonpensa.com

Assistant: Brianna O'Leary
Direct Line: (519) 850-5592
boleary@harrisonpensa.com

April 25, 2025

SENT BY REGULAR AND REGISTERED MAIL

Mcwhirter-Horvath Properties Inc.
31 Woodhaven Court
St. Thomas, ON N5P 3Z2

Mcwhirter-Horvath Properties Inc.
1 King Street West, 10th Floor
Hamilton, ON L8P 1A4

**RE: Your Indebtedness to Libro Credit Union Limited
Our File No. 207125**

We act as the solicitors for Libro Credit Union Limited ("**Libro**").

You are indebted to Libro pursuant to the terms of Commitment Letter dated October 14, 2016, as amended (the "**Commitment Letter**").

The Commitment Letter establishes the following outstanding credit facility:

Facility A – Commercial Mortgage Loan (the "**Loan**")

The Loan is secured by a mortgage registered as instrument CT134021 against title to the property known municipally as 207 Ross Street, St. Thomas, Ontario (the "**Mortgage**").

The amount due and owing by you to Libro is \$189,086.77 as of April 14, 2025, the particulars of which are as follows:

The Loan

Amount owing as of April 14, 2025 \$189,086.77

Together with interest in the amount of \$21.81 per day from April 14, 2025 until the date of payment, in full.

(the "**Indebtedness**")

Please also take notice that Libro is claiming prejudgment and postjudgment interest pursuant to the terms of the Loan and the Mortgage.

Harrison Pensa LLP

130 Dufferin Avenue, Suite 1101, P.O. Box 3237, London, Ontario N6A 4K3 Phone: 519.679.9660 Fax: 519.667.3362
harrisonpensa.com

The Loan and Mortgage are payable on demand. On behalf of Libro, we demand payment of the Indebtedness together with interest and all legal costs incurred to the date of payment in full.

We have been instructed to commence whatever further legal proceedings are deemed necessary unless payment or arrangements satisfactory to Libro are made within ten (10) days of the date hereof. No intermediate acts, negotiations or indulgences shall act as a waiver to Libro's rights, or demand as set out herein, unless so expressly stated in writing.

Enclosed please find a Notice of Intent to Enforce Security which is served upon you pursuant to the provisions of the Bankruptcy and Insolvency Act. Kindly date, sign and return the enclosed Waiver if you consent to early enforcement.

Please govern yourself accordingly.

Yours very truly,

HARRISON PENZA ^{LLP}

A handwritten signature in black ink, appearing to be 'MC' with a stylized flourish extending to the right.

Michael Cassone
MEC/bol
[Encl.]

NOTICE OF INTENTION TO ENFORCE SECURITY

(Section 244(1) of the *Bankruptcy and Insolvency Act*)

TO: **Mcwhirter-Horvath Properties Inc., an insolvent corporation**

TAKE NOTICE THAT:

Libro Credit Union Limited ("**Libro**") a secured creditor, intends to enforce its security on the property of the insolvent person described as:

207 Ross Street, St. Thomas, Ontario (the "**Property**")

The security that is to be enforced is in the form of:

Mortgage registered against title to the Property as Instrument CT134021


The total amount of indebtedness secured by the security is \$189,086.77, plus interest as set out in the Loan and the Mortgage plus all costs of enforcement on a solicitor and client basis.

The secured creditor will not have the right to enforce its security until after the expiry of the 10 day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at London, Ontario this 25th day of April, 2025

LIBRO CREDIT UNION LIMITED
by its solicitors, Harrison Pensa^{LLP}

Per: _____


Michael E. Cassone
Harrison Pensa^{LLP}
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2
(519) 679-9660
(519) 667-3362

WAIVER

Receipt of Notice of Intention to Enforce Security is acknowledged.

The undersigned hereby waives the notice period therein and consents to the immediate enforcement of the security.

DATED the _____ day of _____, 2025

MCWHIRTER-HORVATH PROPERTIES INC.

Name:

Title:

I have the authority to bind the corporation

TAB K

**LAND REGISTRATION REFORM ACT
SET OF STANDARD CHARGE TERMS**

**Filed by:
LIBRO CREDIT UNION LIMITED
Filing Number: 201417
Filing Date: August 6, 2014**

The following set of standard charge terms shall be deemed to be included in every charge in which the set is referred to by its filing number, as provided in section 9 of the Act.

TABLE OF CONTENTS

1.	DEFINITIONS
2.	FREEHOLD CHARGE
3.	COLLATERAL SECURITY
4.	CHARGE RATE
5.	DEFEASANCE
6.	TAXES
7.	COMPOUND INTEREST
8.	OBLIGATION TO MAINTAIN ACCOUNT
9.	PREPAYMENT
10.	EQUIVALENT INTEREST RATES
11.	DEEMED COVENANTS EXCLUDED
12.	COVENANTS IN LIEU OF STATUTORY COVENANTS
13.	LEASEHOLD PROVISIONS
14.	EXPROPRIATION
15.	RELEASE
16.	ENTRY AFTER DEFAULT AND POWER OF SALE
17.	DISTRESS
18.	PRINCIPAL DUE ON DEFAULT
19.	CHARGOR'S QUIET POSSESSION UNTIL DEFAULT
20.	BUILDINGS, ADVANCES AND COST OF SEARCH
21.	FIXTURES
22.	PARTIAL RELEASE
23.	DEFAULT IN PRIOR CHARGES
24.	DEFAULT IN COLLATERAL AGREEMENTS
25.	LIENS AND CONSTRUCTION
26.	WASTE, VACANCY, REPAIR AND BUILDING COMPLETION
27.	INSPECTION
28.	ALTERATIONS
29.	NON-MERGER
30.	RIGHTS ON DEFAULT
31.	OBLIGATIONS SURVIVE SALE
32.	DUE ON SALE
33.	PORTABILITY
34.	PRIOR ENCUMBRANCES
35.	SUBSEQUENT ENCUMBRANCES
36.	ONTARIO NEW HOME WARRANTIES PLAN ACT
37.	PROHIBITION AGAINST RENTAL
38.	COVENANTOR OR GUARANTOR
39.	EXTENSIONS
40.	BONUS ON DEFAULT
41.	DISCHARGE
42.	OTHER SECURITY
43.	PLACE OF PAYMENT
44.	SPOUSE'S CONSENT
45.	FAMILY LAW ACT
46.	SEVERABILITY OF ANY INVALID PROVISIONS
47.	NO PREJUDICE FROM FAILURE TO ENFORCE RIGHTS
48.	FARMLANDS
49.	CHANGE OF CORPORATE CONTROL
50.	COMPLIANCE WITH THE LAW AND ENVIRONMENTAL COMPLIANCE
51.	CARE OF PROPERTY
52.	CONDOMINIUMS
53.	RENEWAL OR EXTENSION
54.	RECEIVERSHIP
55.	CHARGEЕ EXPENSES
56.	FURTHER ASSURANCES
57.	INTERPRETATION
58.	CONFLICT
59.	ASSIGNMENT AND SYNDICATION/INFORMATION
60.	COMMITMENT
61.	PARAGRAPH HEADINGS
62.	DATE OF CHARGE
63.	EFFECT OF DELIVERY OF ERS CHARGE

1. DEFINITIONS

(a) General Definitions

The following terms shall have the following meanings irrespective of whether the Charge is an ERS Charge or a Form 2 Charge:

- (i) “Charge” - means a Form 2 Charge or ERS Charge in which this set of standard charge terms is deemed to be included pursuant to the Land Registration Reform Act and includes any schedules attached to it, any additional provisions contained in it, any renewals or extensions thereof, amendments thereto, and includes this set of standard charge terms;
- (ii) “Charge Rate” - has the meaning given to it in section 4 of these standard charge terms, as applicable;
- (iii) “Charged Premises” - means the lands and premises described in the Charge, including all improvements thereto and all fixtures forming a part thereof;
- (iv) “Commitment” – means any agreement entered into between the Chargor and the Chargee (with or without other parties) related to which this Charge provides security. It is acknowledged that the Commitment may be amended by the parties thereto from time to time in writing and shall be incorporated herein, as applicable;
- (v) “Condominium Act” - means the *Condominium Act*, R.S.O. 1990, c.C.26, as amended or replaced from time to time;
- (vi) “Condominium Corporation” - means the condominium corporation created by the registration pursuant to the Condominium Act of a Declaration in which a portion of the lands described in the Declaration are the Charged Premises;
- (vii) “Declaration” - means the declaration which, together with a description, was registered pursuant to the Condominium Act thereby creating the Condominium Corporation, as same may be amended from time to time;
- (viii) “Deferred Interest” - means the amount by which the interest that has accrued on the aggregate of the portion of the Principal Amount then outstanding from one payment date under the Charge to the next payment date under the Charge exceeds the Payment Amount (or such other amount agreed to by the Chargor and the Chargee, in writing as the amount to be paid on a payment date) and thus remains unpaid;
- (ix) “ERS Charge” - means a charge in an electronic format registered electronically pursuant to the provisions of Part III of the Land Registration Reform Act and the regulations made pursuant thereto;
- (x) “Form 2 Charge” - means a Charge/Mortgage of Land registered using a paper based system of registration pursuant to the provisions of Part I of the Land Registration Reform Act and the regulations made pursuant thereto;
- (xi) “Land Registration Reform Act” - means the *Land Registration Reform Act*, R.S.O. 1990, c.L.4, as amended or replaced from time to time;
- (xii) “Lease” - has the meaning given to it in section 13 of these standard charge terms;
- (xiii) “Loan to Value Ratio” – means the ratio of the Principal Amount to the lesser of: (i) the purchase price paid by the Chargor to acquire the Charged Premises; or (ii) the value of the Charged Premises on the date the Charge takes effect. The value of the Charged Premises shall be determined by the Chargee in its sole discretion;
- (xiv) “Prime Rate” - means the variable rate of interest per year declared by the Chargee from time to time to be its prime rate for Canadian dollar loans made by the Chargee in Canada;
- (xv) “Renting” - means the renting, leasing, entering into of a tenancy agreement with, or allowing occupancy by a Tenant of the whole or any part of the Charged Premises;
- (xvi) “Reversion” - has the meaning given to it in paragraph 13(b) of these standard charge terms;
- (xvii) “Taxes” or “taxes” - means all municipal taxes, school taxes and local improvement rates chargeable against the Charged Premises;
- (xviii) “Tenant” - has the meaning set out in Section 1 of the *Tenant Protection Act, 1997*, SO. 1997, c. 24, as amended (the “Tenant Protection Act”); and
- (xix) “Term” or “term” - means the period of time from the Interest Adjustment Date to the agreed upon maturity date of the Charge.

(b) Form 2 Charge Definitions

If the Charge is a Form 2 Charge, the following terms shall have the following meanings:

- (i) “Balance Due Date” - means the date indicated in Box 9(i);
- (ii) “Box” - means a box contained in the Form 2 Charge in which the names of parties to and the terms of the Form 2 Charge may be indicated;
- (iii) “Chargee” - means the party referenced in Box 14;
- (iv) “Chargor” - means each and every party referenced in Box 11;

- (v) “Covenantor” - has the meaning given to it in section 38 of these standard charge terms. Covenantor shall mean any guarantor to the Charge;
- (vi) “First Payment Date” - means the date indicated in Box 9(f) or as agreed to in writing between the Chargor and Chargee;
- (vii) “Fixed Rate Mortgage” - has the meaning given to it in section 4(a) of these standard charge terms;
- (viii) “Interest Adjustment Date” - means the date indicated in Box 9(d) or as agreed to in writing between the Chargor and Chargee;
- (ix) “Last Payment Date” - means the date indicated in Box 9(g) or as agreed to in writing between the Chargor and Chargee;
- (x) “Payment Amount” - means the dollar amount of money indicated in Box 9(h) or as agreed to in writing between the Chargor and Chargee;
- (xi) “Principal Amount” - means the dollar amount of money indicated in Box 4;
- (xii) “Rate” - means the interest rate expressed in words and/or numbers in Box 9(b) or as agreed to in writing between the Chargor and Chargee.

(c) ERS Charge Definitions

If the Charge is an ERS Charge, the following terms shall have the following meanings:

- (i) “Balance Due Date” - means the date indicated in the Computer Field entitled “Balance Due Date” or as agreed to in writing between the Chargor and Chargee;
- (ii) “Chargee” - means the party indicated in the Computer Field entitled “Chargee(s)”;
- (iii) “Chargor” - means each and every party indicated in the Computer Field entitled “Chargor(s)”;
- (iv) “Covenantor” - has the meaning given to it in section 38 of these standard charge terms. Covenantor shall mean any guarantor to the Charge;
- (v) “Computer Field” - means a computer data entry field in an ERS Charge into which the names of the parties to and the terms of an ERS Charge may be indicated;
- (vi) “First Payment Date” - means the date indicated in the Computer Field entitled “First Payment Date” or as agreed to in writing between the Chargor and Chargee;
- (vii) “Fixed Rate Mortgage” - has the meaning given to it in section 4(a) of these standard charge terms;
- (viii) “Interest Adjustment Date” - means the date indicated in the Computer Field entitled “Interest Adjustment Date” or as agreed to in writing between the Chargor and Chargee;
- (ix) “Last Payment Date” - means the date indicated in the Computer Field entitled “Last Payment Date” or as agreed to in writing between the Chargor and Chargee;
- (x) “Payment Amount” - means the dollar amount of money indicated in the Computer Field entitled “Payments” or as agreed to in writing between the Chargor and Chargee;
- (xi) “Principal Amount” - means the dollar amount of money indicated in the Computer Field entitled “Principal”;
- (xii) “Rate” - means the interest rate expressed in words and/or numbers indicated in the Computer Field entitled “Interest Rate” or as agreed to in writing between the Chargor and Chargee.

2. FREEHOLD CHARGE

If the Chargor named in the Charge has a fee simple interest in the Charged Premises the following paragraph applies to the Charge:

The Chargor named in the Charge of which this set of standard charge terms forms a part by reference to its filing number in such Charge charges the Charged Premises with the payment to the Chargee of the principal and interest and other monies secured by the Charge upon the terms as set out in the Charge.

3. COLLATERAL SECURITY

The Chargor has, at the request of the Chargee, agreed to give this Charge as a continuing collateral security for the payment and satisfaction to the Chargee of all obligations, debts and liabilities, past, present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed at any time owing by the Chargor to the Chargee or remaining unpaid by the Chargor to the Chargee heretofore or hereafter incurred or arising and whether incurred by or arising from agreement or dealings between the Chargee and the Chargor or from any agreement or dealings with any third party by which the Chargee may be or become in any manner whatsoever a creditor of the Chargor or however otherwise incurred or arising anywhere within or outside Canada and whether the Chargor be bound alone or with another or others and whether as principal or surety and any ultimate unpaid balance thereof and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again (such obligations, debts and liabilities being hereinafter called the “liabilities”) but it being agreed that this Charge at any one time will secure only that portion of the Principal Amount of the liabilities outstanding at such time which does not exceed the sum either set forth in Box 4 of a Form 2 Charge or set out in the Computer Field entitled Principal in an ERS Charge, together with any interest or compound interest accrued on the Principal Amount at such time at the Charge

Rate, plus such costs and expenses to which the Chargee is entitled pursuant to the Charge. Unless otherwise indicated by the Chargee, the Charge is not a revolving loan.

4. CHARGE RATE

Notwithstanding the fixed rate of interest set forth in the Charge, if the Chargor and the Chargee have agreed in writing that a lower rate of interest is applicable to the Principal Amount, then such lower rate of interest shall apply.

(a) Fixed Rate Mortgage

If the Charge is a Fixed Rate Mortgage, the rate of interest chargeable upon the Principal Amount and all other amounts payable under the Charge shall be: (i) if the Charge is an ERS Charge, the percentage per annum indicated in the Computer Field entitled "Interest Rate"; or (ii) if the Charge is a Form 2 Charge, the percentage per annum indicated in Box 9(b); or (iii) such rate as agreed to in writing between the Chargor and Chargee (such rate of interest being hereinafter referred to as the "Charge Rate") calculated half-yearly not in advance, as well after as before maturity of the Charge, and both before and after default and judgment until paid.

(b) Variable Rate Mortgage

If the Charge is a Variable Rate Mortgage, the rate of interest chargeable upon the Principal Amount and all other amounts payable under the Charge shall be the rate specified in the Charge as follows:

- (i) if the Charge is an ERS Charge, the Prime Rate per annum, as the same will vary from time to time, as indicated in the Computer Field entitled "Interest Rate" plus or minus the number of percentage points per annum, if any, indicated in the Computer Field entitled "Interest Rate"; or
- (ii) if the Charge is a Form 2 Charge, the Prime Rate per annum, as the same will vary from time to time, as indicated in Box 9(b) plus or minus the number of percentage points, per annum, if any, indicated in Box 9(b); or
- (iii) the percentage per annum agreed to in writing between the Chargor and the Chargee;

such rate of interest being hereinafter referred to as the "Charge Rate", payable monthly and calculated monthly, not in advance, as well after as before maturity of the Charge, and both before and after default and judgment until paid.

If the Charge is a Variable Rate Mortgage, the Charge Rate will vary automatically, without notice to the Chargor, each time there is a change in the Prime Rate. The Charge Rate will always be the Prime Rate plus or minus the number of percentage points per annum, if any, indicated in the Computer Field entitled "Interest Rate" of an ERS Charge, in Box 9(b) of a Form 2 Charge or as agreed to in writing between the Chargor and Chargee, as applicable, payable monthly and calculated monthly not in advance.

The Charge Rate calculated monthly not in advance is equivalent to the rate of interest calculated half-yearly not in advance shown in the equivalent rate table found in Section 10 of these standard charge terms. The Chargor may determine the equivalent rate by locating the Charge Rate in the column entitled "Interest Rate Calculated Monthly Not in Advance (%)" and comparing that rate of interest to the rate of interest indicated in the column immediately to the right of such rate of interest entitled "Equivalent Interest Rate Calculated Half-Yearly Not in Advance (%)". The half-yearly equivalent for the Maximum Charge Rate can be determined in the same way.

In the event that it may be necessary at any time for the Chargee to prove the Prime Rate applicable as at any time or times, it is agreed that the certificate in writing of the Chargee setting forth the Prime Rate as at any time or times shall be deemed to be conclusive evidence as to the Prime Rate as set forth in the certificate.

5. DEFEASANCE

- (a) The provisions relating to defeasance contained in subsection 6(2) of the Land Registration Reform Act shall be and are hereby expressly excluded from the terms of the Charge;
- (b) Provided the Charge shall be void upon the Chargor paying on demand to the Chargee all of the liabilities including, without limitation, the Principal Amount with interest thereon at the Charge Rate, calculated and payable monthly or half-yearly, as the case may be, as well after as before maturity, default and judgment, with interest on overdue interest at the Charge Rate as on the Principal Amount and all other amounts payable by the Chargor under the Charge and paying any taxes, rates, levies, charges or assessments upon the Charged Premises no matter by whom or what authority imposed and observing and performing all covenants, provisos and conditions contained in the Charge.

6. TAXES

It is mutually agreed between the parties to the Charge that at the sole discretion of the Chargee:

- (a) The Chargee may deduct from any advance of monies to the Chargor an amount sufficient to pay the taxes which have become or will become due and payable at the date of such advance and are unpaid at the date of such advance;
- (b) The Chargor shall pay to the Chargee in monthly installments on the dates on which installments of principal and interest are payable under the Charge, sums sufficient to enable the Chargee to pay the whole amount of taxes on or before the due date for payment thereof or, if such amount is payable in installments, on or before the due date for payment of the first installment of taxes;
- (c) Where the period between the date of the advance and the end of the calendar year is less than one year, the Chargor shall pay to the Chargee in equal monthly installments, during such period and during the next succeeding 12 month period, an amount estimated by the Chargee to be sufficient to pay, on or before the expiration of the said 12 month period, all taxes which shall become due and payable during the said two periods and during the balance of the year in which the said 12 month period expires; and the Chargor shall also pay to the Chargee on demand the amount, if any, by which the actual taxes exceed such estimated amount;

- (d) Except as provided in the last preceding clause, the Chargor shall, in each and every month, pay to the Chargee one-twelfth of the amount (as estimated by the Chargee) of the taxes next becoming due and payable, and the Chargor shall also pay to the Chargee on demand the amount, if any, by which the said actual taxes exceed such estimated amount;
- (e) The Chargee shall allow the Chargor interest on the average monthly balances standing in the Charge account from time to time to the credit of the Chargor for payment of taxes at a rate per annum, and at such times, as the Chargee may determine in its sole discretion; and the Chargor shall be charged interest at the Charge Rate, on the debit balance, if any, in the Charge account outstanding after payment of taxes by the Chargee, until such debit balance is fully repaid.

The Chargee agrees, if collected, to apply the foregoing deductions and payments to the taxes chargeable against the Charged Premises so long as the Chargor is not in default under any covenant, proviso or agreement contained in the Charge, but nothing contained in the Charge shall obligate the Chargee to apply such payments on account of taxes more often than yearly. Provided, however, that if, before any sum or sums so paid to the Chargee shall have been so applied, there shall be default by the Chargor in respect of any payment or principal or interest as provided in the Charge, the Chargee may apply such sum or sums in or towards payment of the principal and/or interest in default. The Chargor further covenants and agrees to transmit to the Chargee the assessment notices, tax bills and other notices affecting the imposition of taxes forthwith after the receipt of same by the Chargor.

Notwithstanding the provisions set out in this section, the Chargee may elect not to require payment of taxes to it in which case the Chargor will pay all taxes as they fall due and will provide the Chargee with receipts confirming payment of same as the Chargee may require.

The Chargor shall pay to the Chargee, on demand, the amount of any income, corporate, withholding or similar taxes other than the Chargee’s income taxes (the “Income Taxes”) that may be imposed upon or in respect of the Principal Amount from time to time outstanding, together with interest thereon that the Chargee may be called upon to pay, together with interest from the date on which such Income Taxes are paid by the Chargee at the rate and compounded in the manner provided in the Charge.

7. COMPOUND INTEREST

It is agreed that if default is made in the payment of any amount to become due for interest at any time appointed for payment thereof, compound interest shall be payable and the amount in arrears for interest from time to time, as well after as before maturity, shall bear interest at the Charge Rate, and in case the interest and compound interest are not paid on the next interest payment date after the date of default, compound interest at the Charge Rate shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the Charged Premises and shall be secured by the Charge.

8. OBLIGATION TO MAINTAIN ACCOUNT

The Chargor agrees that, if regular payments of principal and/or interest (and taxes, if applicable) are required to be made by the provisions of the Charge or pursuant to a written agreement between the Chargor and the Chargee, the Chargor shall maintain, with a branch of the Chargee, an account of a type satisfactory to the Chargee, and, unless the Chargor has made alternate arrangements with the Chargee, the Chargee shall be entitled to automatically debit such account, by an amount equal to each payment of principal and/or interest (and taxes, if applicable), when each such payment is due. The Chargor covenants to ensure that such account always has sufficient funds on deposit to satisfy each such payment when due. If the Chargor breaches this covenant, or cancels the said authorization or closes the account (without opening and maintaining a substitute account), then such action or omission shall constitute a default under the Charge.

9. PREPAYMENT

Unless otherwise specified in the Commitment between the Chargor and the Chargee, this Charge shall be closed with no right of prepayment.

10. EQUIVALENT INTEREST RATES

This section sets out a table of equivalent interest rates. The equivalent interest rates are provided for disclosure purposes only and do not affect the calculation of interest under the Variable Rate Mortgage which calculation is set out in paragraph 4(b) of these standard charge terms. The following table sets out interest rates calculated half-yearly, not in advance which are equivalent to interest rates calculated monthly not in advance. The Chargor may determine the equivalent rate by locating the rate of interest payable under the Chargor’s Variable Rate Mortgage in the column headed “Interest Rate Calculated Monthly Not in Advance (%)” and comparing that rate of interest to the rate of interest indicated in the column immediately to the right of such rate of interest entitled “Equivalent Interest Rate Calculated Half-Yearly Not in Advance (%)”.

EQUIVALENT RATES TABLE

Interest Rate Calculated Monthly Not In Advance (%)	Equivalent Interest Rate Calculated Half-Yearly Not In Advance (%)	Interest Rate Calculated Monthly Not In Advance (%)	Equivalent Interest Rate Calculated Half- Yearly Not In Advance (%)
1.000	1.002	10.500	10.732
1.125	1.128	10.625	10.863
1.250	1.253	10.750	10.994
1.375	1.379	10.875	11.124
1.500	1.505	11.000	11.255
1.625	1.631	11.125	11.386
1.750	1.756	11.250	11.517
1.875	1.882	11.375	11.648
2.000	2.008	11.500	11.779
2.125	2.134	11.625	11.910
2.250	2.261	11.750	12.041
2.375	2.387	11.875	12.173

2.500	2.513	12.000	12.304
2.625	2.639	12.125	12.435
2.750	2.766	12.250	12.567
2.875	2.892	12.375	12.698
3.000	3.019	12.500	12.830
3.125	3.145	12.625	12.962
3.250	3.272	12.750	13.094
3.375	3.399	12.875	13.225
3.500	3.526	13.000	13.357
3.625	3.652	13.125	13.489
3.750	3.779	13.250	13.621
3.875	3.906	13.375	13.753
4.000	4.033	13.500	13.885
4.125	4.161	13.625	14.018
4.250	4.288	13.750	14.150
4.375	4.415	13.875	14.282
4.500	4.542	14.000	14.415
4.625	4.670	14.125	14.547
4.750	4.797	14.250	14.680
4.875	4.925	14.375	14.812
5.000	5.052	14.500	14.945
5.125	5.180	14.625	15.078
5.250	5.308	14.750	15.211
5.375	5.436	14.875	15.344
5.500	5.563	15.000	15.477
5.625	5.691	15.125	15.610
5.750	5.819	15.250	15.743
5.875	5.947	15.375	15.876
6.000	6.076	15.500	16.009
6.125	6.204	15.625	16.143
6.250	6.332	15.750	16.276
6.375	6.460	15.875	16.409
6.500	6.589	16.000	16.543
6.625	6.717	16.125	16.677
6.750	6.846	16.250	16.810
6.875	6.974	16.375	16.944
7.000	7.103	16.500	17.078
7.125	7.232	16.625	17.212
7.250	7.360	16.750	17.345
7.375	7.489	16.875	17.480
7.500	7.618	17.000	17.614
7.625	7.747	17.125	17.748
7.750	7.876	17.250	17.882
7.875	8.005	17.375	18.016
8.000	8.135	17.375	18.016
8.125	8.264	17.500	18.151
8.250	8.393	17.625	18.285
8.375	8.522	17.750	18.419
8.500	8.652	17.875	18.554
8.625	8.781	18.000	18.689
8.750	8.911	18.125	18.823
8.875	9.041	18.250	18.958
9.000	9.170	18.375	19.093
9.125	9.300	18.500	19.228
9.250	9.430	18.625	19.363
9.375	9.560	18.750	19.498
9.500	9.690	18.825	19.633
9.625	9.820	19.000	19.768
9.750	9.950	19.125	19.903
9.875	10.080	19.250	20.039
10.000	10.211	19.375	20.174
10.125	10.341	19.500	20.310
10.250	10.471	19.625	20.445
10.375	10.602	19.750	20.581

11. DEEMED COVENANTS EXCLUDED

The covenants deemed to be included in a charge by subsection 7(1) of the Land Registration Reform Act shall be and are hereby expressly excluded from the terms of the Charge.

