

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

B E T W E E N:

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicant

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

APPLICATION RECORD

November 29, 2024

THORNTON GROUT FINNIGAN LLP

100 Wellington Street West
Suite 3200, TD West Tower
Toronto ON M5K 1K7

D.J. Miller (LSO# 34393P)

Email: djmiller@tgf.ca

Telephone: (416) 304-0559

Derek Harland (LSO #79504N)

Email: dkharland@tgf.ca

Telephone: (416) 304-1127

Lawyers for the Applicant,
Hillmount Capital Mortgage Holdings Inc.

TO: THIS HONOURABLE COURT

AND TO: THE SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

B E T W E E N:

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicant

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

INDEX

Tab	Description
1.	Notice of Application dated November 7, 2024
2.	Affidavit of Itzhak (Yitz) Levinson, sworn November 29, 2024
Exhibit “A”	CBJ - Fort Erie Hills Inc.-ON-Corporate Profile Report - November 25, 2024
Exhibit “B”	85 Crooks-Niagara South (59) - PIN 64233-0064 - Parcel Register as of November 25, 2024
Exhibit “C”	CV-24-00723362-00CL-TO-Statement of Claim - CBJ Developments Inc., et al v. CBJ-Fort Erie Hoffner, et al
Exhibit “D”	Signed Commitment - Crooks (Fully Executed)
Exhibit “E”	Signed Amendment to Commitment - revised and signed by all parties - 4860-8408-3850 1
Exhibit “F”	Assignment of Commitment
Exhibit “G”	Signed Undertaking re Site Plan Approval
Exhibit “H”	LRO (59), Instrument Number (SN783192) (October 29, 2024)
Exhibit “I”	Acknowledgment and Direction to Register

Exhibit "J"	General Security Agreement
Exhibit "K"	Guarantee
Exhibit "L"	General Assignment of Rents and Leases
Exhibit "M"	CBJ - Fort Erie Hills Inc.-ON-PPSA search results as of November 25, 2024
Exhibit "N"	Copies of 2024 tax certificates from the Town of Fort Erie
Exhibit "O"	LRO (59), Instrument Number (SN793320)
Exhibit "P"	85 Crooks-Niagara South (59) - Instrument # SN818765
Exhibit "Q"	1001045239 Ontario Incorporated-ON-Corporate Profile report as of Nov 25, 2024
Exhibit "R"	Demand Letter to Borrower September 17, 2024 - 4859-2936-6245 3
Exhibit "S"	Notice of Intention to Enforce Security September 17, 2024 - 4886-2960-4838 1
Exhibit "T"	Notice of Sale October 1, 2024 - 4888-3888-8939 1
Exhibit "U"	Consent of TDB Restructuring Limited to act as Receiver
3.	Draft Receivership Order
4.	Blackline of Draft Receivership Order to the Model Receivership Order

TAB 1



Court File No. _____

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

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

B E T W E E N:

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicant

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT:

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

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

- In person
- By telephone conference
- By video conference, the details of which will be made available in CaseCentre,

before a Judge presiding over the Ontario Superior Court of Justice (Commercial List) at 330 University Ave., Toronto, Ontario, on a date to be scheduled. Please advise if you intend to join the hearing by emailing Derek Harland at dharland@tgf.ca.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

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

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

Date: _____

Issued by: _____
Local Registrar

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

TO: THIS HONOURABLE COURT

AND TO: CBJ – FORT ERIE HILLS INC.
150 King St. West, Suite 278
Toronto, ON M5H 1J9

Attention: Jeffrey Burrell
Email: jeff@cbjdevelopments.com

APPLICATION

1. **THE APPLICANT**, Hillmount Capital Mortgage Holdings Inc. (“**Hillmount**”), makes an application for an Order (the “**Receivership Order**”) pursuant to section 243(1) of *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), among other things, to:
 - (a) validate service of this Notice of Application and the Application Record;
 - (b) appoint TDB Advisory Limited (“**TDB**”) as the receiver (in such capacity, the “**Receiver**”) of all property, assets and undertakings of CBJ – Fort Erie Hills Inc. (“**CBJ**” or the “**Debtor**”), including but not limited to the real property owned by CBJ municipally known as 85 Crooks St, Fort Erie, Ontario (the “**Real Property**”) (together, the “**Property**”); and
 - (c) grant such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE APPLICATION ARE:

Overview

2. Pursuant to a Commitment Letter dated August 8, 2023 and an amending agreement dated October 24, 2023 (collectively, the “**Commitment Letter**”) between the Debtor and Hillmount Capital Inc. (as later assigned to Hillmount pursuant to an assignment agreement dated September 20, 2023), Hillmount provided a secured mortgage loan to the Debtor (the “**Loan**”).
3. The Loan is secured by, among other things, a first-ranking mortgage on title to the Real Property and a general security agreement in favour of Hillmount granted by the Debtor.

In addition to the defaults that exist, as outlined below, the Loan matured on November 1, 2024 pursuant to the terms of the Mortgage (as defined below).

4. The Debtor defaulted under the Commitment Letter and the Loan by, among other things, failing to make the mortgage payments due on September 1, 2024, October 1, 2024 and November 1, 2024, failing to repay the Indebtedness (as defined below) upon maturity and permitting a subsequent encumbrance to be registered on title to the Real Property.
5. The obligations of the Debtor to Hillmount under the Commitment Letter have been guaranteed by, *inter alia*, CBJ's affiliate company, CBJ Developments Inc., ("**CBJ Developments**") and, together with CBJ, the "**CBJ Entities**"). CBJ Developments is currently subject to a receivership proceeding on the Commercial List in Toronto, as described below. The appointment of a receiver by the Court over CBJ Developments represents a further default under the terms of the Mortgage.
6. As a result of the Debtor's defaults, Hillmount issued to CBJ a demand for payment on September 17, 2024, (the "**Demand**") and a notice of intention to enforce security pursuant to section 244 of the BIA (the "**BIA Notice**").
7. On October 1, 2024, Hillmount issued to CBJ a Notice of Sale under Mortgage providing that unless CBJ repaid the indebtedness in the amount of \$7,322,727.65 by November 6, 2024, Hillmount would proceed to sell the Real Property.
8. All amounts owing to Hillmount are now due and payable.
9. The Debtor has failed to repay its obligations. When the Demand was issued to CBJ on September 17, 2024, the indebtedness owing to Hillmount as at that date was in the amount

of \$7,278,423.93. The indebtedness as of November 1, 2024 is \$7,381,647.35, together with all interest, legal and other fees and expenses incurred, to the date of payment (the “**Indebtedness**”).

10. Hillmount holds security in respect of the Indebtedness, including a first-ranking mortgage and general security agreement, which include the contractual right to seek the appointment of a Receiver over the Property in the event of a default.
11. There is ongoing litigation between shareholders of CBJ which is of concern to Hillmount. This litigation could negatively impact the Debtor’s efforts to repay the Indebtedness outside of a receivership proceeding, and purports to include a request for relief that affects Hillmount as first mortgagee, and its desire to sell the Real Property to repay the Indebtedness. An unissued statement of claim brought by Chris Agagnier and CBJ Developments against the Debtor and various other parties (the “**Statement of Claim**”) seeks interim relief including the filing of a certificate of pending litigation to the Real Property and an interim injunction preventing the sale of the Real Property by the Debtor.
12. A court-approved sale process to sell the Real Property, undertaken by a court-appointed Receiver, is the most appropriate means of realizing on the Property for the benefit of the Debtor’s creditors. Particularly in view of the existing litigation and disputes among CBJ’s shareholders, having a process approved by the Court in advance, and undertaken by a Court-appointed officer, will save time and money in avoiding future disputes relating to a sale of the Real Property.
13. It is just and convenient that TDB be appointed as the Receiver over the Property of the Debtor, to realize on the Property for the benefit of all creditors.

The Debtor

14. CBJ is a single-purpose real estate holding company existing under the laws of Ontario and maintains its registered head office at 801 Lawrence Avenue East, Suite Ph5, Toronto, Ontario, M3C3W2. The primary business activity of the CBJ Entities is the development of real property. CBJ owns the Real Property.

The Mortgage and Security Held by the Applicant

15. Pursuant to the Commitment Letter, Hillmount provided CBJ with a \$8,000,000 term mortgage loan in respect of the Real Property.
16. As security for its obligations to Hillmount, CBJ granted to Hillmount, among other things, the following security:
- (a) a first-ranking mortgage on the Real Property securing the principal amount of \$8,000,000 registered on October 25, 2023 in the Land Registry Office for the Land Titles Division of Niagara South (LRO #59) as Instrument No. SN783192 (the “**Mortgage**”);
 - (b) a first-ranking security interest on all personal property and assets located on or used in connection with the Property pursuant to a general security agreement (the “**GSA**”); and
 - (c) a general assignment of rents and leases registered on title to the Real Property.
17. Pursuant to the Mortgage and the GSA, Hillmount is entitled to appoint a receiver over the Property upon the occurrence of any event of default.

18. The Mortgage is properly registered on title to the Real Property. Hillmount has properly perfected its security interests by way of registrations against the Debtor pursuant to the *Personal Property Security Act* (Ontario).
19. There is also a “notice” in favour of Lakefront Developments Inc. and Dennis Blain registered on title to the Real Property referring to the amount of a \$5,000,000 loan which was registered on February 13, 2024, as Instrument No. SN793320 (the “Notice”). The Notice registered on title to the Real Property is subsequent in time and priority to the Mortgage in favour of the Applicant, but represents an encumbrance on title.

The Defaults

20. The Debtor has defaulted under the Commitment Letter by, among other things:
 - (i) failing to make Mortgage payments due on September 1, 2024, October 1, 2024 and November 1, 2024;
 - (ii) failing to repay the Mortgage upon its maturity or following the issuance of a Demand and BIA Notice;
 - (iii) having CBJ Developments, the corporate guarantor of the Indebtedness, placed into receivership;
 - (iv) permitting the Notice to be registered on title; and
 - (v) permitting a change of control of the Debtor while the Indebtedness is outstanding, as alleged in the Statement of Claim.
21. All amounts owing to Hillmount are due and payable and have not been repaid.

Necessity for the Appointment of the Receiver

22. The appointment of the Receiver is necessary and appropriate as a result of the following:
- (a) the Mortgage and GSA expressly provide for the appointment of a receiver upon default;
 - (b) the Debtor is in default of its obligations to Hillmount;
 - (c) the Mortgage has matured without repayment by the Debtor to Hillmount;
 - (d) notwithstanding the issuance of the Demand and the BIA Notice, the Debtor has failed to repay its Indebtedness;
 - (e) ongoing litigation between shareholders of CBJ risks delaying the Debtor's efforts to repay the Indebtedness and creates uncertainty, making a court-approved sale process by a Receiver the most efficient and effective way to realize the Property for the benefit of the Debtor's creditors;
 - (f) a court-approved sale process in respect of the Real Property is in the best interests of the Debtor's stakeholders;
 - (g) all applicable notice periods have expired;
 - (h) the proposed Receiver is experienced in Canadian insolvency proceedings, including with respect to real property in particular, and is the court-appointed Receiver of other real properties owned by affiliates of the Debtor pursuant to ongoing receivership proceedings under the supervision of the Commercial Court in Toronto;
 - (i) the proposed Receiver would report to the court and all stakeholders to ensure transparency and a robust sale process; and

(j) it is just and convenient to appoint the Receiver.

23. TDB has consented to act as the Receiver.

Appropriate for Matter to be Heard on the Commercial List

24. Both the registered head office of the Debtor and the Debtor's address reflected in the Commitment Letter is in Toronto. Further, several related receivership matters involving affiliates of the Debtor are currently before Judges on the Commercial List (including a receivership involving the corporate guarantor of this Debtor, CBJ Developments). While the Debtor is a single-purpose entity, it would be more efficient and expedient to have all receiverships of these affiliated entities addressed by the same judges on the Commercial List, given the familiarity with the parties and the similarity of fact patterns. Moreover, all the existing related receiverships involve real property and engage similar issues. With its head office in Toronto, the Debtor has no connection to the Niagara region other than that the Real Property (vacant land) happens to be located there.

25. Considering the outstanding Indebtedness, the benefits of judicial efficiency with related receivership proceedings, and the Debtor's head office location being in Toronto, it is appropriate for this matter to be heard on the Commercial List.

26. The locality of the Debtor is in Ontario and this BIA application is properly before the Ontario Superior Court of Justice (Commercial List).

Rules & Statutes

27. Rules 1.04, 2.03, 3.02, 14.05(2), 14.05(3)(h), 16, and 41 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.

28. The provisions of *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, including s. 243(1) thereof, and the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as amended, including s.101 thereof, and the inherent and equitable jurisdiction of this Court.
29. Such other grounds as this Honourable Court may permit.

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

30. the Affidavit of Itzhak (Yitz) Levinson, to be affirmed;
31. the Consent of TDB to act as Receiver; and
32. such other material as this Honourable Court may permit.

November 7, 2024

THORNTON GROUT FINNIGAN LLP
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
Tel: (416) 304-1616

D.J. Miller (LSO# 34393P)
Email: djmiller@tgf.ca

Derek Harland (LSO #79504N)
Email: dkharland@tgf.ca

Lawyers for the Applicant,
Hillmount Capital Mortgage Holdings Inc.

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

**HILLMOUNT CAPITAL MORTGAGE
HOLDINGS INC.**

- and -

CBJ – FORT ERIE HILLS INC.

Applicant

Respondent

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto, Ontario

NOTICE OF APPLICATION

Thornton Grout Finnigan LLP
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
Tel: (416) 304-1616

D.J. Miller (LSO# 34393P)
Email: djmiller@tgf.ca

Derek Harland (LSO #79504N)
Email: dkharland@tgf.ca

Lawyers for the Applicant,
Hillmount Capital Mortgage Holdings Inc.

SERVICE LIST
(as at November 29, 2024)

TO:	<p>THORNTON GROUT FINNIGAN LLP Barristers and Solicitors 100 Wellington Street West Suite 3200 Toronto, ON M5K 1K7 Fax: 416-304-1313</p> <p>D.J. Miller Email: djmiller@tgf.ca Tel: (416) 304-0559</p> <p>Derek Harland Email: dkharland@tgf.ca Tel: (416) 304-1127</p> <p>Insolvency Counsel for the Applicant, Hillmount Capital Mortgage Holdings Inc.</p>
AND TO:	<p>FOGLER, RUBINOFF LLP Ste 3000, P.O. Box 95 77 King Street West TD Centre North Tower Toronto, ON M5K1G8 Fax: (416) 941-8852</p> <p>Joseph Fried Tel: (416) 864-9700 Email: jfried@foglers.com</p> <p>Real Estate Counsel for the Applicant, Hillmount Capital Inc.</p>

AND TO:	TDB RESTUCTURING LIMITED 11 King St. W., Suite 700 Toronto ON M5H 4C7 Bryan A. Tannenbaum, Tel: (416) 238-5055 Email: btannenbaum@tdbadvisory.ca Proposed Court-appointed Receiver
AND TO	CBJ – FORT ERIE HILLS INC. 801 Lawrence Avenue Apartment PH5 Toronto ON MC3 3W2 Vincent Salvatore Email: vincentsalvatore@hotmail.com Elena Salvatore Email: elenasalv2000@yahoo.ca Respondent
AND TO:	CBJ DEVELOPMENTS INC. Jeff Burrell Email: jeff@cbjdevelopments.com Chris Agagnier Email: chrisa@cbjdevelopments.com
AND TO	1001045239 ONTARIO INC. 801 Lawrence Avenue Apartment PH5 Toronto ON MC3 3W2 Vincent Salvatore Email: vincentsalvatore@hotmail.com
AND TO:	Papazian Heisey Myers 121 King St W #510 Toronto, ON M5H 3T9 Michael Myers Tel: (416) 601.2701 Email:myers@phmlaw.com

	Counsel to Dennis Blain and Lakefront Developments Inc.
AND TO:	DEPARTMENT OF JUSTICE (CANADA) Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1 Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca
AND TO:	MINISTER OF FINANCE INSOLVENCY UNIT 6th Floor, 33 King Street West Oshawa, ON L1H 8H5 Insolvency Unit Email: insolvency.unit@ontario.ca
AND TO:	CANADA REVENUE AGENCY 1 Front Street West Toronto, ON M5J 2X6 Pat Confalone Email: pat.confalone@cra-arc.gc.ca Tel: (416) 954-6514 Fax: (416) 964-6411

Email Service List

djmiller@tgf.ca; dharland@tgf.ca; jfried@foglers.com; btannenbaum@tdbadvisory.ca;
jeff@cbjdevelopments.com; chrisa@cbjdevelopments.com;
vincentsalvatore@hotmail.com; elenasalv2000@yahoo.ca; myers@phmlaw.com; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca; insolvency.unit@ontario.ca; pat.confalone@cra-arc.gc.ca

TAB 2

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

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

B E T W E E N:

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicant

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

AFFIDAVIT OF ITZHAK (YITZ) LEVINSON
(affirmed November 28, 2024)

I, **ITZHAK (YITZ) LEVINSON**, of the City of Toronto, in the Province of Ontario,

AFFIRM AND SAY AS FOLLOWS:

1. I am the President and founder of Hillmount Capital Inc. and Hillmount Capital Mortgage Holdings Inc. (“**Hillmount**”) and, as such, I have knowledge of the matters to which I depose herein. Where I have relied on other sources for information, I have stated the source of my information and I believe such information to be true.

2. This affidavit is affirmed in support of an application brought by Hillmount for an order (the “**Receivership Order**”), appointing TDB Restructuring Limited (“**TDB**”)¹ as the receiver (in such capacity, the “**Receiver**”) of the property, assets and undertakings of CBJ – Fort Erie Hills Inc. (“**CBJ**” or the “**Debtor**”), including but not limited to the real property municipally known as 85-87 Crooks St and 0 Thompson Road, Fort Erie, Ontario (the “**Real Property**”) (together, the “**Property**”).
3. All references to monetary amounts in this affidavit are in Canadian dollars unless noted otherwise.

I. OVERVIEW

4. As described in greater detail below, Hillmount advanced a secured mortgage loan to the Debtor. The Loan (as defined below) is secured by, among other things, a first-ranking mortgage registered on title to the Real Property and a general security agreement in favour of Hillmount granted by CBJ. The Loan matured in accordance with its terms on November 1, 2024.
5. The Debtor has committed numerous defaults under the Loan, including failing to make mortgage payments when due, failing to repay the Mortgage (as defined below) upon maturity, allowing a receiver to be appointed over the corporate guarantor of the Debtor’s obligations (a related entity), failing to pay property taxes when due and permitting subsequent encumbrances by registration of a Notice and the 1001 Charge (each as defined

¹ TDB was incorrectly referred to as “TDB Advisory Limited” in Hillmount’s Notice of Application.

below) on title to the Real Property without the consent of Hillmount, contrary to the terms of the Mortgage.

6. Hillmount has delivered demand letters, a Notice of Sale Under Mortgage and notices of intention to enforce security pursuant to section 244 of the BIA as a result of the defaults. All applicable notice periods have expired and all amounts owing to Hillmount have been accelerated and are now due and payable.
7. The indebtedness as of November 1, 2024 is \$7,381,647.35 with interest accruing each day thereafter, together with all Costs (as such term is defined in the Mortgage) incurred by Hillmount to date and to the date of payment and any other amounts secured by the Mortgage (the “**Indebtedness**”).
8. Hillmount seeks the appointment of a receiver over the Debtor’s property. The loan documents expressly authorize the appointment of a receiver in the event of a default.
9. The Debtor has failed to take steps to develop the Real Property in any material way. The Real Property remains vacant land. The Debtor gave an Undertaking (as defined below) to Hillmount to obtain final site plan approval for the Real Property or an extension to the expiry date of the Draft Plan (as defined below). The Debtor agreed to provide regular reporting to Hillmount regarding the various steps as set out in the schedule of the Undertaking to further the development. The Debtor failed to complete the conditions required to obtain full and final Site Plan Approval for the Property and has failed to provide regular reporting to Hillmount as required by the Undertaking.

10. Further, there is ongoing litigation between shareholders of the Debtor which is of concern to Hillmount. This litigation could negatively impact the Debtor's efforts to repay the Indebtedness in the absence of a receivership proceeding, and the Statement of Claim includes requests for relief that, if granted, could materially affect Hillmount's desire, as first mortgagee, to sell the Real Property to repay the Indebtedness. While Hillmount is not a party to that Statement of Claim, the relief sought purports to include an injunction restraining the sale of the Real Property that is subject to Hillmount's mortgage.
11. A court-approved sale process by an experienced Receiver is the most efficient way to preserve and maximize the value of the Property for creditors, ensuring transparency and benefiting all stakeholders.
12. I believe that it is just and convenient that TDB be appointed as the Receiver over the Property of the Debtor, to realize on the Property for the benefit of all creditors.