12. COVENANTS IN LIEU OF STATUTORY COVENANTS

The Chargor does hereby covenant, promise and agree to and with the Chargee, as follows:

(a) To Maintain Membership in Credit Union

That during the currency of the Charge, the Chargor shall maintain at all times the Chargor's status as a member in good standing of LIBRO CREDIT UNION LIMITED (including any successors and assigns);

(b) To Comply With All Provisions of Commitment

That during the currency of the Charge, the Chargor shall maintain and comply with the provisions of any Commitment entered into with the Chargee;

(c) To Pay and Observe Covenants

That the Chargor shall pay or cause to be paid to the Chargee, without deduction or abatement, the Principal Amount, and any other amounts secured by the Charge with interest at the Charge Rate at the times and in the manner limited for payment thereof, and shall do, observe, perform, fulfill and keep all the provisions, covenants, agreements and stipulations particularly set forth in the Charge, and, without limitation, shall pay any taxes, rates, levies, charges or assessments including, without limitation, utility charges, upon the Charged Premises or in respect thereof, no matter by whom or by what authority imposed, which the Chargee has paid or has been rendered liable to pay;

(d) For Good Title

If the Charge is a charge of a fee simple estate, that the Chargor, at the time of execution and delivery of the Charge, in the case of a Form 2 Charge, or at the time of delivery for registration, in the case of an ERS Charge, is and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible title in fee simple to the Charged Premises free of any trusts, reservations, limitations, provisos or conditions (except those contained in the original grant thereof from the Crown) or any other matter or thing to alter, charge, change, encumber or defeat the same;

(e) Right to Charge

That the Chargor has good right, full power and lawful and absolute authority to charge the Charged Premises with their appurtenances unto the Chargee, in the manner set out in the Charge;

(f) Quiet Possession on Default

That from and after default in the payment of the portion of the Principal Amount then outstanding or the interest thereon, or any part thereof or of any other amounts payable under the Charge or in the doing, observing, performing, fulfilling or keeping of one or more of the provisions, agreements or stipulations contained in the Charge, contrary to the true intent and meaning thereof, then in every such case, it shall be lawful for the Chargee, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the Charged Premises or lands and premises intended to be charged by the Charge, with their appurtenances, without the let, suit, hindrance, interruption or denial of the Chargor, or any other person or persons whomsoever, free and clear of all arrears of taxes and assessments whatsoever due or payable upon or in respect of the Charged Premises or any part thereof and of and from all former conveyances, mortgages, charges, rights, annuities, debts, executions and recognizance and of any other charges or encumbrances whatsoever;

(g) Further Assurances

That from and after default in the payment of the portion of the Principal Amount then outstanding, or the interest thereon, or any part thereof or of any other amounts payable under the Charge or in the doing, observing, performing, fulfilling or keeping of one or more of the provisions, agreements or stipulations in the Charge contrary to the true intent and meaning thereof, then and in every such case the Chargor and all and every person or persons whatsoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the Charged Premises by, from, under or in trust for the Chargor shall and will, from time to time, and at all times thereafter, make, do, suffer, execute, deliver, authorize and register or cause or procure to be made, done, suffered, executed, delivered, authorized and registered all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances and assurances in the law for the further, better and more perfectly and absolutely conveying, charging and assuring the Charged Premises unto the Chargee, as by the Chargee or its solicitor shall or may be lawfully and reasonably devised, advised, or required;

(h) No Act to Encumber

That the Chargor has not at any time heretofore made, done, committed, executed or willfully or knowingly suffered any act, deed, matter or thing whatsoever whereby the Charged Premises or the lands and premises intended to be charged by the Charge, or any part thereof, are, is or shall or may be in any way impeached, charged, affected or encumbered in title, estate, or otherwise howsoever;

(i) Insurance

(i) That the Chargor will forthwith insure and during the continuance of the Charge keep insured in favour of the Chargee against loss or damage by fire, lightning, windstorm, hail, explosion, impact, vandalism, malicious acts, civil disturbance or riot, smoke, falling objects and other risks, hazards and perils which the Chargee might require to the full extent of their replacement cost in lawful money of Canada, each and every building on the Charged Premises and which may hereafter be erected thereon, both during erection and thereafter and all fixtures as hereinafter defined or referred to, and all other risks, hazards and perils of any nature or kind which the Chargee might require depending on the nature of the Charged Premises or the use thereof, with a company or companies duly authorized to carry on business as such and shall pay all premiums and sums of money necessary for such purpose as the same shall become due; each policy of insurance shall provide that loss, if any, shall be payable to the Chargee as its interest may appear, subject to a standard form of mortgage clause or other mortgage clause approved by the Chargee and the Chargor will forthwith assign, transfer and deliver over unto the Chargee the policy of insurance and receipts thereto appertaining; and if the Chargor shall neglect to keep the said buildings or any of them insured as aforesaid, or to deliver such policies and receipts or to produce to the Chargee at least fifteen days before the termination of any insurance, evidence of renewal thereof, the Chargee shall be entitled but shall not be obliged to insure the said buildings or any of them, and if the Chargee shall pay

any premiums or sums of money for insurance for the Charged Premises or any part thereof the amount of such payment shall be added to the debt secured by the Charge and shall bear interest at the Charge Rate from the time of such payments and shall be payable at the time appointed for the next ensuing payment of interest on the said debt; and the Chargor shall forthwith on the happening of any loss or damage, furnish at his own expense all necessary proofs and do all necessary acts to enable the Chargee to obtain payment of the insurance monies and the production of a copy of the Charge, if the Charge is a Form 2 Charge, or printed copy of the Charge if the Charge is an ERS Charge, shall be sufficient authority for the said insurance company to pay any such loss to the Chargee, and the said insurance company is hereby directed thereupon to pay the same to the Chargee; and any insurance monies received may, at the option of the Chargee, be applied in rebuilding, reinstating or repairing the Charged Premises or be paid to the Chargor or any other person appearing by the registered title to be or to have been the owner of the Charged Premises or be applied or paid partly in one way and partly in another, or it may be applied, in the sole discretion of the Chargee, in whole or in part on the Charge on account of the amounts secured by this Charge or any part thereof whether due or not then due;

- (ii) If the Charged Premises are part of a condominium the insurance provisions set out above will not apply and the following will apply to the Charge:

That the Chargor or the Condominium Corporation or both of them will forthwith insure and during the continuance of the Charge keep insured in favour of the Chargee against loss or damage by fire, lightning, windstorm, hail, explosion, impact, vandalism, malicious acts, civil disturbance or riot, smoke, falling objects and other risks, hazards and perils which the Chargee might require to the full extent of their replacement cost in lawful money of Canada, each and every building on the said land and which may hereafter be erected thereon, both during erection and thereafter and all fixtures as hereinafter defined or referred to and all other risks, hazards and perils of any nature or kind which the Chargee might require depending on the nature of the Charged Premises or the use thereof, with a company or companies approved by the Chargee; and the Chargor and the Condominium Corporation will forthwith assign, transfer and deliver unto the Chargee the policy or policies of insurance and receipts thereof appertaining and if the Chargor or Condominium Corporation or both of them shall neglect to keep the said buildings or any of them insured aforesaid, or to deliver such policy or policies, and receipts or produce to the Chargee at least fifteen days before the termination of any insurance, evidence of renewal thereof, the Chargee shall be entitled but shall not be obligated to insure the said buildings or any of them; and the Chargor or the Condominium Corporation or both of them shall forthwith on the happening of any loss or damage comply fully with the terms of the policy, or policies, of insurance and, without limiting the generality of the obligation of the Chargor to observe and perform all the duties and obligations imposed on the Chargor by the Condominium Act and by the Declaration and by-laws of the Condominium Corporation as hereinafter provided, shall comply with the insurance provisions of the Declaration; and the Chargor as a member of the Condominium Corporation shall seek the full compliance by the Condominium Corporation of the aforementioned covenants.

13. LEASEHOLD PROVISIONS

If the interest of the Chargor in the Charged Premises derives from a lease, sublease, agreement to lease, tenancy, right of use or occupation, right of first refusal to lease, option to lease or licence of the Charged Premises (such lease, sublease, agreement to lease, tenancy, right of use or occupation, right of first refusal to lease, option to lease or licence including any renewal, extension, modification, replacement or assignment thereof is hereinafter collectively called the "Lease"), then the following additional provisions apply with respect to such interest:

- (a) all references herein to "Charged Premises" shall include all right, title and interest of the Chargor from time to time in and to the Lease and the lands and premises demised under the Lease, including any greater right, title or interest therein or in any part thereof acquired after the date of the Charge;
- (b) the Chargor grants, mortgages, demises, sub-leases and charges to the Chargee all estate, term, right, title and interest of the Chargor in and to the Lease and the Charged Premises, together with any and all other, further or additional title, estate, interest or right therein or any part thereof which may at any time be acquired by the Chargor in or to the lands and premises demised by the Lease during the term of the Charge, together with the Lease and all right, title and interest of the Chargor in the Lease and all benefit and advantage therefrom for the Chargee including any right or option to purchase or to lease contained therein, to have and to hold for and during the remainder of the term of the Lease, save and except the last day thereof (the "Reversion"), as security for the payment to the Chargee of the Principal Amount and interest on such amounts and all other amounts secured by the Charge including, without limitation, the liabilities and for the performance of all liabilities and obligations secured by the Charge upon the terms set out in the Charge;
- (c) the Chargor represents and warrants to the Chargee as follows:
 - (i) the Chargor has good leasehold title to the Charged Premises free and clear of any liens, charges and other encumbrances except those specifically approved in writing by the Chargee;
 - (ii) the Lease is, at the time of execution and delivery of the Charge in the case of a Form 2 Charge, and at the time of delivery for registration in the case of an ERS Charge, a good, valid and subsisting lease and has not been surrendered or forfeited or become void or voidable and the Chargor has not done or failed to do any act as a result of which the Lease would be rendered invalid or its validity impaired;
 - (iii) there have been no modifications to the Lease that have not been provided to the Chargee;
 - (iv) the rents, covenants and conditions contained in the Lease have been duly paid, observed and performed by the Chargor up to the date of the Charge;
 - (v) the Chargor has a good right, full power and lawful and absolute authority to demise and sublet the Lease to the Chargee in the manner aforesaid;
- (d) the Chargor covenants and agrees with the Chargee as follows:
 - (i) the Chargor shall stand possessed of the Reversion in trust for the Chargee to assign and dispose of the Reversion in such manner as the Chargee shall, by notice in writing, direct (subject to the right of redemption in the Charge) and the Chargor hereby irrevocably appoints the Chargee to be the attorney of the Chargor to assign the term of the Lease as the Chargee shall at any time direct;

- (ii) the Chargor, at the request of the Chargee but at the cost, charge and expense of the Chargor, will grant and assign to the Chargee, or to whomever the Chargee may appoint, the Reversion or any renewal or substituted term of the Lease;
- (iii) the Chargor shall pay the rent reserved by and other amounts due under the Lease and shall observe and perform each and every covenant, agreement, condition and proviso contained in the Lease and shall not be guilty of any acts or default which may cause the Lease to be forfeited or determined and the Chargor shall indemnify the Chargee against all actions, claims and demands whatsoever in respect of the rent and covenants or anything relating thereto;
- (iv) the Chargor shall not, during the continuance of the Charge, transfer, assign, sub-lease, surrender or terminate the Lease or any of its rights or interest in the Lease;
- (v) the Chargor shall not, during the continuance of the Charge, enter into any agreement purporting to modify, alter or amend the Lease, without the prior written consent of the Chargee;
- (vi) the Chargor shall not allow any options (to renew or otherwise) or any rights of first refusal under the Lease to lapse and subject to any contrary directions from the Chargee, shall exercise any such options or rights so as to maintain or continue the term of the Lease for the whole of the period during which any debts or liabilities secured by the Charge remain outstanding;
- (vii) any breach or default under the Lease shall be deemed to be a default under the Charge entitling the Chargee to demand repayment of all amounts then secured by the Charge;
- (viii) if the Chargor becomes the owner of the freehold of the lands and premises demised by the Lease the Charge shall increase to be a charge of the freehold interest in the lands and premises demised by the Lease to the same extent and effect as if the Chargor had been the owner of the freehold, free from encumbrances, at the date the Charge took effect. To give effect to the foregoing the Chargor does hereby grant and mortgage the freehold interest in the Charged Premises unto the Chargee, such grant to take effect upon the Chargor acquiring freehold title to the said Charged Premises. The Chargor covenants and agrees to execute and deliver, in the case of a Form 2 Charge or, in the case of an ERS Charge, authorize the delivery for registration, at the Chargor's expense, forthwith on demand therefor, such further and other documents as the Chargee may reasonably require for the purpose of validly giving effect to the foregoing;
- (ix) the Chargor shall immediately notify the Chargee of any notice or advice from the lessor under the Lease of the lessor's intention to terminate the Lease prior to the expiration of the term of the Lease or any other notice or request received from the lessor;
- (e) any reference in the Charge to any charges payable in respect of the Charged Premises shall include all taxes, assessments, rates, costs or charges of whatever kind payable by the Chargor under the Lease and if any amounts are paid by the Chargee in respect of amounts owing under the Lease such amounts shall be a charge against the Charged Premises, shall bear interest at the Charge Rate and shall be secured by the Charge;
- (f) in the event of any default in any payment of rent or other monies due under the Lease or in performance or observance of any covenant, agreement, condition or proviso contained in the Lease the Chargee shall, at its option but without incurring any liability to do so, be at liberty to pay such rent or to observe or perform such covenant, agreement, condition or proviso, as the case may be, and all money expended by the Chargee in so doing shall be payable forthwith by the Chargor to the Chargee, shall bear interest at the Charge Rate and shall be a charge on the Charged Premises secured by the Charge;
- (g) the Chargor hereby irrevocably appoints the Chargee to be the attorney of the Chargor to enforce any covenants of the tenant under the Lease and to exercise any options to renew the Lease in the Chargee's discretion.

14. EXPROPRIATION

It is agreed between the parties to the Charge that if all of the Charged Premises is expropriated, then the outstanding Principal Amount together with all interest thereon under the Charge shall become immediately due and payable. If only part of the Charged Premises is expropriated, then the amount awarded to the Chargor for the partial expropriation shall be paid to the Chargee and credited to the Principal Amount and any interest then outstanding. If, in the opinion of the Chargee, the remainder of the Charged Premises, after the partial expropriation, does not constitute adequate security for the Principal Amount then outstanding, then the Principal Amount or such part thereof as the Chargee may determine shall immediately become due and payable together with all interest thereon.

15. RELEASE

The Chargor by these presents does release, remise, and forever quits claim unto the Chargee, all right, title, interest, claim and demand whatsoever of, unto and out of the Charged Premises and every part thereof, so that the Chargor shall not or may not at any time hereafter have, claim, pretend to, challenge or demand the Charged Premises or any part thereof in any manner howsoever, subject always to the proviso for defeasance.

16. ENTRY AFTER DEFAULT AND POWER OF SALE

Provided that the Chargee on default by the Chargor of payment of the portion of the Principal Amount then outstanding and interest or any part thereof as required by the Charge or in the observing, performing, fulfilling or keeping of one or more of the covenants of the Chargor provided in the Charge may enter into possession of the Charged Premises or the lands and premises intended to be charged and take the rents, issues and profits and, whether in or out of possession, make such lease or leases as it shall think fit, and also on fifteen days' default as aforesaid and after giving at least thirty-five days' written notice to the persons and in the manner prescribed by Part III of the *Mortgages Act*, R.S.O., 1990, c.M.40, as amended (the "Mortgages Act"), may sell the Charged Premises or the lands and premises intended to be charged by the Charge or any part or parts thereof by public auction or private contract, or partly the one and partly the other, and may convey and assure the same when so sold to the purchaser or purchasers thereof, his or their heirs, successors or assigns, or as he or they shall direct and may do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the Chargee shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid unless the same shall happen by reason of its willful neglect or default. In

the event that the giving of such notice shall not be required by law, or to the extent that such requirements shall not be applicable, it is agreed that notice may be effectually given by leaving it with a person who is 18 years of age or older at the Charged Premises, if occupied, or by placing it on some portion of the Charged Premises, if unoccupied, or at the option of the Chargee, by mailing it by registered mail addressed to the Chargor at the Chargor's last known address, and such notice shall be sufficient although not addressed to any person or persons by name or designation and notwithstanding that any person or persons to be affected thereby may be unknown, unascertained or under disability. It is hereby further agreed that the proceeds of sale under the Charge may be applied in payment of any costs, charges and expenses incurred in taking, recovering or keeping possession of the Charged Premises or by reason of non-payment or procuring payment of monies, secured by the Charge or otherwise, and that the Chargee may sell all or any part of the Charged Premises on such terms as to credit and otherwise as shall appear to it most advantageous and for such prices as can reasonably be obtained therefor and may make any stipulation as to title or evidence or commencement of title or otherwise which it shall deem proper, and may buy in or rescind or vary any contract for the sale of the whole or any part of the Charged Premises and resell without being answerable for any loss occasioned thereby, and, in the case of a sale on credit, the Chargee shall be bound to pay the Chargor only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease under the Charge; and that the title of a purchaser or lessee upon a sale or lease made in professed exercise of the above power shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given in compliance with the Mortgages Act, or had been given improperly, but any person harmed by an unauthorized, improper, or irregular exercise of the power shall have his remedy against the person exercising the power in damages only. The Chargee may sell fixtures, machinery, crops and standing or fallen trees apart from the Charged Premises, and the purchaser as well as the Chargee shall have all necessary access for securing, cutting and removal. It is agreed between the parties to the Charge that nothing in this section contained shall prejudice or diminish any other rights and remedies and powers of the Chargee contained in the Charge or existing at law by virtue thereof.

And it is further agreed between the parties to the Charge that until such sale or sales shall be made as aforesaid, the Chargee shall and will stand possessed of the rents and profits of the Charged Premises in case it shall take possession of them on default as aforesaid and after such sale or sales shall stand possessed of the monies to arise and be produced from such sales, or which might arise from any insurance upon the Charged Premises or any part thereof upon trust firstly in payment of all the expenses incident to the sales, leases, conveyances, or attempted sales, conveyances or leases, secondly in payment of all costs, charges, damages and expenses of the Chargee relating to taxes, rents, insurance, repairs, utilities and any other amounts which the Chargee may have paid relating to the Charged Premises, thirdly in discharge of all interest and costs then due in respect of the Charge, fourthly in discharge of the portion of the Principal Amount then outstanding, fifthly in payment of any subsequent encumbrancers according to their priorities and the residue shall be paid to the Chargor as the Chargor may direct and shall also, in such event, at the request, cost and expense of the Chargor transfer, release and assure unto the Chargor or to such person or persons as the Chargor shall direct and appoint, all such parts of the Charged Premises as shall remain unsold for the purposes aforesaid, discharged from all the Charge, but no person who shall be required to make or execute any such assurances shall be compelled for the making thereof to go or travel from his usual place of abode. Provided always, and it is hereby further declared and agreed by and between the parties to the Charge that, notwithstanding the power of sale and the other powers and provisions contained in the Charge, the Chargee shall have and be entitled to its right of foreclosure of the fee interest or equity of redemption of the Chargor in the Charged Premises as fully and effectually as it might have exercised and enjoyed the same in case the power of sale, and the other former provisos and trusts incident thereto had not been contained in the Charge.

17. DISTRESS

It is further agreed by and between the parties to the Charge that the Chargee may distrain for arrears of interest against the Charged Premises or any part thereof and recover by way of rent reserved as in the case of a demise the arrears of interest and all costs and expenses incurred in such levy or distress and may also distrain for arrears of principal and monthly payments of taxes, if required, in the same manner as if the same were arrears of interest.

18. PRINCIPAL DUE ON DEFAULT

It is hereby further expressly declared and agreed, that if any default shall occur in the payment of interest secured by the Charge, or any part thereof, or in payment of any installment of principal as the same matures or of any instrument, promissory note, bill of exchange or other obligations now or at any time held by the Chargee in respect of or representing or securing the liabilities secured by the Charge or any part thereof, or in the performance of any covenant, proviso or agreement contained in the Charge or if any waste be committed or suffered on the Charged Premises then at the option of the Chargee, the portion of the Principal Amount then outstanding secured by the Charge or intended so to be shall forthwith become due and payable in like manner and with the like consequences and effects as if the time mentioned for payment of the Charge had fully come and expired, subject to any relief afforded to the Chargor at law. The Chargee may, however, waive its right to call in the Principal Amount and shall not be therefore debarred from asserting and exercising its right to call in the Principal Amount upon the happening of any future default or breach.

19. CHARGOR'S QUIET POSSESSION UNTIL DEFAULT

It is agreed that until default in the payment of principal or interest secured by the Charge or intended so to be, or any part of either of the same or in the performance of any of the provisions set forth in the Charge contrary to the true intent and meaning thereof, it shall be lawful for the Chargor peaceably and quietly to have, hold, use, occupy, possess and enjoy the Charged Premises, and receive and take the rents and profits thereof to the Chargor's own use and benefit, without let, suit, hindrance, interruption, or denial by the Chargee, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for the Chargee.

20. BUILDINGS, ADVANCES AND COST OF SEARCH

It is the intention of the parties that the building or buildings erected or to be erected on the Charged Premises form part of the security for the full amount secured by the Charge; and that all advances are to be made in such manner at such times and in such amounts up to the Principal Amount as the Chargee in its sole discretion may determine and subject always to the provision to which the Chargor hereby agrees that notwithstanding the execution or registration of the Charge, in the case of a Form 2 Charge, or delivery for registration in the case of an ERS Charge, or the advancement of

any part of the Principal Amount, the Chargee is not bound to advance the full Principal Amount or any unadvanced portion thereof and the advance of the full Principal Amount or any part thereof from time to time shall be in the sole discretion of the Chargee, but nevertheless the Charge shall, in the case of a Form 2 Charge, take effect forthwith upon the execution of the Charge by the Chargor or, in the case of an ERS Charge, upon the delivery for registration of the Charge, and the expenses of the examination of the title and of the Charge and valuation are to be secured by the Charge in the event of the whole or any balance of the Principal Amount not being advanced, the same to be charged by the Charge upon the Charged Premises and shall be without demand thereof, payable forthwith with interest at the Charge Rate and in default the said Chargee's power of sale given by the Charge, and all other remedies under the Charge or at law shall be exercisable.

21. **FIXTURES**

It is mutually covenanted and agreed by and between the Chargor and the Chargee that all erections and improvements fixed or otherwise now on or after the date of the Charge put upon the Charged Premises, including but without limiting the generality of the foregoing, all fences, heating, piping, plumbing, aerials, air-conditioning, ventilating, lighting and water heating equipment, cooking and refrigeration equipment, cleaning and drying equipment, window blinds, radiators and covers, fixed mirrors, fitted blinds, storm windows and storm doors, window screens and screen doors, shutters and awnings, floor coverings, and all apparatus and equipment appurtenant thereto, and all farm machinery and improvements, fixed or otherwise and even though not attached to the lands otherwise than by their own weight, are and shall, in addition to other fixtures thereon, be and become fixtures and form part of the Charged Premises and shall be a portion of the security for the amounts secured by the Charge.

22. **PARTIAL RELEASE**

Provided that the Chargee may at all times release any part or parts of the Charged Premises or any other security or any surety for payment of all or any part of the amounts secured by the Charge or may release the Chargor or any other person from any covenant or other liability to pay the said amounts or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any amounts except those actually received by the Chargee and without thereby releasing any other part of the Charged Premises, or any other securities or covenants contained in the Charge, it being especially agreed that notwithstanding any such release the Charged Premises, securities and covenants remaining unreleased shall stand charged with the whole of the amounts secured by the Charge.

23. **DEFAULT IN PRIOR CHARGES**

It is agreed by and between the Chargor and the Chargee that should default be made by the Chargor in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any mortgage, charge, lien or encumbrance to which the Charge is subject or subordinate, then and in that event the amounts secured by the Charge shall forthwith become due and be payable, at the option of the Chargee, and all the powers in and by the Charge conferred shall become exercisable, and the powers of sale contained in the Charge may be exercised as herein provided.

24. **DEFAULT IN COLLATERAL AGREEMENTS**

It is agreed by and between the Chargor and the Chargee that should default be made by the Chargor in the observance or performance of any of the covenants, provisos, agreements or conditions contained in or arising from any agreement, instrument, certificate or otherwise or dealings between the Chargee and the Chargor, then and in that event, the amounts secured by the Charge shall forthwith become due and be payable, at the option of the Chargee, and all the powers in and by the Charge conferred shall become exercisable, and the powers of sale contained in the Charge may be exercised as herein provided.

25. **LIENS AND CONSTRUCTION**

Provided also that upon the registration of any lien against the Charged Premises, or in the event of any buildings being erected thereon being allowed to remain unfinished or without any work being done on them for a period of ten (10) days, the portion of the Principal Amount then outstanding and interest and all other amounts secured by the Charge shall, at the option of the Chargee, forthwith become due and payable. In the event that a construction lien is registered against title to the Charged Premises the Chargee shall have the right, but not the obligation, to pay such amounts as may be required to remove such lien from title to the Charged Premises. Any amounts so paid by the Chargee, together with all costs, charges, and expenses incurred by the Chargee in connection therewith, including all solicitor's charges, as between a solicitor and his or her client, shall be added to the Principal Amount secured by the Charge and shall bear interest at the Charge Rate and shall, with such interest, be a charge on the Charged Premises prior to all claims thereon subsequent to the Charge and shall be payable forthwith on demand. The Chargor shall promptly remove any and all construction related liens from the property charged.

26. **WASTE, VACANCY, REPAIR AND BUILDING COMPLETION**

The Chargor covenants and agrees with the Chargee that the Chargor will not permit waste to be committed or suffered on the Charged Premises and that the Chargor will maintain the buildings or other improvements on the Charged Premises in good order and repair to the satisfaction of the Chargee and will not permit or suffer them to become or remain vacant and the Chargee may, but shall not be obliged to, make such repairs, improvements and alterations as it may deem necessary or complete the construction or reconstruction of any building on the Charged Premises, and the cost of repair, construction or reconstruction shall be added to the amount secured by the Charge and shall bear interest at the Charge Rate and shall, with such interest, be a charge on the Charged Premises prior to all claims thereon subsequent to the Charge and shall be payable forthwith on demand.

27. **INSPECTION**

The Chargee through itself or its agent or employees may, at any time, enter upon the Charged Premises to inspect the Charged Premises and the reasonable cost of such inspection shall be added to the Principal Amount secured by the Charge and shall bear interest at the Charge Rate, and shall, with such interest, be a charge on the Charged Premises prior to all claims thereon subsequent to the Charge and shall be payable forthwith on demand.

28. ALTERATIONS

The Chargor covenants and agrees with the Chargee that the Chargor will not make or permit to be made any alterations, removals or additions to the Charged Premises without the prior written consent of the Chargee.

29. NON-MERGER

Provided and it is agreed, that the taking of a judgment or judgments on any of the covenants contained in the Charge shall not operate as a merger of the said covenant nor affect the Chargee's right to interest at the rate and times provided in the Charge; and further that said judgment shall provide that interest thereon shall be computed at the Charge Rate and in the same manner as provided in the Charge until the said judgment shall have been fully paid and satisfied.