II. THE DEBTOR

13. CBJ is a single-purpose real estate holding company existing under the laws of Ontario and maintains its registered head office at 801 Lawrence Avenue East, Suite Ph5, Toronto, Ontario, M3C3W2. A copy of the Debtor's corporate profile report (the "**CPR**") is attached hereto as **Exhibit "A"**.
14. CBJ's primary business activity is the development of the Real Property. CBJ is the registered owner of the Real Property, which is municipally described as 85-87 Crooks Street and 0 Thompson Road, Fort Erie, Ontario, and is comprised of PIN 64233-0064 (LT). The legal description of the Real Property is BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL 525 VILLAGE OF

BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513 ; FORT ERIE. A copy of the parcel search in respect of the Real Property is attached hereto as **Exhibit “B”**.

15. I understand that CBJ’s shareholders are, or most recently to my knowledge were, Jeffrey Burrell (“**Burrell**”) and Chris Agagnier (“**Agagnier**”). I am advised by Hillmount’s CFO, Gary Spivak, that on or about July 10, 2024, he received a text message from Burrell advising that Elena Salvatore had taken over financial responsibility for the company. When Gary contacted Elena, she advised him that she had “taken over” the company. The CPR indicates that the directors and officers of CBJ are Elena Salvatore and Vincent Salvatore Jr.

16. Hillmount has been made aware of litigation between CBJ’s shareholders, which could impede the Debtor’s efforts to repay its indebtedness outside of a receivership. I was originally provided with a copy of an unissued statement of claim by Joseph Fried of Foglers LLP (“**Foglers**”), Hillmount’s real estate counsel, on September 12, 2024. Hillmount’s insolvency counsel, Thornton Grout Finnigan LLP (“**TGF**”), obtained and provided me with a copy of the issued statement of claim,² bearing court file number CV-24-00723362-00CL, that names Agagnier as a plaintiff against the Debtor and other parties, including Burrell (the “**Statement of Claim**”). A copy of the issued Statement of Claim is attached hereto as **Exhibit “C”**.

² The Notice of Application referred to the Statement of Claim as being unissued but TGF has since confirmed that it has been issued and has provided me with a copy.

17. The Statement of Claim seeks interim relief, including the filing of a certificate of pending litigation on the Real Property and an interim injunction to prevent its sale by the Debtor. Such measures could negatively impede Hillmount's ability to exercise its contractual rights to sell the Real Property and satisfy the Indebtedness.
18. The Statement of Claim alleges that Burrell was an equal shareholder of CBJ and committed, with others, a series of acts involving fraud, conspiracy, breach of fiduciary duty, and oppression related to the development project being carried out by the Debtor. The claim alleges that Burrell and other defendants, through an "Illegal Agreement," orchestrated a scheme to defraud Agagnier and CBJ Developments (as defined below) by manipulating financing, inducing Agagnier into disadvantageous agreements, and ultimately seizing control of the Debtor's assets at a price below market value. It is alleged that Burrell, as a director of the Debtor, allegedly acted in his self-interest, disregarding his fiduciary duties to Agagnier and the Debtor. The pleading claims that Burrell worked with the co-defendants to undermine the Debtor's financial standing for personal gain, leading to the project's insolvency.
19. As a result of this litigation and the allegations made therein, in my view the property in question will be more complicated to sell and would create transaction risk for any prospective purchaser without the appointment of a receiver to oversee a sale process and implement any transaction.

III. LOAN DOCUMENTS AND INDEBTEDNESS TO HILLMOUNT

20. Pursuant to a Commitment Letter dated August 8, 2023 (as amended, the "**Commitment Letter**") and an amending agreement dated October 24, 2023 (the "**Amending Agreement**"), Hillmount Capital Inc. provided CBJ with a \$8,000,000 term mortgage loan

(the “**Loan**”) in respect of the Real Property. Copies of the Commitment Letter and Amending Agreement are attached hereto as **Exhibits “D”** and **“E”**.

21. On September 20, 2023, Hillmount Capital Inc. assigned the Commitment Letter to Hillmount. A copy of the assignment agreement is attached hereto as **Exhibit “F”**.
22. The purpose of the Loan was to refinance the Debtor’s existing debt obligations of \$5,500,000 at the time of the Commitment Letter and to progress the project from vacant land to “shovel-ready” status.
23. As reflected in the Amending Agreement, the initial advance under the Loan was approximately \$7 million. The Amending Agreement provided that there shall be no further advances under the Loan until the Debtor satisfied Hillmount as to the status of the site plan approval for the Real Property, as described in an undertaking delivered by the Debtor to Hillmount contemporaneously with execution of the Amending Agreement (the “**Undertaking**”). A copy of the Undertaking is attached hereto at **Exhibit “G”**.
24. The Undertaking provided that there would be no further advances under the Loan until Hillmount received evidence satisfactory to Hillmount in its sole discretion that:
 - (a) the Debtor had obtained full and final site plan approval for the Real Property (the “**Site Plan Approval**”) from the applicable governmental authority; or
 - (b) the Debtor had obtained from the applicable governmental authority an extension of the current expiry date of the Draft Plan approval being May 1, 2024, to a new expiry date at least six months after the Expected Timeline (as defined below), together with a letter from Upper Canada Planning & Engineering Ltd. (the

Debtor's registered planning professional in connection with the development project on the Real Property) explaining:

- (i) the reason for the delay in obtaining Site Plan Approval;
- (ii) the outstanding items required for Site Plan Approval; and
- (iii) the expected timeline for obtaining Site Plan Approval (the "**Expected Timeline**") and steps required to achieve this.

- 25. The Debtor was required to provide regular updates to Hillmount pursuant to the Undertaking.
- 26. The intent of the Amending Agreement and the Undertaking was to condition further advances on the Debtor being diligent and proactive in developing the Real Property. The Debtor failed to ever satisfy Hillmount with respect to Site Plan Approval and failed to provide the regular reporting required pursuant to the Undertaking, constituting a default under the Mortgage. Accordingly, no further advances under the Loan were made by Hillmount.
- 27. On October 8, 2024, after becoming concerned about the Debtor's defaults, I asked Hillmount's Planning Consultant to confirm if Draft Plan approval for the draft plan of subdivision of the Real Property had been extended and he advised it had been extended to May 1, 2026. However, the Debtor had still not complied with the Undertaking by failing to provide a letter from their planner advising of, among other things, the Expected Timeline.

28. As security for the present and future indebtedness and obligations of the Debtor to Hillmount pursuant to the secured Commitment Letter, the Debtor granted to Hillmount, among other things, the following security:
- (a) a first-ranking mortgage on the Real Property securing the principal amount of \$8,000,000 plus interest and costs, which was registered on October 25, 2023 in the Land Registry Office for the Land Titles Division of Niagara South (LRO #59) as Instrument No. SN783192 (the “**Mortgage**”). The Mortgage includes additional charge terms. A copy of the Mortgage is attached hereto as **Exhibit “H”** and a copy of the Acknowledgment and Direction signed by the Debtor authorizing the registration of the Mortgage and the GAR (as defined below) is attached hereto as **Exhibit “I”**;
 - (b) a first-ranking security interest (the “**Security**”) in the undertaking of the Debtor and in all of the Debtor’s present and after acquired personal property pursuant to a general security agreement dated October 11, 2023 (the “**GSA**”). A copy of the GSA is attached hereto as **Exhibit “J”**;
 - (c) a corporate guarantee from CBJ’s affiliate company, CBJ Developments Inc (“**CBJ Developments**”) and, together with CBJ, the “**CBJ Entities**”) and personal guarantees from Burrell, Agagnier, and Kimberley Gayle Zacharias (“**Zacharias**”), whom are shareholders, directors and/or officers of the CBJ Entities (collectively, the “**Guarantee**”). A copy of the Guarantee is attached hereto as **Exhibit “K”**; and
 - (d) a general assignment of rents and leases (“**GAR**”) registered on title to the Real Property. A copy of the GAR is attached hereto as **Exhibit “L”**.

29. Pursuant to the Mortgage and the GSA, Hillmount is entitled to appoint, or seek the appointment of, a receiver over the Property upon the Mortgage and the GSA becoming enforceable or the Loan becoming payable.
30. Hillmount's security interest against the Debtor has been properly perfected by way of registration pursuant to the *Personal Property Security Act* (Ontario) ("**PPSA**"). A copy of the PPSA search against the Debtor is attached hereto as **Exhibit "M"**.
31. As of November 1, 2024, the Indebtedness under the Loan was \$7,381,647.35, with interest accruing each day thereafter, together with all Costs (as such term is defined in the Mortgage) incurred by Hillmount to date and to the date of payment and any other amounts secured by the Mortgage. No payments have been received by Hillmount since August 1, 2024.

IV. THE REAL PROPERTY

32. The Debtor is the registered owner of the Real Property, which is comprised of PIN 64233-0064 (LT). A copy of the parcel search in respect of the Real Property was previously attached as Exhibit "B".
33. The Real Property is comprised of 85-87 Crooks Street and 0 Thompson Road in Fort Erie. I have been advised by Foglers that these addresses are on the same PIN 64233-0064 (LT). The Real Property is an 84.44-acre development site that I understand is currently vacant land.
34. I have been advised by Foglers that the Real Property is assessed for property taxes under both 87 Crooks Street and 0 Thompson Road. On November 27, 2024, Foglers provided me with tax certificates from the Town of Fort Erie showing property tax arrears for 2024

in the amount of \$75,158.67 in respect of 0 Thompson Road and \$56,235.11 in respect of 87 Crooks Street as at that date, which represent a further default under the Mortgage.

Copies of these tax certificates are attached hereto as **Exhibit “N”**.

35. The Real Property received draft plan approval by the City of Fort Erie (the “**Draft Plan**”) for the construction of low-density subdivision development consisting of 79 single family detached homes, 102 single family semidetached homes, 200 townhomes and 800 apartment units. The total population potential is over 1,450 residents with a total commercial employment potential of over 140 jobs.
36. Features of the Draft Plan include a community park and a natural heritage area with a stream, woodlots, and a trail system. I understand the Real Property remains undeveloped and vacant.
37. To the best of my knowledge, Site Plan Approval has not yet been obtained for the Real Property.
38. On February 13, 2024, Lakefront Developments Inc. and Dennis Blain registered on title a notice on the Real Property in the amount of \$5,000,000 (the “**Notice**”), which appears to relate to a loan agreement between, among others, Lakefront Development Ltd. (I assume this was intended to refer to Lakefront Developments Inc.), Dennis Blain, CBJ Developments, Agagnier, Burrell and Zacharias, as Instrument No. SN793320. The Notice registered on title to the Real Property is subsequent in time and priority to the Mortgage in favour of the Applicant but represents an encumbrance on title. A copy of this Notice is attached hereto as **Exhibit “O”**.

39. On November 26, 2024, I was informed by TGF that a charge in the principal amount of \$49,000,000 had been registered on title to the Real Property on October 29, 2024 (the “**1001 Charge**”), in favour of 1001045239 Ontario Inc. (“**1001**”). A copy of the 1001 Charge is attached hereto as **Exhibit “P”**. 1001 was recently incorporated on October 25, 2024. A copy of 1001’s corporate report is attached hereto as **Exhibit “Q”**.
40. The 1001 Charge appears to have been authorized by Hamraz Singh Toor, who is unknown to myself or anyone else at Hillmount. Additionally, Vincent Salvatore, a director and officer of CBJ, is listed as the sole director of 1001.
41. Although Hillmount retains its priority position, the Notice and the 1001 Charge create uncertainty regarding their impact on the Real Property and could result in additional, avoidable costs if a receiver is not appointed to facilitate a prompt sale of the Real Property.
42. The Debtor maintains a general commercial liability insurance policy on the Real Property with a \$5,000,000 aggregate limit (the “**Policy**”). I have been advised by Bryan Tannenbaum of TDB that the insurance broker contacted him with respect to the Policy on the mistaken assumption that TDB had already been appointed over the Debtor (as TDB has already been appointed by the Court as Receiver in separate proceedings in respect of certain other CBJ entities). The broker advised that the policy expires on December 13, 2024 and requested that TDB provide certain information by November 13, 2024 to facilitate the renewal of the Policy.
43. As TDB has not yet been appointed as receiver of the Debtor, TDB did not take any steps with respect to the Policy. Instead, Hillmount communicated with the insurance broker and advised that as first mortgagee and loss payee on the policy in respect of the Property, it

wanted to ensure that the liability portion of the policy was in place and renewed if necessary. Hillmount requested that the insurance broker advise Hillmount if CBJ fails to renew the Policy in a timely manner so that it could have discussions with the insurance broker to renew the liability portion of the Policy.

V. DEFAULTS UNDER MORTGAGE

44. The Debtor has committed numerous defaults under the Loan Agreement and the Mortgage. In addition to the Debtor's insolvency, these defaults include, but are not limited to (the "**Defaults**"):

- (a) failing to make Mortgage payments due on September 1, 2024, October 1, 2024 and November 1, 2024;
- (b) failing to repay the Mortgage upon its maturity or following the issuance of a Demand and BIA Notice;
- (c) allowing CBJ Developments, the corporate guarantor of the Indebtedness, to be placed into receivership;
- (d) failing to comply with the Undertaking, including failing to provide regular reporting to Hillmount regarding its efforts to obtain Site Plan Approval;
- (e) permitting the Notice to be registered on title to the Real Property;
- (f) permitting the 1001 Charge to be registered on title to the Real Property;
- (g) permitting a change of control of the Debtor while the Indebtedness is outstanding, as alleged in the Statement of Claim; and
- (h) failing to pay property taxes on the Real Property when due.

45. As a result of the Defaults relating to arrearages under the Mortgage and the receivership of CBJ Developments, Hillmount delivered a demand letter on September 17, 2024 (the “**Demand**”) to the Debtor demanding payment of the arrearages in the amount of \$69,269.83. A copy of the Demand is attached hereto as **Exhibit “R”**.
46. A Notice of Intention to Enforce Security pursuant to section 244(1) of the BIA (“**NIES**”) was also delivered to the Debtor on September 17, 2024, in respect of the Mortgage, GSA and GAR. A copy of the NIES is attached hereto as **Exhibit “S”**.
47. On October 1, 2024, Hillmount issued to CBJ a Notice of Sale under Mortgage (“**Notice of Sale**”) providing that, unless CBJ repaid the indebtedness in the amount of \$7,322,727.65 by November 6, 2024, Hillmount would proceed to sell the Real Property. A copy of the Notice of Sale is attached hereto as **Exhibit “T”**.

VI. NECESSITY FOR THE APPOINTMENT OF A RECEIVER

48. In the circumstances, the appointment of a receiver over the Debtor is necessary and appropriate for the following reasons:
 - (a) the Mortgage and GSA expressly provide for the appointment of a receiver upon default;
 - (b) the Debtor is in default of its obligations to Hillmount;
 - (c) the Mortgage has matured without repayment by the Debtor to Hillmount;
 - (d) notwithstanding the issuance of the Demand and the BIA Notice, the Debtor has failed to repay the Indebtedness;

- (e) ongoing litigation between shareholders of CBJ risks delaying the Debtor's efforts to repay the Indebtedness and creates uncertainty, making a court-approved sale process by a Receiver the most efficient and effective way to realize the Property for the benefit of the Debtor's creditors;
 - (f) the Debtor has failed to advance the development of the Real Property in any material way, including by failing to obtain Site Plan Approval;
 - (g) all applicable notice periods have expired;
 - (h) a court-approved sale process in respect of the Real Property is in the best interests of the Debtor's stakeholders;
 - (i) the proposed Receiver is experienced in Canadian insolvency proceedings, including with respect to real property in particular, and is the court-appointed Receiver of other real properties owned by affiliates of the Debtor pursuant to ongoing receivership proceedings under the supervision of the Commercial Court in Toronto;
 - (j) the proposed Receiver would report to the court and all stakeholders to ensure transparency and a robust sale process; and
 - (k) it is just and convenient to appoint the Receiver.
49. Hillmount proposes that TDB be appointed as Receiver over the Property of the Debtor.
50. TDB is prepared to act as the Receiver if appointed in accordance with the terms of the draft Receivership Order. I am advised by D.J. Miller of TGF that TDB is a "licensed trustee" as such term is defined in the BIA and has extensive experience in Canadian

insolvency proceedings, including real-estate companies. A copy of TDB's consent to act as the Receiver is attached hereto as **Exhibit "U"**.

51. Hillmount is prepared to provide interim financing to the Receiver in the form of Receiver's Certificates, as provided for and in the form set out in the draft Receivership Order, subject to being satisfied as to the funding requirements.

VII. CONCLUSION

52. I make this affidavit in support of the application brought by Hillmount for the proposed Receivership Order and for no other or improper purpose.

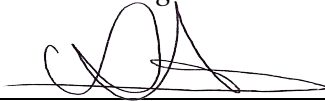
AFFIRMED before me, by **ITZHAK (YITZ) LEVINSON**, in the City of Toronto in the Province of Ontario, before me in the City of Toronto in the Province of Ontario this 28th day of November, 2024, in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



Commissioner for Taking Affidavits
(or as may be)
DANIEL ALIEVSKY
LSO #90637D


ITZHAK (YITZ) LEVINSON

This is Exhibit "A" referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D



Profile Report

CBJ - FORT ERIE HILLS INC. as of November 25, 2024

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	CBJ - FORT ERIE HILLS INC.
Ontario Corporation Number (OCN)	2867762
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	September 17, 2021
Registered or Head Office Address	801 Lawrence Avenue East, Suite Ph5, Toronto, Ontario, M3C3W2, 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.

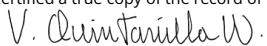
Active Director(s)

Minimum Number of Directors 1
Maximum Number of Directors 10

Name ELENA SALVATORE
Address for Service 801 Lawrence Avenue East, Suite Ph5, Toronto, Ontario,
M3C3W2, Canada
Resident Canadian Yes
Date Began May 17, 2024

Name VINCENT SALVATORE JR.
Address for Service 801 Lawrence Avenue East, Suite Ph5, Toronto, Ontario,
M3C3W2, Canada
Resident Canadian Yes
Date Began May 17, 2024

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



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 ELENA SALVATORE
Position President
Address for Service 801 Lawrence Avenue East, Suite Ph5, Toronto, Ontario,
M3C3W2, Canada
Date Began May 17, 2024

Name VINCENT SALVATORE JR.
Position Secretary
Address for Service 801 Lawrence Avenue East, Suite Ph5, Toronto, Ontario,
M3C3W2, Canada
Date Began May 17, 2024

Name VINCENT SALVATORE JR.
Position Treasurer
Address for Service 801 Lawrence Avenue East, Suite Ph5, Toronto, Ontario,
M3C3W2, Canada
Date Began May 17, 2024

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

CBJ - FORT ERIE HILLS INC.

Effective Date

September 17, 2021

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: DAVID BADHAM	June 05, 2024
Archive Document Package	February 07, 2024
Annual Return - 2021 PAF: Kimberley ZACHARIAS	May 11, 2022
CIA - Notice of Change PAF: Jeffrey BURRELL	February 09, 2022
CIA - Initial Return PAF: KRISTIN KIGHTLEY - OTHER	September 22, 2021
BCA - Articles of Incorporation	September 17, 2021

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.