30. RIGHTS ON DEFAULT

The Chargor covenants and agrees with the Chargee that in the event of default in the payment of any installment of principal, interest or taxes secured by the Charge or any other amounts payable under the Charge by the Chargor or on breach of any covenant, proviso or agreement in the Charge after all or any part of the amounts secured by the Charge have been advanced, the Chargee may at such time or times as it may deem necessary and without the concurrence of any other person enter upon the Charged Premises and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the Charged Premises, or for inspecting, taking care of, leasing, collecting the rents of, and managing generally the Charged Premises as it may deem expedient, and all reasonable costs, charges and expenses including allowances for the time and service of any employee of the Chargee or other person appointed for the above purposes shall be forthwith payable to the Chargee, and shall be a charge upon the Charged Premises and shall bear interest at the Charge Rate until paid.

31. OBLIGATIONS SURVIVE SALE

Provided that no sale or other dealing by the Chargor with the Charged Premises or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other person liable for payment of the amounts secured by the Charge.

32. DUE ON SALE

Provided that in the event of

- (a) the Chargor selling, conveying, transferring, or entering into any agreement of sale or transfer of the title of the Charged Premises to a purchaser, grantee or transferee not approved in writing by the Chargee; or
- (b) if such a purchaser, grantee or transferee should fail to (a) apply for and receive the Chargee's written approval as aforesaid, (b) personally assume all the obligations of the Chargor under the Charge, and (c) execute an assumption agreement in the form required by the Chargee;

then, at the option of the Chargee, all amounts secured by the Charge with accrued interest thereon shall forthwith become due and payable.

33. PORTABILITY

Unless otherwise specified in the Commitment between the Chargor and Chargee, this Charge shall have no portability option.

34. PRIOR ENCUMBRANCES

It is further stipulated, provided and agreed, that the Chargee may pay the amount of any encumbrance, lien or charge now or after the date of the Charge existing, or to arise or to be claimed upon the Charged Premises having priority over the Charge, including any taxes, utility charges or other rates on the Charged Premises or any of them, any construction lien or any amounts payable to the Condominium Corporation, and may pay all costs, charges and expenses and all solicitors' charges or commissions, as between a solicitor and its client, which may be incurred in taking, recovering and keeping possession of the Charged Premises and generally in any proceedings or steps of any nature whatever properly taken in connection with the Charge or to realize the security of the Charge, or to defend the validity or priority of the Charge as against a third party, or in respect of the collection of any overdue interest, principal, insurance premiums or any other monies whatsoever payable by the Chargor under the Charge whether any action or any judicial proceedings to enforce such payments has been taken or not, and the amount so paid and insurance premiums for fire or other risks or hazards and any other amounts paid by the Chargee shall be added to the amount secured by the Charge and be a charge on the Charged Premises and shall bear interest at the Charge Rate, and shall be payable forthwith by the Chargor to the Chargee, and the non-payment of such amount shall be a default of payment within the meaning of those words in Section 16 and shall entitle the Chargee to exercise the power of sale and all other remedies given under the Charge. In the event of the Chargee paying the amount of any such encumbrance, lien or charge, taxes or rates, either out of the amounts advanced on the security or otherwise, it shall be entitled to all the rights, equities and securities of the person or persons, company, corporation, or government so paid off, and is authorized to retain any discharge thereof, without registration, for any period it thinks proper to do so.

35. SUBSEQUENT ENCUMBRANCES

The Chargor covenants and agrees with the Chargee that, for the duration of the Charge, the Chargor shall not make or permit to be made any registration on title to the Charged Premises subsequent to the Charge that could reasonably be considered to constitute an encumbrance, lien, mortgage, charge or security interest, without the prior written consent of the Chargee.

36. ONTARIO NEW HOME WARRANTIES PLAN ACT

If the Chargee incurs any cost or expense of any nature or kind in any way arising from or relating to the *Ontario New Homes Warranties Plan Act*, R.S.O. 1990, c.0.31, as amended (the "ONHWPA"), including, without any limitation whatsoever, any cost or expense relating to registration as a vendor under the ONHWPA or enrolling the Charged

Premises or entering into any agreement or agreements relating to performance of warranty obligations or performing any warranty obligations, all such cost and expense shall be added to the amounts secured by the Charge and be a charge on the Charged Premises in priority to all other encumbrances registered or arising subsequent to the Charge and shall bear interest at the Charge Rate and shall be payable forthwith by the Chargor to the Chargee.

37. PROHIBITION AGAINST RENTAL

If the Charged Premises are or are intended to be used as residential premises then the following provisions shall apply:

- (a) the Chargor represents, warrants, covenants and agrees that no part of the Charged Premises are rented or occupied by a Tenant and further covenants and agrees not to permit the Renting of the Charged Premises without first obtaining the consent in writing of the Chargee which consent may be refused at the sole discretion of the Chargee; further the Chargor covenants and agrees not to enter into any negotiations with respect to Renting without the consent in writing of the Chargee, which consent may be refused, restricted or made conditional at the sole discretion of the Chargee; if a restricted or conditional consent to Renting or negotiations relating to Renting is given, the Chargor covenants and agrees to abide by such restrictions or conditions;
- (b) the Renting of the whole or any part of the Charged Premises without the written consent of the Chargee shall be deemed to have been done with the object of discouraging the Chargee from taking possession of the Charged Premises on default or adversely affecting the value of the Chargee's interest in the Charged Premises within the meaning of Section 52(1) of the Mortgage Act;
- (c) in the event that any of the covenants contained in this section shall be breached then, at the option of the Chargee, all monies secured by the Charge with accrued interest thereon shall forthwith become due and payable;
- (d) if the whole or any part of the Charged Premises are rented to a Tenant with or without the consent of the Chargee, at such time as the Chargee is entitled to enforce its rights under the Charge by reason of default of the Chargor, the Chargee may, at its discretion, pay to any Tenant a sum of money, in such amount as it considers advisable, as consideration for obtaining the cooperation of such Tenant in selling the Charged Premises, showing the Charged Premises and obtaining possession from the Tenant or for any one or more of the above. It is recognized that the payment of such amount will be a cost of realization on the Charge and the amount so paid shall be added to the amount secured by the Charge and shall be a charge on the Charged Premises and shall bear interest at the Charge Rate and shall have priority over all encumbrances subsequent to the Charge and shall be payable forthwith by the Chargor to the Chargee; the Chargor appoints the Chargee to be its true and lawful attorney and agent to enforce all the terms of any tenancy agreement entered into by the Chargor with respect to all or any part of the Charged Premises and to cancel or terminate any such tenancy agreement and in this connection to make, sign and execute any and all documents in the name of the Chargor which it, as Chargee, may consider desirable;
- (e) in this section, "Tenant" shall have the meaning set out in Section 1 of the Tenant Protection Act, S.O., 1997, ch.24, as may be amended from time to time.

38. COVENANTOR OR GUARANTOR

If a party is named as a covenantor or guarantor in the Charge or a schedule thereto (the "Covenantor"), the Chargor and the Covenantor acknowledge that it is a condition of the making of advances under the Charge that the covenant contained in this section 38 be entered into by the Covenantor. The Covenantor further acknowledges that the consideration for the guarantee contained in this Section 38 is the making of advance(s) under the Charge.

The Covenantor on behalf of himself, his executors, administrators, successors and assigns, in consideration of the advance in whole or in part of the Principal Amount does hereby covenant, promise and agree as principal debtor and not as surety to and with the Chargee that the Covenantor will well and truly pay, or cause to be paid unto the Chargee the Principal Amount and all other amounts secured by the Charge, together with interest upon the same, at the days and times, and in the manner agreed to in the Charge or any amendments, renewals, variations or extensions thereof and shall and will in everything, well and truly do, observe, fulfill and keep any and all covenants, provisos, conditions, agreements and stipulations in the Charge according to the true intent and meaning thereof, and shall and will abide by and submit to and do hereby agree to all conditions, provisos and stipulations in the Charge on the part of the Chargor, and these covenants shall be binding notwithstanding the giving of time for payment of the Charge or the varying of terms of payment thereof or the rate of interest thereon, and if there are more than one Covenantor shall bind them jointly as well as severally and shall continue to subsist notwithstanding the death of one or more of such Covenantor.

Each Covenantor further covenants and agrees that without giving notice to or obtaining the consent or concurrence of any guarantor, the Chargee may:

- (a) grant any time, indulgences, waivers or extensions of time for payment or performance of any of the obligations under the Charge;
- (b) grant any renewals or extensions of the Charge, with or without a change in the rate of interest or in any other terms or conditions of the Charge and whether by express agreement signed by the Chargor or otherwise (including, without limitation, by way of an automatic renewal or extension);
- (c) change Charge Rate, whether during the initial term thereof or in any subsequent extension or renewal term, whether by way of increase, decrease, change in the reference rate by which such Charge Rate is calculated or determined, change from a Fixed Rate Mortgage to a Variable Rate Mortgage or from a Variable Rate Mortgage to a Fixed Rate Mortgage, or otherwise;
- (d) shorten or lengthen the amortization period of the Charge;
- (e) otherwise amend, supplement, modify, vary or otherwise change any of the terms or conditions of the Charge in any manner whatever;
- (f) release or discharge from the mortgage or charge constituted by the Charge the whole or any part of the Charged Premises;

- (g) advance additional Principal Amounts to the Chargor pursuant to any provision of the Charge that permits the Chargor to borrow such additional Principal Amounts from the Chargee;
- (h) permit the Chargor to prepay the Principal Amount in whole or in part or to skip one or more scheduled installments of principal and interest or to pay more than one such scheduled instalment on a scheduled payment date under the Charge, whether pursuant to a provision of the Charge that permits such prepayment, skipping or multiple payments or otherwise;
- (i) accept compositions, compromises or proposals from the Chargor or otherwise deal with the Chargor or any other person, any security (including, without limitation, the Charge) or the Charged Premises or any security as the Chargee sees fit including, without limitation, realizing on, releasing, accepting substitutions for or replacing any of the security for the Charge;
- (j) release or discharge any Covenantor or one or more other co-covenantors or guarantors or Chargors in respect of the Charge; or
- (k) release any subsequent legal or beneficial owner of the Charged Premises from any liability for the obligations under the Charge or refrain from requiring any such owner to assume any such liability,

and none of the foregoing actions shall in any way lessen, limit or otherwise affect the obligations or liability of any Covenantor hereunder, regardless of whether any such action has the effect of amending or varying this Charge or increasing, expanding or otherwise altering the nature, effect, term, extent or scope of the liabilities and obligations thereunder. The liability of each Covenantor hereunder shall extend to and include the liabilities and obligations of the Chargor under the Charge, as so amended, renewed, extended or varied and the Charge as so increased, expanded or altered without further action on the part of the Chargee or the consent or concurrence of any Covenantor; and for greater certainty and without limiting the foregoing, if the Charge Rate is increased or otherwise altered, the liability of each Covenantor hereunder shall be extended to and include the obligation of the Chargor to pay interest at such increased or altered Charge Rate.

39. EXTENSIONS

No extension of time given by the Chargee to the Chargor, or anyone claiming under the Chargor or any other dealing with the owner of the Charged Premises, shall in any way affect or prejudice the rights of the Chargee against the Chargor, the Covenantor or any other person liable for the payment of the monies secured by the Charge.

40. BONUS ON DEFAULT

On default of payment of any of the amounts secured by the Charge or payable under the Charge, the Chargee shall be entitled to require payment, in addition to all other amounts secured by the Charge or payable under the Charge, of a bonus equal to three months' interest in advance at the Charge Rate upon the Principal Amount secured by the Charge at such time, and the Chargor shall not be entitled to require a discharge of the Charge without such payment or notice in lieu thereof as required by law.

41. DISCHARGE

The Chargee shall have a reasonable time after payment in full of the amounts secured by the Charge within which to prepare, execute and deliver in the case of a Form 2 Charge or prepare and deliver for registration in the case of an ERS Charge, as the case may be, a discharge or, if requested, and if required by law to do so, an assignment of the Charge, and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Chargee and all legal and other expenses for the preparation, execution and registration, as applicable of such discharge and assignment shall be borne by the Chargor.

42. OTHER SECURITY

The Charge is in addition to and not in substitution for any other security held by the Chargee including any promissory note or notes for all or any part of the monies secured under the Charge, and it is understood and agreed that the Chargee may pursue its remedies thereunder or under the Charge concurrently or successively at its option. Any judgment or recovery under the Charge or under any other security held by the Chargee for the monies secured by the Charge shall not affect the right of the Chargee to realize upon the Charge or any other such security.

43. PLACE OF PAYMENT

Provided that all such payments secured by the Charge shall be made at the branch of the Chargee designated in the Charge, or at such other place as the Chargee may designate in writing to the Chargor, in lawful money of Canada.

44. SPOUSE'S CONSENT

The spouse of the Chargor so named in the Charge hereby consents to the transaction evidenced by the Charge and releases all interest in the Charged Premises to the extent necessary to give effect to the rights of the Chargee under the Charge, and agrees that the Chargee may, without further notice, deal with the Charged Premises and the debt created by the Charge as the Chargee may see fit.

45. FAMILY LAW ACT

The Chargor covenants and agrees that:

- (a) the Chargor or the owner from time to time of the Charged Premises will advise and keep advised the Chargee as to whether the Chargor or the owner from time to time is a spouse as defined in the *Family Law Act*, R.S.O. 1990, c. F.3, as amended (the "Family Law Act"), and if so, the name of the Chargor's spouse, and of any change in the Chargor's spousal status or in the status of the Charged Premises as a matrimonial home within the meaning of the Family Law Act; and

- (b) forthwith on request the Chargor will furnish the Chargee with such evidence in connection with any of the matters referred to in paragraph 45(a) as the Chargee may from time to time require, including, without limitation, the Chargor's and the Chargor's spouse's name, address and birth date and the Chargor's and the Chargor's spouse's authorization to the Registrar under the *Vital Statistics Act*, R.S.O. 1990, c.V.4, as amended, to provide the Chargee from time to time on request all information in the Chargor's possession relative to any marriage, divorce or death of the Chargor or the Chargor's spouse,

and on default, then all amounts secured by the Charge, together with accrued interest thereon shall, at the option of the Chargee, forthwith become due and payable.

46. SEVERABILITY OF ANY INVALID PROVISIONS

It is agreed that in the event that at any time any provision of the Charge is illegal or invalid under or inconsistent with the provisions of any applicable statute, regulation thereunder or other applicable law or would by reason of the provisions of any such statute, regulation or other applicable law render the Chargee unable to collect the amount of any loss sustained by it as a result of making the loan secured by the Charge which it would otherwise be able to collect under such statute, regulation or other applicable law then such provision shall not apply and shall be construed so as not to apply to the extent that it is so illegal, invalid or inconsistent or would so render the Chargee unable to collect the amount of any such loss.

47. NO PREJUDICE FROM FAILURE TO ENFORCE RIGHTS

Provided that no failure to enforce at any time or from time to time any of the rights of the Chargee under the Charge shall prejudice such rights or any other rights of the Chargee; no performance or payment by the Chargee in respect of any breach or default under the Charge of the Chargor shall relieve the Chargor from any default under the Charge; and no waiver at any time or from time to time of any such rights of the Chargee shall prejudice such rights in the event of any future default or breach.

48. FARMLANDS

If the Charged Premises are farm lands, the Chargor will in each year during the term either put into crop or summer fallow in good, proper and husbandlike manner every portion of the Charged Premises which has been or may after the date of the Charge be brought under cultivation, and will keep the Charged Premises clean and free from all noxious weeds and generally see that the Charged Premises do not depreciate in any way.

49. CHANGE OF CORPORATE CONTROL

Where the Chargor is a corporation the Chargor covenants and agrees that in the event that:

- (a) the Chargor fails to supply to Chargee, in a form satisfactory to the Chargee, such information relating to the ownership of its shares as the Chargee may from time to time require; or
- (b) without the written consent of the Chargee first had and obtained:
- (i) the Chargor issues or redeems any of its shares or transfers any of its shares;
 - (ii) there is a sale or sales of the shares of the Chargor which result in the transfer of the legal or beneficial interest of any of the shares of the Chargor; or
 - (iii) the Chargor amalgamates, merges or consolidates with any other corporation,

and the result of any of the foregoing is a change in the effective control of the majority of the voting shares of the Chargor, then all monies secured by the Charge together with accrued interest thereon shall forthwith become due and payable at the option of the Chargee and the Chargee's powers of sale given by the Charge and all other remedies for enforcement shall be exercisable.

50. COMPLIANCE WITH THE LAW AND ENVIRONMENTAL COMPLIANCE

The Chargor hereby represents and warrants to the Chargee that:

- (a) there is not in, on or about the Charged Premises any product or substance or condition (including, without restriction, contaminants, wastes, moulds or hazardous or toxic materials), equipment or anything else which contravenes any statute, regulation, by-law, order, direction or equivalent relating to the protection of the environment or which is not being dealt with according to best recognized practices relating to the environment;
- (b) to the best of the knowledge of the Chargor, no circumstance has existed on the Charged Premises or exists or has existed on any land adjacent to the Charged Premises which constitutes or could reasonably constitute a contravention of any statute, regulation, order, by-law, direction or equivalent relating to the protection of the environment;
- (c) no claim or notice of any action, investigation or proceeding of any kind has been threatened, made or issued or is pending relating to an environmental condition on the Charged Premises; and
- (d) the Charged Premises are being used in compliance with all statutes, regulations, orders, by-laws, directions and equivalent relating to the protection of the environment.

The Chargor hereby covenants and agrees with the Chargee as follows:

- (e) the Chargor shall give to the Chargee immediate notice of any material change in circumstances in respect of the Charged Premises or adjacent land which would cause any of the representations and warranties contained in the immediately preceding paragraphs (a) to (d) inclusive to become untrue; and
- (f) the Chargor shall not permit or create, and shall not allow anyone else to permit or create, any circumstance on the Charged Premises which would constitute or could reasonably constitute a contravention of any statute, regulation, order, by-law, direction or equivalent relating to the protection of the environment.

The Chargor further covenants and agrees with the Chargee at all times promptly to observe, perform, execute and comply with all applicable laws, rules, requirements, orders, directions, by-laws, ordinances, work orders, regulations and equivalent of every government authority and agency whether federal, provincial, municipal or otherwise, including, without limiting the generality of the foregoing, those dealing with zoning, use, occupancy, subdivision, parking, historical designations, fire, access, loading facilities, landscaped area, pollution of the environment, toxic materials or other environmental hazards, building construction, public health and safety, and all private covenants and restrictions affecting the Charged Premises or any portion thereof and the Chargor will from time to time, upon request of the Chargee, provide to the Chargee evidence of such observance and compliance, and pay immediately when due the cost of removal of such contaminants, wastes and materials, and shall at its own expense make any and all improvements thereon or alterations to the Charged Premises structural or otherwise and shall take all such other action as may be required at any time by any such present or future law, rule, requirement, order, direction, by-law, ordinance, work order, regulation, covenant or equivalent; and the Chargor shall cause its tenants, agents and invitees to comply with all of the foregoing at their own expense.

For further clarification, the Chargor hereby indemnifies and saves harmless the Chargee from any and all claims, costs, obligations and any other action as may be required at any time by any present or future law, rule, requirement, order, direction, by-law, ordinance, work order, regulation, covenant or equivalent regarding the property charged herein.

51. CARE OF PROPERTY

The Chargor agrees to reasonably attend and care for the property charged herein, including at all times to carry adequate insurance and to complete all repairs and maintenance required to maintain the property as a reasonably prudent owner would do.

52. CONDOMINIUMS

If the Charge is of a unit within a plan of condominium the following provisions shall apply:

- (a) the Chargor covenants and agrees at all times and from time to time to observe and perform all duties and obligations imposed on the Chargor by the Condominium Act and by the Declaration, the by-laws and the rules, as amended from time to time, of the Condominium Corporation, by virtue of the Chargor's ownership of the Charged Premises. Any breach of the said duties and obligations shall constitute a breach of covenant under the Charge;
- (b) without limiting the generality of the foregoing, the Chargor covenants and agrees that the Chargor will pay promptly when due any contributions to common expenses required of the Chargor as the owner of the Charged Premises and in the event of the Chargor's default in doing so the Chargee, at its option, may pay the same and the amount so paid shall be added to the debt secured by the Charge and shall be a charge on the Charged Premises and shall bear interest at the same rate from the time of such payments and shall be payable forthwith by the Chargor to the Chargee whether or not any payment in default has priority to the Charge or any part of the monies secured thereby;
- (c) the Chargor by the Charge irrevocably authorizes and empowers the Chargee to exercise the right of the Chargor as an owner of the Charged Premises to vote or to consent in all matters relating to the affairs of the Condominium Corporation provided that:
 - (i) the Chargee may at any time or from time to time give notice in writing to the Chargor and the said Condominium Corporation that the Chargee does not intend to exercise the said right to vote or consent and in that event until the Chargee revokes the said notice the Chargor may exercise the right to vote. Any such notice may be for an indeterminate period of time or for a limited period of time or for a specific meeting or matter;
 - (ii) the Chargee shall not by virtue of the assignment to the Chargee of the right to vote or consent be under any obligation to vote or consent or to protect the interests of the Chargor;
 - (iii) the exercise of the right to vote or consent shall not constitute the Chargee a chargee in possession.

53. RENEWAL OR EXTENSION

Provided that the Charge may be renewed or extended by an agreement in writing at maturity for any term with or without an increased rate of interest notwithstanding that there may be subsequent encumbrancers, and it shall not be necessary to register any such agreement in order to retain priority for the Charge so altered over any instrument registered subsequently to the Charge. Provided that nothing contained in this paragraph shall confer any right of renewal or extension upon the Chargor. The Chargor and the Covenantor, if applicable, agree that in the event that the renewal agreement provided to the Chargor is not signed and returned to the Chargee on or before the maturity date, the Charge, at the Chargee's option, will be automatically renewed on the terms set out in the renewal agreement.

54. RECEIVERSHIP

Notwithstanding anything contained in the Charge, it is declared and agreed that any time and from time to time when there shall be default under the provisions of the Charge, the Chargee may, at such time and from time to time and with or without entry into possession of the Charged Premises, or any part thereof, by instrument in writing appoint any person, whether an officer or officers or an employee or employees of the Chargee or not, to be a receiver (which term as used herein includes a receiver manager and also includes the plural as well as the singular) of the Charged Premises, or any part thereof, and of the rents and profits thereof, and with or without security, and may from time to time by similar writing remove any receiver and appoint another instead of such receiver, and that, in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor, but no such appointment shall be revocable by the Chargor. Upon the appointment of any such receiver from time to time the following provisions shall apply:

- (a) every such receiver shall have unlimited access to the Charged Premises as agent and attorney for the Chargor (which right of access shall not be revocable by the Chargor) and shall have full power and unlimited authority (which power and authority shall not be revocable by the Chargor) to:
 - (i) collect the rents and profits from tenancies whether created before or after the Charge;

- (ii) rent any portion of the Charged Premises which may be or become vacant on such terms and conditions as the receiver considers advisable and enter into and execute leases, accept surrenders and terminate leases;
- (iii) complete the construction of any building or buildings or other erections or improvements on the Charged Premises left by the Chargor in an unfinished state or award the same to others to complete and purchase, repair and maintain any personal property including, without limitation, appliances and equipment, necessary or desirable to render the premises operable or rentable, and take possession of and use or permit others to use all or any part of the Chargor's materials, supplies, plans, tools, equipment (including appliances) and property of every kind and description; and
- (iv) manage, operate, repair, alter or extend the Charged Premises or any part thereof.

The Chargor undertakes to ratify and confirm whatever any such receiver may do in the Charged Premises.

- (b) the Chargee may at its discretion vest the receiver with all or any of the rights and powers of the Chargee;
- (c) the Chargee may fix the reasonable remuneration of the receiver who shall be entitled to deduct the same out of the revenue or the sale proceeds of the Charged Premises;
- (d) every such receiver shall be deemed to be the agent or attorney of the Chargor and, in no event, the agent of the Chargee and the Chargee shall not be responsible for the receiver's acts or omissions;
- (e) the appointment of any such receiver by the Chargee shall not result in or create any liability or obligation on the part of the Chargee to the receiver or to the Chargor or to any other person and no appointment or removal of a receiver and no actions of a receiver shall constitute the Chargee a chargee in possession of the Charged Premises;
- (f) no such receiver shall be liable to the Chargor to account for monies other than monies actually received by the receiver in respect of the Charged Premises, or any part thereof, and out of such monies so received every such receiver shall, in the following order, pay:
 - (i) the receiver's remuneration aforesaid;
 - (ii) all costs and expenses of every nature and kind incurred by the receiver in connection with the exercise of the receiver's powers and authority hereby conferred;
 - (iii) interest, principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to the Charge, including taxes;
 - (iv) to the Chargee all interest, principal and other monies due under the Charge to be paid in such order as the Chargee in its discretion shall determine;
 - (v) and thereafter, every such receiver shall be accountable to the Chargor for any surplus.

The remuneration and expenses of the receiver shall be paid by the Chargor on demand and shall be a charge on the Charged Premises and shall bear interest from the date of demand at the Charge Rate.

- (g) save as to claims for accounting under clause (f) of this paragraph, the Chargor hereby releases and discharges any such receiver from every claim of every nature, whether sounding in damages or not, which may arise or be caused to the Chargor or any person claiming through or under the Chargor by reason or as a result of anything done by such receiver unless such claim be the direct and proximate result of dishonesty or fraud;
- (h) the Chargee may, at any time and from time to time, terminate any such receivership by notice in writing to the Chargor and to any such receiver;
- (i) the statutory declaration of an officer of the Chargee as to default under the provisions of this Charge and as to the due appointment of the receiver pursuant to these terms shall be sufficient proof thereof for the purposes of any person dealing with a receiver who is ostensibly exercising powers in the Charge provided for and such dealing shall be deemed, as regards such person, to be valid and effectual;
- (j) the rights and powers conferred in and by the Charge in respect of the receiver are supplemental to and not in substitution of any other rights and powers which the Chargee may have.

55. CHARGEES EXPENSES

The Chargor agrees to pay the reasonable and necessary costs, charges and expenses of and incidental to the Charge, and to any and all other documents required in connection therewith, and of any amendment, extension, variation or renewal thereof, and of anything done in connection with the enforcement of the security granted thereby or the procuring of the payment of any amount payable under the Charge including, without limiting the generality of the foregoing, all solicitors' fees on a solicitor and client basis, costs and expenses of examination of title, and the obtaining of the opinion of counsel for the Chargee thereon and all costs and expenses valuing the Charged Premises in connection with the foregoing and of anything done in connection with defending the validity or priority of the Charge as against third parties. The Chargor further agrees that such amounts shall be paid forthwith upon demand and until paid shall bear interest at the Charge Rate and shall be a charge on the Charged Premises.

56. FURTHER ASSURANCES

The Chargor shall at any time and from time to time make, execute and deliver or cause to be made, executed and delivered to the Chargee, such further and other reasonable acts, deeds, conveyances and assurances as may be required by the Chargee to fully and effectually carry out the true intention and meaning of the Charge and the provisions included in the Charge, and the reasonable costs thereof shall be for the account of the Chargor. Further, the Chargor shall at any time and from time to time provide to the Chargee, upon request, and in a form acceptable to the Chargee, such further information and documentation as the Chargee may require regarding the Chargor's business and/or financial status.