This is Exhibit “B” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

PROPERTY DESCRIPTION: BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN R0461513 ; FORT ERIE

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:

FIRST CONVERSION FROM BOOK

PIN CREATION DATE:

1999/12/13

OWNERS' NAMES

CBJ - FORT ERIE HILLS INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<p>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1999/12/13 ON THIS PIN**</p> <p>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/12/13**</p> <p>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/12/10 **</p> <p>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</p> <p>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *</p> <p>** AND ESCHEATS OR FORFEITURE TO THE CROWN.</p> <p>** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF</p> <p>** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY</p> <p>** CONVENTION.</p> <p>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</p> <p>**DATE OF CONVERSION TO LAND TITLES: 1999/12/13 **</p>						
BB50775	1966/08/26	BYLAW				C
RO106181	1969/07/31	BYLAW				C
RO461513	1985/11/20	TRANSFER		*** COMPLETELY DELETED ***	FORT ERIE JAYCEES	
SN112598	2006/03/07	LR'S ORDER		*** COMPLETELY DELETED *** LAND REGISTRAR	LAND REGISTRAR	
REMARKS: RE: R0461513						
SN127630	2006/07/10	NOTICE		THE CORPORATION OF THE TOWN OF FORT ERIE	FORT ERIE JAYCEES	C
REMARKS: SITE PLAN AGREEMENT						
SN331617	2011/11/25	CHARGE		*** COMPLETELY DELETED ***		

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
SN357573	2012/09/24	CHARGE		FORT ERIE JAYCEES *** COMPLETELY DELETED *** FORT ERIE JAYCEES	THE TORONTO-DOMINION BANK BUSINESS SUCCESS & LOAN CENTRE FORT ERIE	
SN376098	2013/05/29	CHARGE		*** COMPLETELY DELETED *** FORT ERIE JAYCEES	BUSINESS SUCCESS & LOAN CENTRE FORT ERIE	
SN376100	2013/05/29	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** FORT ERIE JAYCEES	BUSINESS SUCCESS & LOAN CENTRE FORT ERIE	
	<i>REMARKS: SN376098.</i>					
SN378729	2013/06/26	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		
	<i>REMARKS: SN331617.</i>					
SN413152	2014/08/27	DISCH OF CHARGE		*** COMPLETELY DELETED *** BUSINESS SUCCESS & LOAN CENTRE FORT ERIE		
	<i>REMARKS: SN357573.</i>					
SN413676	2014/08/29	TRANSFER		*** COMPLETELY DELETED *** FORT ERIE JAYCEES	FORT ERIE HILLS INC.	
	<i>REMARKS: PLANNING ACT STATEMENTS.</i>					
SN413814	2014/09/02	DISCH OF CHARGE		*** COMPLETELY DELETED *** BUSINESS SUCCESS & LOAN CENTRE FORT ERIE		
	<i>REMARKS: SN376098.</i>					
SN616555	2020/01/15	CHARGE		*** COMPLETELY DELETED *** FORT ERIE HILLS INC.	NATIONAL HOLDINGS LTD.	
SN662609	2021/02/23	CHARGE		*** COMPLETELY DELETED *** FORT ERIE HILLS INC.	2703738 ONTARIO LIMITED	
SN662610	2021/02/23	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** FORT ERIE HILLS INC.	2703738 ONTARIO LIMITED	
	<i>REMARKS: SN662609</i>					
SN698783	2021/11/01	TRANSFER	\$15,950,000	FORT ERIE HILLS INC.	CBJ - FORT ERIE HILLS INC.	C
	<i>REMARKS: PLANNING ACT STATEMENTS.</i>					
SN698784	2021/11/01	CHARGE		*** COMPLETELY DELETED *** CBJ - FORT ERIE HILLS INC.	BURRELL, JEFFREY	

LAND
REGISTRY
OFFICE #59

64233-0064 (LT)

PREPARED FOR D. ALIEVSKY - CM
ON 2024/11/25 AT 10:19:57

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


REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
SN698785	2021/11/01	CHARGE		*** COMPLETELY DELETED *** CBJ - FORT ERIE HILLS INC.	ROMEO, SALVATORE	
SN698786	2021/11/01	CHARGE		*** COMPLETELY DELETED *** CBJ - FORT ERIE HILLS INC.	FORT ERIE HILLS INC.	
SN706508	2021/12/22	APL DEPOSIT PLAN		*** COMPLETELY DELETED ***		
59R17149	2021/12/23	PLAN REFERENCE				C
		REMARKS: SN706508.				
SN713009	2022/02/11	APL DEPOSIT PLAN		*** COMPLETELY DELETED ***		
59R17187	2022/02/14	PLAN REFERENCE				C
		REMARKS: SN713009.				
SN714863	2022/02/25	CHARGE		*** COMPLETELY DELETED *** CBJ - FORT ERIE HILLS INC.	2703738 ONTARIO LIMITED	
SN714864	2022/02/25	POSTPONEMENT		*** COMPLETELY DELETED *** BURRELL, JEFFREY	2703738 ONTARIO LIMITED	
		REMARKS: SN698784 TO SN714863				
SN714865	2022/02/25	POSTPONEMENT		*** COMPLETELY DELETED *** ROMEO, SALVATORE	2703738 ONTARIO LIMITED	
		REMARKS: SN698785 TO SN714863				
SN714866	2022/02/25	POSTPONEMENT		*** COMPLETELY DELETED *** FORT ERIE HILLS INC.	2703738 ONTARIO LIMITED	
		REMARKS: SN698786 TO SN714863				
SN714867	2022/02/25	DISCH OF CHARGE		*** COMPLETELY DELETED *** 2703738 ONTARIO LIMITED		
		REMARKS: SN662609.				
SN732415	2022/06/29	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** 2703738 ONTARIO LIMITED	2229815 ONTARIO LTD.	
		REMARKS: SN714863.				
SN757731	2023/02/16	CAUTION-NOTICE		*** COMPLETELY DELETED *** SKYLARK OFFICE PROPERTIES LTD. MACPHERSON BUILDERS ACQUISITION CORP.		
		REMARKS: EXPIRES 60 DAYS FROM 2023/02/16				

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.

NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
SN759047	2023/03/03	WITHDRAWAL CAUTION		*** COMPLETELY DELETED *** SKYLARK OFFICE PROPERTIES LTD. MACPHERSON BUILDERS ACQUISITION CORP.		
	REMARKS: SN757731.					
SN783192	2023/10/25	CHARGE	\$8,000,000	CBJ - FORT ERIE HILLS INC.	HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.	C
SN783193	2023/10/25	NO ASSGN RENT GEN		CBJ - FORT ERIE HILLS INC.	HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.	C
	REMARKS: SN783192					
SN783194	2023/10/25	DISCH OF CHARGE		*** COMPLETELY DELETED *** NATIONAL HOLDINGS LTD.		
	REMARKS: SN616555.					
SN783195	2023/10/25	DISCH OF CHARGE		*** COMPLETELY DELETED *** 2229815 ONTARIO LTD.		
	REMARKS: SN714863.					
SN783196	2023/10/25	DISCH OF CHARGE		*** COMPLETELY DELETED *** BURRELL, JEFFREY		
	REMARKS: SN698784.					
SN783197	2023/10/25	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROMEO, SALVATORE		
	REMARKS: SN698785.					
SN783198	2023/10/25	DISCH OF CHARGE		*** COMPLETELY DELETED *** FORT ERIE HILLS INC.		
	REMARKS: SN698786.					
SN793320	2024/02/13	NOTICE	\$5,000,000	BLAIN, DENNIS LAKEFRONT DEVELOPMENTS INC.		C
SN818765	2024/10/29	CHARGE	\$49,000,000	CBJ - FORT ERIE HILLS INC.	1001045239 ONTARIO INC	C

This is Exhibit "C" referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

CHRIS AGAGNIER and CBJ DEVELOPMENTS INC.

Plaintiffs

and

**CBJ-FORT ERIE HILLS INC., FORT ERIE HILLS INC., JEFFREY BURRELL,
RANDY HOFFNER, JOSEPH BRESSI, TRANS GLOBAL PARTNERSHIP,
SALVATORE ROMEO as trustee for the ROMEO FAMILY TRUST, JEFFREY
BURRELL as trustee for the BURRELL FAMILY TRUST, RON BURRELL ELENA
SALVATORE, VICENT SALVATORE JR., JOHN DOE and XYZ CORP.**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff.
The claim made against you is set out in the following pages.

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

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

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

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

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$2,500.00 or costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

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

Date: July 2024

Issued by:.....

Local registrar

Address of Court office:

330 University Avenue, 7th Floor
Toronto M5G 1R7
Fax: (416) 327-6228

TO: **CBJ-FORT ERIE HILLS INC.,**
801 Lawrence Avenue East, Suite Ph5
Toronto, Ontario, M3C 3W2

FORT ERIE HILLS INC.
77 City Centre Drive, Unit 602
Mississauga, Ontario, L5B 1M5

JEFFREY BURRELL
72 Babcombe Drive
Thornhill, Ontario L3T 1N1

RANDY HOFFNER
77 City Centre Drive, Unit 602
Mississauga, Ontario, L5B 1M5

JOSEPH BRESSI
675 Cochrane Drive
6th Floor, East Tower
Markham, Ontario L3R 0B9

TRANS GLOBAL PARTNERSHIP

c/o RANDY HOFFNER

77 City Centre Drive, Unit 602

Mississauga, Ontario, L5B 1M5

SALVATORE ROMEO

947 Blind Creek Drive

Shuniah, Ontario P7A 0C6

RON BURRELL

72 Babcombe Drive

Thornhill, Ontario L3T 1N1

ELENA SALVATORE

801 Lawrence Avenue East, Suite Ph5

Toronto, Ontario, M3C 3W2

VICENT SALVATORE JR.

801 Lawrence Avenue East, Suite Ph5

Toronto, Ontario, M3C 3W2

JOHN DOE

XYZ CORP.

CLAIM

1. The Plaintiff Chris Agagnier (“**Chris**”) claims against CBJ-Fort Erie Hills Inc. (“**FEH**”) and Jeffrey Burrell (“**Jeff**”):

- (a) a declaration that Chris is a “complainant” for the purposes of advancing an oppression claim under section 248 of the *OBCA*;
- (b) relief pursuant to section 248 of the *OBCA* that this Honourable Court deems fit;
- (c) an interim and final declaration pursuant to sections 161(2)(b) and 248 of the *OBCA* that:
 - (i) the business of CBJ-Fort Erie Hills Inc. (“**FEH**”) has been and is being carried on with intent to defraud Chris to affect a result;
 - (ii) the business or affairs of FEH is or has been carried on or conducted, or the powers of Jeff, as one of the former directors of FEH and now by the Defendants Elena Salvatore (“**Elena**”) and the Defendant Vincent Salvatore Jr. (“**Vincent**”), the current directors of FEH, is or has been exercised, in a manner that is oppressive or unfairly prejudicial to, or that unfairly disregards, the interests of Chris; or
 - (iii) Jeff, a former director of FEH and Elena and Vincent, the current directors of FEH have acted fraudulently or dishonestly;
 - (iv) the acts and omissions of Jeff, Elena and Vincent effected a result;
 - (v) the business and affairs of FEH were carried on or conducted at all material times by Jeff and then by Elena and Vincent in a manner; and
 - (vi) the powers of Jeff, then Elena and Vincent, the former and the current directors of FEH at the time were exercised in a manner, that was oppressive of, unfairly prejudicial to, and that unfairly disregarded the interests of the Plaintiffs;
- (d) an interim and final declaration pursuant to section 161(2)(a) of the *OBCA* that the business of FEH was and is carried on by Jeff and now by Elena and Vincent, the current directors of FEH, with intent to defraud Chris;
- (e) an interim and final declaration that Chris is an aggrieved person as that term is used in section 248(3)(j) of the *OBCA*;
- (f) an order compensating Chris as an aggrieved person;
- (g) an interim order that Chris is at liberty to obtain a certificate of pending litigation in respect of the FEH Lands more particularly described in Schedule A attached hereto;
- (h) an interim injunction preventing the sale of the FEH Lands and the FEH Shares, as defined below;

- (i) an interim order appointing a Monitor over the FEH Lands on such terms and conditions as this Honourable Court shall establish including without limitation, an interim order preventing any further dealings by any party to this Action with the FEH Lands except with the approval of the Monitor and an order relating thereto; and
- (j) an interim order appointing a Receiver Manager over the FEH Lands on such terms and conditions as this Honourable Court shall establish including without limitation, an interim order preventing any further dealings by any party to this Action with the FEH Lands except with the approval of the Receiver Manager and an order relating thereto.

2. Chris claims against all of the Defendants:

- (a) a declaration that the Restated Loan Agreement, the Share Pledge Agreement and the Illegal FEH Land Sale Agreement or Illegal FEH Share Agreement, as defined below, are illegal, null and void, invalid and unenforceable;
- (b) an interim order that all of the issued FEH Shares, as defined below, be forthwith surrendered to the Monitor or the Receiver Manager, once appointed, pending the outcome of the trial of this Action and that no party be entitled to vote or otherwise deal with said FEH Shares without prior order from this Honourable Court;
- (c) damages in the amount of \$25,000,000 for fraud, conspiracy, breach of fiduciary duty and oppression;
- (d) further damages in an amount to be particularized before trial, for damages, lost profits and lost opportunity with respect to the Fort Erie Project (defined below), which is unable to proceed through the real estate development process as a result of the defendants' actions;
- (e) punitive damages in the amount of \$1,000,000;
- (f) orders for restitution, an accounting and disgorgement of all assets, properties and funds belonging to FEH and improperly diverted by or to any of the Defendants or any person, corporation or other entity on such Defendant's behalf;
- (g) a declaration that the Plaintiffs are entitled to trace the assets, properties and funds of FEH into the hands of any of the Defendants, and a declaration that such Defendants hold those assets, properties and funds as constructive trustee for the Plaintiffs;
- (h) a constructive trust and tracing or following order in respect of all assets, properties and funds belonging to the Plaintiffs and improperly diverted by or to any of the Defendants or any person, corporation or entity on such defendant's behalf, and in respect of all the traceable products thereof;
- (i) a declaration the Defendants are jointly and severally responsible to provide full and complete indemnification for and on behalf of Chris for all amounts that he may be obliged to pay to third parties for any amounts due and owing by CBJ or

FEH to third parties that he has guaranteed or is otherwise personally liable to pay;

- (j) prejudgment and post-judgment interest accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (k) costs of this proceeding on a substantial indemnity basis, or alternatively, on a partial indemnity basis; and
- (l) such further and other relief as this Honourable Court may deem just.

3. The Plaintiff CBJ Developments Inc. claims against the Defendant CBJ-Fort Erie Hills Inc.:

- (a) damages in the amount of \$3,000,000 on account of fees and expenses paid in accordance with the Management Agreement, as explained below;
- (b) further damages in an amount to be particularized before trial, for damages, lost profits and lost opportunity with respect to the Fort Erie Project (defined below), which is unable to proceed through the real estate development process as a result of the defendants' actions;
- (c) prejudgment and post-judgment interest at the prime rate quoted by the Royal Bank of Canada plus 2% or in the alternative, in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (d) costs of this proceeding on a substantial indemnity basis, or alternatively, on a partial indemnity basis; and
- (e) such further and other relief as this Honourable Court may deem just.

4. The Plaintiff CBJ Developments Inc. claims against the Defendants Fort Erie Hills Inc., Randy Hoffner and Trans Global Partnership:

- (a) damages in the amount of \$375,000 for repayment of their share of the FEH Remediation Expenses, as defined below;
- (b) prejudgment and post-judgment interest in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (c) costs of this proceeding on a full or substantial indemnity basis; and
- (d) such further and other relief as the lawyers for the Plaintiffs may advise or this Honourable Court may deem just.

PARTIES

5. The Plaintiff CBJ Developments Inc. (“**CBJ**”) is an Ontario corporation with its head office located at Ridgeway Ontario.
6. The Plaintiff Chris Agagnier (“**Chris**”), a resident of Ridgeway Ontario.
7. The Defendant CBJ-Fort Erie Hills Inc. (“**FEH**”) is an Ontario corporation with its head office located at Thornhill, Ontario.
8. The Defendant Jeffrey Burrell (“**Jeff**”) is a resident of Thornhill, Ontario. Jeff was a director of CBJ and FEH, and the trustee of the Burrell Family Trust.
9. Chris and Jeff were equal shareholders of CBJ and FEH.
10. The Defendant Trans Global Partnership (“**TGP**”) is a partnership of overseas Japanese investors who collectively were the owners of those lands which form the subject matter of this Action and other lands which comprise the “Land Acquisitions” as hereinafter defined.
11. The Defendant Fort Erie Hills Inc. (“**Hills**”) is an Ontario corporation with its head office located at Burlington Ontario. Hills acted as bare trustee and Canadian agent for TGP.
12. The Defendant Randy Hoffner (“**Randy**”) is a resident of Burlington Ontario. At all material times, Randy was the principal of Hills, and the authorized agent and trustee for TPG.
13. The Defendant Salvatore Romeo (“**Romeo**”) is a resident of Shuniah Ontario and at all material times, Romeo was the trustee for the Romeo Family Trust.
14. The Defendant Joseph Bressi (“**Bressi**”) currently resides in Markham Ontario.
15. The Defendant Elena Salvatore (“**Elena Salvatore**”) resides in the City of Toronto, Ontario.

16. The Defendant Vincent Salvatore Jr. (“**Vincent Salvatore**”) resides in the City of Toronto, Ontario.

17. The Defendant XYZ Corp., is a corporation that has entered into an agreement of purchase and sale to purchase the FEH Lands or the FEH Shares.

18. The Defendant John Doe is the principal of the XYZ Corp. or is the purchaser of the FEH Lands or the FEH Shares.

FACTS

19. On incorporation, Chris and Jeff were appointed the directors of CBJ. Chris and Jeff were each originally issued 50% of the shares of CBJ.

20. In or about December 2023 to January 2024, Jeff advised CBJ that he was relinquishing his duties as director of CBJ and wanted nothing further to do with CBJ effectively leaving Chris as its sole managing director. From and after that date, Jeff has continuously reiterated that position and from that time forward Jeff has been inactive in managing CBJ.

21. Given Jeff’s improper and illegal conduct, as described below, Chris seeks an order pursuant to s. 248(3)(e) of the OBCA removing Jeff as a director of CBJ.

22. Chris and Jeff acquired four parcels of development lands in Fort Erie and Stayner, Ontario (the “**Land Acquisitions**”) from Hills, acting as Canadian agent for TPG, which beneficially owned these lands. To acquire the Land Acquisitions, CBJ purchased one parcel and Chris and Jeff incorporated three special purpose vehicles to purchase the other three properties (the “**CBJ Affiliates**”) including the FEH Lands.

23. All of the shares of the CBJ Affiliates were owned by Chris and Jeff, including the shares of FEH (the “**FEH Shares**”).

24. On November 1, 2021, one of these parcels was acquired by FEH (the “**FEH Lands**”). The FEH Lands consist of eighty-five acres of raw development land located in Fort Erie, Ontario, municipally described as 85 Crooks Street, Fort Erie, Ontario and legally described on Schedule “A” hereto (the “**Fort Erie Project**”).

25. TGP authorized Hills to be its Canadian representative with full authority to represent them on all matters relating to the Land Acquisitions, including the closing of the purchase of the FEH Lands. Randy was the sole director, officer and shareholder of Hills and the trustee for TPG.

26. The other three parcels were purchased using the other special purpose vehicles (including FEH, the “**CBJ Affiliates**”).

27. The main purpose for the structuring of the CBJ Affiliates including FEH was to:

- (a) establish separate legal ownership for each of the Land Acquisitions so as to maximize the potential for return on each investment and minimize potential exposure or liability relating to the ongoing financing and development of each of the four CBJ Land Acquisitions;
- (b) oversee and manage the Land Acquisitions including negotiating the terms of each purchase, securing financing for each purchase and managing and administering the closing for each separate parcel of land, including the FEH Lands;
- (c) on an ongoing basis, manage and administer all aspects of the development of each parcel of land, including obtaining all permitting and rezoning approvals as and when required, infrastructure installation/construction, subdivision and development and all financing from time to time required for each development; and
- (d) ultimately, facilitate the marketing and sale of single and multi-family residential homes to both builders and end users.

28. The original purchase price paid by FEH to Hills (on behalf of TGP) for the FEH Lands was \$15,950,000 plus assumption of an existing first mortgage to 2703738 Ontario Limited on title with an approximate \$600,000 principal balance (the “**First Mortgage**”) less fifty (50%)

per cent of all costs required to remediate the FEH Lands (the “**Remediation Cost**”) and is hereinafter referred to as the “**FEH Purchase Price**”.

29. The total Remediation Cost was \$750,000; therefore, FEH’s share was \$375,000. This amount has never been repaid to CBJ from Hills/TGP and remains due and owing as an outstanding indebtedness owing by them to CBJ plus interest.

30. The FEH Purchase Price was satisfied by:

- (a) \$1,053,000 million borrowed from Jeffrey Burrell as trustee for the “Burrell Family Trust”, which loan was secured by a mortgage registered on November 1, 2021 as instrument number SN698784 in the Land Registry Office No. 59;
- (b) \$621,000 borrowed from Salvatore Romeo as trustee for the “Romeo Family Trust” which loan was secured by a mortgage registered on November 1, 2021 as instrument number SN698785 in the Land Registry Office No. 59;
- (c) \$13,152,383.87 by a Vendor Take Back Mortgage in favor of Hills (on behalf of Hills and TGP) registered against the FEH Lands as a third secured charge in the original principal amount of registered on November 1, 2021 as instrument number SN698786 in the Land Registry Office No. 59 (the “**Hills VTB**”); and
- (d) Assumption of the First Mortgage to 270378 Ontario Limited in the approximate amount of \$600,000; and
- (e) Equity from CBJ.

31. CBJ agreed to provide management services (the “**CBJ Management Services**”) and fund payment of certain of the CBJ Affiliates ongoing expenses, including:

- (a) payments due and owing relating to financing obtained for the initial purchase of the FEH Lands, including the Hills VTB and other loans obtained from time to time for FEH’s direct or indirect benefit; and
- (b) all payments to cover ongoing development expenses for the FEH Lands which, inter alia, included substantial payments made by CBJ to cover remediation as well as archeology expenses required for the FEH Lands (collectively the “**FEH Payments**”).

32. The advance and repayment of the FEH Payments and payment arrangements for the CBJ Management Services were subject to the terms of an agreement (which was partially in

writing and partially verbal), entered into between CBJ and FEH (the “**Management Agreement**”) concurrent with the purchase by FEH of the FEH Lands, which included:

- (a) all of the FEH Payments would to be repaid on demand with interest at a commercial rate of interest based on the Royal Bank of Canada (“**RBC**”) prime rate (as from time to time determined) plus 2%;
- (b) CBJ Management Services would be charged out to FEH at rates prevailing in the market by comparable management/administrative service companies;
- (c) all of the FEH Payments together with the fees due and owing for the CBJ Management Services would be repaid in priority to any other secured or unsecured FEH indebtedness, subject only to:
 - (i) any secured financing from time to time registered against title to the FEH Lands; or
 - (ii) as otherwise agreed from time to time between CBJ and FEH in writing;
- (d) as security for repayment of the FEH Payments and the CBJ Management Services, FEH granted CBJ an ongoing and continuing charge against the FEH Lands (the “**CBJ Charge**”) and the right, at its option, to secure said CBJ Charge by registering same against title to the FEH Lands; and
- (e) if it registered the CBJ Charge, CBJ would postpone the CBJ Charge to any present or future secured financing that it would arrange to be charged against the FEH Land.