57. INTERPRETATION

It is hereby agreed and declared that the expression “the Chargor” used in the Charge shall include the heirs, personal representatives, executors, administrators, successors and assigns of the Chargor and the expression “the Chargee” shall include the successors and assigns of the Chargee and the words in the singular include the plural and words in the plural include the singular and words importing the masculine gender include the feminine and neuter genders where the context so requires and that all covenants, liabilities, and obligations entered into or imposed under the Charge upon each Chargor shall be equally binding upon his, her, its or their respective heirs, executors, personal representatives, administrators, successors and assigns and that all such covenants, liabilities, advantages, privileges, immunities, powers and things secured to the Chargee shall be equally secured to and exercisable by its successors and assigns; and if the Chargor is comprised of more than one person, all covenants by the Chargor contained in the Charge or implied are and are to be construed as both joint and several.

58. CONFLICT

In the event of any conflict or inconsistency between the terms and provisions of these standard charge terms and the terms and provisions of the registered Charge or any commitment letter issued by the Chargee and accepted by the Chargor (the “Commitment”), the terms and provisions of the registered Charge and Commitment shall prevail.

59. ASSIGNMENT AND SYNDICATION/INFORMATION

The Chargee shall, at any and all times and from time to time, have the right to assign all or any part of its right, title and interest in and to the Charge to a third party or parties (individually and collectively, the “Assignee”) without the necessity of obtaining the consent of or providing notice to the Chargor or any Covenantor. The Chargor and any Covenantor hereby acknowledge that the Chargee has the unfettered right to syndicate the Chargor’s loan to the Assignee and also acknowledge and consent to the Chargee sharing with the Assignee such information concerning the Chargor’s and Covenantor’s financial position and other personal information as the Chargee may possess in its files.

THE CHARGOR AND ANY COVENANTOR CONSENT TO (i) THE COLLECTION AND USE BY THE CHARGEe OF THE PERSONAL INFORMATION PROVIDED BY THE CHARGOR AND COVENANTOR, OR OTHERWISE, RELATING TO OR IN CONNECTION WITH THIS CHARGE; (ii) ANY DISCLOSURE OF SUCH INFORMATION TO ANY THIRD PARTY IN CONNECTION WITH THE ASSIGNMENT OF THIS CHARGE; AND (iii) ANY FURTHER SUBSEQUENT COLLECTION, USE OR DISCLOSURE OF SUCH INFORMATION BY SUCH THIRD PARTY AND ANY OF ITS AGENTS OR ASSIGNEES FOR THE PURPOSE OF ADMINISTERING OR OTHERWISE DEALING WITH THIS CHARGE.

60. COMMITMENT

The Chargor, and any Covenantor herein, agrees jointly and severally to comply with any Commitment entered into with the Chargee, and agrees that the terms of such Commitment shall be enforceable by the Chargee as if terms hereof.

61. PARAGRAPH HEADINGS

The paragraph headings in these standard charge terms are inserted for convenience of reference only and are deemed not to form part of the Charge and are not to be considered in the construction or interpretation of the Charge or any part thereof.

62. DATE OF CHARGE

The Charge shall be deemed to be dated, if the Charge is an ERS Charge, as of the date of delivery for registration of the ERS Charge and, if the Charge is a Form 2 Charge, as of the date of signature of the first named Chargor unless, in either case, as otherwise specifically provided.

63. EFFECT OF DELIVERY OF ERS CHARGE

The delivery of an ERS Charge for registration by direct electronic transfer shall have the same effect for all purposes as if the ERS Charge was in a written form, signed by the parties thereto and delivered to the Chargee. Each of the Chargor and, if applicable, the spouse of the Chargor, and any other party to the Charge agrees not to raise in any proceedings by the Chargee to enforce the Charge any want or lack of authority on the part of the person delivering the ERS Charge for registration to do so.

ONTARIO

**SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

Proceeding commenced at
Toronto, Ontario

AFFIDAVIT OF TERENA CALLARD

Harrison Pensa^{LLP}
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Solicitors for Libro Credit Union Limited
MEC/207125

TAB C

SERVICE MANAGER CONTRIBUTION AGREEMENT

Investment in Affordable Housing for Ontario (2014 Extension) Rental Housing Component

This Agreement made the 16th day of May, 2016

BETWEEN:

THE CORPORATION OF THE CITY OF ST. THOMAS
(hereinafter called the "City")

- and -

McWHIRTER-HORVATH PROPERTIES INC.
(hereinafter called the "Proponent")

WHEREAS:

- A. In order to create a supply of Affordable Housing, Canada Mortgage and Housing Corporation ("CMHC") and Her Majesty the Queen In Right of Ontario, as represented by the Minister of Municipal Affairs and Housing entered into a bi-lateral agreement to provide for the Investment in Affordable Housing Program from 2011-2014, effective April 1, 2011 (the "CMHC-Ontario Agreement for Investment in Affordable Housing 2011-2014").
- B. The purpose of the CMHC-Ontario Agreement for Investment in Affordable Housing 2011-2014 is to provide funding for Affordable Housing.
- C. CMHC and the Minister entered into A Supplementary Agreement No. 1, dated August 11, 2014, ("the Supplementary Agreement").
- D. The Supplementary Agreement amends the CMHC-Ontario Agreement for Investment in Affordable Housing 2011-2014 by extending the funding available for Affordable Housing.
- E. The Minister of Municipal Affairs and Housing (the "Minister") is responsible for the Program and The Corporation of the City of St. Thomas (the "City") is responsible for the delivery and administration of affordable housing programs in the City of St. Thomas and County of Elgin.
- F. The Minister has established a Rental Housing Component, pursuant to which the Minister will provide the CMHC funding and provincial funding for the Investment in Affordable Housing for Ontario Program (2014 Extension).
- G. The Proponent has responded to the procurement process (the "Procurement Process") initiated by the City by submitting its proposal dated **June 4, 2015** (the "Proposal") to undertake Development Activities for the Project(s) in return for Funding.
- H. The City and the Proponent have entered into this Agreement for the purpose of establishing the Proponent's obligations with respect to the Program and the City's obligation to provide funding to the Proponent.

NOW THEREFORE, the City and the Proponent agree with each other as follows:

1. INTERPRETATION

1.1 In this Agreement, including its Schedules, unless the context requires otherwise,

- "Accessible Units" means a unit located in a fully accessible building that provides items such as grab bars, roll-in shower, counter top stove, and lower cabinets as well as provisions for persons with hearing and vision impairments;
- "Affordability Period" means the period during which the average rent in a Project is required to be maintained at an affordable level, as determined in accordance with the Program Guidelines or as otherwise established by the City;
- "Affordable Housing" means new, purpose-built, rental housing accommodation Units in any Building or Buildings which is modest in terms of floor area and amenities, based on household needs and community norms, in Projects that achieve rent levels in accordance with the Program Guidelines, but does not include residential premises used as a nursing home, retirement home, shelter, crisis care facility or any other type of similar facility;
- "Affordable Rent" in respect of a Unit of rental housing means a monthly occupancy cost that does not exceed 80% of the CMHC AMR for that Unit. The Affordable Rent must include at least the unit heat, hot water, fridge, stove and parking;
- "Average Market Rents (AMR)" means the average monthly market rent for St. Thomas for a rental housing unit, by unit type, as published by CMHC (or, should CMHC not publish such information, as determined from time to time by the City, acting reasonably), as adjusted on an annual basis;
- "Barrier-Free Units" means units located in fully accessible buildings and provide ramps, grab bars, wider doorways and/or lower cabinets, as well as provisions for persons with hearing and vision impairments;
- "Business Day" means each Monday, Tuesday, Wednesday, Thursday and Friday except when any such day occurs on a statutory holiday observed in Ontario;
- "CMHC" means Canada Mortgage and Housing Corporation;
- "Conditional Letter of Commitment" means the letter issued by the Minister confirming approval of the Project and setting out the amount, terms and conditions of Funding allocated to the Proponent;
- "Construction Start Date" means the later of the following dates:
 - (a) the date that the City receives evidence satisfactory to it that all permits or approvals necessary for the construction of the Assisted Affordable Rental Housing portion of the Project in accordance with the Plans and Specifications and the Project Agreements have been obtained from the appropriate municipal, provincial and federal authorities, and that the Project, when completed, will be in compliance with all applicable environmental laws, zoning by-laws and building codes and with the Plans and Specifications;

(b) the date that the City, having received a notarial copy of an agreement with a general contractor satisfactory to the City for the construction of the Assisted Affordable Rental Housing portion of the Project, notifies the Successful Proponent that such contract is satisfactory to the City;

(c) the date that each of the Project Agreements and all related security agreements, statements, certificates, opinions of legal counsel, notices and other documents have been executed and delivered to the City and all conditions precedent to the first advance of any loan or grant to be made by the City to a Successful Proponent under this RFP have been satisfied or waived by the City, and all registrations, filings or recordings necessary or desirable to preserve or protect their security and priority have been completed and are not in default;

- "Contribution Agreement" means an agreement entered into between the City and an approved Proponent for contributions under the Program also called the Service Manager Contribution Agreement;
- "Contribution by Others" means cash or in-kind eligible contributions from municipalities, in accordance with the Program. It does not include contributions from any other Government of Canada sources, including, but not limited to the CMHC - Ontario Social Housing Agreement dated November 15, 1999, nor contributions which receive credit under any agreement with CMHC outside this Agreement nor equity contributions to the Project made by the Proponent to the extent required in the Procurement Process;
- "Development Activities" means those activities which have been approved for the Project as set out in the approved Plans and Specifications and, generally, activities that are normally undertaken for the development, construction, repair, renovation, rehabilitation or conversion of buildings for residential purposes and include the acquisition of property;
- "Force Majeure" means a delay arising from strike, lockout, riot, insurrection, terrorism, war, fire, tempest, act of God, lack of material or supply of service at a reasonable cost, inclement weather, binding orders or regulations of governmental bodies, courts or arbitrators or any other event beyond the control of the Parties which causes a delay in the fulfillment of a Party's obligations under this Agreement notwithstanding the reasonable efforts of such Party and provided that any such non-availability or delay does not relate to any extent to any act or omission by such Party or any of its authorized agents or employees;
- "Funding Schedule" means the schedule of funding setting out progress payments for the type of Project to be undertaken by a Proponent, in the form determined by the City;
- "Funds" means Federal Funds or Provincial Funds, as set out in the Program Guidelines and Municipal funds if applicable;
- "Housing" means residential accommodation and facilities, common areas and services used directly with the residential accommodation. Housing does not include commercial or institutional premises, social or recreational services, and services or facilities related to mental or physical health care, education, corrections, food services, social support or public recreation;

- "IAH" means the Investment in Affordable Housing for Ontario Program – Rental Housing Component;
- "Interest Adjustment Date" means the date on which the Proponent makes the first payment of principal and interest in respect of the Proponent's permanent financing obligations for the Project, following the completion of construction;
- "Improvements" means the improvements to be made on the Property, consisting of a building and other improvements to be constructed by the Proponent on the Property in accordance with the Plans and Specifications;
- "Loan" means the total amount of Federal Funds, Provincial Funds and Municipal Funds, if applicable, advanced to the Proponent, in accordance with the Funding Schedule;
- "Occupancy Date" means the date on which occupancy of all Units in a Project is permitted;
- "Parties" means the Proponent and the City and "Party" means either of them, as the context may require;
- "Permitted Encumbrances" means the encumbrances encumbering the Affordable Housing Units listed in Schedule "G", together with such renewals or replacement financing that may be approved by the City, acting reasonably, during the term of this Agreement;
- "PIPEDA" means the Personal Information Protection and Electronic Documents Act, S.C. 2000, c. 5, including any amendments thereto;
- "PIPEDA Protected Information" means any "Personal Information" or "Personal Health Information", as defined under PIPEDA;
- "Plans and Specifications" means the plans and specifications for the development of the Project that have been approved and reviewed by all appropriate governmental authorities for the issuance of all permits necessary to construct and occupy the Improvements and as certified by a Quantity Surveyor;
- "Procurement Process" means the request for proposals or procurement process used by the City;
- "Program" means the Rental Housing Component, described in the IAH (2014 Extension) Program Guidelines;
- "Program Guidelines" means the Program for the IAH Components and attached to this Agreement as Schedule "A";
- "Project" means Affordable Housing proposed or approved for the Program, as the context may require on lands described in Schedule "L";
- "Proposal" means the response to the request for proposals or procurement process, submitted to the City pursuant to the Procurement Process;
- "Proponent" means a person or other legal entity that has submitted a Proposal;

- "Quantity Surveyor" means such Architect, Engineer or other professional duly licensed to practice in the Province of Ontario as the Proponent may from time to time appoint to supervise, direct, monitor, inspect or assess the Project or a specific aspect of the Development Activities;
- "Rental Housing Component" means the Rental Housing Component described in the Program Guidelines;
- "Security Documents" means the security documents attached to and forming part of the Contribution Agreement;
- "Service Manager" means The Corporation of the City of St. Thomas";
- "Substantial Completion" means the substantial performance, within the meaning of the Construction Lien Act, of all contracts which the Proponent has entered into for Development Activities in connection with the Project under this Agreement;
- "Supportive Housing Units" means units that are occupied by households receiving formal support services from Support Service Agencies. Supportive Housing Units may be either intergraded into projects or dedicated to a single Project;
- "Targeting Plan" means the manner in which a Service Manager or a Proponent plans to meet the objectives of the Program to create Affordable Housing for households that are on or are eligible to be on waiting lists for social housing;
- "Tenant" means a person who pays rent in return for the right to occupy a Unit for residential use. "Tenants" shall have a corresponding meaning.
- "Unit" means a self-contained residential dwelling, including, without limiting the generality of the foregoing, (i) supportive rental Housing where service funding is secured from sources other than Federal Funds and Provincial Funds provided under the Program; (ii) multi-bedroom units which are used for congregate living; and (iii) disabled/accessible units.

1.2 All references in this Agreement, including, without limitation, the Schedules hereto, to "rent" are deemed to include housing charges paid by members of non-profit housing cooperatives and "rental" is deemed to have a corresponding meaning.

1.3 The following Schedules are attached to and form part of this Agreement:

Schedule "A"	-	IAH (2014 Extension) Program Guidelines;
Schedule "B"	-	Funding Schedule;
Schedule "C"	-	Partnership Agreement with CMHA, Elgin Branch;
Schedule "D"	-	Rental Protocol;
Schedule "E-1"	-	Charge/Mortgage of Land;
Schedule "E-2"	-	Assignment of Rents;
Schedule "E-3"	-	Security Agreement;
Schedule "F"	-	Energy Efficiency and Building Design Project Details;
Schedule "G"	-	Permitted Encumbrances;
Schedule "H"	-	Proponent's Initial Occupancy Report;
Schedule "I"	-	Proponent "s Annual Occupancy Report;

Schedule "J"	-	Canadian Environmental Assessment Act Considerations
Schedule "K"	-	Protocol for Non-Compliance
Schedule "L"	-	Legal Description of Property;
Schedule "M"	-	Project Information Form;
Schedule "N"	-	Development Schedule;
Schedule "O"	-	CLC from the Minister to the Proponent;
Schedule "P"	-	Confirmation of Employment of Apprentices.

- 1.4 In the event of a conflict or inconsistency between the provisions of this Agreement and the provisions of a Schedule, the provisions of this Agreement shall prevail.
- 1.5 All references in this Agreement to section numbers are references to sections of this Agreement unless otherwise stated.

2. FUNDING FOR AFFORDABLE HOUSING

- 2.1 The Proponent agrees to advance as its equity contribution to the Project the amount of one hundred eighty-three thousand five hundred forty-three dollars (\$183,543), on or before the commencement of Development Activities and provide written confirmation to the City that the equity contribution has been advanced.
- 2.2 Funding for Affordable Housing is comprised of Federal Funds, Provincial Funds and Municipal Funds, if applicable. Federal Funds, Provincial Funds and Municipal Funds will be advanced to the Proponent in the form of a Loan, during the Development Activities.
- 2.3 The City agrees to provide to the Proponent as a Loan, upon the terms and subject to the conditions set out in this Agreement, the amount of five hundred ninety five thousand and two hundred dollars [(\$595,200) *Federal Funds*] and three hundred sixty four thousand and eight hundred dollars [(\$364,800) *Provincial Funds*] as described in Schedule "M", to be applied by the Proponent only towards the payment of Development Activities for Affordable Housing. Pursuant to the Proposal, the total amount of such loan being nine hundred sixty thousand dollars (\$960,000).
- 2.4 The City shall have the option of withholding from the amount to be disbursed under section 2.3 the amount of the cost of construction necessary to complete the construction of the Project and, in such case, the City shall disburse the amount so withheld following its receipt of satisfactory evidence that such construction is substantially complete within the meaning of the *Construction Lien Act* and provided that the *Construction Lien Act* is complied with.
- 2.5 The Proponent shall use the amount of the Loan and Contribution by Others solely for the purpose of its Development Activities in connection with the Project.
- 2.6 The City shall disburse the Federal, Provincial and Municipal funds, if applicable in accordance with the Funding Schedule attached as Schedule "B."
- 2.7 The Proponent may authorize the City to pay Funds to a third party and the City shall permit such authorization.

3. SPECIAL CONDITIONS

- 3.1 The Proponent shall provide the City with a revised construction schedule and construction budget for its review and approval four (4) weeks prior to the start of construction. The construction budget shall include soft costs, and the cost of each item of the Project. The Proponent will obtain the City's prior written approval to any material amendment to the

construction schedule or construction budget. A material amendment means any single amendment that increases the cost of construction of constructing the Project by amount exceeding \$20,000 or any series of amendments that, in the aggregate, increase the cost of constructing the Project by an amount exceeding \$50,000.

- 3.2 The Proponent is required to submit to the City for approval all change orders that add to or delete from the original scope of work.
- 3.3 If requested by the City, the Proponent agrees to provide a breakdown of expenditures charged to the hard construction contingency prior to the release of the 10% holdback.
- 3.4 The Proponent agrees to undertake its Development Activities in connection with the Project in accordance with the provisions relating to the development of the Project contained in the Program Guidelines and in conformity with its Proposal.
- 3.5 The Proponent shall, subject to Force Majeure, achieve Substantial Completion in accordance with the Program Guidelines.
- 3.6 Without limiting the condition set out in section 5.1 (b), the Proponent shall discharge or cause the discharge of any registered construction liens so as to ensure that there are no construction liens registered against the Project on the date for the disbursement of the Loan under sections 2.3 and 2.4.
- 3.7 The Proponent shall not at any time during the term of this Agreement breach any Contribution Agreement respecting the Project that it has entered into by means of a Contribution by Others, including any municipal capital facility agreement made pursuant to section 110 of the *Municipal Act, 2001* and shall not, through any breach on its part, cause such other entity to terminate a Contribution Agreement for cause. The Proponent agrees that a breach by it of any such Contribution Agreement, that has not been corrected, shall constitute a breach of this Agreement. All such agreements by means of a Contribution by Other shall be attached as Schedule 'C'. The Proponent shall provide the Minister with evidence of its good standing under any such Contribution Agreement within ten (10) Business Days following its receipt of a written request from the City.

4. OPERATION OF AFFORDABLE HOUSING

- 4.1 The Proponent acknowledges and agrees that the Rental Protocol set out in Schedule "D" applies to the Project by virtue of the contractual terms of this Agreement, notwithstanding that the Rental Protocol does not apply to the Project under the *Residential Tenancies Act, 2006* or any successor legislation.
- 4.2 Prior to occupancy of a Unit, the Tenant must be subject to review and approval of the Service Manager for compliance with the Program requirements. The Proponent shall provide written notice to each prospective first Tenant regarding the review by the Service Manager.
- 4.3 The Proponent agrees to operate the Units in accordance with the rules set out in Schedule "D" of this Agreement.
- 4.4 The City requires that the Proponent provide twelve units (12) for people experiencing mental health issues in St. Thomas and surrounding area.
- 4.5 The City requires that all units in the project will be rented at 80% or less of the CMHC Average Market Rent as outlined in Schedule "D". Rent increases may follow the *Residential Tenancies Act, 2006* rent increase guidelines but must not exceed 80% of the CMHC Average Market Rent

for the term of the agreement. At initial occupancy, the rent for a one bedroom apartment will be \$506 monthly including items listed in section 4.6. This rent will not be adjusted prior to occupancy.

- 4.6 The City requires that the Affordable Rent must include the unit heat, water, electricity, fridge, stove and parking.
- 4.7 The City requires that the Proponent contribute a minimum 4% of rental income annually to a designated reserve fund account and provide account information to the City annually, or as requested.

5. CONDITIONS

- 5.1 The provision of funding by the City pursuant to sections 2.3, 2.4 and 2.7 is subject to the following conditions precedent, each of which is for the exclusive benefit of the City, and may be waived in full or in part by the City by written notice to the Proponent:
 - (a) the Proponent is the registered owner in fee simple of the lands described in Schedule "L";
 - (b) any Contribution Agreement referred to in section 3.7 remaining in force and the Proponent being in good standing thereunder;
 - (c) there being no Claim for Lien under the *Construction Lien Act* registered against the Project;
 - (d) there being in existence no unregistered lien or statutory claim having priority against the Project;
 - (e) the Proponent's title to the Project being free from any encumbrances other than the Permitted Encumbrances;
 - (f) the Proponent being in good standing under all of the Permitted Encumbrances;
 - (g) there being no work orders issued against the Project by any governmental entity, agency or official;
 - (h) the Proponent having provided the City with the security documents required by section 7 and in accordance with the said section; and
 - (i) all funds provided by means of a Contribution by Others due on or before a disbursement date hereunder having been fully advanced to the Proponent on or before such disbursement date and having been secured by by-law, agreement or otherwise and attached as Schedule "C".
- 5.2 If any of the conditions contained in section 5.1 have not been fulfilled on the date for the disbursement of the Loan by the City pursuant to sections 2.3 or 2.4 and are not waived by the City pursuant to section 5.1, the City shall be under no obligation to make any advance of the Loan to the Proponent and the City shall thereupon have the right to terminate this Agreement and, in that event, neither Party to this Agreement shall have any rights or obligations hereunder, save and except that the City may, notwithstanding such termination, bring an action against the Proponent for all losses, costs and expenses, including, without limitation, reasonable legal fees incurred by the City in connection with this Agreement where the non-performance or non-fulfillment of a condition is a result of a breach of a covenant by the Proponent.

- 5.3 The provision of Funds by the City pursuant to section 2.6 is subject to the following conditions precedent, each of which is for the exclusive benefit of the City, and may be waived in full or in part by the City by written notice to the Proponent:
- (a) any Contribution Agreement referred to in section 3.4 remaining in force and the Proponent being in good standing thereunder;
 - (b) there being no Claim for Lien under the *Construction Lien Act* registered against the Project;
 - (c) there being in existence no unregistered lien or statutory claim having priority against the Project;
 - (d) the Proponent's title to the Project being free from any registered encumbrances other than the Permitted Encumbrances;
 - (e) the Proponent being in good standing under all of the Permitted Encumbrances and there being no work orders issued against the Project by any governmental entity, agency or official;
 - (f) the City has approved the information reports required in section 8.1 (c);
 - (g) the City has approved the Proponent's Targeting Plan and has advised the City, on an annual basis, that the Proponent is in compliance with the Targeting Plan.

5.4 Not applicable to this Program.

6. TERMS OF THE FUNDING

- 6.1 The Loan shall have a term of twenty-five (25) years, commencing as of the Initial Occupancy of the Project.
- 6.2 Prior to the Interest Adjustment Date, interest shall accrue on the total of the amount or amounts advanced under the Loan the rate of eight per cent (8%) per annum. The interest so calculated shall compound semi-annually, not in advance, until the Interest Adjustment Date.
- 6.3 On the Interest Adjustment Date, the amount of interest accrued as calculated in section 6.2 shall be forgiven, provided that the Proponent has satisfied all requirements as set out in section 2.
- 6.4 Following the Interest Adjustment Date, interest shall accrue on the total of the amount or amounts advanced under the Loan that rate of eight per cent (8%) per annum. The interest so calculated shall compound semi-annually, not in advance.
- 6.5 On each anniversary date of the Interest Adjustment Date, the Proponent shall pay the City the amount of interest, as calculated on the Loan amount according to the interest rate stipulated in section 6.4, so accrued during the previous year; provided, however, if in the opinion of the City, acting reasonably, the Proponent has satisfied, as of such anniversary date, the requirements of this Agreement, the amount of the interest so owing shall automatically be forgiven.
- 6.6 The Loan amount shall be fully forgiven on the last day of the month at the end of the term of the Loan, provided that the Proponent has fulfilled all the requirements of the Program as set out in this Agreement.

- 6.7 The Proponent shall provide the City with such information respecting the Proponent's Permitted Encumbrances obligations for the Project as the City may require from time to time.

7. SECURITY

- 7.1 Prior to the City disbursing the Loan proceeds to the Proponent pursuant to section 2.4, the Proponent shall provide the City with executed registerable security documents in the form attached hereto as Schedules "E-1", "E-2" and "E-3" (the "Security"), completed in accordance with this Agreement.
- 7.2 The Security shall be collateral to this Agreement. The amount of all contributions from the City shall be included in the Security documents. Any cash contributions from the City shall be included in the Security documents. The amount of any eligible in-kind contributions from the City shall not be included in the Security documents.
- 7.3 Without limiting the Proponent's covenants and the remedies of the City under the Contribution Agreement and the Security, the Proponent agrees that a breach of this Agreement shall constitute a breach of the Security and a breach of the Security shall constitute a breach of this Agreement.
- 7.4 The City acknowledges and agrees that notwithstanding that the Security provides that the principal and interest secured thereunder is payable on demand, the City shall have no right to demand payment thereunder except in accordance with the provisions of this Agreement relating to repayment. In the event of a conflict or inconsistency between the provisions of this Agreement and the Security, the provisions of this Agreement shall prevail with respect to Funds provided by the City.
- 7.5 The Security shall rank immediately behind the registered security for the Proponent's Permitted Encumbrances obligations for the Project unless the City determines that the Security shall have a lesser priority.

8. ACCOUNTABILITY FRAMEWORK

- 8.1 (a) In the event:
- (i) the City is advised that the Project will not proceed; or
 - (ii) the building permit for the Project is not issued on or before **September 30, 2016** or such longer period of time as the City may determine; or
 - (iii) the City determines, acting reasonably, that the Proponent is not proceeding with the construction due to delays likely to cause depreciation or deterioration of the Improvements the Proponent shall return all Funds to the City, forthwith upon demand;
 - (iv) the City is of the opinion that the Proponent is not proceeding in an expeditious manner with the Development Activities for which the Funds have been provided;
 - (v) the Proponent is not complying with the requirements as set out in section 4 and Schedule "D" during the term of the Agreement;

the Proponent will be in default and shall return all Funds to the City, forthwith upon demand.