33. As at the date of the filing of this Claim, the total amount due and owing by FEH to CBJ pursuant to the Management Agreement is \$2,314,000.00 plus interest (the “**FEH to CBJ Indebtedness**”).

34. Subsequent to the closing of the purchase of the FEH Lands, Chris arranged for a further private mortgage for \$2,500,000 from 2703738 Ontario Limited (“**270 Corp**”) registered on February 25, 2022 as instrument number SN714863 in the Land Registry Office No. 59 (the “**Elena Loan**”). The Elena Loan was used for costs and expenses for the initial phases of the remediation and development of the FEH Lands. With Hills consent, the Elena Loan was secured as a third charge against title to the FEH Lands.

35. The charges referred to above are hereinafter collectively referred to as the “**FEH Charged Debt**” and the FEH secured creditors referred to above are hereinafter referred to as the “**FEH Secured Creditors.**”

36. In addition to the FEH Secured Debt, Chris arranged a \$500,000 unsecured loan from Ron Burrell, administered by Jeffrey Burrell (the “**Ron Burrell Loan**”) and a further loan from Niagara Estates of Chippawa II Inc. (“**Niagara**”) for \$5,250,000 (the “**Niagara Loan**”) for use, in part, for the development of the FEH Lands.

37. CBJ retained Colliers International Realty Advisors Inc. (“**Colliers**”) to appraise the FEH Lands. Hadley Duncan, AACI, P. App., Colliers’ Executive Director, completed his appraisal in March 2023, which estimated its as is current market value of the FEH Lands at March 17, 2023 to be \$49,460,000.

38. Acting in good faith, CBJ decided not to register the CBJ Charge because:

- (a) the fair market value of the FEH Lands provided substantial comfort to CBJ that the FEH to CBJ Indebtedness could easily be repaid on the sale of the FEH Lands; and
- (b) Hills advised CBJ that the CBJ Charge should not be registered on title to the FEH Lands until the Hills VTB had been substantially paid down or paid out in full.

39. Although interest was accruing on some of the outstanding FEH Charged Debt and other unsecured indebtedness referred to above, no demand for payment to FEH had been made nor had any of FEH creditors (secured or unsecured) issued a notice of default or taken any other steps to enforce repayment of any funds due and owing to them.

40. In or about October 2023, in accordance with CBJ’s obligations under the Management Agreement, Chris arranged for financing against the FEH Lands from a third party lender Hillmount Capital Inc. (“**Hillmount**”) in the principal amount of \$8 million (the “**Hillmount**”

Financing”). On October 25, 2023, Hillmount registered a mortgage on the FEH Lands as instrument number SN783192 in the Land Registry Office No. 59 for \$8 million.

41. In conjunction with the Hillmount Financing, Chris negotiated a payout of the Elena Loan with 270 Corp., in exchange for Niagara Estates of Chippawa II Inc. agreeing to advance a new \$5.25 million loan to FEH plus an additional \$330,000 loan arranged by Jeff and Randy (collectively the “**New Niagara Loan**”) to be secured on other lands.

42. The primary purposes for the Hillmount Financing and the New Niagara Loan as negotiated by Chris were for payment of:

- (a) ongoing development expenses relating to the FEH Lands;
- (b) payout to 270 Corp.;
- (c) payment of some outstanding interest payments due and owing to various FEH creditors include those holding some of the FEH Charged Debt; and
- (d) payment of funds due and owing to CBJ pursuant to the Management Agreement to be paid out in part to CBJ and in part to Chris and the other management as management fees/bonuses.

43. One of the pre-conditions to the Hillmount Financing was that Hillmount would have a first charge on the FEH Lands and that no secondary financing would be allowed on the FEH Lands at any time while the Hillmount Loan was outstanding. This required Chris to negotiate new loan agreements with the FEH Secured Creditors and 270 Corp. which included, without limitation:

- (a) negotiating lump sum payments to each of the FEH Secured Creditors to be paid from the Hillmount Financing in order to get their agreement to discharge their respective security off title to the FEH Lands;
- (b) payout in full of the second and third mortgages to the Burrell Family Trust and Romeo Family Trust;
- (c) negotiating a specific repayment date for the payment of the balance of all funds due and owing on the FEH Secured Debt together with a “Standstill” arrangement

to prevent any of the FEH Secured Creditors from taking any enforcement steps on their respective date until said date; and

- (d) providing alternate and acceptable security to the FEH Secured Creditors.

44. At this same time Jeff insisted that a significant advance from the Hillmount Financing be paid against first and second mortgages to the Burrell Family Trust and the Romeo Family Trust and that Ron Burrell participate in any restructured security package that Chris was negotiating, failing which, in his capacity as both a CBJ and FEH director and shareholder, he would not approve the Hillmount Financing and threatened to demand repayment in full of the Ron Burrell Loan then due and owing by FEH.

45. Having no choice, Chris agreed to this demand from Jeff.

46. This resulted in Chris negotiating and approving a revised omnibus security arrangement with the FEH secured creditors and Ron Burrell (the “**Revised FEH Security Package**”) which provided, *inter alia*, for the following:

- (a) A new “Amended and Restated Loan Agreement” which was dated November 17, 2023 and entered into between CBJ as Borrower and 270 Corp., Niagara and Hills as Lenders (the “**Restated Loan Agreement**”);
- (b) Forbearance and Standstill Agreement (the “**Forbearance Agreement**”) entered into between Hills and FEH dated and effective Oct 23, 2023 and acknowledged by CBJ which obligated:
 - (i) FEH to make a payment to Hills of \$1.2 million from the Hillmount Financing;
 - (ii) FEH to pay Hills \$4.7 million on Dec 31, 2023 as per the terms of the Restated Loan Agreement;
 - (iii) FEH to pay Hills the balance owing on the Hills VTB on or before February 28, 2024;
 - (iv) Chris and Jeff as the two registered FEH shareholders, to enter into a Share Pledge Agreement with FEH, Niagara, the Burrell Family Trust and the Romeo Family Trust and Ron Burrell (the “**Share Pledge Agreement**”) to pledge their FEH shares to Hills if all amounts due and owing to Hills were not paid in full by February 28, 2024;

- (v) Chris and Jeff to provide unlimited personal guarantees for the payment of the all indebtedness due and owing under the Forbearance Agreement and the Restated Loan Agreement (the “**Restated Loan Indebtedness**”); and
- (vi) FEH, Jeff and Chris to provide and execute a “Consent to Judgment’ for the Restated Loan Indebtedness if same was not paid in full by February 28, 2024.

47. During this same period of time, Bressi had been working with CBJ on various projects and had continuously represented to Chris that his company “Global Financial” had a “Bonding” business which raised several millions of investment capital through the sale of bonds.

48. Bressi further continuously represented to Chris that on condition that CBJ proceed with the Hillmount Financing, he would provide up to a minimum of \$70 Million dollars in financing from his bonding business to cover all of the payments that would be due and owing pursuant to the Restated Loan Agreement, the Forbearance Agreement, the Share Pledge Agreement and all other amounts relating thereto, pay out other financing due and owing by another CBJ Affiliate owing on another parcel of land in Stayner Ontario (the “**Stayner Indebtedness**”) plus provide significant other funding for the ongoing development of the FEH Lands, in exchange for his acquiring a significant equity position in CBJ and the CBJ Affiliates.

49. Bressi, however, refused to document the terms of the Bressi Funding Agreement in writing and it therefore remained as a verbal agreement between CBJ, Bressi, the CBJ Affiliates and the CBJ principals including Chris and Jeff.

50. During this time:

- (a) the Stayner Indebtedness had resulted in the commencement of legal action against a CBJ Affiliate, thereby increasing the pressure on Chris to proceed with the Hillmount Financing in order to access funds from Bressi pursuant to the Bressi Funding Agreement and resolve the Stayner litigation;
- (b) Randy and Jeff, in conjunction with Bressi, made every effort to prevent Chris from arranging alternate financing from other sources, which effectively resulted

in Chris having no alternative, but do whatever he could to finalize the Hillmount Financing.

51. Just prior to the advance of funds from the Hillmount Financing, and in exchange for providing the funding pursuant to the Bressi Funding Agreement, Bressi demanded that CBJ pay him (through another corporation he owned/controlled named Monaco Street Ltd.) a funding fee of \$1,000,000 (in U.S. Funds) from the Hillmount Financing (the “**Bressi Fee**”).

52. Chris initially refused to approve the Bressi Fee because Bressi had previously failed to provide funding for other projects even though CBJ had paid him millions of dollars in upfront fees for same. However, Jeff and Randy not only actively supported payment of the Bressi Fee but, specifically (without in any manner limiting the generality of the foregoing):

- (a) Jeff made it clear that he would not allow the Hillmount Financing to proceed unless the Bressi Fee was paid; and
- (b) Randy made it clear that he would not cause Hills to agree to the Revised FEH Security Package and would commence immediate action on behalf of Hills for repayment of all funds due and owing under the Hills VTB unless the Bressi Fee was paid.

53. As a result, and fearful that without the Hillmount Financing and the implementation of the Revised FEH Security Package:

- (a) Randy and Hills, as threatened, could trigger enforcement proceedings pursuant to the Hills VTB which would jeopardize both FEH’s ownership and development of the FEH Lands;
- (b) said enforcement proceedings would potentially cause FEH to lose untold millions of dollars in anticipated revenue;
- (c) Chris would be placed in severe financial jeopardy because of previous personal guarantees that they had provided on the VTB and other FEH security;
- (d) the Stayner Indebtedness and resulting litigation would proceed thereby causing additional losses to CBJ and Chris pursuant to the security granted to the Stayner lenders, including a personal guarantees from Chris;
- (e) by their actions Randy, Jeff and Bressi had made it impossible for Chris to arrange other financing; and

- (f) Bressi, Jeff and Randy all confirmed and represented to Chris, both individually and collectively, that the funding pursuant to the Bressi Funding Agreement would take place as and when agreed upon so as to ensure that:
- (i) there would be sufficient funds available to meet all of the payment requirements set out in the Revised FEH Security Package;
 - (ii) reimburse the payment of the Bressi Fee;
 - (iii) payout the Stayner Indebtedness in full;
 - (iv) repay all funds due and owing by FEH to CBJ pursuant to the FEH Agreement; and
 - (v) provide sufficient working capital to cover all ongoing CBJ and CBJ Affiliate expenses, specifically including the development of the FEH Lands.

54. Chris had no alternative but to finalize the requirements necessary for the Hillmount Financing to be funded including executing approvals for payment of the Bressi Fee.

55. Accordingly, in October 2023, funds from the Hillmount Financing were advanced and distributed as follows:

Payment of the Bressi Fee:	\$1.4 million
Payment to Hills: (Restated Loan Agreement)	\$1.2 million
Payment in full to Burrell Family Trust	\$1.45 million
Payment to in full Romeo Family Trust	\$600,000
Payment to 270 Corp. (Elena Loan)	the original Elena Loan of 2.25 Million plus outstanding interest was repaid and Elena (through Chris' efforts) then lent CBJ / FEH 5.25 Million Dollars (less pre-paid interest)
Legal Fees	\$200,000
Retained by Hillmount for future advances and to cover interest payments	\$1,000,000
Retained by Bennett Jones LLP in trust by FEH's lawyers earmarked to cover ongoing development expenses for the FEH Lands (the	\$200,000

“Bennett Jones Holdback”);	
Dennis Blain (Niagara)	\$200,000

56. The Plaintiffs state and the fact is that the aforesaid payment of \$1.4 million to Jeffrey Burrell and Salvatore Romeo by Jeff was not authorized or approved by Chris.

57. Notwithstanding the Bressi Funding Agreement and Bressi’s ongoing and continuous representations and assurances (as supported by both Jeff and Randy) that he would provide or facilitate the necessary funding required by CBJ, Bressi did not provide any funding.

58. Bressi’s representations of funding were false representations of fact. Bressi made these representations with a knowledge of their falsehood, or recklessly, without belief in their truth, with the intention that they should be acted upon by Chris. Bressi’s false representations did in fact induce Chris to act. Chris suffered damages as a result of Bressi’s fraudulent misrepresentations. Jeff, Randy, and Romeo knew of or ought to have known that Bressi’s representations were false and fraudulent.

59. In February 2024 and facing the February 28, 2024 deadline for payment of funds, pursuant to the Revised FEH Security Package, and after:

- (a) Jeff had *de facto* relinquished or had been removed from his role as director and CEO of CBJ; and
- (b) Chris had completed his own internal inquiries and investigations into Bressi’s business history and learned about “private” meetings held between Bressi, Jeff and Randy in the Bahamas which took place at the same time as the Revised FEH Security Package was being negotiated, it became clear to Chris that:
 - (i) Bressi had a long history of swindling other business partners out of millions of dollars;
 - (ii) Bressi never intended nor had the means to fund any monies to CBJ or FEH and entered into the Bressi Funding Agreement for the sole purpose of creating a situation where Chris and the other CBJ beneficial

shareholders would be coerced by undue duress (and fear of massive potential personal liability) from Bressi, Randy and Jeff into agreeing to the terms of the Revised FEH Security Package and agreeing to the payment of the Bressi Fee; and

- (iii) Bressi, Jeff, Randy, Romeo, TGP, Elena Salvatore and Vincent Salvatore (and potentially other parties currently unknown to the Plaintiffs) had clandestinely and intentionally entered into an illegal and improper agreement between themselves (the “**Illegal Agreement**”) to maneuver Chris and FEH into such a position where they had no alternative but to agree to the onerous terms of the Revised FEH Security Package, knowing that both CBJ and FEH would inevitably end up in default of same; and
- (iv) said default would then lead to the loss by Chris of any interest or entitlement that he had (directly or indirectly) to the value and equity and all benefits (present or future) in the FEH Lands;

60. The Plaintiffs state and the fact is that the terms of the Illegal Agreement were to be implemented by Bressi, Jeff, Randy, Romeo, TGP, Elena Salvatore and Vincent Salvatore with their joint and mutual intention to achieve the following specific goals:

- (a) Bressi, on his own behalf and on behalf of Jeff, Randy, Romeo, TGP, Elena Salvatore and Vincent Salvatore, would convince Chris that through his “bonding” company, he could and would supply all the funding required by FEH, always knowing that he had no intention nor ability to provide said funds;
- (b) extorting Chris to agree to the payment of the Bressi Fee (portions of which may have been split amongst the parties to the Illegal Agreement) prior to Chris signing off on the Hillmount Financing;
- (c) Randy and TGP, on their own behalf and on behalf of Jeff and Bressi, would induce and effectively coerce Chris into agreeing to the terms of the Revised FEH Security Package by not approving, scuttling or otherwise making it impossible for Chris to raise or secure financing from any third parties other than Hillmount;
- (d) convincing Chris, through their material, intentional and fraudulent misrepresentations to Chris that there would be sufficient funding pursuant to the Bressi Funding Agreement to “solve” all of CBJ’s and FEH’s financial needs;
- (e) taking all other steps, through threats (verbal and in writing), intimidation and restriction of payments due and owing to Chris (based on actions taken by Jeff in intentionally failing to approve said payments to him) into coercing Chris to agree to the terms of the Revised FEH Funding Package knowing that by doing so both CBJ and FEH would default with the end result that Hills (i.e. TGP), Niagara, the Burrel Family Trust, the Romeo Family Trust and Ron would end up owning all of the FEH shares and in sole position to deal with the FEH Lands as they so

choose and without having to go through a Power of Sale or other judicially monitored process to do so;

- (f) once they had control of the FEH Lands through the implementation of the Share Pledge Agreement, Hills (i.e. TGP), Niagara, the Burrel Family Trust, the Romeo Family Trust and Ron would facilitate an immediate private sale of the FEH Lands or the FEH Shares, either directly or indirectly to themselves (through an affiliate, related corporation or “straw” buyer”) or to a “friendly” third party at a price substantially below market value, but sufficiently high enough to cover all of the FEH Indebtedness plus provide them with additional funds as negotiated, with the specific intent to:
 - (i) deprive CBJ, Chris and other members of the CBJ Management team of any of the funds due and owing to them, including all funds due and owing pursuant to the Management Agreement; and
 - (ii) Deprive FEH (and by extension, Chris and other members of the CBJ Management team) of their entitlement to the funds they should have received had the FEH Lands or FEH Shares had been sold on the open market at fair market value;
- (g) place Chris at risk of being personally liable for certain CBJ and FEH debt that he had either personally guaranteed or which he had personally incurred for and on behalf of CBJ or FEH;
- (h) ensure that Hills, Randy and TGP received all funds due and owing to them pursuant to the original Hills VTB plus additional payments and benefits to them;
- (i) ensure that Jeff received all funds due and owing to the Family Trusts, the Ron Burrell Loan plus additional payments and benefits to Jeff; and
- (j) ensure that Bressi receives the Bressi Fee plus additional payments and benefits to him.

61. By those actions and statements set out in (a) – (f) above, induced Chris to:

- (a) agree to the very onerous terms of the Revised FEH Financing Plan; and
- (b) at this same time inducing Chris not to pursue the sale of the FEH Lands on the open market;
- (c) not to pursue the refinancing of the FEH Lands (other than through Hillmount);
- (d) not to register the CBJ Charge against title to the FEH Lands; or
- (e) take any other reasonable and prudent steps to ensure that there would be sufficient funds available when the terms of the Revised FEH Security Package became enforceable so as not lose their strong equity position in the FEH Lands through their respective ownership of the FEH shares.

62. As planned and as part of the Illegal Agreement, both CBJ and FEH defaulted on the repayment obligations set out in the Revised FEH Security Package resulting on February 28, 2024 with Hills, on behalf of the FEH Secured Creditors and other parties to the Revised FEH Security Package, initiating enforcement proceedings under the Share Pledge Agreement and have, to the Plaintiffs' best knowledge, information and belief, now taken possession and ownership of the FEH Shares.

63. The Defendants have entered or are about to enter into a sale of the FEH Lands or have sold the FEH Shares as contemplated pursuant to the Illegal Agreement to a "friendly" third party: Elena Salvatore and Vincent Salvatore Jr., John Doe or XYZ Corp. (the "**Illegal FEH Sale**") at a purchase price which is substantially below its actual market value for the FEH Lands of the FEH Shares.

64. The Defendants Elena Salvatore and Vincent Salvatore Jr., John Doe or XYZ Corp., are purchasing the FEH Lands or have purchased the FEH Shares, and are fully aware of, and are acting in concert with the Defendants' illegal activities and actions as previously described.

65. Chris states and the fact is that their agreements to approve and proceed with:

- (a) the Revised FEH Security Package;
- (b) payment of the Bressi Fee;
- (c) the Hillmount Financing; and
- (d) such further and other approvals, agreements and authorizations as may be proven at trial were made:
 - (i) in reliance on the intentional and fraudulent misrepresentations that had been made to them by Jeff, Randy and Bressi as aforesaid together with such further and other evidence relating thereto as the Plaintiffs shall present to this Honorable Court at trial;
 - (ii) under duress, and induced because of the coercive actions of Jeff, Randy and Bressi as hereinbefore set out in this Claim together with such further

and other evidence relating thereto, as the Plaintiffs shall present to this Honorable Court at trial; and

- (iii) in accordance with the terms of the Illegal Agreement which by its very nature is null and void, against public policy and should be subject to sanction by this Court;

66. Accordingly, the Plaintiffs state and the fact is that the Illegal Agreement and Illegal FEH Sale is illegal, improper and will constitute a conveyance of real property made with the intent to defeat, hinder, delay or defraud creditors or others of their lawful action are void as against such persons and therefore constitutes a fraudulent conveyance in breach of the provisions of the *Fraudulent Conveyances Act*, RSO 1990 Ch. F29.

67. In the alternative, Chris states and the fact is that based on those matters set out above relating to the Illegal Agreement, the Share Pledge Agreement is null and void and unenforceable and accordingly any attempts by any or all of the Defendants to take control, possession or ownership of the FEH Shares from Chris and Jeff (who acquiesced) pursuant to said Share Pledge Agreement are therefore also illegal and unenforceable.

68. The oppressive conduct includes, without limitation:

- (a) unilaterally and without authority entering into agreements for and on behalf of both CBJ and FEH that are nullities, void ab initio, against public policy, illegal and based on willful neglect and/or are fraudulent;
- (b) completely ignoring Chris and others in their capacity as legal and beneficial shareholders of CBJ and FEH, by committing both corporations to those agreements referred to in (a) above despite their ongoing and continuous objections and dissent to same;
- (c) failing to provide Chris with full disclosure of all matters relating to, *inter alia*, the Bressi Funding Agreement, the Revised FEH Security Package, the terms and conditions of the Share Pledge Agreement, the Illegal Agreement and the Illegal FEH Sale;
- (d) obtaining funds from the Hillmount Loan for their own personal benefit without payment of any of those funds to Chris;
- (e) unilaterally and without authority preventing Chris or other members of the CBJ Management team from being paid funds due and owing to them from CBJ and

FEH thereby depriving them of any source of funding to retain counsel or other professional advisors to contest steps taken pursuant to the enforcement of the Share Pledge Agreement or prevent the implementation thereof; and

- (f) such further and other particulars as Chris shall provide prior to trial.

69. As previously stated, if the Illegal Agreement and Illegal FEH Sale closes with title and beneficial ownership of the FEH Lands or the FEH Shares have been or are transferred to Elena Salvatore, Vincent Salvatore, John Doe or XYZ Corp., CBJ may have no recourse against FEH for payment of the Management Fee or any other amounts that are currently due and owing to CBJ and will further deprive Chris and others of substantial value arising from their legal and/or beneficial share ownership in those corporations based on the actual and true market value of the FEH Lands.

70. In the further alternative, Chris states and the fact is that the actions taken by Jeff, Elena Salvatore and Vincent Salvatore Jr. constitute material and substantial “oppressive conduct” towards Chris in his capacity as a CBJ and FEH shareholder which permits judicial relief as per the provisions set out in the *OBCA*.

71. Accordingly, Chris is seeking an interim injunction to enjoin the Defendants from selling or otherwise dealing with the FEH Lands or FEH Shares or to any other parties pending the outcome of this Action. Chris states that:

- (a) there is a serious issue to be tried – the alleged conspiracy to defraud Chris
- (b) damages alone will not provide an adequate remedy, in that irreparable harm will be created if the interim injunction is not granted. No fair and reasonable redress would be available after trial if the FEH Lands are sold to a third party; and
- (c) the balance of convenience favours the granting of the interim injunction.

72. Further, the Plaintiffs collectively state and the fact is that they are entitled to immediately charge the FEH Lands by way of a Certificate of Pending Litigation to secure the

FEH Lands and prevent the sale, financing or transfer of the FEH Lands and are further entitled to an order enjoining the transfer of the FEH shares pending the outcome of this Action.

CLAIMS

A. Conspiracy

73. The Defendants engaged in a conspiracy. Each of the individual Defendants conspired to profit from and harm Chris. The particulars of the Defendants' conduct in entering into the Illegal Agreement and the Share Pledge Agreement are described above.

74. The Defendants acted with the predominant purpose of harming Chris. They:

- (a) mapped out the conspiracy and reached the Illegal Agreement on how to maximize the profits from the conspiracy, while minimizing the chances of getting caught;
- (b) acted with the predominant purpose of harming Chris by stripping his interest in FEH; and
- (c) if the sale of the FEH Lands or FEH Shares is not enjoined, they will have caused actual damage to Chris.

75. Similarly, the Defendants' orchestrated unlawful conduct which constituted a conspiracy.

They:

- (a) came to an agreement on how to proceed with the conspiracy and acted in combination with a common design of harming Chris, while profiting themselves;
- (b) acted unlawfully, as set out above by entering into and carrying out the Illegal Agreement;
- (c) directed their unlawful conduct toward Chris;
- (d) knew they were harming Chris; and
- (e) unless the sale of the FEH Lands or the FEH Shares is enjoined, the Defendants will in fact harm Chris.

76. Each of the Defendants played key roles in the conspiracy. While Jeff and Bressi were the puppeteers, the other Defendants played important roles and are accordingly, jointly and severally liable for all damages resulting from the conspiracy.

Breach of Fiduciary Duty and Knowing Assistance

77. Chris was at Jeff's mercy. Jeff had the ability to orchestrate the conspiracy. In his role as a director or FEH and as the trustee of the Burrell Family Trust, Jeff had the obligation to act in the best interests of FEH as well as make full and frank disclosure to Chris. Instead, Jeff acting with the other Defendants, developed a scheme to defraud Chris of more than \$25 million, while destroying the Fort Erie Project, and leaving it with no cash to continue development.

78. FEH was insolvent at the time of Bressei's false promises to fund. Jeff knew that Bressi's representation regarding funding were false and that the Bressi Funding Agreement would never provide the necessary funding to FEH. None of the actions taken by Jeff were in the best interests of FEH and the Plaintiffs. They were purely self-motivated.

79. The remaining Defendants knew or ought to have known that Jeff was acting in breach of his fiduciary duties to FEH. Again, they assisted Jeff in his breaches and profited from that assistance.

Oppression

80. As a shareholder of FEH, Chris is a "complainant" for the purposes of section 248 of the OBCA.

81. Jeff's actions, as one of the directors of FEH, and the actions of Elena Salvatore and Vincent Salvatore as the current directors of FEH, were oppressive and have unfairly disregarded Chris' interests. FEH's business was the development of the FEH Lands and he always had the reasonable expectation that Jeff would act in his best interest toward the development of the FEH Lands.

82. Instead, Jeff used his position as a director or controlling mind of FEH to permit Jeff and the other Defendants to profit from the improvident sale the FEH Shares. Jeff has acted solely in his own interests, to Chris' detriment.

Restitution and Tracing

83. Chris pleads that all the Defendants have been unjustly enriched at Chris' expense and are liable to Chris for all amounts by which they have been unjustly enriched. Chris has been correspondingly deprived of the benefit of these amounts, and there is no juristic reason for the Defendants' enrichment. Chris pleads and rely upon the doctrine of unjust enrichment and claims that he is entitled to restitution from all the Defendants.

84. Chris pleads that the Defendants hold any amounts by which they have been unjustly enriched and the FEH Lands (by Elena Salvatore and Vincent Salvatore) as trust funds or trust assets pursuant to a constructive trust, and that Chris is the beneficiary of those funds and/or assets. Chris further pleads that, given the circumstances, there are no factors that would render the imposition of a constructive trust in favour of Chris unjust.

85. Any funds originating with or that should have been paid to Chris and obtained by any of the Defendants by way of fraud, breach of fiduciary duty, self-dealing, oppression or other improper conduct should be impressed with a trust in favour of Chris.

86. Chris seeks such orders as may be necessary to trace such misappropriated funds, including any such funds or assets currently held by or transferred to any of the Defendants, or transferred to individuals or entities not yet known to Chris.

87. Chris further seek orders requiring the Defendants to disgorge and/or pay restitution in relation to any benefit obtained directly or indirectly as a consequences of the fraud, breach of fiduciary duty, self-dealing, oppression or other improper conduct as pleaded herein, including any assets obtained with funds originating with or that should have been paid to Chris as a shareholder of FEH.

Fraudulent Concealment And Punitive Damages

88. The Defendants fraudulently concealed the Illegal Agreement, which constituted the conspiracy or scheme from Chris. At all material times, they took steps to conceal their conduct from Chris. The Defendants' conduct was unconscionable and designed to hide their unlawful actions.

89. The Defendants' conduct warrants punitive damages. The conspiracy is sufficiently described above. However, for the sake of completeness, the Defendants entered into the Illegal Agreement to siphon millions of dollars away from Chris in the improvident sale of the FEH Lands or FEH Shares to Elena Salvatore, Vincent Salvatore, John Doe and/or XYZ Corp. The Defendants took active steps to conceal the conspiracy.

90. These actions, among the many others described in the Claim, are independent, actionable wrongs, which were carefully designed to defraud Chris. This calculated and fraudulent conduct should offend the court's sense of decency. Pure compensatory damages (i.e., making the Defendants simply pay back what they took and stopping or reversing the sale of the FEH Lands or FEH Shares to either Elena Salvatore, Vincent Salvatore, John Doe or XYZ Corp.) is not enough. Punitive damages are necessary to denounce the Defendants' conduct and deter future parties from devising and carrying out similar schemes.

The Plaintiffs propose that this action be tried on the Commercial List in Toronto.

DATE OF ISSUE: July _____, 2024

GREG ROBERTS PC
1595 16th Avenue, Suite 301
Richmond Hill, ON L3B 3N9

Greg Roberts (LSO# 29644N)
Tel: 416-726-2099
Email: greg.roberts@roblaw.ca
Lawyer for the Plaintiffs

Schedule "A"

85 Crooks Street , Fort Erie and legally described as:

PIN 64233-0064 LT

BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL
525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF
BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513; FORT ERIE

CHRIS AGAGNIER
Plaintiff

- and -

CBJ-FORT ERIE HILLS INC. et al.
Defendants

Court File No. CV-24-

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at Toronto
(Commercial List)

STATEMENT OF CLAIM

GREG ROBERTS PC
1595 16th Avenue, Suite 301
Richmond Hill, ON L4B 3N9

Greg Roberts (LSO# 29644N)
Tel: 416-726-2099
greg.roberts@roblaw.ca
Lawyer for the Plaintiffs

This is Exhibit “D” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

Mortgage Loan Commitment

August 8, 2023

CityCan Financial
604 – 55 Eglinton Ave. East
Toronto, Ontario, M4P 1G8**Attention: Christopher Bressi**

Dear Christopher:

RE: First Mortgage against 85 Crooks Street, Fort Erie, ON (the “Property”)

We wish to confirm that, based upon and subject to the accuracy of information furnished to us, your mortgage financing on the subject security has been approved subject to the following terms and conditions set out below:

MORTGAGEE: Hillmount Capital Inc. and/or assignees (the “**Lender**”)

MORTGAGOR(S) / BORROWER(S): CBJ Fort Erie Hills Inc. (the “**Borrower**”)

GUARANTOR(S): CBJ Developments Inc. Jeff Burrell, William Walton, Christopher Agagnier & Kimberley Zacharias (the “**Guarantor(s)**”)

PRIORITY / SECURITY: First Mortgage – 85 Crooks Street, Fort Erie, ON

LOAN AMOUNT: \$8,000,000.00 (not to exceed 33% LTV of the appraised value)

INTEREST RATE & PAYMENT: Interest shall be compounded and calculated monthly at the greater of **10.75% per annum** or the RBC prime Lending Rate plus 3.50% per annum and will be repayable monthly, in arrears, by direct withdrawal pursuant to a Pre-Authorized Debit Agreement to be provided on or before closing. Interest adjustment date to the 1st of the following month.

TERM: This loan will mature in 12 months.

FEES: Lender Commitment Fee – 2.00%
Broker Fee – CityCan Financial – 2.00%
Lender Legal Fees, Disbursements and HST – To be determined by Lender’s solicitor
Appraisal Fee – Borrower to pay and deal with directly

PREPAYMENT PRIVILEGE: When not in default the Borrower shall have the right to prepay the loan at any time upon 30 days written notice.

PROPERTY DESCRIPTION: The Property is comprised of an 84.862 Acre Development site currently Draft Plan Approved by the City of Fort Erie for the construction of low-density subdivision development consisting of 79 single family detached homes, 102 single family semi-detached homes, 200 townhomes and 800 apartment units.

PURPOSE OF LOAN: The Loan has been requested by the Borrower for the purpose of financing the current debt outstanding of \$5,500,000.00 and providing funds to meet the outstanding

Borrower(s)/Guarantor(s) Initials: **J.B.** **C.A.** **K.Z.** **B.W.**

conditions of the Draft Plan and to advance the development of the project from its current state to “shovel-ready” status.

AMORTIZATION: N/A, Interest Only

CLOSING DATE: The funding date is to be no later than **August 31, 2023** and not sooner than 3 full business days from receipt of fully executed commitment, the fully executed Mortgage Security Documents, receipt of non-refundable work fee, and satisfactory receipt of material requested by the Lender. It is further conditional upon the Lender’s solicitor receiving all requisitioned material on a timely basis. The closing date may be advanced as agreed to by the Lender’s and Borrowers’ solicitors. [In the event the funds have not been advanced pursuant to the terms of this commitment by **September 12, 2023** the obligations of the Lender hereunder, including the obligation to make any advance of funds, shall cease and the Borrower shall remain liable for all amounts set out herein.]

LENDER’S SOLICITOR: TBD

VALUE OF PROPERTY: \$24,000,000.00 (to be determined by appraisal and/or realtor opinion)

ADVANCES: The proceeds of this Loan shall be advanced less the following:

- a) Broker/Lender fees (including processing fee);
- b) Legal fees and disbursements plus HST thereon;
- c) Interest adjustment payment to the 1st of the month;
- d) Insurance consultant fees (if applicable);
- e) Payout of first mortgage on title in the amount of approximately \$5,500,000.00;
- f) Other amounts, if applicable, to be determined prior to closing.

SECURITY:

- 1. First Mortgage registered against the Property.
- 2. Personal and/or Corporate Covenants (as applicable) of the Borrower(s)/Guarantor(s).
- 3. Title insurance.
- 4. Fire and building “All Risk” insurance as determined and verified by the Lender’s insurance consultant (the cost of the insurance review is the responsibility of the Borrower). The Lender will be noted on the policy as mortgagee and loss payee. Insurance coverage of replacement cost on Property (and to be not less than the full 100% “Replacement Cost”) and \$2 million in liability.
- 5. General Assignment of Rents and Leases and Tenant Acknowledgments in a form to be determined by the Lender’s solicitor.
- 6. General Security Agreement having 1st priority over any and all unencumbered personal property used in connection with or arising from or out of the Property (including without limitation, a charge (PPSA) over all equipment and machinery, vehicles, fixtures, furniture used in connection with the Property) in a form to be determined by the Lender’s solicitor.
- 7. Environmental Indemnity and Warranty.
- 8. Such other security, assurances and / or documents as may be required by the Lender or its solicitors.

ADDITIONAL CONDITIONS AND REPRESENTATIONS: This commitment is subject to the following conditions to be satisfied at the time of advance of funds under this commitment which conditions the Lender in its sole discretion may waive in full or in part:

- 1. Written acceptance of the Commitment by the Borrower(s)/Guarantor(s).
- 2. The Borrower(s)/Guarantor(s) will attend to the lawful execution and delivery of such documents as the solicitors for the Lender may deem necessary or advisable

Borrower(s)/Guarantor(s) Initials: **J.B.** **C.A.** **K.Z.** **B.W.**

to fulfill the terms and conditions of the agreement (including a copy of an up-to-date survey of the Property (may not apply with Title insurance)).

3. We are to receive the favourable opinion from the Lender's solicitors with respect to the priority, validity and enforceability of the mortgage and all other requirements usual to a transaction of this nature (including any documents deemed necessary to close the transaction by Lender's solicitor).
4. Satisfactory inspection of the Property by the Lender and/or its agent and/or realtor, if required by Lender. Borrower to be responsible for agent fees. Value of property (as determined by agent) is to be no less than as stated above.
5. Satisfactory review of an appraisal of the Property, performed by a Lender approved appraiser. Appraisal is to be in the Lender's name or a letter of transmittal is to be addressed to the Lender. Property values are to be no less than as stated above. Borrower to be responsible for appraisal fees.
6. Satisfactory due diligence review of the application, including:
 - a. The signed application (listing all assets of the Borrower/Guarantor) / net-worth statement / credit bureau. The applicant(s) certify that the information given in the mortgage application is true and correct and confirm authorization of a full credit investigation has been granted.
 - b. The financials of the Borrower which are to indicate that the Borrower can afford the monthly interest payments. If the Lender is not satisfied, an interest reserve may be set up as part of the Loan.
 - c. The exit strategy.
 - d. Interview with the Borrower, if so required by the Lender.
 - e. The Articles of Incorporation for the corporate owner and satisfactory confirmation that it is a holding company.
 - f. Confirmation that the Borrower(s) is current on all its filings and all its deemed trust payments (i.e. WSIB, source deductions, HST).
 - g. Confirmation of the names of the shareholders, directors and owners of the Borrower(s)/Guarantor(s) and confirmation that they will not sell their shares while the Loan is still outstanding.
7. All property taxes to be current at the time of closing. Any arrears in property taxes must be paid in full prior to closing or from the proceeds of this Loan. Choose item
8. Satisfactory review of the Agreement of Purchase and Sale for the Property by the Lender and its solicitors.
9. Satisfactory review of the Phase 1 environmental report by a Lender approved environmental consultant. The environmental review is to be addressed to the Lender, indicating a non-contaminated site. Borrower to be responsible for consultant's fees.
10. Satisfactory review of all geotechnical reports (and any supplemental reports, if applicable) by a Lender approved engineering consultant. The geotechnical reviews are to be addressed to the Lender.
11. Satisfactory review of the Planners Letter (and any supplemental reports, if applicable) by a Lender approved planning consultant. The planners reviews are to be addressed to the Lender.
12. The Borrower shall provide the Lender with their financial statements within 120 days of their financial year end.
13. Satisfactory review of all property related documents that may be required by the Lender including realty tax bills, insurance, utility bills, structure of property ownership and survey.
14. A copy of an up-to-date survey of the Property (may not apply with Title insurance) and the site layout (if one exists).

Borrower(s)/Guarantor(s) Initials: **J.B.**

C.A.

K.Z.

B.W.



15. Please see Schedule "A" for additional terms of the mortgage which are not necessarily preconditions to the closing.
16. Borrower consents that they have the power, capacity and authority to enter into this commitment and to complete this transaction, which has been duly authorized, where required, by all necessary corporate action and that no consents are necessary for this transaction to be completed.
17. The Borrower hereby represents and warrants that they have the ability to service the mortgage debt.
18. The Borrower hereby represents and warrants that they have, or will have, good and marketable title to the Property to be mortgaged as security for the Loan in this Commitment and that the agreements herein, on the part of the Borrower to grant a mortgage to the Lender, constitutes an equitable charge on the Property pursuant to this Commitment.
19. No subsequent encumbrances, debt or other mortgages with respect to the Property without the Lender's written consent.
20. Section 118 Restriction prohibiting further mortgages without the consent of the Lender in its sole discretion. Upon the Land Registry Office certifying the Lender's security documents including the Charge and the Assignment of Rents (if applicable), the Lender agrees to discharge the Section 118 Restriction at the sole cost and expense of the Borrower.
21. Satisfactory review of adequate fire and building "all risk" insurance by Lender or its independent insurance advisor. The Lender is to be added as mortgagee and loss payee (as applicable). The cost of the insurance review by the advisor is the responsibility of the Borrower.
22. Notwithstanding anything contained in the mortgage, it is hereby agreed by and between the Lender and the Borrower that any monies tendered in respect of the mortgage payments or other payments due shall be paid by 1 p.m. on the business day upon which they are due. If received after that time (i.e. for computing interest), the monies will be deemed to be received the next business day.
23. Mortgage is non-transferable and non-assumable except at the option of the Lender.
24. The Borrower represents and warrants that the lands and all activities comply with all environmental laws and that the lands contain no hazardous substances, have not been subject to previous remediation or clean-up of hazardous substances and there are no investigations or other actions arising under or relating to environmental laws. All existing environmental assessments, audits, tests and reports relating to the lands within the knowledge of the Borrower has been delivered to the Lender.
25. In the event the Borrower sells, conveys, transfers their interest into any agreement of sale or otherwise encumbers the Title to the mortgaged premises, or defaults in the payment of any prior encumbrances or mortgages, or defaults in the payment of any taxes against the mortgaged premises, then all monies then outstanding, together with accrued interest, default fees and other prepayment penalties shall forthwith become due and payable.
26. If at any time or from time to time, any default or breach of covenant occurs under any other encumbrance registered against the Property, it shall constitute a default hereunder and under the Mortgage/Charge granted pursuant hereto and any other obligation owing to the Lender. At the Lender's option, the entire principal sum owing hereunder together with interest and all costs and fees shall become immediately due and payable.

Borrower(s)/Guarantor(s) Initials: **J.B.**

C.A.

K.Z.

B.W.



27. The Borrower shall execute an irrevocable authorization that permits the utility companies, insurance companies, taxing authorities, and mortgage companies directly involved in the secured Property to discuss matters relevant to the Lender's interest in the event of a default in the mortgage.
28. Notwithstanding the satisfaction of all loan conditions, and/or any other event or circumstance of any kind, the Lender shall not be required to close the Loan and may terminate this Commitment at any time if it determines, in its sole and subjective discretion, that (i) there has occurred any event or circumstance, including without limitation, any change in Property, credit or other financial market conditions, applicable laws or general accounting standards (in each case whether in Canada, the United States or other international markets), or an environmental condition, circumstance or event affecting or relating to the Property is disclosed to or identified by the Lender, which, in the opinion of the Lender, in its sole and subjective discretion, either has or could be expected to have a material and adverse effect on the ownership or value of the property or the Loan or the Lender's ability to sell or syndicate the Loan, or (ii) there has occurred any event or circumstance, including without limitation, fire, explosion, flood, earthquake, or other casualty, act of God, epidemic, pandemic which in the opinion of the Lender, in its sole and subjective discretion, either has or would be expected to have a material adverse change in the financial or other condition of the Borrower or any other covenantor or the Property. If the Lender terminates this Commitment and does not close the Loan specifically due to the circumstances set out herein, the Lender shall refund the Borrower all deposits, application fees and commitment fees paid to the Lender less the Lender's out of pocket expenses in connection with the Loan and this Commitment.
29. The Borrower shall execute and deliver whatever consents are required by the Lender and its solicitors concerning the release and disclosure of information by the Lender to third parties and by third parties to the Lender in accordance with provisions of the *Personal Information Protection and Electronic Documentation Act* (Canada).
30. Satisfactory confirmation by the Borrower that there are no outstanding work orders, notices of violations or other municipal or governmental authorities affecting the Property.
31. Satisfactory evidence (as determined by Lender's solicitor) that prior discharged mortgages have been paid and properly discharged.
32. The Lender shall have no obligation to advance funds unless and until all of the above terms and conditions have been deemed by the Lender to be complete, true and otherwise in all respects satisfactory, in the Lender's sole discretion.
33. Such other security, assurances and / or documents as may be required by our solicitors.