- b) The Proponent shall submit to the City an audited statement with respect to the expenditure of the Funds provided to it pursuant to this Agreement, within ninety (90) days following the date on which the City is advised that the Development Activities related to the Project have been fully completed or the Project will not proceed.
- c) Following the full completion of the Development Activities related to the Project, the Proponent shall submit to the City a completed information report in the form attached hereto as Schedule "H", and annually thereafter shall submit to the City completed information reports in the forms attached hereto as Schedules "I".
- (d) Without limiting the Proponent's obligations under section 8.1 (c), the Proponent, if requested by the City, shall forthwith submit to the City the material required to be submitted to the City pursuant to section 8.1 (c), in addition to any such material that the Proponent may have previously submitted to the City.
- (e) If requested by the City, the Proponent shall submit to the City annual financial statements within ninety days (90) following the Project's fiscal year end.

8.2 The Proponent represents that it has not provided any false or misleading information in the Proposal and agrees that it shall not provide any false or misleading information to the City under this Agreement.

8.3 The Proponent shall, on forty-eight (48) hours prior written notice, give the City free access to the Project and to such staff, documents, books, records, and accounts as may be determined by the City, for the purpose of verifying compliance with this Agreement.

8.4 The City may conduct an audit, investigation, or inquiry in relation to the Project or any larger development or project of which the Project is a part and the Proponent shall cooperate with the City and provide free access to the Project and to such staff, documents, book, records and accounts as may be determined by the City. The Proponent agrees that the City shall be entitled to make copies of any or all of the Proponent's records as it reasonably requests or requires from time to time.

8.5 The Proponent will prepare and maintain its financial records in accordance with Generally Accepted Accounting Principles (GAAP).

8.6 The provisions of sections 8.1, 8.2, 8.3, 8.4, 8.5 and 8.6 shall continue to apply for a period of seven (7) years following the end of the Affordability Period or the date of any early termination of this Agreement.

9. COMMUNICATIONS PROTOCOL

9.1 The Proponent acknowledges that it has been informed by the City that under the terms of the CMHC - Ontario Agreement for Investment in Affordable Housing (2014 Extension) all publicity, including written materials and signs, respecting the Project must recognize the contributions of CMHC, the Minister and the City. The Proponent further acknowledges that it has been informed by the City that the CMHC - Ontario Agreement for Investment in Affordable Housing (2014 Extension) requires the Minister to co-ordinate with CMHC and/or obtain CMHC's approval with respect to communications, signage, and advertising matters. The Proponent

agrees that it shall not do or omit to do any act, which will cause the City to be in breach of the terms of the CMHC - Ontario Agreement for Investment in Affordable Housing (2014 Extension).

- 9.2 The Proponent shall co-operate in organizing press conferences, announcements, and official ceremonies to be held at an appropriate location and time respecting the Project, insofar as it relates to the Program, or respecting its participation in the Program or respecting the Program in any other respect without the prior written consent of the City.
- 9.3 During the period of the Development Activities related to the Project, the Proponent shall erect a sign at a prominent location where there is visible activity related to the approved Project. The sign shall include that it is a CMHC-Ontario-City Investment in Affordable Housing Project, bear a message approved by the three levels of government, and remain in place throughout the construction period. The sign shall be in accordance with specifications issued by the City. The cost of the sign is included in the funding provided by CMHC, Province and City under the IAH.
- 9.4 CMHC, Ontario and the City may provide and install, where appropriate, a plaque or permanent sign bearing an appropriate inscription. The design, wording and specifications of such permanent signs shall be provided by the City.
- 9.5 The Proponent acknowledges that any breach by it of sections 9.2 or 9.3 of this Agreement shall cause the City to be in breach of the CMHC - Ontario Agreement for Investment in Affordable Housing (2014 Extension).

10. REMEDIES

- 10.1 Upon the occurrence of any one or more of the following events (each an "Event of Default"):
- (a) the failure of the Proponent to perform, observe or comply with any other term, covenant, condition or provision of this Agreement within 10 days of receipt of written notice of the "failure" from the City provided the Proponent shall not be deemed to be in default if within the said period of ten (10) business days, the Proponent commences the necessary action to remove the "failure" and such action is diligently prosecuted;
 - (b) any representation or warranty made by the Proponent in this Agreement proves to have been untrue or misleading in any material respect as of the date on which it was made;
 - (c) any person commences an action, suit or proceeding materially affecting the Project or file a lien against the Property, or any person shall commence an action, suit or proceeding contesting or questioning the validity or enforceability of this Agreement, unless the Proponent shall diligently contest such action, suit or proceeding and discharge any such lien forthwith without the requirement of notice by the City and post such bonds, cash or letters of credit or give such other security in order to obtain such discharge in amounts and on terms satisfactory to the City, acting reasonably;
 - (d) the Proponent ceases to carry on business;
 - (e) the Proponent:
 - (i) becomes insolvent or unable to pay its debts as they become due; or
 - (ii) files a petition in bankruptcy or voluntary petition seeking reorganization or effect a plan or other arrangement with creditors; or

- (iii) makes an assignment for the benefit of creditors under the Bankruptcy Act (Canada) or any other insolvent debtors' legislation; or
- (iv) applies for or consents to the appointment of any receiver or trustee for it or of all or any substantial part of its property and assets; or
- (v) voluntarily liquidates or winds-up or suffers itself to be liquidated or wound-up;
- (f) any of:
 - (i) an involuntary petition seeking the adjudication of the Proponent as bankrupt or insolvent not removed within 30 days; or
 - (ii) an order of any court or other authority appointing any receiver or trustee for the Proponent or for all or any substantial portion of its property and assets; or
 - (iii) a writ of execution, judgment or writ of attachment or any similar process which may, in the reasonable opinion of the City, materially impair the ability of the Proponent to perform its obligations under this Agreement or any of the Security Documents shall be made, given or issued against the Proponent or in respect of its property and assets, and such petition, order, writ or judgment is not vacated or stayed within 15 days after its date;
- (g) the occurrence of a material adverse change in the financial condition of the Proponent which would, in the reasonable opinion of the City, detrimentally affect the ability of the Proponent to meet its obligations to the City; and
- (h) if the Improvements shall be entirely destroyed or damaged to such an extent that, in the opinion of the Quantity Surveyor, acting reasonably, they are no longer fit for the purpose for which they were intended and the insurance proceeds, if any, held by the City, in the opinion of the Quantity Surveyor, acting reasonably, insufficient to repair such destruction or damage, and the Proponent has not provided evidence satisfactory to the City of the timely availability of such sufficient funds,

then, at its option, the City may declare the full principal amount of the Loan then advanced, together with all other moneys owing to the City hereunder, due and payable forthwith. In such case, the City may realize upon any and all security pledged to it and may commence such other legal actions or proceedings against the Proponent, the Property or assets of the Proponent as may be permitted hereunder, by any one or more of the Security Documents or at law or in equity, all as it, in its sole discretion, deems expedient. The Proponent hereby acknowledges that the City's remedies are cumulative and not mutually exclusive.

- 10.2 Complete Construction. If an Event of Default shall occur, then the City may, at its option, in addition to any other remedy available to it, enter upon and take charge of the Project and assume full charge of the Improvements and may complete the Improvements or enter into a contract with another to complete the same, and all amounts advanced for such purpose, including reasonable legal fees incurred by the incident to the enforcement of any provisions hereof, shall be an indebtedness of the Proponent to the City. All such amounts, even though they may, when added to the monies advanced and disbursed under this Agreement, exceed the Loan, shall be secured by the Mortgage and other Security Documents
- 10.3 During Term of Agreement. Should the Proponent be in default under the terms of the Loan or under the terms of this Agreement or under the terms of any mortgage or other encumbrance registered on title to the Property, the City shall have the right to declare all or part of the

unearned portion of the Loan due and payable immediately. Interest will be payable only from the date of default until the Loan is paid in full. The interest rate shall be the Bank of Canada Prime Rate plus 2% in effect at the time of the Loan default. The amount of the Loan that must be repaid is equal to the total amount of the Loan less any amount considered forgiven from the first day of the month following full payment of the funds until the default

- 10.4 **Assignment of Plans and Specifications.** The Proponent hereby assigns to the City and its successors and assigns, the right to possess and use the Plans and Specifications and the Proponent's rights under all construction contracts, for the purpose of completing the Improvements if Proponent defaults subject to any prior assignment to the holder of the First Loan.
- 10.5 **Costs and Expenses of Collection.** All reasonable costs and expenses of collection (including legal fees, disbursements and court costs) of all amounts owing hereunder or of enforcement of any security created in favour of the City pursuant hereto, shall be for the account of the Proponent and shall be repayable on demand.
- 10.6 In the event the City determines that a Proponent has breached any one (1) or more provisions of the Contribution Agreement, the City shall follow the Protocol for Non-Compliance set out in Schedule "K".
- 10.7 All of the remedies in this Agreement, Schedule "K" and the Security are cumulative and are not alternative and the City shall not be precluded from availing itself simultaneously of some or all of the said remedies and any other remedies available in equity or at law.
- 10.8 Notwithstanding any of the terms of this Agreement, Schedule "K" or of the Security, the City shall have the option of waiving any or all of its remedies under this Agreement, Schedule "K" and the Security, but no waiver of a provision shall be deemed to constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise provided.

11. RENT SUPPLEMENT REQUIREMENT

- 11.1 The City, at its option, may require the Proponent to enter into a rent supplement agreement at any time during the term of this agreement for a maximum of 30% of the units in the Project.

12. REPRESENTATION AND WARRANTIES

The Proponent represents and warrants to the City that:

- 12.1 The Proponent is a duly incorporated, organized and validly existing under the laws of the Province of Ontario and has full capacity, power and authority to own all its property and to carry on its business as now conducted and as contemplated under this Agreement and all other agreements contemplated thereunder, and is duly qualified and in good standing in each jurisdiction in which the character of the property owned or leased or the nature of the business carried on by it makes such qualification necessary or desirable.
- 12.2 The Proponent has full corporate power, legal right and authority to enter into this Agreement and to do all acts and things as are required or contemplated hereunder to be done, observed or performed by it.
- 12.3 Neither the execution and delivery of this Agreement, the consummation of the transactions herein contemplated, nor the compliance with the terms, conditions and provisions hereof and

of the Mortgage will conflict with, or result in a breach of, any of the terms, conditions or provisions of the constating documents of the Proponent or of any agreement or instrument to which it is now a party, or constitute a default thereunder, or (except as contemplated by this Agreement) result in the creation or imposition of any mortgage, lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Proponent (whether such properties or assets are owned legally or beneficially) pursuant to the terms of any agreement or instrument to which it is a party.

- 12.4 There is not now pending against the Proponent any litigation, action, suit or other proceeding of a material nature by or before any court, tribunal or other governmental agency or authority or any other such pending or threatened action, suit or other proceeding against the Proponent or against or affecting any of the properties or assets of the Proponent (whether such property or assets are owned legally or beneficially) such that if the same were adversely determined, it could be reasonably expected to materially and adversely affect the business operations, properties or assets, or the condition, financial or otherwise, of the Proponent.
- 12.5 Except as previously disclosed in writing to the City, the Proponent is not a party to any agreement or instrument or subject to any restriction or any judgment, order, writ, injunction, decree, rule or regulation which materially and adversely affects the business, operations, prospects, properties or assets, or condition, financial or otherwise, of the Proponent.
- 12.6 The construction contract is in full force and effect and neither the Proponent nor any other party thereto is in default thereunder.
- 12.7 None of the information, financial or otherwise, provided by the Proponent to the City to induce the City to make the Loan and to enter into this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in light of the circumstances in which it was made.

13. COVENANTS OF THE PROPONENT

13.1 The Proponent covenants and agrees with the City that, it shall:

- (a) take all such actions and do all such things required to develop and continuously carry on the construction of the Improvements in a good and workmanlike manner and in accordance with the Plans and Specifications and to complete such construction not later than the date specified in Schedule "N", subject to acts of God and other events which occur for non-financial reasons beyond the control of the Proponent, including, without limitation, strikes, lock-outs or other labour or industrial disturbances, civil disturbances, arrests and restraints, interruptions by government or court orders, future valid orders of any regulatory body having proper jurisdiction, wars, riots, sabotage, blockades, embargoes, insurrections, lightning, earthquake, fires, storms, floods, explosions and to pay all costs thereof;
- (b) do or cause to be done all acts and things necessary to preserve in full force and effect the existence of the Proponent and all licences and permits required for the carrying on of the operations of the Proponent at and from the Property and to preserve and protect all of the properties, real and personal owned and used by the Proponent in connection with the Project and to cause the same to be properly maintained and to be kept in good state of repair;
- (c) pay and discharge or cause to be paid and discharged all taxes and other levies of the Province of Ontario, the City, or of any other entity having jurisdiction to impose such taxes or levies, when the same become due and payable, except such taxes as are

being contested in good faith by appropriate proceedings and provided that, in such case the Proponent shall have provided the City with appropriate security;

- (d) deliver to the City the statements and reports as required by the Contribution Agreement.

13.2 The Proponent covenants and agrees with the City that, so long as any obligation is outstanding by the Proponent to the City hereunder the Proponent will not, without the prior written consent of the City, which consent may be unreasonably withheld:

- (a) create, incur, assume or permit to exist, after knowledge of the existence thereof, any mortgage, pledge, lien, hypothecation, charge (fixed or floating), security interest or other encumbrance whatsoever on the Property or any personal property or fixtures thereon except the encumbrances created by the following encumbrances (collectively, the "Permitted Encumbrances"):

13.2.a.1 the First Mortgage;

13.2.a.2 encumbrances created in favour of or assigned or pledged to the City;

13.2.a.3 inchoate or statutory liens for taxes which have not been assessed, or if assessed, which are either not delinquent or which are being contested by bona fide proceedings in good faith, and sufficient security for the payment of same has been given to the City, if requested;

13.2.a.4 inchoate or statutory liens of contractors, sub-contractors, mechanics, suppliers, workers and others in respect of the construction, maintenance, repair and operation of the Improvements, provided that the same are not registered encumbrances against title to the Property or any personal property, or, if so registered, have been postponed to all charges in favour of the City contained in the Security Documents or are being contested by bona fide proceedings in good faith with sufficient security for the payment thereof having been given to the City or paid into Court to prevent effectively in the City's opinion realization by disposal or other alienation from the Proponent of its legal or beneficial title to or interest in any such property; and

13.2.a.5 Other Permitted Encumbrances listed in Schedule "G" hereto.

- (b) become a party, without the prior written consent of the City, to any transaction whereby the Project would become the property of any other person, whether by way of reorganization, amalgamation, merger, transfer, sale, lease, sale and leaseback, or otherwise;
- (c) permit any change in the beneficial ownership of the Proponent without prior written consent of the City;
- (d) make any material change in the Plans and Specifications or the Construction Contract which pertains to the number or type of residential dwelling units of the Project without the prior written approval of the City; or
- (e) change its fiscal year end or change the basis upon which the financial records of the Proponent are maintained, without the prior written consent of the City.

14. INDEMNIFICATION

- 14.1 The Proponent shall indemnify and save harmless the City and the Province of Ontario from all claims, costs, all matter of actions, cause and causes of action, duties, dues, accounts, covenants, demands or other proceeding of every kind or nature whatsoever at law or in equity arising out of this Agreement and out of the operation of the units including claims arising out of negligence of the Proponent, its officers, directors, employees, agents, volunteers or independent contractors to this Agreement and specifically, all claims arising out of the intentional or criminal acts of any officers or directors, employees, agents, volunteers or independent contractors of the Proponent. Such indemnification shall survive the termination of this Agreement for claims arising from or out of incidents occurring the term of this Agreement.
- 14.2 The Proponent agrees to purchase and maintain, during the term of this Agreement third party liability insurance in a limit of not less than Five Million Dollars (\$5,000,000.00) covering bodily injury, loss or property damage resulting from any activity related in any way to this Agreement. This insurance shall include the City as an additional insured, a cross liability clause, severability of interest clause, non-owned automobile insurance and personal injury liability clause.
- 14.2.1 The Proponent further agrees, upon Substantial Completion, to purchase and maintain insurance policies that a prudent manager of similar premises would maintain and, without limiting those types of policies, at least the following:
- a) Broad form boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident in an amount of at least the replacement cost of the Project and with a deductible of not more than One Hundred Thousand Dollars (\$100,000.);
 - b) All risks property insurance (including flood and earthquake) in an amount equal to the full replacement cost of the Project and with a deductible of not more than One Hundred Thousand Dollars (\$100,000.).
- 14.3 In addition, during the design and construction period of the contract the Proponent will obtain and maintain the following policies of insurance:
- 14.3.1 All risk builder's risk property insurance for the full replacement value of the completed construction project, including boiler and machinery, earthquake and flood based on a stated amount co-Insurance and including a waiver of subrogation and loss payable, as their interest may appear, in favour of the City, and with a deductible of not more than One Hundred Thousand Dollars (\$100,000.00) and remaining in effect until the completion of construction
- 14.3.2 Purposely Omitted.
- 14.4 The Proponent shall advise the City of any cancellation, material alteration or lapse of any policies of insurance required to be provided hereunder. If the Proponent fails to effect and keep such insurance in force, or if such insurance is in an amount less than the amount required under this Agreement, the City shall have the right, upon notice to the Proponent and without assuming any obligation in connection therewith, to effect such insurance at the cost of the Proponent and all outlays by the City shall be payable by the Proponent to the City forthwith upon demand without prejudice to any other rights and recourses of the City hereunder. No such insurance taken out by the City shall relieve the Proponent of its

obligations to insure hereunder and the City shall not be liable for any loss or damage suffered by the Proponent.

- 14.5 The Proponent shall duly and punctually pay or cause to be paid all premiums and other sums of money payable for maintaining the insurance to be provided pursuant to this Article. Evidence that the insurance described above is in force shall be provided to the City prior to commencement of the Agreement and thereafter once annually at least ten (10) clear days prior to the renewal date of the policy, and that the insurance will not be cancelled or permitted to expire unless the insurer notifies the City in writing at least thirty (30) days prior to such cancellation.
- 14.6 Further, the Proponent shall require all professionals involved with the project to carry professional (errors and omissions) liability insurance in an amount not less than Two Million (\$2,000,000.00) dollars and make reasonable efforts to verify such insurance is in force throughout the period of the work.
- 14.7 The Proponent agrees to obtain for its employees and to require all Designated Consultants, Designated Contractors, all other contractors, sub-contractors, suppliers and/or tradesmen while working on the site, engineers, architects, consultants and other persons Workplace Safety and Insurance Board coverage and to ensure that such coverage continues in effect throughout the period of the work.

15. ENERGY EFFICIENCY AND BUILDING DESIGN

- 15.1 The Proponent agrees that electric heating will not be used for the project.
- 15.2 Energy efficient details for products and materials included in the project must be listed in Schedule "F".
- 15.3 Funding under the IAH is subject to the Canadian Environmental Assessment Act (CEAA). To receive funding under the IAH, housing proponents must confirm that project proposals do not impose adverse impacts that cannot be mitigated. CEAA Considerations are outlined in Schedule "J".

16. NOTICE

- 16.1 Any notice or other communication required, desired or permitted to be given by this Agreement shall be in writing and shall be effectively given if:
 - (a) delivered personally;
 - (b) sent by prepaid courier service; or
 - (c) sent by facsimile communication, and confirmed by mailing the original documents so sent by prepaid mail on the same or following day, addressed as follows:
 - (i) in the case of notice to the City:
St. Thomas-Elgin Ontario Works
Attention: Director, Ontario Works & Social Housing
423 Talbot Street
St. Thomas, Ontario N5P 1C1
Fax: (519) 631-1824

- (ii) in the case of notice to the Proponent:

McWhirter-Horvath Properties Inc.
Attention: Jason McWhirter
31 Woodhaven Court
St. Thomas, Ontario N5P 3Z2

e-mail: jmcwhirter@gmail.com

or at such other address as the Party to whom such notice or other communication is to be given shall have advised the Party giving same in the manner provided in this section. Any notice or other communication delivered personally or by prepaid courier service shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day such notice or other communication shall be deemed to have been given and received on the next following Business Day. Any notice or other communication transmitted by facsimile communication shall be deemed to have been given and received on the day of its transmission, provided that such day is a Business Day and such transmission is completed before 4:20 p.m. on such day, failing which such notice or other communication shall be deemed to have been given and received on the first (1st) Business Day after its transmission. If there has been a mail stoppage and if a Party sends a notice or other communication by facsimile communication, such Party shall be relieved from the obligation to mail the original document in accordance with this paragraph.

17. GENERAL

- 17.1 Any power, right or function of the City, contemplated by this Agreement, may be exercised by any employee or agent of the Corporation of the City of St. Thomas, who is hereby specifically authorized in this regard.
- 17.2 It is understood that the *Municipal Freedom of Information and Protection of Privacy Act* shall apply to all records submitted to or created by the City pursuant to this Agreement.
- 17.3 The Proponent represents and warrants that:
- a) it shall preserve the PIPEDA compliance of all PIPEDA protected Information transferred to it by the City;
 - b) it shall ensure the PIPEDA compliance of all PIPEDA Protected Information it collects in the course of performing its contractual obligations; and
 - (c) it shall ensure the PIPEDA compliance of all PIPEDA Protected Information that it transfers to the City.
- 17.4 The disbursement of Funds by the City to the Proponent pursuant to sections 2.4, 2.5 and 2.7, is subject to the necessary appropriations from the Federal Parliament, the Provincial Legislature and Municipal Council. The City shall have no liability in the event the respective appropriations are insufficient to meet the funding obligations.
- 17.5 Nothing in this Agreement is to be construed as authorizing one Party to contract for or incur any obligation on behalf of the other or to act as agent for the other and nothing in this Agreement shall be construed to constitute the City and the Proponent as partners of each other.

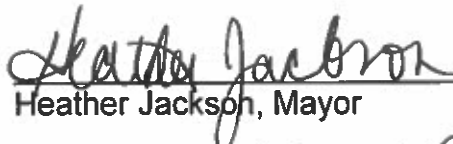
- 17.6 The Proponent acknowledges that CMHC and the Minister are not parties to this Agreement or other agreement relating to any Project.
- 17.7 No member of:
- (a) the House of Commons or Senate of Canada; or
 - (b) the Legislative Assembly of Ontario; or
 - (c) the Municipal Council constituting the Service Manager or the Municipal Council of any local municipality of the Service Manager or the governing body of any Municipal Agency, Board or Commission, of any such municipalities;
- shall be admitted to any share or part of any contract, agreement or commission made pursuant to this Agreement or to any benefit arising therefrom, including, without limitation, any contract, agreement or commission arising from or related to the Program.
- 17.8 Time shall in all respects be of the essence in this Agreement, provided that the time for doing or completing any matter provided for under this Agreement may be extended or abridged by agreement in writing signed by the City and the Proponent or their respective solicitors on their behalf, who are hereby expressly authorized in this regard.
- 17.9 Any tender of documents or money hereunder may be made by the City or the Proponent or their respective solicitors, and it shall be sufficient that a bank draft or certified cheque may be tendered instead of cash.
- 17.10 This Agreement is made pursuant to and shall be governed by and construed in accordance with the laws of the Province of Ontario. Any reference to a statute in this Agreement includes a reference to all regulations made pursuant to such statute, all amendments made to such statute and regulations in force from time to time and to any statute or regulation which may be passed and which has the effect of supplementing or superseding such statute or regulations.
- 17.11 The headings and subheadings contained in this Agreement are inserted for convenience and for reference only and in no way define, limit or describe the scope or intent of this Agreement or form part of this Agreement.
- 17.12 The Parties agree that there are no representations, warranties, covenants, agreements, collateral agreements or conditions affecting the property or this Agreement other than as expressed in writing in this Agreement.
- 17.13 This Agreement shall be read with all changes of gender and number required by the context.
- 17.14
- (a) The Proponent shall not transfer or convey its interest in all or any part of the Project without, subject to subsection 17.14(b), simultaneously assigning its interest in this Agreement to the transferee, which transferee shall enter into one or more agreements with the City, in a form satisfactory to the City, to assume all of the Proponent's obligations under this Agreement and to provide the City with Security in accordance with this Agreement.
 - (b) The Proponent shall not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be arbitrarily or unreasonably withheld;

- (c) For the purpose of this Agreement, a transfer of the beneficial interest in the shares of the Proponent shall be deemed to constitute an assignment if it results in a change in the party or parties who owns or own more than fifty per cent (50%) of the voting shares of the said corporation.

- 17.15 Each of the Parties shall, at any time and from time to time, upon not less than twenty (20) Business Days prior written notice by the other Party, execute and deliver to the other Party a statement in writing certifying that this Agreement is in good standing, unmodified and in full force and effect, or if there have been modifications that the same are in good standing and in full force and effect, as modified, and stating the modifications. Where applicable, the statement shall state the defaults, if any, known to the Party to whom such request has been made and the action taken or proposed to be taken by such requested Party with respect to same.
- 17.16 If more than one entity is a party to this Agreement as Proponent, all references to the Proponent shall include all of the said entities and this Agreement shall be binding on each jointly and severally.
- 17.17 This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, provided that this paragraph shall in no way derogate from the provisions of section 17.15 restricting the Proponent's ability to assign this Agreement.
- 17.18 The Proponent agrees that the City may cause this agreement to be registered on title on the lands described on Schedule "L".

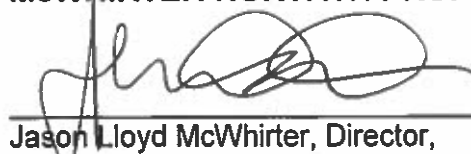
IN WITNESS WHEREOF this Agreement has been executed by the Parties.

THE CORPORATION OF THE CITY OF ST. THOMAS


Heather Jackson, Mayor


Maria Konefal, City Clerk

McWHIRTER-HORVATH PROPERTIES INC.


Jason Lloyd McWhirter, Director,


Kevin James Horvath, Director

I/We have the authority to bind the Corporation.

SCHEDULE "A"

IAH (2014 EXTENSION) PROGRAM GUIDELINES

SCHEDULE "B"

FUNDING SCHEDULE

1. Federal and Provincial Funds

Construction Milestones	Progress Payments New Construction
Construction Start with First Building Permit	25 per cent (less 10% holdback)
Foundation Completed	15 per cent (less 10% holdback)
Structural Framing Certified Complete	35 per cent (less 10% holdback)
Substantial Completion	15 per cent (less 10% holdback)
Occupancy Certificate	10 per cent (less 10% holdback)

No funds shall flow if an order has been issued under subsection 12(2) of the Building Code Act and there has not been compliance with that order.

2. DISBURSEMENT OF THE LOAN

2.1 Payment – Federal & Provincial Funds

- (a) The City shall make advances of the loan at the following times upon at least ten (10) days prior notice to the City, provided that the conditions set forth below have been satisfied:
- (i) an amount equal to 25% of the Federal/Provincial Loan (less 10% holdback) at first building permit, which amount shall be paid to the Proponent's solicitor in trust for payment in its entirety only in respect of Construction Costs provided the funds are, in the opinion of the City, properly secured;
 - (ii) an amount equal to 15% of the Federal/Provincial Loan (less 10% holdback), at foundation completion, which amount shall be paid to the Proponent's solicitor in trust for payment in its entirety only in respect of Construction Costs provided the funds are, in the opinion of the City, properly secured;
 - (iii) an amount equal to 35% of the Federal/Provincial Loan (less 10% holdback), at completion of structural framing, which amount shall be paid to the Proponent's solicitor in trust for payment in its entirety only in respect of Construction Costs provided the funds are, in the opinion of the City, properly secured;
 - (iv) an amount equal to 15% of the Federal/Provincial Loan (less 10% holdback) upon Substantial Completion as evidenced by the General Contractor's Certificate and expiry of all lien periods under the Construction Lien Act (Ontario), as amended, or successor legislation, which amount shall be paid to the Proponent's solicitor in trust for payment in its entirety only in respect of Construction Costs provided the funds are, in the opinion of the City, properly secured;
 - (v) the balance of the Federal/Provincial Loan upon Occupancy as evidenced by the Occupancy Certificate as provided by the municipal office, which amount shall be paid to the Proponent's solicitor in trust for payment in its entirety only in respect

of Construction Costs provided the funds are, in the opinion of the City, properly secured.