GENERAL: The provisions of this letter and commitment agreement resulting from your acceptance thereof shall remain binding and effective notwithstanding the closing of the mortgage transaction.

SCHEDULES ATTACHED: The following attached schedule(s) form a part of this Mortgage Commitment:
 SCHEDULE A – Conditions
 SCHEDULE B – Borrower Disclosure
 SCHEDULE C – Insurance Requirements

C.A.

B.W.

Borrower(s)/Guarantor(s) Initials: J.B.

K.Z.

EXPIRY OF COMMITMENT: This commitment shall be open for acceptance until **5:00PM on August 16, 2023** after which the commitment shall be deemed revoked.

OTHER: The Borrower hereby consents to Hillmount Capital Inc. and/or the Lender (and its authorized agents or other representatives) obtaining, using and disclosing of credit and/or any and all personal information on the Borrower from any source as may be necessary for Hillmount Capital Inc. and/or the Lender to complete its due diligence and to proceed with the transactions contemplated herein and such other collection, use and disclosure of any and all personal information about the undersigned as may be required or permitted by law. Each source is hereby authorized to provide such information to Hillmount Capital Inc. and / or the Lender. The Lender’s lawyer is authorized by the Borrower to forward all information and documentation regarding this transaction to Hillmount Capital Inc. and / or the Lender.

In the event you are in agreement with the terms and conditions herein, please sign and return this letter as proof of acceptance to us by **5:00PM on August 16, 2023**. The Borrower acknowledges having received and/or executed a “Disclosure to Borrower” at least 48 hours prior to signing this commitment and a copy has been retained by the Borrower. In case of any discrepancy or conflict between any provision of this commitment letter and any provision of the Mortgage or other security provided, the Lender may, in its sole discretion, determine which provisions shall prevail.

Yours truly,

Hillmount Capital
416-849-0322
Lic. #10453 and #11925

C.A.

K.Z.

J.B.

B.W.

Borrower(s)/Guarantor(s) Initials: _____



ACCEPTED

The Borrower / Guarantor hereby accept this Commitment and confirm their agreement with all of the terms and conditions thereof, having either obtained independent legal advice or having been satisfied that legal advice is not required. The Lender’s Commitment Fee is fully earned by the Lender upon acceptance of the terms of this Commitment (the “**Commitment Fee**”). The Commitment Fee is due and payable with a deposit of **\$10,000.00** (the “**Deposit**” – **RECEIVED**) by certified cheque or e-transfer payable to the Lender upon acceptance hereof and the balance of the Commitment Fee is due on the earlier of the advance of funds hereunder or the date of termination of the Commitment (unless such termination of the Commitment results from a default of the Lender). The Borrower / Guarantor agree that if the Loan is not advanced by the closing date, the Deposit is forfeited to the Lender as liquidated damages, and not as a penalty, without prejudice to the Lender’s right to be paid the Commitment Fee, all costs incurred by the Lender in connection with this Commitment and Loan, including Broker fees, insurance consultant fees, and legal costs and to claim such further and other damages the Lender may sustain (collectively the “Lender’s Costs”). Providing the Loan is advanced fully on or before the closing date, the Deposit will be applied towards the Commitment Fee. Regardless of whether the above conditions are met, or the Loan is advanced, upon signing this Commitment, the Borrower / Guarantor agree that they are liable, save if the Lender is in default, for the balance of the Commitment Fee and all the Lender’s costs.

Accepted this 14th day of August 2023.

Borrower(s) / Guarantor(s)

E-SIGNED by Jeff Burrell
on 2023-08-14 21:34:48 GMT
Name: Jeff Burrell (“Borrower”)
Company: CBJ Fort Erie Hills Inc.

Borrower’s Solicitor:
Name:
Firm:
Telephone:

A.S.Q.
E-SIGNED by Jeff Burrell
on 2023-08-14 21:34:50 GMT
Name: Jeff Burrell (“Guarantor”)
Company: CBJ Developments Inc.

A.S.Q.
E-SIGNED by Jeff Burrell
on 2023-08-14 21:34:51 GMT
Jeff Burrell (“Guarantor”)

E-SIGNED by Bill Walton
on 2023-08-14 22:11:20 GMT

William Walton (“Guarantor”)
E-SIGNED by Chris Agagnier
on 2023-08-15 12:58:00 GMT

Christopher Agagnier (“Guarantor”)
E-SIGNED by Kimberley Zacharias
on 2023-08-14 20:00:00 GMT
Kimberley Zacharias (“Guarantor”)

C.A.

B.W.

J.B.

K.Z.

Borrower(s)/Guarantor(s) Initials: _____



SCHEDULE A – CONDITIONS

ACCRUED AND EARNED INTEREST	Accrued interest calculated from the date that this mortgage is advanced to the Interest Adjustment Date will be deducted from the gross funds advanced. The Interest Adjustment Date is set at the Mortgagee's option. The Borrower shall not be entitled to receive interest, if any, on any funds held in trust by the Lender. Any interest earned shall accrue to the Lender.
ASSIGNMENT OF COMMITMENT & ROLE OF BROKERAGE	Neither this Commitment nor the Mortgage/Charge loan is assignable by the Borrower(s) without the Lender's consent. The Lender is a licenced brokerage and for the purposes of this transaction, is acting as a representative of the Lender but not the Borrower (unless otherwise noted by way of a Borrower Disclosure between the Lender and Borrower).
FIRE INSURANCE	Fire and extended insurance coverage in a form and for an amount acceptable to the Lender is to be taken out with an insurance company or insurance companies approved by us for the full insurable value of the Mortgage/Charge property and assigned to Lender. Co-insurance is not acceptable.
LEGAL AND OTHER COSTS AND FEES	All legal, appraisal, survey, title insurance premiums, environmental audits, and other costs and fees incurred in connection with this Mortgage/Charge loan are payable by the Borrower(s) whether or not the loan is ultimately completed and the funds advanced.
PREPAYMENT RESTRICTIONS REGULATIONS	It is intended and agreed that the Mortgage/Charge loan may not be prepaid prior to the maturity date unless provided herein. The Charged/Mortgaged property must comply with all municipal, provincial and federal statues, regulations and requirements.
SURVEY REQUIREMENTS	Prior to any advance of funds under the mortgage loan, Lender will require a survey acceptable to it, showing the lands and the location of the buildings to be secured by this Mortgage/Charge. This survey is to be prepared, dated, signed and sealed by a duly qualified Provincial Land Surveyor and is to indicate the land area of the property and the location of all improvements and easements or rights-of-way. At the sole discretion of the Lender's lawyer, the survey requirement may not apply with title insurance.
TAXES	Any tax bills issued and unpaid at the interest adjustment date are to be paid in full from the proceeds of this mortgage loan. At closing, and at the Lender's option, the Borrower shall establish with the Lender a property tax escrow account (and undertakes to provide funds to establish the subject account satisfactory to the Lender), and the Borrower agrees to pay the Lender 1/12 of the annual taxes on a monthly basis, and the Lender will remit same to the local municipality as taxes are due. No interest will be paid to the Borrower on funds held in the property tax escrow account. If a tax escrow account is not established, the Lender can request evidence from the Borrower that all realty taxes due and owing to the municipality within which the mortgaged lands are situated have been fully paid or are current for the calendar year.
PURCHASER APPROVAL	The Charge/Mortgage will be due on sale of the property with bonus and may not be assigned by the borrower without prior written consent and approval of the Lender, which consent may be reasonably withheld.
ASSIGNMENT AND SYNDICATION BY LENDER	The Lender shall have 7 normal business days following the acceptance of this Mortgage Commitment, and upon receipt of all requested underwriting information to assign all or part of the of the loan in an amount to be determined by the Lender at its discretion and subject to terms satisfactory to the Lender. The Commitment is conditional upon the Lender being able to syndicate the Loan, failing which, the Lender may terminate this Commitment.
TITLE INSURANCE	At the Lender's sole option, the Borrower may be required to provide title insurance for the mortgaged property. The cost of the title insurance shall be at the Borrower's expense.
ADDITIONAL PROVISIONS	Our current schedule of administration and servicing fees include (but not limited to) the following charges:
\$500.00	Missed payment fee: Payable for each missed or late installment payment and for replacing and processing each NSF cheque or returned payment for any charge on this property (ie 1 st and / or 2 nd mortgagee) or any other creditor (ie utility company, property taxes, etc).
\$300.00	Insurance: Payable for dealing with each cancellation, premium payment or other non-compliance with insurance requirements.
\$2,000.00	Default: Payable for each act or proceeding instituted.
\$275.00	Mortgage Statements: For preparation of each statement.
\$300.00	Lenders administration fee for renewal or discharge of this mortgage.
\$5,000.00	Possession: For attending to take possession following default.
\$300.00	Administration: For administering maintenance and security of the property in our possession, per day.
\$500.00	Mortgage Discharge & Statement Fee: For discharge on one property. \$100.00 for each additional property.
\$250.00	Tax Default Fee: For failure by the Borrower to provide satisfactory confirmation of tax payments.
\$200.00	Annual Tax Account Administration Fee: For administering and maintaining the tax account
\$300.00	For each written request necessitated by the mortgagor not replacing dishonoured cheques forthwith
\$250.00	Failure to notify mortgagee of registration of lien by the Condominium Corporation for common maintenance arrears
\$395.00	For each hour of administrative time spent by the Mortgagee or its agent in dealing with issues of default related to these mortgages. This rate does not apply to solicitor services
\$395.00	Mortgage Insurance Admin Fee
\$300.00	Inspection Fee (per property)
\$90.00	Bank Wire Transfer Fee
	The Lender reserves the right to charge reasonable fees for other administrative services. Renewal and renewal fee to be at the discretion of the Mortgagee. In the event of a further occurrence of the administrative fees as set out herein, the administrative fees shall increase by a further sum of \$50.00 and this shall be on a cumulative basis.

B.W.

C.A.

Borrower(s)/Guarantor(s) Initials: **J.B.**

K.Z.



**SCHEDULE B
DISCLOSURE TO BORROWER**

Mortgage Brokerages, Lenders and Administrators Act

This document must be provided to the Borrower/Guarantor at least 2 business days prior to the signing of any mortgage instruments, unless waived below.

Hillmount Capital Inc. (the "Lender") acts as a mortgage brokerage, private lender and mortgage administrator and is not in any way an agent for the Borrower/Guarantor. The Lender, in the view of the Borrower/Guarantor, should be considered a lender with loyalty and commitment to the Lender on this transaction, and not in any way as an agent for the Borrower/Guarantor. The Lender is providing no opinion on this transaction to the Borrower/Guarantor.

MORTGAGE DETAILS

A summary of the terms of the proposed mortgage loan are as follows:

Property Address:	85 Crooks Street, Fort Erie, ON		
Loan Amount (A):	\$8,000,000.00	Mortgage Priority:	First
Interest Rate Type:	Variable	Annual Interest Rate:	10.75%
Interest Accrues From:	Closing	Compound Period:	Monthly
Monthly Payment Amount:	\$ 71,666.67	Due:	1st of the month
Term (months):	12	Amortization:	0 (interest only)
Total payments over Term (B): \$860,000.00			

Interest for each payment period is calculated against the balance owing. Each payment is applied first to the accumulated cost of borrowing and then to the outstanding principal. Any unpaid interest becomes part of the balance owing for the purposes of calculating the interest charged in future payment periods.

Where the Annual Interest Rate may change, the method of determining the Annual Interest Rate is as follows: The greater of 10.75% or RBC Prime + 3.50%

FEES AND COSTS PAYABLE BY THE BORROWER

Brokerage Fee to (CityCan Financial Group):	\$160,000.00
Hillmount Capital Inc. Commitment Fee:	\$160,000.00
Lender Legal Fees and Disbursements (estimated - not including HST):	\$10,000.00
Lender Insurance Consultant Fee (estimate):	\$565.00
Appraisal Fees:	\$0.00
Other Lender Fees:	\$0.00
Total Fees and Costs (C):	<u>\$330,565.00</u>
Total Cost of Borrowing (B) + (C) =	\$1,190,565.00
Net Advance of Funds (A) - (C) =	\$7,669,435.00
Total APR:	<u>14.88%</u>

The APR is not the contract rate of the mortgage. It is the interest costs, plus the non-interest costs required to obtain the mortgage, expressed as a percentage of the average mortgage balance over the term of the mortgage.

The Borrower/Guarantor acknowledges that they are to arrange for the appraisal directly with the appraiser, with all appraisal costs to be negotiated by the Borrower with the appraiser, with the negotiated appraisal costs to be paid by the Borrower/Guarantor.

TERMS AND CONDITIONS

See Mortgage Commitment Letter for details pertaining to: prepayment privileges, transferability, method of payment, special conditions and particulars/penalties.

CONFLICT OF INTEREST DISCLOSURE

Conflicts of Interest: The broker and the lender are related through common ownership.

Referral fees to Lender and/or Broker Agent:

Describe any direct or indirect interest that the Brokerage has or, as currently contemplated, may acquire in the transaction for which this disclosure statement is provided.


- Mortgage - Commissions: The brokerage will receive a commission and may receive contingent commissions from the Lender. Commissions are generally a fixed percentage of principal amounts of the mortgage being placed. Contingent commissions may be based on factors such as the volume of business placed with the Lender, or a certain percentage growth in the placement of business over a previous period and may be paid in cash or some other form of compensation.
- Mortgagee - Lender is an affiliated company: The Lender is an affiliated or related company of the brokerage and the brokerage will receive a commission and may receive contingent commissions from the Lender.
- Bonus: The brokerage may receive a bonus or contingent commission from the Lender. Contingent commissions may be based on factors such as the volume of business placed with the Lender, or a certain percentage of growth in the placement of business over a previous period.
- Other Compensation: The Lender in this transaction may provide the brokerage fees or incentives dependant on the interest rate and the term(s) accepted by the Borrower. The brokerage may retain the fees and incentives or may use them for the benefit of another of the brokerage's clients.
- Referral - No referral fee paid: The Borrower was referred to the Lender and no referral fee is being paid to the referring party.
- Referral - Referral fee paid: The Borrower was referred to the Lender and a referral fee is being paid to

INFORMATION ON THE BROKERAGE

The Brokerage is representing the following in this transaction: The Lender, not the Borrower.

The Brokerage has acted for 50 lenders and has acted as a Lender during the previous fiscal year.

The Lender is presently registered and in good standing as a mortgage brokerage and mortgage administrator under the Mortgage Brokerages, Lenders and Administrators Act (Licence # 10453) with its head office at 89 Tycos Drive, Suite 208, Toronto, Ontario, M6B 1W3.

Hillmount Capital Inc. 

Per: _____ Date: August 9, 2023

Yitz Levinson

Mortgage Broker Licence # M08000087

DISCLOSURE OF MATERIAL RISKS

The Brokerage has reviewed with the borrower the general risks associated with a mortgage commitment. These risks include: risk of falling into arrears; default and foreclosure, prepayment penalties, etc.

ACKNOWLEDGMENT

I/We, the Borrower/Guarantor under the proposed mortgage transaction, hereby acknowledge that I/we were provided with this Borrower Disclosure prior to signing the Mortgage Loan Commitment from the Lender or other mortgage instrument and that I/we have read and fully understand this Borrower Disclosure provided by the Lender.

Date: August 14, 2023 21:35:01 GMT	Borrower/Guarantor: E-SIGNED by Jeff Burrell on 2023-08-14 21:35:00 GMT
	Jeff Burrell c/o CBJ Fort Erie Hills Inc.
Date: August 14, 2023 21:35:01 GMT	Borrower/Guarantor: E-SIGNED by Jeff Burrell on 2023-08-14 21:35:01 GMT
	Jeff Burrell c/o CBJ Developments Inc.
Date: August 14, 2023 21:35:01 GMT	Borrower/Guarantor: E-SIGNED by Jeff Burrell on 2023-08-14 21:35:01 GMT
	Jeff Burrell
Date: August 14, 2023 22:11:35 GMT	Borrower/Guarantor: E-SIGNED by Bill Walton on 2023-08-14 22:11:35 GMT
	William Walton

Date: August 15, 2023 12:58:15 GMT

Borrower/Guarantor: E-SIGNED by Chris Agagnier on 2023-08-15 12:58:15 GMT

Christopher Agagnier

Date: August 14, 2023 20:00:24 GMT

Borrower/Guarantor: E-SIGNED by Kimberley Zacharias on 2023-08-14 20:00:24 GMT

Kimberley Zacharias

I/We hereby waive the 2 business days requirement for this Borrower Disclosure.

K.Z.

B.W.

C.A.

[Redacted Signature Box]

Borrower/Guarantor Initials

J.B.

SCHEDULE C – INSURANCE

COMMERCIAL

The Mortgage Loan Commitment requires that the Borrower provide evidence of insurance including the following:

1. The Lender, Hillmount Capital Mortgage Holdings Inc. c/o Hillmount Capital Inc., must be shown as:
 - Certificate Holder;
 - Mortgagee and Loss Payee (or as their interest may appear for funding purposes) on the policy with reference to the standard mortgage clause; and
 - Additional Insured.

The mailing address for the Lender is 89 Tycos Drive, Suite 208, Toronto, ON, M6B 1W3.
2. The building limits.
3. The policy deductibles.
4. The policy must include:
 - All-risk insurance including overland water/flood, sewer back up and earthquake with full replacement value of all improvements (including fixtures and furniture);
 - Boiler and machinery coverage to cover (subject to the standard comprehensive wording) any boiler, fired pressure vessel, unfired pressure vessel subject to vacuum or internal pressure, other than static pressure, any refrigeration or air conditioning system, any piping and accessory equipment and any mechanism or electrical machine or electrical apparatus used for generation, transmission or utilization of mechanical or electric power;
 - Rental income insurance for 100% of the annual rental income with a 12-month indemnity period with the loss payable for rental income to the Landlord (if applicable);
 - General comprehensive liability insurance for personal injury and/or death or damage to the property of a third party for a minimum limit of \$2,000,000 per occurrence; and
 - 30 days' notice of cancellation as per the Statutory Provisions to the Mortgagee.
5. The evidence of insurance must be current dated and signed by an authorized representative of the insurer.
6. Please set out your insurance broker's contact information below:

Name: Lars Rittman
(PLEASE PRINT)

Brokerage: Brokerlink
(PLEASE PRINT)

Phone Number: 519-579-3330 Ext 83650
(PLEASE PRINT)

Email: lrittman@brokerlink.ca
(PLEASE PRINT)

C.A.

K.Z.

J.B.

B.W.

Borrower(s)/Guarantor(s) Initials: _____

This is Exhibit “E” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

AMENDMENT TO COMMITMENT

RE: Commitment Letter dated August 8, 2023 issued by Hillmount Capital Inc. respecting the property municipally known as 85 Crooks St Fort Erie, Ontario (the "Commitment Letter")

1. The undersigned hereby agree that the Commitment Letter shall be amended to delete "**CBJ Fort Erie Hills Inc.**" as the Borrower and to substitute in its place, "**CBJ - Fort Erie Hills Inc.**" as the Borrower.
2. The undersigned hereby further agree that the Commitment Letter shall be amended to delete "**William Walton**" as one of the Guarantors.
3. The undersigned hereby further agree that the Commitment Letter shall be amended to delete "**Jeff Burrell**" as one of the Guarantors and to substitute in its place, "**Jeffrey Burrell**" as one of the Guarantors.
4. The undersigned hereby further agree that the Commitment Letter shall be further amended by deleting "**Interest Rate & Payment**" paragraph on page 1 thereof and substituting it with the following paragraph:

"INTEREST RATE & PAYMENT:

Interest shall be compounded and calculated monthly at the greater of **11.95% per annum** or the RBC prime Lending Rate plus **4.75% per annum** and will be repayable monthly, in arrears, by direct withdrawal pursuant to a Pre-Authorized Debit Agreement to be provided on or before closing. Interest adjustment date to the 1st of the following month."

5. In Schedule B of the Commitment Letter, all references to "10.75%" or "RBC + 3.50%" as the Annual Interest Rate shall be deleted and replaced with " 11.95%" or "RBC Prime + 4.75%" respectively, as applicable.
6. The undersigned hereby further agree that the Commitment Letter shall be further amended to delete "**CityCan Financial, 604-55 Eglinton Ave. East, Toronto, Ontario, M4P 1G8**" as the Addressee on page 1 thereof and to substitute in its place, "**CBJ- Fort Erie Hills Inc., 150 King St. West, Suite 278, Toronto, ON, M5H 1J9**" as the Addressee.
7. The undersigned hereby further agree that the section titled "**Advances**" on page 2 of the Commitment Letter shall be deleted and replaced with the following:

"The initial advance of this Loan shall be \$6,955,966 less the following:

- a) Broker/Lender fees (including processing fee);
- b) Legal fees and disbursements plus HST thereon;
- c) Interest adjustment payment to the 1st of the month;
- d) Insurance consultant fees (if applicable);
- e) Payout of existing mortgages on title in the amount of approximately \$5,500,000.00;
- f) Other amounts, if applicable, to be determined prior to closing; and
- g) The balance to be held as an interest reserve by the Lender.

There shall be no further advances of the Loan until the Borrower satisfies the Lender in its sole subjective discretion as to the status of the site plan approval of the Property, as described in the undertaking by the Borrower to the Lender."

8. All other terms and conditions of the Commitment Letter shall remain the same.
9. CBJ - Fort Erie Hills Inc., CBJ Developments Inc., Jeffrey Burrell, Christopher Agagnier and Kimberley Zacharias hereby agree with Hillmount Capital Inc. to be bound by the provisions of the Commitment Letter, as amended herein.

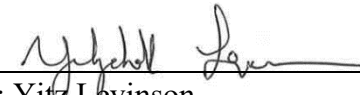
This Amendment to Commitment may be executed by the parties in separate counterparts each of which when so executed and delivered shall be an original, and all such counterparts shall together constitute one and the same instrument.

The execution and delivery of this Amendment to Commitment by facsimile transmission or electronic mail shall be as effective and binding on the parties hereto as if this Amendment to Commitment were executed and delivered in the original.

SIGNATURE(S) ON THE FOLLOWING PAGE

DATED the _____ day of October, 2023.

HILLMOUNT CAPITAL INC.

Per: 
Name: Yitz Levinson
Office: President
I have authority to bind the corporation.

CBJ - FORT ERIE HILLS INC.

Per: _____
Name: Jeffrey Burrell
Title: President
I have authority to bind the corporation.

CBJ DEVELOPMENTS INC.

Per: _____
Name: Jeffrey Burrell
Title: President
I have authority to bind the corporation.

WITNESS: _____)
Name: _____)
as to the signature of Jeffrey Burrell)

Jeffrey Burrell

WITNESS: _____)
Name: _____)
as to the signature of Christopher Peter Agagnier)

Christopher Peter Agagnier

WITNESS: _____)
Name: _____)
as to the signature of Kimberley Gayle Zacharias)

Kimberley Gayle Zacharias

DATED the day of October, 2023.

HILLMOUNT CAPITAL INC.

Per: _____
Name: Yitz Levinson
Office: President
I have authority to bind the corporation.

CBJ - FORT ERIE HILLS INC.

Per: ^{DocuSigned by:} Jeff Burrell
Name: Jeffrey Burrell
Title: President
I have authority to bind the corporation.

CBJ DEVELOPMENTS INC.

Per: ^{DocuSigned by:} Jeff Burrell
Name: Jeffrey Burrell
Title: President
I have authority to bind the corporation.

WITNESS:

^{DocuSigned by:} Scott Martyn
Name:
as to the signature of Jeffrey Burrell

)
)
) ^{DocuSigned by:} Jeff Burrell
) Jeffrey Burrell
)
)
)

WITNESS:

^{DocuSigned by:} Scott Martyn
Name:
as to the signature of Christopher Peter Agagnier)

)
) ^{DocuSigned by:} Chris Agagnier
) Christopher Peter Agagnier
)
)
)

WITNESS:

^{DocuSigned by:} Scott Martyn
Name:
as to the signature of Kimberley Gayle Zacharias)

)
) ^{DocuSigned by:} Kimberley Zacharias
) Kimberley Gayle Zacharias
)
)
)

This is Exhibit “F” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

ASSIGNMENT OF COMMITMENT

THIS ASSIGNMENT made this 20th day of September, 2023.

BY: **HILLMOUNT CAPITAL INC.**

(hereinafter called the "Assignor")

OF THE FIRST PART,

TO: **HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.**

(hereinafter called the "Assignee")

OF THE SECOND PART.

WHEREAS the Assignor issued a mortgage loan commitment in favour of CBJ - Fort Erie Hills Inc. dated August 8, 2023, as amended by an amendment (collectively, the "Commitment") in respect of the property municipally known as 85 Crooks St, Fort Erie, Ontario;

AND WHEREAS the Assignor has agreed to assign the Commitment to the Assignee;

IN CONSIDERATION of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada now paid by the Assignee to the Assignor, the parties hereby covenant and agree as follows:

The Assignor hereby assigns all its right, title and interest in all security received for the above noted transaction, including the Commitment to the Assignee, in respect of the Property.

The Assignee agrees that the within assignment is made without any warranty or representations on the part of the Assignor and on a without recourse basis.

It is specifically acknowledged and agreed that this Assignment may be executed in several counterparts, each of which shall be deemed to be an original and that such separate counterparts shall together constitute one and the same instrument.

This Assignment may be transmitted by telecopier, or electronic mail and shall be binding upon the parties hereto as if executed and delivered in the original.

DATED as of the date first mentioned above.

HILLMOUNT CAPITAL INC.

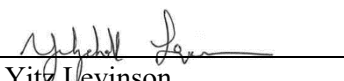
Per: 

Name: Yitz Levinson

Office: President

I have authority to bind the corporation.

**HILLMOUNT CAPITAL MORTGAGE
HOLDINGS INC.**

Per: 

Name: Yitz Levinson

Title: President

I have authority to bind the corporation.

This is Exhibit “G” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

UNDERTAKING

TO: Hillmount Capital Mortgage Holdings Inc., and its assigns (the “Lender”)

AND TO: its solicitors, Fogler, Rubinoff LLP (“FR”)

**RE: Charge given by CBJ - Fort Erie Hills Inc. (the “Borrower”) in favour of the Lender (the “Charge”) against the title to:
BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84
W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG, PT BLK S W/S
CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT LT 8 CON 2
NIAGARA RIVER BERTIE AS IN RO461513
Town of Fort Erie, Regional Municipality of Niagara
85 Crooks St, Fort Erie, Ontario (the “Property”)
and guaranteed by CBJ Developments Inc., Jeffrey Burrell, Christopher Peter
Agagnier and Kimberley Gayle Zacharias (collectively, the “Guarantors”)
Closing Date: October __, 2023**

All capitalized but undefined terms used herein shall have the meanings ascribed thereto in the Charge.

IN CONSIDERATION of the closing of the above-noted transaction, the undersigned hereby acknowledges, agrees and undertakes to the Lender as follows:

1. After the initial advance under the Loan, there shall be no further advances until the Lender has received evidence satisfactory to the Lender in its sole subjective discretion that:
 - a. the Borrower has obtained full and final Site Plan Approval for the Property (the "**Site Plan Approval**") from the applicable governmental authority; or
 - b. the Borrower has obtained from the applicable governmental authority an extension of the current expiry date of the Draft Plan Approval being May 1, 2024, to a new expiry date at least six months after the Expected Timeline (as hereinafter defined) together with a letter from Upper Canada Planning & Engineering Ltd. dba Upper Canada Consulting ("**UCC**"), explaining:
 - (i) The reason for the delay in obtaining Site Plan Approval;
 - (ii) The outstanding items required for Site Plan Approval; and
 - (iii) The expected timeline for obtaining Site Plan Approval (the "**Expected Timeline**") and steps required to achieve this,all in sufficient detail, to the satisfaction of the Lender in its sole subjective discretion.
2. The Borrower shall provide regular updates to the Lender regarding the steps set out in Schedule "A" hereto, which are the conditions outstanding to obtain full and final Site Plan Approval for the Property from the applicable governmental authority; including without limitation, any delays to the Expected Timeline.
3. The Borrower agrees to execute and deliver to the Lender an authorization and irrevocable direction and such further directions or other documents as the Lender requires, authorizing and directing UCC to release any and all information, reports, documents, and any other related materials to the Lender in connection with the Site Plan Approval, Draft Plan Approval and the planning and development status of the Property.

In the event of the failure by the undersigned to comply with the above-noted undertaking, such failure shall constitute, at the Lender’s option, an event of default under the Charge and the Security Documents and the Lender shall be entitled at its option to exercise the rights and remedies available to it at law, under the Charge, and the Security Documents.

This Undertaking may be executed by the parties in separate counterparts each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

The electronic execution and delivery of this Undertaking by facsimile transmission or electronic mail (including DocuSign) shall be as effective and binding on the undersigned hereto as if this Undertaking were executed and delivered in the original.

SIGNATURES ON THE FOLLOWING PAGE

DATED as of the Closing Date.

CBJ - FORT ERIE HILLS INC.

DocuSigned by:
Per: Jeff Burrell
Name: Jeffrey Burrell
Title: President

I have authority to bind the corporation.

Schedule "A"

1. **Finalize Development Plan / Preparation of Draft Plan of Subdivision**
 - a. Finalize development concept for submission with Draft Plan of Subdivision and Combined Official Plan and Zoning By-law Amendment Applications.
 - b. Preparation of Draft Plan of Subdivision drawing based on final Site Plan.
2. **Prepare and Coordinate Combined Official Plan and Zoning By-law Amendment and Amendment to Draft Plan of Subdivision Application**
 - a. Coordinate the activities of necessary sub-consultants, including traffic and others. This includes assistance with procurement and management of sub-consultant activities.
 - b. Prepare Combined Official Plan and Zoning By-law Amendment and Amendment to Draft Plan of Subdivision Applications.
 - c. Develop a Zoning Matrix for the Site Plan to confirm provisions for the Zoning By-law Amendment.
 - d. Prepare Planning Justification Report.
 - e. Prepare Urban Design Brief.
 - f. Prepare Draft Official Plan Amendment and Draft Zoning By-law.
 - g. Prepare Draft Official Plan Amendment and Draft Zoning By-law Amendment schedules.
 - h. Coordinate and comment on any development requirements with the client.
 - i. Review comments from Town Departments and external Agencies and respond as required.
 - j. Review Staff Information and Recommendation Reports.
 - k. Prepare PowerPoint presentations for public meetings.
 - l. Represent the client at one (1) information meeting and one (1) public meeting; and
 - m. Review recommendation report to the Council and provide advice to client with respect to Staff's recommendation.
3. **Prepare a Stormwater Management Plan and functional Servicing Report**
 - a. Prepare a Functional Servicing Report summarizing sanitary and water findings and recommendations, which can be submitted to the Town for approval with the development applications.
 - b. Review and determine the appropriate location for the stormwater management facility.
 - c. Prepare preliminary sizing for stormwater management facility and determine storm sewer outlet for development lands.
 - d. Prepare a Stormwater Management Report and conceptual stormwater management system design for submission as part of the application process.
 - e. Communicate with the Town and Region to determine the Stormwater management criteria and apply the typical Town and Regional requirements; and
 - f. Any external works dealing with the existing off-site storm systems are not included in this proposal.
4. **Prepare Detailed Engineering Design – Fort Erie Hills East (+/- 990 metres of public roadway, including a portion of Crooks Street)**
 - a. Review engineering design for the existing roads, sewers, and water mains within the development area to determine what is required for municipal services.
 - b. Finalize this site's sanitary and storm drainage area plans and complete the storm and sewer design calculations.
 - c. Finalize a detailed Grading Plan, as required to the satisfaction of the Town.
 - d. Prepare a streetscape plan showing street lighting, boulevard trees, driveway locations, sidewalks, utility plants, and roadways.
 - e. Apply for all necessary Municipal, Regional and Provincial approvals per the engineering design.
 - f. Prepare cost estimates and schedules of construction as required for subdivision agreement purposes.

- g. Coordinate with the electrical engineering to ensure the location of transformers, street lighting and electrical services do not conflict with civil services.

5. Expediting Subdivision Agreement and Clearance of Draft Plan Conditions and Project Co-ordination – Phase 1

- a. Assist with expediting clearing of Draft Plan of Subdivision Conditions as required for Registration of Subdivision Agreement and plans.
- b. Coordination of Sub-consultant activities required to clear Draft Plan of Subdivision Conditions
- c. Expedite ECA Applications for the storm and sanitary sewers with the Town.
- d. Coordinate electrical engineering works, Bell Canada, Cogeco, and Enbridge after the construction of civil servicing, and attend pre-construction and site meetings as required.
- e. Coordinate with surveyor and owner's Solicitor as required for preparation of survey plans and legal documentation for registration.

This is Exhibit “H” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

Properties

PIN 64233 - 0064 LT *Interest/Estate* Fee Simple
Description BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST
 PL 525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF
 BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513 ; FORT ERIE
Address 85 CROOKS STREET
 FORT ERIE

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 CBJ - FORT ERIE HILLS INC.
Address for Service 150 King St. West, Suite 278, Toronto,
 ON, M5H 1J9

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

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

Chargee(s)*Capacity**Share*

Name HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.
Address for Service 89 Tycos Drive, Suite 208, Toronto, Ontario M6B 1W3

Statements

Schedule: See Schedules

Provisions

Principal \$8,000,000.00 *Currency* CDN
Calculation Period monthly, not in advance
Balance Due Date 2024/11/01
Interest Rate See Schedule
Payments
Interest Adjustment Date 2023 11 01
Payment Date 1st day of each month
First Payment Date 2023 12 01
Last Payment Date 2024 11 01
Standard Charge Terms 200033
Insurance Amount Full insurable value
Guarantor CBJ Developments Inc., Jeffrey Burrell, Christopher Peter Agagnier and
 Kimberley Gayle Zacharias

Additional Provisions

Payments: Interest only monthly, on the principal balance outstanding from time to time.

Signed By

Liya Rakhshan 77 King Street West Suite 3000 PO acting for Signed 2023 10 24
 Box 95 TD Centre Chargor(s)
 Toronto
 M5K 1G8

Tel 416-864-9700

Fax 416-941-8852

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

Submitted By

FOGLER, RUBINOFF LLP 77 King Street West Suite 3000 PO 2023 10 25
 Box 95 TD Centre
 Toronto
 M5K 1G8

Submitted By

Tel 416-864-9700
Fax 416-941-8852

Fees/Taxes/Payment

Statutory Registration Fee	\$69.00
Total Paid	\$69.00

File Number

Chargee Client File Number : 234586 JF/LR

THIS IS A SCHEDULE TO A CHARGE/MORTGAGE between CBJ - FORT ERIE HILLS INC. as Chargor (the "Chargor") and HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC. as Chargee (the "Chargee")

ADDITIONAL PAYMENT PROVISIONS

- (a) FOR THE PURPOSES hereof, "prime rate" shall mean the annual rate of interest charged from time to time by the Main Branch in Toronto of Royal Bank of Canada (the "Bank") for demand loans in Canadian dollars to its most creditworthy commercial borrowers. In the event that at any time the Bank has in effect more than one such prime rate, then the highest rate shall be used. Should the Bank, during the term hereof, abolish or abandon the practice of publishing or issuing a prime rate, then the prime rate used for the balance of the term of this Charge shall be that rate then in effect at the Bank which most effectively meets with initial definition of prime rate.
- (b) PROVIDED this Charge shall be void upon payment of EIGHT MILLION DOLLARS (\$8,000,000.00) of lawful money of Canada with interest thereon at a rate equal to the greater of (a) 11.95% per annum; or (b) 4.75% per annum above the prime rate; with such interest to be calculated daily and compounded and payable monthly as herein set forth, as well after as before maturity and both before and after default as follows:
- (c) the whole of the said principal sum of EIGHT MILLION DOLLARS (\$8,000,000.00) then outstanding shall become due and payable on November 1, 2024 and interest at the said rate compounded and calculated as aforesaid, as well after as before maturity and both before and after default on such portion of the principal as remains from time to time unpaid on the 1st day of each and every month during the term until the principal is fully paid; the first payment of interest is to be computed from the date of advance of funds hereunder, upon the principal sum so advanced, to become due and payable on December 1, 2023.
- (d) PROVIDED that if and whenever the prime rate is varied by the Bank, the interest rate hereunder shall be varied, so that at all times the interest rate hereunder, if calculated based on the prime rate, shall be 4.75% per annum above the prime rate then in effect.
- (e) IN THE EVENT that it may be necessary at any time for the Chargee to prove the prime rate applicable 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 thereof for all purposes hereof.

The Chargor acknowledges that the prime rate as hereinbefore defined on a per annum basis was 7.20% on September 20, 2023.

ADDITIONAL PROVISIONS

DEFINITIONS

As used herein the following words or terms have the following respective meanings unless there is something in the context or the subject matter inconsistent therewith.

"Applicable Laws" means, in respect of any person, property, transaction or event, all applicable federal, provincial or municipal laws, statues, regulations, rules, by-laws, policies and guidelines, orders, permits, licenses, authorization, approvals and all applicable common laws or equitable principles whether now or hereafter in force and effect.

"Charge" means, collectively, the electronic Charge/Mortgage to which the Schedule is attached, the Schedule and all other Schedules and Appendices to the Charge/Mortgage or to the Schedule and shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto or thereof from time to time.

“Charged Property” means all legal and beneficial right, title, estate and interest in (a) the land described in the Properties section of the electronic Charge/Mortgage to which the Schedule is attached, and any schedule to the Charge, together with any greater estate therein as hereafter may be acquired by the Chargor (collectively, the **“Lands”**), (b) all buildings, structures and other improvements, now or hereafter situated, placed or constructed upon the Lands from time to time (the **“Improvements”**), (c) all fixtures, materials, supplies, machinery, equipment, apparatus and other items or personal property now owned or hereafter acquired by the Chargor and now or hereafter attached to, installed in or used in connection with any of the Improvements or the Lands, including without limitation, water, gas, electrical, heating, cooling, ventilation, storm and sanitary sewer fixtures, equipment and facilities and all other utilities whether or not situated in easements (the **“Fixtures”**), (d) all plans, specifications, shop drawings and other technical descriptions prepared for construction, repair or alteration of the Improvements, and all amendments and modifications thereof (the **“Plans”**), (e) all leases, subleases, licenses, concessions, occupancy agreements, rental contracts, or other agreements (written or oral) now or hereafter existing relating to the use or occupancy of all or any part of the Lands and the Improvements, together with all guarantees, letters of credit and other credit support, modifications, extensions and renewals thereof and all related security and other deposits (the **“Leases”**), (f) all rents, revenues, issues, income, proceeds, profits, and all other payments of any kind under the Leases for using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying all or any part of the Lands and the Improvements (the **“Rents”**), (g) all other agreements, including without limitation property management agreements, construction contracts, architects’ agreements, engineers’ contracts, utility contracts, maintenance agreements, franchise agreements, service contracts, permits, licences, certificates and entitlements in any way relating to the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Charged Property (collectively, the **“Property Agreements”**), (h) all rights, privileges, tenements, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing, all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof, (i) all insurance policies, unearned premiums therefore and proceeds from such policies covering any of the above Charged Property now or hereafter acquired by the Chargor, (j) all of the Chargor’s right, title and interest in and to any awards, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Lands, Improvements or Fixtures and (k) all renewals, substitutions, improvements, accessions, attachments, additions, replacements and proceeds to, of or from each of the foregoing, and all conversions of the security constituted thereby so that the foregoing shall immediately and automatically be deemed a part of the Charged Property and subject to the security of the Charge as fully and completely and with the same priority and effect as those now owned by the Chargor and specifically described herein, without any further mortgage or assignment or conveyance by the Chargor. As used in this Charge, the term **“Charged Property”** shall mean all or, where the context permits or requires, any portion of the above or any interest therein.

“Chargee” means the Person or Persons named as Chargee in the Chargee(s) section of the electronic Charge/Mortgage to which this Schedule is attached and their respective successors and assigns.

“Chargor” means the Person or Persons named as Chargor in the Chargor(s) section of the electronic Charge/Mortgage to which the Schedule is attached and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns.

“Commitment” means the Commitment Letter dated August 8, 2023 issued by Hillmount Capital Inc. to the Chargor and assigned by Hillmount Capital Inc. to Hillmount Capital Mortgage Holdings Inc., and shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto or thereof from time to time.

“Costs” means all fees, costs, charges and expenses incurred by or on behalf of the Chargee for or incidental to (a) preparing, executing and registering the Security Documents, renewals thereof and any amendments thereto (b) collecting payments due to the Chargee hereunder, the Commitment or under the Security Documents, (c) enforcing and realizing on this Charge and the other Security Documents, including power of sale, foreclosure, execution, judicial sale, court appointed or private receivership, possession and/or management of the Charged Property and other enforcement proceedings, and including without limiting the generality of the

foregoing, all fees, costs, charges and expenses incurred in connection with the sale or attempted sale of the Charged Property, including real estate commissions, auctioneer's fees, termination fees, stalking-horse fees, cancellation of listing agreement fees and all other like or incidental fees, (d) inspecting, protecting, securing, completing, insuring, repairing, equipping, taking and keeping possession of, managing, selling or leasing the Charged Property, including all protective disbursements and curing any defaults under or renewing any leasehold interests, (e) exercising any rights of a receiver appointed under this Charge or otherwise and such receiver's fees and expenses (including all legal fees and disbursements and agent's costs and expenses), (f) obtaining any environmental audits or other inspections, tests or reports with respect to the Charged Property, (g) complying with any notices, orders, judgments, directives, permits, licences, authorizations or approvals with respect to the Charged Property, (h) performing the obligations of the Chargor under the Security Documents, (i) all legal fees and disbursements in connection with the Indebtedness, on a substantial indemnity basis, and (j) any other fees, costs, charges or expenses including, renewal fees, forbearance fees, the Administration Fees and servicing fees payable to the Chargee hereunder, under the Commitment or under any of the Security Documents or otherwise at law or in equity. **"Costs"** will also include all other fees, costs, charges and expenses that are referred to elsewhere in this Charge or in any of the other Security Documents and interest at the interest rate chargeable herein on all such fees, costs, charges and expenses.