- (b) the City shall not be liable to suppliers, contractors, sub-contractors, craftsmen, labourers or others for goods and services delivered by them in or upon the Property, or employed in the construction of the Improvements, or for any debts or claims accruing to any of the parties against the Proponent or against the Property;
- (c) it is distinctly understood and agreed by the parties hereto that there is no contractual relationship either express or implied, between the City and any supplier, contractor, sub-contractor, craftsman, labourer or person supplying any work, services or material to the Improvements. The Proponent is not, and shall not be, the agent of the City for any purpose. There shall be no third party beneficiary of this Agreement, express or implied.

3. CONDITIONS

- 3.1 The obligation of the City to make the payment of the loan is conditional upon prior compliance with such of the following conditions precedent as are not previously waived in writing by the City:
 - (a) the Proponent shall have submitted the Project Budget and Project Construction Schedule to the City in a form and content satisfactory to the City;
 - (b) the Proponent shall have delivered to the City evidence satisfactory to the City that the Proponent's Equity has been paid, delivered or pledged;
 - (c) the City shall have received the following documents and materials each of which shall be satisfactory in substance and in form to the City:
 - (i) certificates of incumbency of the persons signing on behalf of the Proponent;
 - (ii) certified copies of such corporate documents of the Proponent as the City may reasonably require including, without limitation, letters patent, articles of incorporation, certified abstracts from by-laws, and certified copies of relevant directors' resolutions;
 - (iii) an opinion of the Proponent's counsel addressed to the City and its counsel:
 - (A) that the Proponent:
 - (a) is a body corporate, duly incorporated and properly organized and validly existing as a corporation under the laws of the jurisdiction in which it was incorporated;
 - (b) is qualified to do business in the Province of Ontario;
 - (c) has all the necessary corporate power and authority to carry on the business to be conducted by it in respect of the development, operation and management of the Project; and
 - (d) has all the necessary corporate power and authority to enter into and perform its obligations under this Agreement and each of the Security Documents to which it is a party in accordance with their respective terms;

- (B) that this Agreement to which the Proponent is a party have been duly and validly authorized, executed and delivered by the Proponent and are valid and binding obligations of the Proponent enforceable in accordance with their respective terms;
- (C) that neither the execution and delivery by the Proponent of this Agreement to which it is a party nor compliance by the Proponent with any of their respective terms will contravene the charter documents or by-laws of the Proponent or, to the best of such counsel's knowledge, after having made due enquiry of the Proponent, contravene or result in a default under any other agreement or instrument by which Proponent may be bound or affected;
- (D) that, to the best of such counsel's knowledge, without having made independent enquiry, there are no actions or proceedings pending or threatened against the Proponent, before any court or administrative agency;
- (E) that the Proponent has or will have good and marketable title to the Property, subject only to Permitted Encumbrances, and that the Project complies in all respects with and is not in contravention of any relevant municipal, provincial or federal law, by-law, statute, ordinance or regulation;
- (F) that no instrument containing a charge on any of the undertaking, property or assets of the Proponent, or notice thereof, has been registered in the Province of Ontario other than Permitted Encumbrances;
- (G) that this Agreement and financing statements, notices and other documents relative thereto have been duly registered or filed in all places in Ontario where such registration or filing is required by law or is necessary to make effective, preserve and protect the security which they purport to create; and
- (H) as to such other matters as the City or its counsel may reasonably request.

SCHEDULE "C"

PARTNERSHIP AGREEMENT WITH CMHA, Elgin Branch

THIS HEAD LEASE AGREEMENT dated as of the 4th day of March , 2016
is made **BETWEEN:**

McWhirter-Horvath Properties Inc.
of the First Part

and

Canadian Mental Health Association, Elgin Branch
of the Second Part

WHEREAS the Landlord is the owner of certain residential lands and premises
located at 207 Ross Street, St Thomas Ontario in the County of Elgin (the "Premises");

AND WHEREAS the Landlord and the Tenant have agreed to this Lease for the
Premises;

THE TERM "Sub-tenant" used within this Head Lease refers to the sub-lessee(s) of
the Tenant.

NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Grant

In consideration of the rents reserved and the covenants and agreements contained
herein on the part of the Tenant to be paid, observed and performed, the Landlord
leases to the Tenant the Premises.

2. Head Lease

This Lease is a Head Lease whereby the landlord leases to the Tenant the
Premises, and in turn, the Tenant sub-lets the units within the premises to sub-
tenants. The rental of the Premises along with this Head Lease agreement
constitute a very valuable segment of the Ministry of Health and Long Term Care
(MOHLTC) Supportive Housing Program, specifically, the rent supplement
component of the Homelessness Initiative. This component is being carried out
by the Canadian Mental Health Association, Elgin Branch and is 100% dependent
on the Supportive Housing Funds provided by the MOHLTC.

3. Term

(a) The term of this Lease shall be 25 years, commencing on the first day of the subsequent month after obtaining an Occupancy Permit from the City of St. Thomas, confirming that the premises are fit for occupancy. An Occupancy Permit is expected to be issued in January 2017. The lease shall terminate exactly 25 years after commencement.

(b) This Lease shall be automatically renewed under the same terms and conditions unless

(1) Written notice of termination is given by either party to the other at least one hundred and twenty (120) days before the expiry of this Lease; or

(2) This Agreement has been terminated for cause by the Tenant pursuant to Section 11(c) herein.

4. Rent

(a) The Tenant shall pay to the Landlord, as a gross rent including all utilities, the sum of \$6072.00 (six thousand and seventy-two dollars) per month ("Rent") in advance on the first day of each calendar month during the term, with the first monthly payment to be made on or before the first day of 20 .

(b) Notwithstanding Section 106(1) of the *Residential Tenancies Act* (Ontario), the Landlord shall not require the payment of any rent deposit from the Tenant.

(c) The Landlord shall be allowed to increase the Rent on a yearly basis and anniversary in accordance with legislation contained in the Residential Tenancies Act (Ontario), with the annual increase not to exceed the maximum allowable rate as set under Ontario legislation, specifically calculated using Ontario's Annual Rent Increase Guidelines.

5. Tenant's Covenants

The Tenant covenants with the Landlord as follows:

(a) Rent – to pay when due, in the event that a sub-tenant vacates a unit within the Premises without notice to the tenant, the tenant is responsible to pay any outstanding rent to the Landlord when due; and in the event that for a period of time, for instance, between sub-tenants, when a unit within the Premises is unoccupied, it is the responsibility of the tenant to pay rent to the Landlord until such time that the unit is sub-let to a new sub-tenant.

- (b) Use of Premises – to use the Premises, and all units contained within, for residential purposes only and for no other purpose;
- (c) Alterations – not to make alterations or additions to the Premises; alterations to individual units within the Premises are allowed, provided no costs are to be borne by the Landlord and that any alterations are congruent with maintaining the units as residential tenancy units;
- (d) Inspection by Landlord – provided the Landlord, acting reasonably, has a good and valid reason, to permit the Landlord and the Landlord's agents, to enter the Premises, without prior written notice, to examine the condition of the Premises; to permit the Landlord and the Landlord's agents, to enter any and all units within the premises, upon no less than seventy-two (72) hours prior written notice, to examine the condition of the units;
- (e) Insurance – not to permit or suffer to be done anything whereby any policy of insurance on the Premises may become void or voidable; and to purchase tenant legal liability insurance coverage to protect the tenant against any damage caused by fire accidentally having been caused by any sub-tenant.
- (f) Occupancy – not to leave the Premises unoccupied for a period in excess of such period as may be stipulated in any policies of insurance maintained by the Sub-tenant, Tenant or the Landlord (provided the Landlord gives notice thereof to the Tenant); nor to assign, sublet or otherwise part with possession of the Premises or any part thereof without the express written consent of the Landlord first had and obtained, which consent may not be unreasonably withheld or delayed; save and except that the Tenant shall be at liberty to sublet or otherwise house the units within the Premises to persons who are clients of the Tenant including persons with mental illness without obtaining consent from the Landlord. It is also acknowledged by both parties that the Tenant will employ staff who will provide support services to the occupant (Sub-tenant) of the units from time to time;
- (g) Auctions; Nuisance – not to permit a sale by auction or otherwise on the Premises; nor to permit the Premises or any part thereof to be used so as to be a nuisance or cause an annoyance or inconvenience to the owners or occupants of neighbouring properties;

- (h) Yield up – to deliver and yield up to the Landlord at the termination of this Lease, the Premises in as good a condition and state of repair and decoration as enjoyed as at the commencement of the term, excepting only reasonable wear and tear and damage by peril to be insured hereunder;
- (i) Cleanliness – to keep the Premises in a clean and tidy state. Notwithstanding the foregoing, it is the sole responsibility of the Landlord, at the Landlord's cost, to maintain and have all hedges and trees, if any, cut or pruned, whenever necessary or advisable; to be responsible for snow removal and ensuring safe surfaces during winter weather. Waste management procedures and practices for the Premises and all units within, including placing containers at curbside for collection by city-contracted service providers, is to be the sole responsibility of the Tenant.
- (j) Repairs - to maintain, at no cost to the Landlord, each unit within the Premises, in a good state of repair fit for habitation and free of defects, and to assume responsibility for any damage caused by any sub-tenant;
- (k) Fire System Inspection - The tenant agrees to have the fire system inspected at regular intervals, in accordance with all applicable laws and by-laws, by a third party, and maintain a paper record of the test results, to ensure compliance with all regulations and maintain a safe environment in the event of a fire. Any components of the fire system requiring repair or replacement is to be at the sole expense of the Landlord.

6. Landlord's Covenants

The Landlord covenants with the Tenant as follows:

- (a) Quiet enjoyment – provided the Tenant pays the Rent and performs the Tenant's covenants reserved hereunder, the Tenant shall peaceably hold the Premises during the Term without any interference by the Landlord or any person rightfully claiming under or in trust for the Landlord. In this regard, during the term, should any party make a claim for Possession of the Premises, the Landlord shall fully indemnify the Tenant, forthwith upon demand, for all costs and expenses borne by the Tenant in connection therewith and, in addition to any other rights and remedies available to the Tenant, the Tenant shall be entitled, upon written notice to the Landlord, to terminate this Lease in which case, this Lease and the Tenant's obligations hereunder shall cease and determine with effect upon the date set out in the Tenant's notice for such early termination;

- (b) Insurance – to keep the Premises insured against liability claims and claims against loss or damage by fire and other usual perils insured against by landlords in similar circumstances, in such amount(s) as the Landlord, acting reasonably, deems prudent. Such insurance coverage is in addition to (and not in substitution for) any contents insurance required hereunder to be taken out and maintained by the Tenant or Sub-tenant. The Landlord acknowledges and agrees that it is solely responsible for placing and maintaining insurance coverage to insure the Landlord's personal property, if any, stored within or upon the Premises;
- (c) Repairs – to be responsible for and to make, at the Landlord's sole cost, all repairs to the common areas of the Premises and all maintenance so that the Premises are in a good and substantial state of repair, clean and fit for habitation, provided that such repairs are not due to the negligent, willful acts of the Tenant or those for whom in law the Tenant is responsible. For the purposes hereof, repairs includes "replacements" where it is reasonable in the circumstances to replace an item rather than to repair it. Lawn maintenance and snow removal are to be the responsibility of the Landlord unless other arrangements are made with the tenant and are stated and agreed to in writing. The Landlord shall also ensure that the Premises comply with the health, safety, housing and maintenance standards as required by section 20(1) of the Residential Tenancies Act (Ontario); The Landlord shall be responsible for repairs and maintenance to all mechanical units within the Premises, including all appliances, boilers, water tanks, heating system, roof and any other structural items, as well as maintain the components of the fire system. Inspections of the fire system is to be the responsibility of the Tenant;
- (d) Taxes – to pay, when due, all real property taxes, duties, assessments, local improvement charges and other like taxes or charges arising with respect to the Premises;
- (e) Other Amounts – to pay, when due, all other amounts payable with respect to the Premises that are not specified as being the Tenant's responsibility hereunder.

Sub-Lessee Criteria - The Tenant understands that the Premises are governed by the covenants of an agreement under the Investment in Affordable Housing program, and as such are required to ascertain whether any sub-lessee meets the requirements of this agreement, a copy of which will be attached to this Lease Agreement. Under no circumstances is the Tenant allowed to sub-let any unit within the Premises to anyone who does not meet all required criteria of the IAH program, and agrees to keep proper paperwork in a secure place to document compliance. A "Tenant Declaration" providing income confirmation is to be the primary document to be kept on file. The Tenant further understands that there may be periodic inspections by involved parties to ensure our compliance with this program and that the Tenant is obliged to provide these documents upon request.

7. Provided always and it is agreed that if:

- (a) at any time, Rent or any part thereof remains unpaid after becoming due, or
- (b) any of the Tenant's covenants contained herein are not performed or observed, or
- (c) the Tenant becomes insolvent, bankrupt or enters into any composition with its creditors or suffers any distress or execution to be levied upon any of the Tenant's personal property then the Landlord, at any time thereafter in accordance with the notice requirements set out in the *Residential Tenancies Act* (Ontario), may re-enter upon the Premises, or any part thereof in the name of the whole, and relet the Premises as agent for the Tenant and receive the rent for such reletting and, as agent for the Tenant, may take possession of any property at the Premises or upon the Premises belonging to the Tenant and sell it at public or private sale without notice and apply the proceeds of the sale and any rent from reletting on account of the rent due under this lease and the Tenant shall remain liable to the landlord for any deficiency.

8. Indemnity

The Tenant shall indemnify and save harmless the Landlord from and against all loss, costs, damages and expenses occasioned to the Landlord by the negligence of the Tenant or of those for whom the Tenant is in law responsible, save and except to the extent that such loss, costs, damages or expenses are insured or insurable hereunder. This indemnity shall not be prejudiced by and shall survive the termination of this Lease.

9. Liability

Unless due to or occasioned by the negligence of the Landlord or those for whom the Landlord is responsible, the Landlord shall not be liable or responsible in any way for any loss of or damage or injury to any personal property, including cars and contents thereof, belonging to the Tenant or Sub-tenant or to any other person while such personal property is within a unit or upon the Premises.

10. Notices

- (a) All notices required by this Lease shall be in writing and shall be delivered in person or by registered mail. Notice to the Tenant shall be addressed to Canadian Mental Health Association, Elgin Branch, 110 Centre St., St. Thomas, ON, N5R 2Z9, and notice to the Landlord shall be addressed to McWhirter-Horvath Properties, 31 Woodhaven Court, St Thomas, Ontario, N5P 3Z2.

- (b) All notices so delivered shall be deemed to have been received by the recipient on the date of delivery, if personally delivered, or on the fifth (5th) day following the mailing thereof. The above addresses for notice may be changed by either party giving to the other party written notice in compliance herewith. In the event of postal interruption (actual or threatened), by strike or otherwise, all notices shall be personally delivered.

11. Termination Notice

- (a) If either the Tenant or the Landlord wishes to terminate the tenancy at the end of the term created by this Lease, as such term may be extended pursuant to Paragraph 3(b) above, then such party will give notice to that effect in writing to the other, not less than one hundred and twenty (120) days prior to the expiration of the term or the extended term, as the case may be, in compliance with the notice requirements of the *Residential Tenancies Act* (Ontario).
- (b) Unless prior to the expiration of the tenancy created hereunder, as such tenancy may be extended pursuant to Paragraph 3(b) above, a new lease has been entered into, or where notice to terminate has not been given by either party to the other, the Tenant shall be deemed to have renewed the tenancy on a month to month basis upon the same terms and conditions as are provided in the expired Lease provided that nothing herein shall prevent the parties from agreeing, in writing, to any other terms for said monthly tenancy.
- (c) The Tenant may terminate this Lease for just cause upon thirty (30) days' written notice in the event that:
 - (i) the Landlord fails to maintain the Premises in a good and substantial state of repair, clean and fit for habitation and complying with all health, safety, housing and maintenance standards as required by section 20 (1) of the *Residential Tenancies Act* (Ontario); or
 - (ii) The Landlord commits any other breach or default of this Lease.

In such event, the Tenant may, at its option, terminate this Lease, or discontinue the use and occupancy of any or all units located upon the Premises with an appropriate pro rata adjustment in any Rent to be paid thereafter.

- d) Right to Show – The Tenant agrees that during the last ninety (90) days of the term or the extended term (if the term has been extended pursuant to Paragraph 3(b) above), the Premises may be shown to prospective tenants or purchasers of the Premises by the Landlord or the Landlord's agent at all reasonable hours, upon no less than

twenty-four (24) hours prior written notice being given by the Landlord to the Tenant.

- e) In the event that this Lease is terminated by either party, the Landlord agrees to permit the Tenant or its sub-tenants to continue occupancy of the units within the Premises until such units are vacated, and the terms and conditions of the Lease shall apply as if the Lease were still in force.
- f) Failure to Give Possession – Subject to paragraph 11(c) above, in the event that the Tenant is obliged to vacate the Premises on or before a certain date, and the Landlord enters into an agreement with a third party to rent the Premises for any period thereafter, and the Tenant fails to vacate the Premises on or before the due date thereby causing the Landlord to be liable to such third party, then the Tenant will indemnify the Landlord for all losses suffered thereby.
- g) In the event that the tenant's funding source, MOHLTC, ceases to continue funding the supportive housing component of the Homelessness Initiative previously referred to in Section (2) above, the Tenant agrees to give the Landlord six (6) months prior written notice of termination of this Lease agreement. At that time, the Landlord would have the option of offering the sub-tenant(s) occupancy based on the terms and conditions set out by the Landlord, and of collecting rent from the sub-tenant(s).

12. Governing Law

This Lease shall be construed and enforced in accordance with the laws of the Province of Ontario and of Canada applicable therein.

13. Entire Agreement


This Lease embodies the entire agreement of the parties with regard to the matters herein and no other agreement shall be deemed to exist except as entered into in writing by both parties to this agreement.

14. Enurement

This Lease shall enure to the benefit of and be binding upon the parties and their respective heirs, executors, successors and permitted assigns.

IN WITNESS WHEREOF the parties have duly executed this Lease as of the date first written above.

Signed,

Date: MARCH 24, 2016 Landlord: 

Date: MARCH 24, 2016 Landlord: J.M. Whiter

Date: MARCH 23/2016 Tenant:  IAN RAVEN.

Date: MARCH 23/2016 Tenant:  Heather DeBruyn

SCHEDULE "D"

RENTAL PROTOCOL

1. DEFINITIONS

1.1 In this Schedule "D", unless the context requires otherwise,

- "Affordability Period" means the *"twenty-five (25) year period"* following the date of the first (1st) occupancy of a Unit in the Project;

- "Agreement" means the Agreement to which this Schedule "D" is attached; and

when used in this Schedule 'D', the term "rent" includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a Tenant to the Proponent or the Proponent's agent for the right to occupy a Unit and for any services and facilities and any privilege, accommodation or thing that the Proponent provides for the Tenant in respect of the occupancy of the Unit, whether or not a separate charge is made for services and facilities or for the privilege, accommodation or thing.

1.2 The definitions in the Agreement shall apply to this Schedule "D", in addition to the definitions contained in section 1.1 above.

1.3 All references to section numbers in this Schedule are references to sections of this Schedule and not sections of the Agreement, unless otherwise explicitly stated.

2. PROJECT RENTS

2.1 During the Affordability Period, the Proponent shall not charge rent for a Unit in the Project in excess of the affordable rent permitted under this Schedule "D" nor increase any rent charged for a Unit except as permitted in this Schedule "D"

3. RENTS

3.1 All units which Program Funds have been utilized shall not exceed eighty per cent (80%) of CMHC Average Market Rent for St. Thomas, as determined in the most recent CMHC Annual Rental Market Survey. Rent increases will follow the RTA rent increase guidelines and must not exceed 80% CMHC AMR for the term of the agreement. Rent includes fridge, stove, water, electricity, heat and parking. At initial occupancy, the rent for a one bedroom apartment will be \$506 monthly. This rent will not be adjusted prior to occupancy.

4. RENT INCREASES

4.1 The Proponent may increase the rent charged under section 3.1 with respect to a Unit only if at least twelve (12) months have elapsed,

- (a) since the day of the last rent increase respecting the Unit, if there has been an increase, or

- (b) since the day the Unit was first rented for the first (1st) rental period following the completion of the Development Activities in connection with the Project.

No additional increase is permitted when a unit becomes vacant within 12 months of the annual rent increase.

- 4.2 The Proponent shall not increase the rent pursuant to section 4.1 during the Affordability Period by more than the then prevailing rent increase guideline established for each calendar year pursuant to the *Residential Tenancies Act, 2006* or any successor legislation. The Proponent acknowledges that the rent increase guideline of the *Residential Tenancies Act, 2006* or any successor legislation does not apply to the Project and agrees that the rent increase guideline applies by virtue of the contractual terms of the Agreement and this Schedule "D".

5. MAXIMUM HOUSEHOLD INCOME

- 5.1 At time of application, total gross household income from all sources for Tenants of Affordable Housing can be no greater than five (5) times their Affordable Rent. Proponents will be required to verify incomes for prospective Tenants of affordable housing units to ensure compliance with this requirement at initial occupancy ("rent up") and when any new Tenants are selected as ensuing vacancies occur during the twenty-five (25) year period following the Project Completion Date. Proponents are required to attach current income verification documentation for each new Tenant to Schedule "H", the Initial Occupancy Report, and Schedule "I", the Annual Occupancy Report. Income verification documentation may include recent Income Tax Returns or Notices of Assessment, bank statements showing current income sources, or other such documentation acceptable to the Service Manager. Proponents are not required or expected to check incomes for approved Tenants once they have taken possession of their units.

SCHEDULE "E-1", "E-2", "E-3"

SECURITY DOCUMENTS

- Schedule E-1 - Charge/Mortgage of Land - register in land titles/land registry system
- Schedule E-2 - Assignment of Rents - register in land titles/land registry system and PPSA
- Schedule E-3 - Security Agreement (chattels) - register in PPSA

SCHEDULE E-1

ADDITIONAL PROVISIONS: Continued from Page 1 - Box 10 (TERAVEIW)

1. Section 24 of the Standard Charge Terms filed as No. 200033 is deemed to be excluded.
2. This Charge/Mortgage of Land is collateral security for a Service Manager Contribution Agreement respecting the Rental Housing Component funding under the Investment in Affordable Housing for Ontario, made between the Chargor and the Corporation of the City of St. Thomas ("Chargee"), dated the 16th day of May, 2016, (the "Service Manager Contribution Agreement") under which the Federal Government contributed the amount of five hundred ninety five thousand and two hundred dollars (\$595,200) and the Provincial Government contributed the amount of three hundred sixty four thousand and eight hundred dollars (\$364,800), for a total of nine hundred sixty thousand dollars (\$960,000), towards the Project and is in addition to and not in substitution for any other security held by the Chargee for all or any part of the monies secured under this Charge/Mortgage of Land.
3. (Purposely Omitted)
4. In the event of a breach of the terms of the Security Agreement or the Assignment of Leases and Rents being given by the Chargor to the Chargee simultaneously with this Charge, the principal balance then outstanding, together with any other amounts payable pursuant to the terms of this Charge, shall forthwith become due and payable at the option of the Chargee and all powers conferred by this Charge shall become exercisable by the Chargee.
5. With respect to the portion of the Principal Amount advanced by the Chargee:
 - (a) Prior to the Interest Adjustment Date, interest shall accrue on the total of the amount or amounts advanced by the City to the Chargor under the Agreement at the rate of eight per cent (8%) per annum. The interest so calculated shall compound semi-annually, not in advance, until the Interest Adjustment Date.
 - (b) On the Interest Adjustment Date, the amount of interest accrued shall be forgiven, provided that the Chargor has satisfied all requirements as set out in the Agreement.
 - (c) With effect from the Interest Adjustment Date, the interest rate shall be at the rate of eight per cent (8%) per annum.
 - (d) On each anniversary date of the Interest Adjustment Date, the Chargor shall pay the City the amount of interest, as calculated according to the interest rate stipulated in paragraph 5(c), so accrued during the previous year; provided, however, if the Chargor has satisfied, as of such anniversary date, the requirements of the Program as set out in the Agreement, the amount of the interest so owing shall automatically be forgiven.
 - (e) The Loan amount shall be fully forgiven on the last day of the month at the end of the term of the Loan, provided that the Chargor has fulfilled all the requirements of the Program as set out in the Agreement.

- (f) In the event of default by the Chargor prior to the end of the term of the Loan, the Chargor shall repay to the City the amount advanced by the City, together with accrued interest thereon, calculated for the applicable period, and, by way of bonus, three (3) months interest on the amount advanced by the City.
6. (Purposely Omitted)
 7. The Chargor covenants with the Chargee that upon request in writing from the Chargee, it will provide the Chargee, within thirty (30) days of receipt of such request, a schedule containing the names of all tenants in the building constructed on the Charged Premises, accompanied by a certificate of an officer of the Chargor confirming the terms of all existing leases, that the same are in full force and effect, that the Chargor has complied with all terms thereof, and that the Chargor will not amend, modify or cancel any lease or receive any prepayment of rent other than the current and last month's rent without the prior written consent of the Chargee, that there are no outstanding set-offs or equities disclosed or undisclosed as between the Chargor and the tenant, that no money other than a maximum of two (2) months rent has been prepaid by the tenant to the Chargor, and that the tenant is aware of the assignment by the Chargor of all rents and leases affecting the Charged Premises.
 8. The Chargor covenants with the Chargee that if the Chargee make any payment, in connection with the determination, establishment or preservation of its priority, whether such payment is made to a lien claimant or other person claiming an interest in the Charged Premises or is paid into court, then the amount or amounts so paid and all costs, charges and expenses incurred in connection therewith shall be forthwith payable to the Chargee by the Chargor and shall be a charge on the Charged Premises and shall be added to the debt hereby secured and shall bear interest at the said rate, and in default of payment, the power of sale and other remedies hereunder may be exercised. It is further agreed that the Chargee shall not become a mortgagee in possession by reason only of exercising any of the rights given to them under this paragraph or in making any payment to preserve, protect or secure the Charged Premises.
 9. The Chargor covenants with the Chargee that in the event of the Chargor selling, conveying, transferring or entering into an agreement for the sale or transfer of title of the Charged Premises to a purchaser or transferee not approved in writing by the Chargee, which approval shall not unreasonably be withheld, all monies hereby secured with accrued interest thereon, at the option of the Chargee, shall forthwith become due and payable.
 10. Subject to the renewals, replacements and consolidations permitted in paragraph 15 below, the Chargor shall not further mortgage or encumber the Charged Premises without the prior written approval of the Chargee.
 11. The Chargor shall take out and maintain throughout the term of the Charge the following insurance, all in a form and with insurers acceptable to the Chargee:
 - (a) all policies shall include thirty (30) days written notice to the Chargees of material alternation or cancellation and must be signed by the insurer(s) or their authorized representative(s). Brokers signing on behalf of the insurer(s) must provide the Chargee with a letter of authority from the insurer(s);

- (b) the policies shall include the Chargee as loss payees, as their interest may appear, and shall contain the Insurance Bureau of Canada approved standard mortgage clause endorsement;
 - (c) all risks, including extended coverage and flood, to full one hundred per cent (100%) replacement cost, and boiler and pressure vessel and machinery insurance;
 - (d) comprehensive or commercial general liability insurance to a limit of not less than five million dollars (\$5,000,000.00) per occurrence;
 - (e) general liability coverage for non-owned automobile to a limit of not less than two million dollars (\$2,000,000.00); and
 - (f) co-insurance shall not be acceptable.
12. (a) To the best of the Chargor's knowledge and belief, the Charged Premises contain no asbestos, urea formaldehyde insulation, polychlorinated biphenyls (PCB's), radioactive substances or other materials deemed to be hazardous under any applicable environmental legislation, there are no outstanding orders or notices and any required permits or licenses are in good standing.
- (b) The Chargor, at its sole cost and expense, shall comply, or cause its tenants, agents, and invitees, at their sole cost and expense, to comply with all federal, provincial and municipal laws, rules, regulations and orders, with respect to the discharge and removal of hazardous or toxic wastes, and with respect to the discharge of contaminants into the natural environment. The Chargor shall pay immediately when due the cost of removal of any such wastes and the cost of any improvements necessary to deal with such contaminants and keep the Charged Premises free and clear of any lien imposed pursuant to such laws, rules and regulations. In the event the Chargor fails to do so, after notice to the Chargor and the expiration of the earlier of (i) any applicable cure period under the Charge or (ii) the cure period under the applicable law, rule, regulation or order, the Chargee at their sole option may declare the Charge to be in default.
- (c) The Chargor shall indemnify and hold the Chargee harmless from and against all losses, costs, damages or expenses (including, without limitation, legal fees and costs incurred in the investigation, defense and settlement of any claims) relating to the presence of any hazardous waste or contaminant referred to herein.
13. The Chargee or its agents may, at any time, before and after default, and for any purpose deemed necessary by the Chargee, enter upon the Charged Premises to inspect the lands and buildings thereon. Without limiting the generality of the foregoing, the Chargee or its agents may enter upon the Charged Premises to conduct any environmental testing, site assessment, investigation or study deemed necessary by the Chargee and the reasonable cost of such testing, assessment, investigation or study, as the case may be, shall be payable by the Chargor forthwith and shall be a charge upon the said Charged Premises. The exercise of any of the powers enumerated in this paragraph shall not deem the Chargee or its agents to be in possession, management or control of the said lands and buildings.
14. At any time after the security hereby constituted becomes enforceable, or the moneys

hereby secured shall have become payable, the Chargee may appoint in writing a receiver or receiver-manager (the "Receiver") of the Charged Premises, with or without bond, and may from time to time remove the Receiver and appoint another in its stead, and any such Receiver appointed hereunder shall have the following powers:

- (a) To take possession of the Charged Premises and to collect the rents and such property, undertaking and assets of the Chargor assigned and/or charged to the Chargee herein and for such purpose to enter into and upon any lands, buildings and premises and for such purpose to do any act and take any proceedings in the name of the Chargor or otherwise as it shall deem necessary, specifically including, but not limited to managing, operating, repairing, altering or extending the Charged Premises or any part thereof;
- (b) To employ and discharge agents, workmen, accountants and others upon such terms and with such salaries, wages or remuneration as it shall think proper, to repair and keep in repair the Charged Premises and to do all necessary acts and things for the protection of the said Charged Premises;
- (c) To sell or lease or concur in selling or leasing any or all of the Charged Premises, or any part thereof; and to carry any such sale or lease into effect by conveying in the name of or on behalf of the Chargor or otherwise; and any such sale may be made either at public auction or private sale as seen fit by the Receiver; and any such sale may be made from time to time as to the whole or any part or parts of the Charged Premises; and the Receiver may make any stipulations as to title or conveyance or commencement of title or otherwise which it shall deem proper; and it may buy or rescind or vary any contracts for the sale of any part of the Charged Premises and may resell the same; and it may sell any of the same on such terms as to credit or part cash and part credit or otherwise as shall appear in its sole opinion to be most advantageous and at such prices as can reasonably be obtained thereof; and in the event of a sale on credit, neither the Receiver nor the Chargee shall be accountable for or charged with any moneys until actually received;
- (d) To make any arrangement or compromise which the Receiver may think expedient in the interest of the Chargee and to consent to any modification or change in or omission from the provisions of this Charge and to exchange any part or parts of the Charged Premises for any other property suitable for the purposes of the Chargee and upon such terms as may seem expedient and either with or without payment or exchange of money or regard to the equality of the exchange or otherwise;
- (e) To borrow money to carry on the operations of the Chargor at the Charged Premises and to charge the whole or any part of the Charged Premises in such amounts as the Receiver may from time to time deem necessary, and in so doing the Receiver may issue certificates that may be payable when the Receiver thinks expedient and shall bear interest as stated therein and the amounts from time to time payable under such certificates shall constitute a Charge against the Charged Premises in priority to this Charge;
- (f) To execute and prosecute all suits, proceedings and actions which the Receiver, in its opinion, considers necessary for the proper protection of the Charged Premises, and to defend all suits, proceedings and actions against the Chargor or the Receiver, to appear in and conduct the prosecution and defence of any suit, proceeding or action then pending or thereafter instituted and to appeal any suit, proceeding or

action;

- (g) To execute and deliver to the purchaser of any part or parts of the Charged Premises, good and sufficient deeds for the same, the Receiver hereby being constituted the irrevocable attorney of the Chargor for the purpose of making such sale and executing such deed, and any such sale made as aforesaid shall be a perpetual bar both in law and equity against the Chargor, and all other persons claiming the said property or any part or parcels thereof by, from, through or under the Chargor, and the proceeds of any such sale shall be distributed in the manner hereinafter provided;
- (h) The net profits of the operations of the Chargor at the Charged Premises and the net proceeds of any sale of the Charged Premises or part thereof shall be applied by the Receiver, subject to the claims of any creditor ranking in priority to this Charge:
 - (i) Firstly, in payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise by it of all or any of the powers aforesaid, including the reasonable remuneration of the Receiver and all amounts properly payable by it;
 - (ii) Secondly, in payment of all costs, charges and expenses payable hereunder;
 - (iii) Thirdly, in payment to the Chargee of the principal sum owing hereunder;
 - (iv) Fourthly, in payment to the Chargee of all interest and arrears of interest, if any, and any other monies remaining unpaid hereunder; and
 - (v) Fifthly, any surplus shall be paid to the Chargee, provided that in the event any party claims a Charge against all or a portion of the surplus, the Receiver shall make such disposition of all or a portion of the surplus as the Receiver deems appropriate in the circumstances.
- (i) During any period wherein the Chargee or any receiver or receiver and manager appointed by it shall manage the Charged Premises or any part thereof, upon or after entry, as provided herein, the Chargee shall not, nor shall any receiver or receiver and manager, be responsible or liable for any debts contracted by it, for damages to any other property or person, or for salaries or non-fulfilment of any contract, save and except as to claims at law or in equity to an accounting; and the Chargee shall not be bound to do, observe, or perform or to see the observance or performance by the Chargor of any of the obligations herein imposed upon the Chargor nor in any other way supervise or interfere with the conduct of the Chargor's operations of the Charged Premises;
- (j) The Chargee shall not be liable to the Receiver for his remuneration, costs, charges or expenses, and the Receiver shall not be liable for any loss howsoever arising, unless the same shall be caused by his own gross negligence or wilful default; and he shall, when so appointed, by notice in writing pursuant hereto, be deemed to be the agent of the Chargor, and the Chargor shall be solely responsible for his acts and defaults and for his remuneration;
- (k) Save as to claims for an accounting contained in this paragraph, the Chargor hereby releases and discharges any such Receiver from every claim of every nature, whether sounding in damages or not, which may arise or be caused to the Chargor or

any person claiming through or under it by reason or as a result of anything done by such Receiver, unless such claim be in direct and proximate result of dishonesty or fraud;

- (l) The Chargee may, at any time and from time to time, terminate any Receiver by notice in writing to the Chargor and to the Receiver;
 - (m) The statutory declaration of an employee or agent of the Chargee as to default under the provisions of this Charge and as to the due appointment of the Receiver pursuant to the terms hereof shall be sufficient proof thereof for the purposes of any person dealing with the Receiver through its ostensibly exercising powers herein provided for and such dealing shall be deemed, as regards such person, to be valid and effectual;
 - (n) The rights and powers conferred herein in respect of the Receiver are supplemental to and not in substitution of any other rights and powers which the Chargee may have.
15. The Charge is hereby postponed to all mortgages registered against the Charged Premises as of the date of registration of this Charge and shall be continued to be postponed to any renewal or replacement or consolidation of such mortgages, with or without an increased rate of interest.

SCHEDULE E-2

THIS ASSIGNMENT made this 16th day of May, 2016.

BETWEEN:

McWHIRTER-HORVATH PROPERTIES INC.

(hereinafter called the "Assignor")

- and -

THE CORPORATION OF THE CITY OF ST. THOMAS

(hereinafter called the "Assignee")

WHEREAS:

- A. The Assignor is the owner of the lands and premises hereof (the "Premises"), subject to a charge to the Assignee of even date (the "Charge");
- B. The Assignor has leased or granted a right of use, occupation or license with respect to parts of the Premises and will from time to time lease or grant a right of use, occupation or license with respect to parts of the Premises.

NOW THEREFORE, the Assignor and the Assignee agree with each other as follows:

- 1. In consideration of Two Dollars (\$2.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Assignee, the Assignor hereby assigns, transfers and sets over unto the Assignee, its successors and assigns, as security for payment of the principal and interest and other moneys secured by the Charge and for performance of the obligations of the Assignor thereunder, all rents, charges and other moneys (the "Rents") now due and payable or hereafter to become due and payable,
 - (a) under every existing and future lease of and agreement to lease the whole or any portion of the Premises,
 - (b) under every existing and future tenancy, use, occupation or license granted by the Assignor, its successors and assigns, in respect of the whole or any portion of the Premises, whether or not pursuant to a lease, agreement to lease or license, and

- (c) under every existing and future guarantee of all or any of the obligations of existing or future tenants, users, occupiers or licensees of the whole or any portion of the Premises,

including all rents and other moneys under every lease, agreement to lease, use, occupancy, license and guarantee (the "Leases"), with full power and authority to demand, collect, sue for, recover, receive and give receipts for the Rents, and to enforce payment of the same in the name of the Assignor, its successors and assigns, or otherwise.


2. The Assignor shall be permitted to collect and receive the Rents as and when the same shall become due and payable according to the terms of the Leases, unless and until the Assignor is in default under any of the provisions of the Charge and thereafter, the Assignee shall give notice to the tenant, user, occupier, licensee or guarantor, requiring the same to pay the Rents to the Assignee, which notice shall be binding upon the Assignor and may not be contested by it.
3. The Assignor represents, warrants, covenants and agrees that, subject to the provisions of paragraph 9,
 - (a) none of the Leases or the Assignor's rights thereunder, including the right to receive the Rents, have been or will be amended (except in the ordinary course of business), assigned, encumbered, discounted (save and except in connection with any settlement with a defaulting tenant in the ordinary course of business) or anticipated in priority to this Assignment, without the prior written consent of the Assignee;
 - (b) it has not and will not do or omit to do any act having the effect of terminating, canceling or accepting surrender of any of the Leases or of waiving, releasing, reducing or abating any rights or remedies of the Assignor or obligations of any other party thereunder or in connection therewith;
 - (c) none of the rights, remedies and obligations are or will be affected by any reduction, abatement, defense, set-off or counterclaim;
 - (d) none of the Rents under any of the Leases has been or will be paid in advance, except rent for the ensuing month and rent for the last month of the term of the lease;
 - (e) none of the Rents under any of the Leases has been paid prior to the due date for payment thereof;
 - (f) there has been no default under any of the Leases;
 - (g) there is no outstanding dispute under any of the Leases between the Assignor and any other party thereto;

- (h) each of the Leases is valid, enforceable and in full force and effect;
 - (i) the Assignor shall observe and perform all of its obligations under the Leases.
4. Nothing herein contained shall have the effect of making the Assignee, its successors or assigns, responsible for the collection of the Rents or any of them or for the performance of any obligations or provisions under or in respect of the Leases or any of them to be observed and performed by the Assignor; and the Assignee shall not, by virtue of this Assignment or their receipt of the Rents or any of them, become or be deemed to be a mortgagee in possession; and the Assignee shall not be under any obligation to take any action or exercise any remedy in the collection or recovery of the Rents or any of them, or to see to or enforce the performance of the obligations and liabilities of any person under or in respect of the Leases or any of them or to see to or enforce the performance of the obligations and liabilities of any person under or in respect of the Leases or any of them; and the Assignee shall be liable to account only for such moneys as shall actually come into its hands, less proper collection charges and such moneys may be applied on account of any indebtedness of the Assignor to the Assignee.
 5. In the event the Assignee shall have exercised its rights under paragraph 2 and shall have received any of the Rents and if the Assignor shall cure the default under the Charge which gave rise to such exercise and shall have resumed collection of the Rents, the Assignee shall provide the Assignor with details of all Rents received by them prior to such resumption.
 6. The Assignor covenants and agrees to execute such further assurances as may be reasonably required by the Assignee from time to time to perfect this Assignment and without limiting the generality of the foregoing, upon the request of the Assignee made at any time, it shall assign, transfer and set over unto the Assignee the Leases or such of them so requested by a valid assignment thereof and shall give any other parties thereto a notice of such assignment and shall obtain from them acknowledgements of such notice, and the Assignor hereby irrevocably appoints the Assignee its attorney to effect and execute such assignment.
 7. A full and complete Discharge of the Charge shall operate as a full and complete release and re-assignment of all of the Assignee's rights and interest hereunder, and after the Charge has been fully discharged, this instrument shall be void and of no further effect. In the event further documentation is required for such release and re-assignment, the Assignees shall execute the same promptly, upon request by the Assignor.
 8. This Assignment is given in addition to and not in substitution for any other security held by the Assignee for all or any part of the monies secured under the Charge. It is understood and agreed that the Assignee may pursue its remedies under the Charge or hereunder or under any other security, concurrently or successively, at its option. Any judgment or recovery hereunder or under any other security held by the Assignee for the monies secured under the Charge shall not affect the right of the Assignee to realize upon this or any other security.

9. This Assignment is hereby postponed to the Assignment of Rents registered against the Premises as of the date of registration of this Assignment and any extension or renewal thereof and any specific assignment of Rents made thereunder from time to time.
10. This Assignment shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF this Assignment has been executed on behalf of the Assignor by its authorized officers.

McWHIRTER-HORVATH PROPERTIES INC.



Jason Lloyd McWhirter, Director,

Kevin James Horvath, Director

I/We have the authority to bind the Corporation.

SCHEDULE E-3

THIS AGREEMENT made this 16th day of May, 2016.

BETWEEN:

McWHIRTER-HORVATH PROPERTIES INC.

(hereinafter called the "Assignor")

- and -

THE CORPORATION OF THE CITY OF ST. THOMAS

(hereinafter called the "Assignee")

1. SECURITY INTEREST

- 1.1 **IN CONSIDERATION** of Two Dollars (\$2.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Assignees, the Assignor hereby grants, bargains, assigns and transfers to the Assignees a fixed and specific mortgage and charge, as and by way of a continuing security interest (the "Security Interest") in the following property now or hereafter owned or acquired by or on behalf of the Assignor:

Equipment - All tools, machinery, equipment, furniture, plants, fixtures, and other tangible personal property, fixed goods, chattels or assets of the kind, nature or description of the property particularly described in Schedule "B" hereto (the "Collateral").

- 1.2 The Security Interest is given for the payment of all obligations, indebtedness and liabilities, direct and indirect, of the Assignor to the Assignee, pursuant to the charge/mortgage (the "Charge") given by the Assignor to the Assignee, registered on [insert date and Registry Office:] as Instrument No. [insert number:], including extensions or renewals thereof (the "Obligations").

2. LOCATION OF PROPERTY

- 2.1 The Assignor confirms and warrants that the Collateral shall be kept at 207 Ross Street, St.

Thomas, Ontario more particularly described in Schedule "A" hereto, and that the Assignor shall not remove any of the Collateral from said location, without the prior written consent of the Assignee.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS

3.1 The Assignor hereby represents, warrants and covenants to or with the Assignee, as the case may be, that:

- (a) the Assignor shall reimburse the Assignee for all costs and expenses, (including legal fees on a solicitor and his own client basis), incurred by them in the filing of this Agreement and the taking, recovering or possessing the Collateral, and in any other proceedings taken for the purpose of protecting or enforcing the remedies provided herein, or otherwise in relation to the Collateral or by reason of non-payment of the Obligations, and all such costs and expenses shall be payable on demand;
- (b) at the time of execution and delivery of this Security Agreement, the Assignor is and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible title to the Collateral, free of any charge, lien, charge, security interest or encumbrance, except for any held by the currently registered first mortgagee of the lands and premises described in Schedule "A";
- (c) the Assignor shall not remove any of the Collateral from the lands and premises described in paragraph 2, without the Assignee's prior written consent, unless such Collateral is worn out or obsolete and provided that prior to such removal such Collateral is replaced with other Collateral of comparable quality, which shall be free of any mortgage, lien, charge, security interest or encumbrance, except for any held by any registered first mortgagee, from time to time, of the said lands and premises;
- (d) the Assignor shall care for, protect and preserve the Collateral and shall not permit its value to be impaired, and shall not sell, transfer, assign, mortgage, charge, pledge, hypothecate or deliver or otherwise dispose of any such property or any interest therein, except to any registered first mortgagee, from time to time, of the lands and premises described in Schedule A, without the prior written consent of the Assignee;
- (e) the Assignor shall keep the Collateral insured under the policies provided for in the Charge;
- (f) the Assignee shall be entitled, from time to time and at any time, to inspect the Collateral wherever located and to make enquiries and tests concerning the Collateral, and the Assignor shall defray all expenses in connection therewith; and
- (g) this Agreement has been properly authorized and constitutes a legally valid and binding obligation of the Assignor in accordance with its terms.

4. USE OF SPECIFICALLY CHARGED PROPERTY

- 4.1 Until the occurrence of an event of default, as hereinafter provided, the Assignor may use the Collateral specifically charged in any lawful manner not inconsistent with this Agreement.

5. EVENTS OF DEFAULT

- 5.1 Obligations not payable on demand shall immediately become payable upon the occurrence of one (1) or more of the following events of default:

- (a) the Assignor fails to pay when due any of the Obligations, or to perform or rectify a breach of any of the representations, warranties or covenants of this Agreement or of the Charge;
- (b) the Assignor ceases or threatens to cease to carry on business, becomes insolvent or the subject of bankruptcy or insolvency proceedings;
- (c) an encumbrancer takes possession of any of the Collateral or any process of execution is levied or enforced upon or against any of the Collateral;
- (d) indebtedness or liability of the Assignor, other than to the Assignee, becomes due and payable, or capable of being declared due and payable, before the stated maturity thereof, or any such indebtedness or liability shall not be paid at the maturity thereof or upon the expiration of any stated applicable grace period thereof, or any guarantee given by the Assignor is not honoured when due and called upon;

and the Assignee shall have all rights and remedies under the applicable laws, as well as any other rights and remedies provided by this Agreement.

6. ADDITIONAL POWERS UPON DEFAULT

- 6.1 In addition to the rights and powers provided in paragraphs 5 and 8 and under the *Personal Property Security Act*, the Assignees and the Receiver, as defined in paragraph 8, shall have the following rights and powers, if the security hereby constituted becomes enforceable:

to dispose of any of the Collateral in the condition in which it was at the date possession of it was taken, or after any commercially reasonable repair, processing or preparation thereof for disposition; and the Assignor shall from time to time forthwith on the Assignee's request, execute, do and make all such agreements, statements, further assignments, acts, matters and things which may, from time to time, in the opinion of the Assignee, be necessary or expedient for the purpose of carrying into effect any of the provisions hereof and of perfecting the title of the Assignee in the collateral; and the Assignee and any of its managers or acting managers are by the Assignor hereby

irrevocably constituted and appointed the true and lawful attorney of the Assignor, with full power of substitution for the Assignee, at its option, whenever and wherever it may deem necessary or expedient to do, make and execute all such statements, assignments, documents, acts, matters or things, with the right to use the name of the Assignor.

7. WAIVER BY THE ASSIGNEE

- 7.1 Any breach by the Assignor of any of the provisions contained in this Agreement or any default by the Assignor in the observance or performance of any covenant or condition required to be observed or performed by the Assignor hereunder may only be waived by the Assignee in writing, provided that no such waiver by the Assignee shall extend to or be taken in any manner to affect any subsequent breach or default or the rights resulting therefrom.

8. APPOINTMENT OF RECEIVER AND MANAGER

- 8.1 The Assignee may appoint in writing any person, whether an employee or employees of the Assignee or not, to be a receiver or a receiver and manager (the "Receiver") of the Collateral or any part of parts thereof.

- 8.2 A receiver so appointed shall have power:

- (i) to take possession of, collect and get in the Collateral or any part thereof, and for that purpose to take any proceedings in the name of the Assignor or otherwise; and
- (ii) to sell or concur in selling any of the Collateral.

- 8.3 Any Receiver so appointed shall be deemed to be the agent of the Assignor. The Assignor shall be solely responsible for the Receiver's acts or defaults and for the Receiver's remuneration and expenses. The Assignees shall not, in any way, be responsible for any misconduct or negligence on the part of the Receiver.

- 8.4 All moneys received by the Receiver after providing for payment of all costs, charges and expenses of or incidental to the exercise of any of the powers of the Receiver shall be applied in or towards satisfaction of the Security Interest.

- 8.5 The rights and powers conferred by this paragraph are in supplement of and not in substitution for any rights the Assignees may have from time to time.

9. NOTICE

- 9.1 The Assignor shall be entitled to not less than fifteen (15) days notice in writing of the date, time and place of any intended disposition of the Collateral, such notice to be sent by registered mail to the last known post office address of the Assignor.

10. APPROPRIATION

10.1 The Assignee shall have the right, at any time, to appropriate any payment made to any portion of the Obligations and to revoke or alter any such appropriation.

11. TERM

11.1 This Agreement shall be a continuing agreement, in every respect, for the payment of the Obligations and it shall remain in full force until all of the Obligations shall be paid in full. In the event any provisions of this Agreement shall be deemed invalid or void by any court of competent jurisdiction, the remaining terms and provisions of this Agreement shall remain in full force and effect.

12. NON-SUBSTITUTION

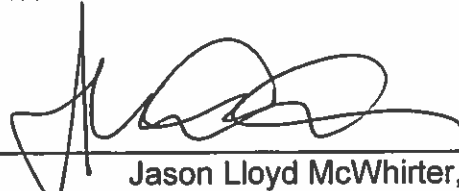
12.1 The Security Interest is in addition to and not in substitution for any other security now or hereafter held by the Assignee.

13. ACKNOWLEDGEMENT


13.1 The Assignor acknowledges receipt of a copy of this Agreement.

IN WITNESS WHEREOF this Assignment has been executed on behalf of the Assignor by its authorized officers.

McWHIRTER-HORVATH PROPERTIES INC.



Jason Lloyd McWhirter, Director,



Kevin James Horvath, Director

I/We have the authority to bind the Corporation.

SCHEDULE "A"

Location of the Collateral

Address: 207 Ross Street, St. Thomas, Ontario, N5R 3Y3

SCHEDULE "B"

Property Comprising the Collateral

All refrigerators, stoves, washers, dryers and all other items of personal property owned by the Assignor and located on or used in connection with the operation of the lands and premises described in Schedule "A".

SCHEDULE "F"

ENERGY EFFICIENCY AND BUILDING DESIGN PROJECT DETAILS

- Energy Star Appliances – fridge and stove;
- Central gased fired boiler system and MUA units;
- Roxul Safe 'n' Sound insulation in ceilings to reduce sound, improve R-value/ thermal resistance and improve fire rating;
- L.E.D. lighting in all units and common areas;
- Dedicated 20 Amp circuit at unit windows to permit installation of air conditioning units;
- Low flush toilets;
- Energy Star windows;
- Building will have a full brick exterior with vinyl siding in the front and rear gables. A vinyl awning will cover the front entrance. Controlled entry system at both entrances, with a powered – activated door at the rear entry to accommodate persons bound to a wheelchair. Four ground floor units will be accessible with wider door frames, larger bathrooms and accessible countertops.

An energy audit will be completed and submitted to the City prior to the release of holdback funds.

SCHEDULE "G"

PERMITTED ENCUMBRANCES

[This schedule in the executed Charge/Mortgage will contain the registration details of all registered documents which fit into the categories listed below.]

1. All mortgages and security collateral thereto-totaling principal amounts which do not exceed \$300,000 plus any CMHC Insurance and lender fees/ charges.
2. Construction financing which does not exceed \$330,000
3. Such easements and restrictive covenants as do not prevent the Project from being constructed or used as Affordable Housing.
3. Municipal agreements relating to the Development Activities in connection with the Project.

SCHEDULE "H"

PROJECT INITIAL OCCUPANCY REPORT

IAH - Rental Housing Component
Service Manager Direct Delivery

A. Project Information

Initial Occupancy	
Contribution Agreement Expiry Date	
Project Name	
Project Address	
Proponent	
Contact	
Mailing Address	

B. Number of Units in Project

Unit Type	Total IAH Units (A)	Units not Receiving IAH Funding (B)	Total Number of Units (A+B)
Bachelor			
1 BR			
1 BR			
Total			

C. Depth of Affordability: Rents at Occupancy (IAH Funded Units)

Establishes "permitted rents" which are used in Schedule "I"

Unit Type	Unit Size	Number of Units (A)	Actual Rent to be charged per month (B)	CMHC Average Market Rent 20XX (C)	Actual Project Rents (D)= (A)x(B)	Project Rents as per CMHC AMR (E)=(A)x(C)
Bachelor						
1 BR						
2 BR						
Total						

Notes:

- For Column (B), actual rent is the net to occupants after all subsidies

2. For Column (C), Alternate e.g. modified Ontario Works Shelter Allowance, ODSP (in the event CMHC AMR does not apply)

Weighted Average Rents	Project Weighted Average Rent Total of (D)+Total of (A) =	CMHC Average Market Rent: Total of (E)+Total of (A) =
Depth of Affordability	(Project Weighted Average Rent ÷ CMHC Weighted Average Rent) x100 =	

D. Source of Alternate AMR (if alternate AMR is being used)

E. Rationale (if Depth of Affordability is greater than 80% of CMHC AMR)

F. Project Certification

I certify, to the best of my knowledge that the information provided in Sections B and C in this report are true and correct. I hereby authorize the City of St. Thomas to review the rent roll from appropriate source(s) if deemed necessary.

Signed by Proponent

Date: _____

Proponent Name
Position
Company/Organization

Signed by Service Manager

Date: _____

[Print name of Service Manager]

NOTE: This Schedule is required to be submitted by the Proponent to the City of St. Thomas, for approval, before receiving the final Federal/Provincial payment. The "permitted rents" must be consistent with the formula for determining the initial rents, set out in Schedule "D" Rental Protocol.

SCHEDULE "H"

PROPONENT'S INITIAL OCCUPANCY REPORT – PART 2

IAH - Rental Housing Component
Service Manager Direct Delivery

A. Project Information

Initial Occupancy

Contribution Agreement Expiry Date

Project Name

Project Address

Proponent

Contact

Mailing Address

B. Household Income of All Tenants

Unit Number	Unit Type	Tenant Name(s) and Dependent(s)	Total Gross Household Income	Tenant Move-In Date

C. Project Certification

I certify, to the best of my knowledge, that the information provided in Section B of this report is true and correct. I hereby authorize the City of St. Thomas to review the rent roll from appropriate source(s) if deemed necessary.

Signature

Date: _____

Proponent Name

Position

Company/Organization

Note: Proponents are required to attach current income verification documentation for each new Tenant to this report. Income verification documentation may include recent Income Tax Returns or Notices of Assessment, bank statements showing current income sources, or other such documentation acceptable to the Service Manager. Proponents are not required or expected to check incomes for approved Tenants once they have taken possession of their units.

SCHEDULE "I"

PROJECT ANNUAL OCCUPANCY REPORT

IAH - Rental Housing Component
Service Manager Direct Delivery

A. Project Information

Reporting Period	
Initial Occupancy	
Contribution Agreement Expiry Date	
Project Name	
Project Address	
Proponent	
Contact	
Mailing Address	

B. Actual Rents at Year End

Unit Type	IAH Funded Units	Previous Year 20XX		Current Year 20XX			Rationale (If D>B)
		Actual Rent per Unit per Month (A)	RTA Permitted Increase per Unit per Month (%) (B)	Actual Rent per Unit per Month (C)	Rent Increase (D)=(A)-(C)	CMHC AMR (E)	
1 BR							
2 BR							
Total							

C. Depth of Affordability: Rents during year of reporting (IAH Funded Units)

Unit Type	Unit Size	Number of Units (A)	Actual rent to be Charged per Month (B)	CMHC AMR 20XX (C)	Actual Project Rents (D)= (A)x(B)	Project Rents as per CMHC AMR (E)=(A)x(C)
Bachelor						
One Bedroom						
Two Bedroom						
Total						

Notes:

1. For Column (B), actual rent is the net to occupants after all subsidies
2. For Column (C), Alternate e.g. modified Ontario Works Shelter Allowance, ODSP (in the event CMHC AMR does not apply)

Weighted Average Rents	Project Weighted Average Rent Total of (D)÷Total of (A) =	CMHC Average Market Rent: Total of (E)÷Total of (A) =
Depth of Affordability	(Project Weighted Average Rent ÷ CMHC Weighted Average Rent) x100 =	

D. Rationale (if Depth of Affordability is greater than 80% of CMHC AMR)**E. Project Certification**

I certify, to the best of my knowledge that the information provided in Sections B and C in this report are true and correct. I hereby authorize the City of St. Thomas to review the rent roll from appropriate source(s) if deemed necessary.

Signed by Proponent

Date: _____

Proponent Name
Position
Company/Organization

Signed by Service Manager

Date: _____

[Print name of Service Manager]

SCHEDULE "I"

PROPONENT'S ANNUAL OCCUPANCY REPORT – PART 2

IAH - New Rental Housing Component
Service Manager Direct Delivery

A. Project Information

Reporting Period

Initial Occupancy

Contribution Agreement Expiry Date

Project Name

Project Address

Proponent

Contact

Mailing Address

B. Household Income of New Tenants

Unit Number	Unit Type	Tenant Name(s) and Dependent(s)	Total Gross Household Income	Tenant Move-In Date

C. Project Certification

I certify, to the best of my knowledge, that the information provided in Section B of this report is true and correct. I hereby authorize the City of St. Thomas to review the rent roll from appropriate source(s) if deemed necessary.

Signature

Date: _____

Proponent Name, Position
Company/Organization

Note: Proponents are required to attach current income verification documentation for each new Tenant to this report. Income verification documentation may include recent Income Tax Returns or Notices of Assessment, bank statements showing current income sources, or other such documentation acceptable to the Service Manager. Proponents are not required or expected to check incomes for approved Tenants once they have taken possession of their units.

SCHEDULE “J”

CANADIAN ENVIRONMENTAL ASSESSMENT ACT (CEAA) CONSIDERATIONS

The Proponent confirms that the project complies with the Canadian Environmental Assessment Act (CEAA) 2012 as per CMHC requirements:

1. The project will not be carried out on federal lands*;
2. The project has not been specifically identified by the Minister of the Environment in an Order Designating Physical Activities.

*NOTE: “federal lands” includes lands that belong to, or that may be disposed of by Her Majesty in right of Canada but does not include lands under the administration and control of the Commissioner of Yukon, the Northwest Territories or Nunavut.

SCHEDULE "K"

PROTOCOL FOR NON-COMPLIANCE

IAH (2014 Extension) - Rental Housing Component

1. BACKGROUND

- 1.1 This guideline addresses the obligations to indemnify and obligations of IAH participants to recover funding from affordable housing projects which may encounter difficulties within the relationships described below:
- (a) Province - Canada Mortgage and Housing Corporation ("CMHC");
 - (b) Service Manager ("SM") - Province;
 - (c) Proponent - Service Manager; and
 - (d) Proponent - Province.
- 1.2 It is expected that all Rental Housing projects will be required to obtain CMHC insurance for the first mortgage since this is a condition of funding under the Ontario Mortgage and Housing Partnership Initiative.
- 1.3 While these guidelines pertain to the Rental Housing Component of the IAH program, the same set of underlying principles and requirements could accommodate other program components with minor adjustments.
- 1.4 The undertakings and commitments contained in this guideline are consistent with and do not supersede any agreements between the Governments of Canada and Ontario as per the CMHC-Ontario Agreement for Investment in Affordable Housing 2011-2014 (the "IAH Agreement").

2. CONSULTATION

- 2.1 When the Service Manager becomes aware of a failure of a Proponent to observe or perform a material condition in the Contribution Agreement, the Service Manager shall notify the Province, which shall, in turn, notify CMHC. The Province and the SM shall each appoint one person to an ad hoc committee for the purpose of assembling information relating to the project in difficulty and determining a course of action for rectifying the difficulty. CMHC shall be invited to participate and will determine the extent of its involvement on the committee. Terms of reference for the ad hoc committee shall be developed and agreed to by all three parties.

3. BEST EFFORTS

In determining what course of action may be undertaken to rectify a project in difficulty, the parties shall use their best efforts to work together co-operatively with an aim to maintaining, to the greatest extent possible in the circumstances, the affordability of the rents for the project as determined by the Contribution Agreement. The parties acknowledge that the interests of the Tenants shall be considered in determining what course of action may be most suitable for a project in difficulty.

4. ADVANCE NOTICE

- 4.1 Neither CMHC, the Province or the SM shall substantially modify the terms of any project-specific agreement, including the Contribution Agreement, or the advance of funds or the security documentation associated with the advance of funds, with the exception of a CMHC insured first mortgage, without providing written notice to the other parties and a reasonable opportunity for the other parties address the implications of such action,
- 4.2 The obligation to indemnify or the distribution of a recovery of funds from a project in difficulty will require the Service Manager and/or Proponent to exhaust all reasonable opportunities to seek recovery, which efforts shall include but shall not be limited to resorting to legal action to defend third party claims, seeking indemnification from insurance policies, if any, that may afford coverage for a particular loss and/or recovering funds from bonding companies or other third parties who, at law, may be responsible for the losses of a project in difficulty.

5. INDEMNITY

5.1 Province - CMHC

- (a) As per the IAH Agreement, Ontario will indemnify CMHC as the result of third party "claims" arising out of the implementation of the Agreement. "Claims" is defined as any legal action against CMHC in connection with the IAH Agreement.
- (b) Federal-Provincial indemnity provisions on Project Development Funding and environmental claims remain as per the IAH Agreement.
- (c) Where CMHC has insured a proponent" first mortgage and a default occurs on the insured mortgage, the Province is not required to indemnify CMHC for any losses related to the mortgage insurance as per the IAH Agreement.
- (d) The IAH "capital" funds and the circumstances dealing with the recovery of these funds are dealt with in subsequent sections of these guidelines.

5.2 SM - Province

- (a) It is proposed that the SM indemnify the Province for any third party claims against the Province, unless the claims are in any way, directly or indirectly, attributable to the negligence, bad faith or willful misconduct of the Province.
- (b) Subject to the preceding paragraph, during the construction phase of a project, it is proposed that the Service Manager indemnify the Province for 100% of federal IAH project funding, as a result of any third party 'claims" against the Province, subject to certain exceptions as per the IAH Agreement, including:
 - (i) Maximum liability is limited to the total amount of federal-provincial funding advanced at the time of the loss-giving rise to the claim for indemnification;
 - (ii) 50% share of provincial liability for losses in relation to Project Development Funding (i.e. 25% of the total claim);
 - (iii) 50% share of provincial liability for losses as a result of environmental and pollution claims (i.e. 25% of the total claim);

- (iv) no indemnification for losses covered by CMHC or other insurance.
- (c) Following completion of construction, it is proposed that the Service Manager will indemnify the province for any third party "claims" on a 50% basis for CMHC, with respect to the federal portion of IAH funding, and on a 100% basis for the Province, subject to same exceptions as indicated above.

5.3 Proponent - SM

- (a) The proponent would be required to indemnify the province for any claims against the Province or CMHC in accordance with the Contribution Agreement.
- (b) The SM should also request full indemnification from the proponent for any claims against the SM.

5.4 Proponent - Province

- (a) Where there is a direct relationship between the Province and a proponent, the Province will require 100% indemnity of CMHC and provincial funds paid in the event of a claim against the province or CMHC.
- (b) Indemnification of CMHC will be required during the construction and occupancy period of a project. Indemnification of the province will be required throughout the period during which provincial affordability payments are made.

6. RECOVERY OF FUNDS

6.1 Under the IAH, a number of circumstances could arise which could make a project "non-compliant". Examples include:

- (a) Construction Failures - increased construction costs, bankruptcy;
- (b) Environmental considerations - with the exception of those identified and recorded in advance of an IAH funding commitment;
- (c) Program compliance violations - project fails to remain affordable or does not maintain its affordability target for the full 20 years, or funds are misused.

6.2 Province - CMHC

- (a) CMHC would not expect full repayment of federal capital by the Province if the province confirms that "best efforts" were made to collect the funds.
- (b) Best efforts would involve adherence by the SM to the "risk sharing protocols" in order to minimize occurrence of failure. Furthermore, the parties will need to explore all available remedies with SMs, proponents and CMHC, and implement the best remedy to the extent possible.
- (c) If efforts lead to a recovery of capital funding, CMHC would expect a repayment of "a pro rata portion" of the federal funding. It is reasonable to propose that all three funding partners should share in any proceeds recovered, in proportion to their contributions.

- (d) A sliding scale for CMHC forgiveness is set at 5% per year over 20 years. Under certain circumstances, the Province will share this forgiveness with SMs and proponents, otherwise the Province will collect these funds for recycling in other projects.
- (e) Federal funding could either be repaid by the Service Manager to the Province and recycled in new commitments before March 31, 2009 or refunded directly to CMHC after this date.
- (f) In the event that auditors discover misuse of federal funding as per the IAH Agreement, CMHC would expect a refund from the Province where applicable. The amount owing could be reduced based on earned forgiveness of the principal amount during the period of project compliance.

6.3 SM - Province

- (a) In the event a project ceases to be an IAH project for reasons related to negligence, misuse or non-compliance, the Province will expect to be repaid for provincial contributions advanced during the period of non-compliance.
- (b) In the event a project ceases to be compliant due to the negligence of the SM, the Province would expect the SM to repay the Province 100% of CMHC funds, less any earned forgiveness of the principal amount, during the period of project compliance.

6.4 Proponent - SM

- (a) It is required that the SM would adopt a similar position if a project terminates under reasonable circumstances. That is, best efforts can be made to recover government contributions, but if there were no proceeds available, repayment would not be expected.
- (b) In situations of non-compliance due to misuse or negligence, the SM is expected to take remedies available to recover government contributions.

6.5 Proponent - Province

- (a) In situations of non-compliance due to misuse or negligence, the province would expect 100% repayment of federal and provincial funds from the proponent.
- (b) If a project ceases to operate as an IAH project, under reasonable circumstances, the provincial affordability payment would end and best efforts will be made to recover the provincial contributions paid during any period of non-compliance. In the event no proceeds were available, repayment would not be expected.

SCHEDULE “L”

LEGAL DESCRIPTION OF PROPERTY

Number of Units: twelve (12) affordable units

Street Address: 207 Ross Street, St. Thomas

PIN 35220-0174 LT

Description: LOT 65 PLAN 86, PART OF LOT 46 PLAN 86 AS IN E401586 & E411464; CITY OF ST. THOMAS

SCHEDULE "M"

PROJECT INFORMATION FORM

Investment in Affordable Housing for Ontario (IAH) – Rental Housing Component

Service Manager – City of St. Thomas

Project Name: 207 Ross Street

Official Name of Proponent: McWhirter-Horvath Properties Inc.

Proponent Address and Contact Information: Jason McWhirter, 31 Woodhaven Court, St. Thomas, Ontario N5P 3Z2

Phone: 519-637-1373 Cell: 519-933-0179 Fax: 519-637-3615 Email: jmcwhirter@gmail.com

Proponent Type:

☒ private sector ☐ municipal non-profit ☐ co-operative ☐ partnership
☐ private non-profit, charitable corporation ☐ other

Project Information

Number of Affordable Units Created: 12 IAH units

Type of Construction: 3 storey wood construction apartment building

Included in Rent: Parking ☒ Heat ☒ Electricity ☒ Hot Water ☒ Water ☒

Total Number of Units in Project: 12 IAH

Client Type: Persons experiencing mental health issues in St. Thomas and surrounding area. Clients supported by the Canadian Mental Health Association, Elgin Branch.

Anticipated First Occupancy Date:

	Total Number of Units	Number of Affordable Units	Number of Market Units	Unit Sizes	Affordable Rents
1 bedroom	8	8	0	580 sf	\$506 per month including all utilities
1 bedroom barrier free	4	4	0	580 sf	\$506 per month including all utilities
Total	12	12	0		

Approvals

Date of Council Approval of Project: July 13, 2015

Date of MMAH Approval of Project: April 20, 2016

Project Funding

1. Municipal Contributions

a) Development charges	\$ 23,844
b) Building Permit, Fees and Parkland Levy	\$ 0
c) Site Servicing	\$ 0
d) CIP	\$ 0

2. Contributions from other sources

Owner Equity	\$ 183,543
HST Rebate	\$ 54,583
CMHC SEED	\$ 10,000

3. Provincial Funding \$ 364,800

4. Federal Funding \$ 595,200

5. Mortgage \$ 300,000

TOTAL FUNDING AND FINANCING **\$1,531,970**

Amount of Rental Housing Component Funding (3+4) **\$960,000**

Total Capital Costs of Project

Soft Costs (legal, architecture, engineering, insurance, taxes, fees, etc)	\$ 88,524
Land Costs	\$ 115,255
Construction or Hard Costs (labour, construction materials, equipment)	<u>\$1,328,191</u>
Total Capital Costs (12 units)	\$1,531,970

Operating Budget (Year 1)

Revenues	Annual Income
12 - one bedroom @ 80% CMHC AMR (\$506 x 12 x 12)	\$72,864
Total Revenue	\$72,864
Less: Vacancy Loss (Note 1)	0
Net Revenue	\$72,864
Expenses	
1. Administration Costs (Note 1)	\$ 0
2. Building Operating Costs	\$ 5,500
3. Utilities (heat, water, common)	\$17,280
4. Municipal Taxes	\$11,000
5. Insurance	\$ 4,500
6. Replacement Reserves	\$ 2,915
7. Mortgage (Note 2)	\$21,986
8. Legal, Banking, Office	<u>\$ 480</u>
Total Expenses	\$63,661
Surplus (Shortfall)	\$ 9,203

Notes:

1. CMHA, Elgin Branch has agreed to a head lease for all 12 units and will be responsible for renting the units, vacancy loss and maintaining the units.
2. Libro Credit Union will provide a mortgage at the rate of 4.175%, for a 5 year term, amortized over 20 years.

SCHEDULE "N"

DEVELOPMENT SCHEDULE

Site Acquired	May 17, 2013
Site Plan Approval	March 21, 2016
Building Permit	April 29, 2016
Construction Start	May 16, 2016
Structural Framing Completed	August 19, 2016
Substantial Completion	November 18, 2016
Mortgage Commitment	December 16, 2016
Occupancy	January 1, 2017
Interest Adjustment Date	April 1, 2017

Capital Audit Report – Must be submitted within 90 days of construction completion

SCHEDULE "O"

**Conditional Letter of Commitment from
Ministry of Municipal Affairs and Housing**

**Ministry of
Municipal Affairs
and Housing**

**Ministère des
Affaires municipales
et du Logement**

Assistant Deputy Minister's Office
Housing Division
777 Bay St 14th Floor
Toronto ON M5G 2E5
Telephone: (416) 585-6277
Fax: (416) 585-6800

Bureau du sous-ministre adjoint
Division du Logement
777, rue Bay 14^e étage
Toronto ON M5G 2E5
Téléphone: (416) 585-6277
Télécopieur: (416) 585-6800



April 20, 2016

Ms. Elizabeth Sebestyen
Acting Director, St. Thomas-Elgin Ontario Works
City of St. Thomas
423 Talbot Street
St. Thomas, ON N5P 1C1

Dear Ms. Elizabeth Sebestyen:

Re: 207 Ross, 12 units
MH Properties Inc., City of St. Thomas
Investment in Affordable Housing for Ontario Program (IAH) 2014
Extension – Rental Housing Component – Year 3

Based upon the recommendation of the City of St. Thomas, the 207 Ross project in the City of St. Thomas has been conditionally approved for funding in the amount of \$960,000 for 12 units under the Rental Housing Component of the Investment in Affordable Housing for Ontario Program (IAH) 2014 Extension.

This funding is conditional upon MH Properties Inc. obtaining all required approvals for the project from the City of St. Thomas. It is expected that a Contribution Agreement between the City of St. Thomas and MH Properties will be signed as soon as possible. In addition, the project is required to start construction within 120 days of signing the Contribution Agreement. Projects that do not meet the construction start timelines may have their funding re-allocated.

Funding for the project is also conditional on the fulfillment of the ministry's terms and conditions for the IAH (2014 Extension) and the achievement of specific construction milestones.

Conditions for IAH (2014 Extension) – Rental Housing Component funding include, but are not limited to:

- The province and the Service Manager (SM) for the jurisdiction in which the project will be built signing an Administration Agreement;

- Obtaining any required project-specific Municipal Housing Facilities Bylaws or Agreement or any other required Agreement by the Service Manager and/or other party and the proponent;
- Providing proof of ownership or long term lease to permit the development of the proposed project over the minimum 20 year period;
- Obtaining the first permit that permits the demolition or foundation of the project and/or permits a subsequent phase in the construction process;
- Providing written confirmation of construction start within 120 days of the date of the signing of the Contribution Agreement, as per Appendix D of the Investment in Affordable Housing for Ontario (2014 Extension) Program Guidelines. Any project that does not meet this requirement may have their funding re-allocated;
- Obtaining a Certificate of Insurance (COI) and any required insurance as part of the Contribution Agreement;
- Providing confirmation of required owner equity;
- Obtaining approval of mortgage financing in the form of a mortgage commitment satisfactory to the ministry;
- Service Manager or Ministerial Consent (as applicable) under the *Housing Services Act, 2011*;
- Confirmation in writing of existing support services, if required;
- Confirmation of compliance under the *Canadian Environmental Assessment Act* (CEAA); and,
- Fulfillment of all other conditions precedent to the implementation of the project as set out in the proponent's submission to the procurement process and as outlined in the *Investment in Affordable Housing for Ontario 2014 Extension Program Guidelines*.

Please ensure that MH Properties Inc. keeps you informed of the project's progress in meeting these conditions.

SMs are required to report to the province when a Contribution Agreement is signed and comply with the program's guidelines as specified in the Administration Agreement.

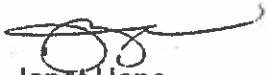
Once the Contribution Agreement has been signed and the required conditions have been fulfilled, the ministry will advance IAH (2014 Extension) funding to the SM as per the project's funding schedule. The SM, in turn, will advance the funding to the proponent based on the completion of construction milestones.

Please see the attached preliminary funding schedule for a description and breakdown of the funding for your project.

The province will co-ordinate the official announcement of this funding and will notify the the City of St. Thomas in advance.

Thank you once again for your interest and participation in the IAH (2014 Extension).

Yours truly,



Janet Hope
Assistant Deputy Minister
Housing Division

Attachment: City of St. Thomas Project Funding Schedule

- c. Jason McWhirter, MH Properties Inc.
Tony Brutto, Team Lead, Regional Housing Services, MSO-West

SCHEDULE "P"

Confirmation of Employment of Apprentices

IAH (2014 Extension) - Rental Housing Component

Required for Each Rental Housing Project

This is to confirm that the affordable housing project located at 207 Ross Street, St. Thomas has employed a total of _____ [number of] apprentices throughout the development and construction of the project.

The apprentices employed during project construction have received training in the following trades:

- 1.
- 2.
- 3.
- 4.

The following initiatives/activities were used to promote or support apprentices in the Project:

- 1.
- 2.
- 3.
- 4.

McWhirter-Horvath Properties Inc. agrees to provide appropriate documentation in support of the above information.

**AMENDMENT
TO
SERVICE MANAGER CONTRIBUTION AGREEMENT**

**Investment in Affordable Housing for Ontario (2014 Extension)
Rental Housing Component**

This Agreement made the 2nd day of August, 2022

BETWEEN:

THE CORPORATION OF THE CITY OF ST. THOMAS
(hereinafter called the "City")

- and -

McWHIRTER-HORVATH PROPERTIES INC.
(hereinafter called the "Proponent")

WHEREAS:

- A. The City and the Proponent entered into a Service Manager Contribution Agreement dated 16th day of May 2016 (the Contribution Agreement);
- B. The terms of the Contribution Agreement included a mortgage in favour of the City as security for \$960,000.00 advanced by the City as Service Manager and further provided that the City would postpone its security interest to one other permitted encumbrance mortgage, which the City did on 9 December 2016;
- C. Schedule "G" to the Contribution Agreement indicates other than the mortgage held by the City, the total principal amounts of all mortgages, and security collateral thereto did not exceed \$330,000, being the existing first mortgage also described in Schedule "M";

NOW THEREFORE, in consideration of the mutual covenants herein and other valuable consideration, the City and the Proponent agree as follows:

- 1. The Contribution Agreement is hereby amended as follows:
 - a. Schedule "G" Permitted Encumbrances is deleted and replaced by Schedule "G" attached hereto;
 - b. Schedule "M" Project Information is deleted and replaced by Schedule "M" attached hereto.
- 2. All other Terms and Conditions in the Contribution Agreement are hereby confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF this Agreement has been executed by the Parties.

THE CORPORATION OF THE CITY OF ST. THOMAS

Joe Preston, Mayor

Maria Konefal, City Clerk

We have authority to bind the Corporation

McWHIRTER-HORVATH PROPERTIES INC.

DocuSigned by:

Dylan Suitor

55854308ED5A459...
Dylan Suitor

Office:

I have the authority to bind the Corporation

SCHEDULE "G"

PERMITTED ENCUMBRANCES

[This schedule in the executed Charge/Mortgage will contain the registration details of all registered documents which fit into the categories listed below.]

1. All mortgages and security collateral thereto-totaling principal amounts which do not exceed \$825,000 plus any CMHC Insurance and lender fees/ charges.
2. Such easements and restrictive covenants as do not prevent the Project from being constructed or used as Affordable Housing.
3. Municipal agreements relating to the Development Activities in connection with the Project.

SCHEDULE “M”**PROJECT INFORMATION FORM**

Investment in Affordable Housing for Ontario (IAH) – Rental Housing Component

Service Manager – City of St. Thomas**Project Name:** 207 Ross Street

Official Name of Proponent: McWhirter-Horvath Properties Inc.

Contact: Michelle Ganly, Director of Operations, 245 Wyecroft Road, Suite 4, Oakville, Ontario L6K 3Y6 Phone: 905-592-4220 Cell: 289-681-7766 Email: michelle@elevationrealty.ca

Proponent Type:[☒] private sector [☐] municipal non-profit [☐] co-operative [☐] partnership

Project Information**Number of Affordable Units Created:** 12 IAH units**Type of Construction:** 3 storey wood construction apartment building**Included in Rent:** Parking [☒] Heat [☒] Electricity [☒] Hot Water [☒] Water [☒]**Total Number of Units in Project:** 12 IAH**Client Type:** Persons experiencing mental health issues in St. Thomas and surrounding area. Clients supported by the Canadian Mental Health Association, Elgin Branch.**Anticipated First Occupancy Date:** January 1, 2017

	Total Number of Units	Number of Affordable Units	Number of Market Units	Unit Sizes	Affordable Rents at First Occupancy
1 bedroom	8	8	0	580 sf	\$506 per month including all utilities
1 bedroom barrier free	4	4	0	580 sf	\$506 per month including all utilities
Total	12	12	0		

Approvals

Date of Council Approval of Project: July 13, 2015

Date of MMAH Approval of Project: April 20, 2016

Date of Council Approval of Project Amendment: July 2022

Project Purchase 2022

Purchase of Shares by 207 Ross Inc.	\$900,000
Libro Mortgage	\$223,000
City DC Loan	\$ 41,751
Provincial Forgivable Loan, 2 nd mortgage	<u>\$960,000</u>
TOTAL	\$2,124,751

IAH Program Minimum Equity Requirement 10%	\$217,475
---------------------------------------------------	------------------

Funding & Equity

Owner Equity	\$298,000
City Loan	\$ 41,751
Province – 2 nd mortgage	\$960,000
Mortgage – non-governmental funding	<u>\$825,000</u>
TOTAL	\$2,124,751

Operating Budget (January 1, 2022)

Revenues	Annual
Rent -12 one bedroom	\$77,172
Solar	\$ 305
Laundry	\$ 92
Total Revenue	\$77,519
Less: Vacancy Loss (Note 1)	0
Net Revenue	\$77,519
Expenses	
1. Administration Costs (Note 1)	\$ 0
2. Repair & Maintenance	\$ 6,000
3. Utilities (heat, water, common)	\$10,913
4. Municipal Taxes	\$11,330
5. Insurance	\$ 3,724
6. Replacement Reserves	\$ 3,103
7. Mortgage (Note 2)	<u>\$38,404</u>
Total Expenses	\$73,474
Surplus (Shortfall)	\$ 4,045

Notes:

1. CMHA, Elgin Branch has agreed to a head lease for all 12 units and will be responsible for renting the units, vacancy loss and maintaining the units.
2. Mortgage Amount \$825,000; Rate: 4%; Amortization Period: 50 years.