"Covenantor(s)" means any one of the Chargor, the Guarantor or any other guarantor, joint debtor, indemnifier, beneficial owner or other obligor of or in respect of the Loan, the Indebtedness or the Charged Property.

"Guarantor" means CBJ Developments Inc., Jeffrey Burrell, Christopher Peter Agagnier, and Kimberley Gayle Zacharias;

"Indebtedness" means all existing and future indebtedness, other covenants and obligations and liabilities owing or made by the Chargor to the Chargee from time to time pursuant to the Commitment, hereunder, from time to time, or under the Security Documents, matured or not, direct or indirect, absolute or contingent, including, (a) the amounts advanced hereunder, from time to time, on account of principal, (b) all interest due hereunder including, compound interest (c) Costs, (d) any amount, cost, charge, expense or interest which has been added to the Indebtedness hereunder or pursuant to the Security Documents or which are otherwise due and payable thereunder, and (e) payment performance and discharge and satisfaction of all obligations of the Chargor to the Chargee under the Security Documents or otherwise under and in respect of the Indebtedness.

"Lien" means any mortgage, charge, pledge, hypothec, assignment, lien, lease, sublease, easement, right of way, security interest, restrictions, covenants or encumbrances of any kind or nature affecting all or any part of the Charged Property.

"Loan" means the loan made by the Chargee to the Chargor pursuant to the Commitment in the original principal amount of \$8,000,000.00 and all other amounts secured by this Charge and the other Security Documents.

"Permitted Encumbrances" means, as of any particular time, (i) any registered easements, rights of way, restrictive covenants and servitudes and other similar rights in land granted to, reserved or taken by any governmental authority or public utility relating to the Charged Property, (ii) any registered subdivision, development, servicing, site plan or other similar agreement with any governmental authority or public utility relating to the Charged Property, and (iii) any other encumbrances relating to the Charged Property previously consented to by the Chargee in its sole and subjective discretion, provided in each case that:

- (a) the Chargee is satisfied in its sole and subjective discretion that the same do not materially impair the value or marketability of the Charged Property;
- (b) the same does not materially affect the validity, enforceability, or priority of this Charge; and
- (c) the same has been complied with in full.

“Person” means and is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the estate trustees or other legal representatives of an individual in such capacity.

“Security Documents” means collectively, all documents, instruments, agreement, guarantees and opinions now or hereafter evidencing, securing, guaranteeing and or relating to the Loan and the Indebtedness or any part thereof, including, without limitation, the Commitment, this Charge, the Assignment of Rents, the General Security Agreement, the Guarantee, Environmental Indemnity, the Undertaking and all certificates, declarations, undertakings, documents and writings provided or as required which are incidental to any of the foregoing and any other instrument or agreement provided and shall include all amendments, modifications, extensions, renewals, restatements, or replacements thereto or thereof from time to time.

COMPOUND INTEREST

If the Chargor defaults in any payment of interest, or other payment due pursuant to this Charge, compound interest at the interest rate chargeable hereunder will accrue and be payable on the sum in arrears (including all arrears of interest) from time to time, both before and after default, demand, maturity and judgment until paid and shall be paid forthwith. If the arrears and the compound interest are not paid within the interest calculation period provided for herein from the time of default, a rest will be made and compound interest at the interest rate chargeable hereunder will be payable on the aggregate amount then due, both before and after maturity, default and judgment, and so on from time to time until paid. All such compound interest shall be added to the Indebtedness and shall be secured by this Charge.

APPLICATION OF PAYMENTS

Prior to an Event of Default, all payments received by the Chargee on account of the Indebtedness shall be applied as follows, regardless of any other designation of such payments as principal, interest or other charges: first, to the repayment of sums advanced by the Chargee pursuant to this Charge or any of the other Security Documents for any reason (other than the principal amount), including sums advanced to pay realty taxes, Costs, insurance premiums or other charges against the Charged Property (together with interest thereon at the interest rate chargeable hereunder from the date of advance until paid), then to the payment of accrued but unpaid interest which is then due and payable, and finally, to reduction of the principal amount. Notwithstanding the foregoing, from and after an Event of Default, all payments received by the Chargee pursuant to the Loan shall be applied by the Chargee to principal, interest and such other charges due hereunder or under the other Security Documents in such order as the Chargee shall determine in its sole discretion.

ADVANCES AND COSTS

Neither the preparation, execution nor registration of this Charge or the other Security Documents shall bind the Chargee to advance all or any part of the Loan. Provided that the Chargor is not in default, in the event that this Charge is registered and the Chargee fails to advance any part of the Loan, the Chargee shall promptly discharge this Charge. The Chargor covenants to pay all Costs to the Chargee forthwith on demand whether or not all or any part of the Loan is advanced. Until paid, all Costs together with interest thereon at the interest rate chargeable hereunder shall be added to the Indebtedness and secured by this Charge.

PROOF OF OUTSTANDING AMOUNTS

The records maintained by the Chargee of the amounts of the Loan advanced to the Chargor and secured by this Charge, the amount of advances of the Loan which are outstanding and the amount of interest and other fees and Costs payable or secured under this Charge shall constitute *prima facie* proof thereof in any legal proceedings or action in respect of the Loan or this Charge.

FEES AND COSTS

NOTWITHSTANDING anything to the contrary contained in the Standard Charge Terms (and in the event of any contradiction, the following provisions shall prevail), the Chargor covenants and agrees with the Chargee as follows:

1. To pay to the Chargee its administration and/or servicing fees, all of which are secured by the within Charge, for the following matters in the amounts set forth:

- a) Missed payment fee (payable for each missed or late instalment and for processing each "NSF" cheque or other returned payment) - \$500.00 per occurrence or the amount set forth in the Commitment.

PROVIDED that if any cheque is returned NSF, any replacement cheque must be certified. If such replacement cheque is not certified, the Chargee shall be entitled to have it certified, and to add all the costs of certification (including courier charges to and from the Chargor's Bank) to the amount owing on the Mortgage.

- b) An insurance default fee of \$300.00 for cancelled insurance and an insurance replacement fee of \$250.00 in addition to the insurance premium.
- c) Taxes - for tax status inquiry - \$100.00 plus cost of municipal tax certificate.
- d) Default proceedings (payable for each demand, action or proceeding instituted) - \$2,000.00 including without limitation \$2,000.00 for each of the following: Demand letter; Notice of Intention to Enforce Security; Notice of Sale; Statement of Claim; Summary Judgement; Writ of Possession.
- e) Possession/Eviction - for attending to take possession following default - \$5,000.00
- f) Maintenance - for administering maintenance and security on the property in Chargee's possession, per day - \$300.00.
- g) Mortgage Statements (for preparation of each Information Statement) - \$275.00.
- h) Discharge Statement and Administration fee - \$500.00 for one property or the amount set forth in the Commitment. \$100.00 for each additional property.
- i) The Chargor further agrees to pay to the Chargee an annual administration charge of \$250.00 for collection and payment of the property taxes payable annually in advance commencing on the funding date.
- j) Purchaser approval - for processing each application for assumption, whether or not approved or completed - \$300.00.
- k) Construction Administration
Advance fee: \$350.00 per advance
- l) Bank Wire Transfer Fee: \$90.00 per transfer and \$50.00 for incoming wire
- m) Miscellaneous Document
Execution: Subdivision plans, non-disturbance agreements; postponement agreements; Consents for Condominium Declarations or other like documents \$50.00 per document
- n) Copy of Survey: \$25.00
- o) Courier Fee: \$35.00
- p) Long Distance Charges: \$7.50 per call (minimum) plus actual cost incurred
- q) Tax Default Fee: \$250.00 for failure by the Chargor to provide satisfactory confirmation of tax payments
- r) Post-dated cheques: \$250.00 for failure to provide post-dated cheques

- | | | |
|----|---|--|
| s) | Administration time: | \$395.00 for each hour of administrative time spent by the Mortgagee or its agent in dealing with issues of default related to this mortgage, excluding solicitor services |
| t) | Written requests for dishonoured cheques: | \$300.00 for each written request necessitated by the Chargor not replacing dishonoured cheques forthwith. |
| u) | Renewal Administration fee | \$300.00 |
| v) | Failure to notify the mortgage of registration of lien by the Condominium Corporation for common maintenance arrears: | \$250.00 |
| w) | Annual Insurance Administration Fee | \$395.00 |
| x) | Inspection Fee | \$350.00 |

(collectively, the "Administration Fees")

The Chargor acknowledges and agrees that the service fees and/or Administration Fees and Costs provided for herein are a genuine pre-estimate of the value of the services performed for same and are not a penalty or additional interest on the Loan secured by this Charge.

The Chargee reserves the right to charge reasonable fees for other administrative services.

In the event of a further occurrence as set out herein, the administrative fees shall increase by a further sum of \$50.00 and this shall be on a cumulative basis.

Any service or administration fee plus HST if applicable, owing by the Chargor to the Chargee which is not paid forthwith after having been incurred, the same shall be added to the Indebtedness and shall bear interest at the rate herein set forth.

The Chargor agrees that if it agrees to pay the Chargee any fees during the currency of the within Charge but fails to do so then such fees shall be added to the Indebtedness and shall bear interest at the rate herein set forth. Such fees shall include but shall not be limited to renewal fees, forbearance fees etc.

2. The Chargor agrees to pay all legal and other expenses incurred by the Chargee in connection with the preparation and registration of any security interests pursuant to the Personal Property Security Act and any renewals thereof forthwith upon demand and such fees and expenses, together with interest thereon at the interest rate charges hereunder, shall be added to the principal sum secured by the within charge if not paid by the Chargor.
3. The Covenantor(s) agree that should the Chargee herein be a trustee for beneficiaries, the Covenantor(s) shall have no claims against the beneficial owners of the Charge.

PRIVACY PROVISIONS

- (a) The Chargor hereby irrevocably consents to the Chargee releasing and disclosing to any other parties, their authorized agents and solicitors requesting the same, any and all information, whether confidential or not, in its possession regarding the Charged Property or the within Loan including, without limitation, details of the Loan balance, the terms of this Charge, defaults hereunder (existing or prior) and like matters.
- (b) The Chargor hereby confirms and agrees that the release and disclosure of any such information by the Chargee constitutes the release and disclosure of such information

with the full knowledge and consent of the Chargor within the meaning of the Personal Information Protection and Electronic Documentation Act (Canada), as amended.

- (c) The Chargor hereby releases the Chargee from any and all liabilities, damages, suits, actions, claims, monies and costs arising from (i) the release and disclosure of any such information by the Chargee, and (ii) any breach of the provisions of any applicable laws, including the Personal Information Protection and Electronic Documentation Act (Canada), as amended, provided that the Chargee has acted in accordance with the consent and direction received from the Chargor.

CROSS DEFAULT

The occurrence of an Event of Default under the provisions of this Charge, under any of the other Security Documents or under the Commitment or pursuant to any other charge or Security Documents between the Chargor and the Chargee, including any document pursuant to which the Chargor is a guarantor, or any default by the Chargor under any lease which is not cured within any applicable cure period, shall be deemed to be an Event of Default hereunder and under all the Security Documents and shall entitle the Chargee to pursue its remedies under any or all of the Security Documents.

NON-MERGER

Notwithstanding the registration of this Charge and the advance of funds hereunder, the terms and provisions of the Commitment shall remain binding and effective upon the parties. It is understood and agreed that any default under the said Commitment shall be deemed a default under this Charge. In the event of any inconsistency, discrepancy or conflict between the terms of the Charge and the terms of the Commitment, the Chargee may, in its sole discretion, determine which shall prevail. The Chargor acknowledges that the terms and provisions of the Commitment are not exhaustive. The Chargor acknowledges that any provisions contained herein or in any of the other Security Documents which are not dealt with in the Commitment or which expand and elaborate on provisions in the Commitment shall be deemed not to be an inconsistency or in conflict with the provisions of the Commitment.

PAYMENTS

ANY DISCHARGE of this charge shall be prepared by the Chargee at the Chargor's expense within a reasonable time after repayment of the principal sum secured herein together with accrued interest thereon, as well as the payment of all costs and any other amounts that are outstanding under this Charge. All payments hereunder shall be made payable to:

at: HILLMOUNT CAPITAL INC.
89 Tycos Drive
Suite 208
Toronto, Ontario

or such other place as the Chargor is notified of from time to time. All payments received after 1:00 p.m. shall be deemed to have been received on the following business day. The loan secured herein and the amounts payable by the Chargor hereunder is due and payable on the dates set out in the Charge and shall be made without any deduction, set-off or counterclaim by the Chargor for any reason whatsoever.

The Chargor acknowledges and agrees that any payments made to discharge the said Charge to the Chargees' Solicitors or any other authorized agents of the Chargees shall not be deemed to constitute payment received by the Chargee until the same is received by the Chargee at its offices as set out above.

ENVIRONMENTAL

The Chargee or agent of the Chargee may, at any time after default, and for any purpose deemed necessary by the Chargee, enter upon the Lands to inspect the Lands and Improvements thereon. Without in any way limiting the generality of the foregoing, the Chargee (or its respective

agents) may enter upon the Lands 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, with interest at the rate charged herein for the Loan, shall be payable by the Chargor forthwith and shall be a charge upon the Lands. The exercise of any of the powers enumerated in this clause shall not deem the Chargee, or its respective agents to be in possession, management or control of the Lands and Improvements.

In consideration of the advance of funds by the Chargee, the Chargor hereby agrees that, in addition to any liability imposed on the Chargor under any instrument evidencing or securing the Indebtedness, the Chargor shall be jointly and severally liable for any and all of the costs, expenses, damages, or liabilities of the Chargee, its directors and officers (including, without limitation, all reasonable legal fees) directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Charged Property of any hazardous or noxious substances and such liability shall survive foreclosure of the security for the Indebtedness and any other existing obligations of the Chargor to the Chargee in respect of the Indebtedness and any other exercise by the Chargee of any remedies available to them of any default under the Charge.

The Chargor hereby represents and warrants that neither the Chargor, nor, to their knowledge, any other person, has ever caused or permitted any Hazardous Material (as hereinafter defined) to be placed, held, located or disposed of on, under or at the Charged Property and that its business and assets are operated in compliance with applicable laws intended to protect the environment (including, without limitation, laws respecting the discharge, emission, spill or disposal of any Hazardous Materials) and that no enforcement actions in respect thereof are threatened or pending and covenants to cause any person permitted by the Chargor to use or occupy the Charged Property or any part thereof to continue to so operate.

The Chargor hereby indemnifies the Chargee, its officers, directors, employees, agents and its shareholders and agrees to hold each of them harmless from and against any and all losses, liabilities, damages, costs, expenses and claims of any and every kind whatsoever which at any time or from time to time may be paid, incurred or asserted against any of them for, with respect to, or as direct result of, the presence on or under, or the discharge, emission, spill or disposal from, the Lands or into any land, the atmosphere, or any watercourse, body of water or wetland, of any Hazardous Material where it has been proven that the source of the Hazardous Material is the Charged Property, including, without limitation: (i) the costs of defending any/or counter-claiming over against third parties in respect of any action or matter; and (ii) any cost, liability or damage arising out of a settlement of any action entered into by the Chargee; and the provisions of and undertakings and indemnification set out in this Section shall survive the satisfaction and release of the Security Documents and payment and satisfaction of the Indebtedness and liability of the Chargor to the Chargee pursuant to this Charge and any of the other Security Documents. The indemnity contained herein in favour of the Chargee shall enure to the benefit of the Chargee's successors and assigns of the Loan and the Security Documents. For the purposes of this Section "Hazardous Material" means any contaminant or pollutant or any substance that when released in the natural environment is likely to cause at some immediate or future time, material harm or degradation to the natural environment or material risk to human health and without restricting the generality of the foregoing, hazardous waste or dangerous goods as defined by applicable federal, provincial or municipal laws for the protection of the natural environment or human health.

The indemnity contained herein shall survive the repayment of the Indebtedness and shall continue in full force and effect so long as the possibility of any such liability, claim or loss exists.

CONFLICT/AMBIGUITY

Where conflict or ambiguity exists or arises between any one or more of the provisions contained in this Schedule and any one or more of the provisions contained in the standard charge terms, the provisions contained in this Schedule shall, to the extent of such conflict or ambiguity, be deemed to govern and prevail.

COMPLIANCE WITH APPLICABLE LAWS

The Chargor has and is presently complying with its obligations and will continue to comply with its obligations, to make payment of all taxes, deductions, withholdings and remissions to the Province of Ontario and the Government of Canada (collectively, the “**Governmental Authorities**”) under the *Income Tax Act*, Canada, the *Excise Tax Act*, Canada, the *Canada Pension Act*, Canada, the *Employment Insurance Act*, Canada, the *Retail Sales Tax Act*, Ontario, the *Fuel Tax Act*, Ontario, the *Tobacco Tax Act*, Ontario, the *Development Charges Act*, Ontario, the *Workplace Safety and Insurance Act*, Ontario and any other Applicable Laws, whether provincial or federal, as any one or more of them may be amended from time to time, the default of which would form the basis of a super priority claim by any of such governmental authorities under such Applicable Laws over the Indebtedness and the priority of the Security Documents.

MANAGEMENT FEE

In the event that the Chargee collects any payments of Rent due to the Chargor's default or takes possession of the Lands, the Chargee shall be entitled a management fee equal to ten (10%) percent of all the gross receipts from the Rents, it being understood for greater certainty that the Chargor and Chargee have agreed that in the circumstances the management fee is a just and equitable fee having regard to the circumstances. The Chargor acknowledges and agrees that the said management fee is a reasonable estimate of the fees to be incurred for the time, value and opportunity for dealing with the Charged Property, including professional advisors, appraisers, engineers, occupants, building inspectors, checking property taxes and insurance, maintenance and repairs, Liens or other matters usually dealt with by managers of like lands, which amount is deemed not to be a penalty.

SUBSEQUENT ENCUMBRANCES

In the event of the Chargor further encumbering the Lands without the prior written consent of the Chargee, such further encumbering shall constitute a default under this Charge and in such event, at the sole option of the Chargee, the Indebtedness owing under the within Charge shall immediately become due and payable.

PAYMENT OF OTHER CHARGES AND PERFORMANCE OF OTHER OBLIGATIONS BY THE CHARGE

The Chargor covenants and agrees with the Chargee to pay all property taxes, public utility rates, charges, and insurance premiums as and when they become due, to keep all Liens and agreements registered against the title to the Charged Property in good standing in accordance with their terms, comply with all Applicable Laws including zoning by-laws, standards and work orders and not to permit the existence of any work orders, deficiency notices, letters of compliance, outstanding permits, or judgements, or the registration of any Liens of any nature or kind; the failure of the Chargor to comply with this covenant shall constitute an Event of Default hereunder and entitle the Chargee at its sole option to avail itself of remedies available hereunder, the Security Documents and at law including the right to accelerate the Indebtedness. Waiver or indulgences granted by a prior encumbrancer shall not prevent non-payment from being a default under this charge.

In addition, at the Chargee's sole option, the Chargor hereby agrees that the Chargee may satisfy any charge, Lien, any matter raised in the previous paragraph or other encumbrance now or hereafter existing or to arise or be claimed upon the Charged Property and the Chargee may also expend monies in order to cure any default hereunder, under any Lien, a Permitted Encumbrance or any other matter set forth in the previous paragraph respecting the Charged Property or any part thereof, and the amounts so paid together with all costs associated therewith shall be added to the Indebtedness hereby secured and bear interest at the rate of interest set forth herein and shall be payable forthwith by the Chargor to the Chargee and in default of payment, the entire Indebtedness, shall become payable at the option of the Chargee and the remedies hereby given, under the Security Documents and available at law may be exercised forthwith without notice. In the event of the Chargee satisfying any such charge or claim, or expending such monies in order to cure a Lien default, it shall be entitled to all equities and securities of the person or persons so satisfied and it may retain any discharge, cessation of charge, assignment of charge, unregistered or assignment of lease, until paid.

BANKRUPTCY AND INSOLVENCY

THE CHARGOR acknowledges and agrees that any and all Costs as may be incurred from time to time by the Chargee in order to effect compliance or avoid any adverse ramifications of the *Companies' Creditors Arrangement Act*, R.S., c.C-25, s.1 (the "CCAA"), the *Bankruptcy and Insolvency Act*, R.S., 1985, c.B-3, s.1, 1992, c.27, s.2 (the "BIA") or any other statute shall be entirely for the account of the Chargor. The Chargee shall be entitled to incur any such Costs, including any costs of its personnel and outside professionals, including legal counsel, in administering and addressing any requirements of the said Acts and to add the same to the Indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Chargee for the Indebtedness owing to the Chargee in the same manner and in the same priority as the principal secured hereunder.

REORGANIZATION PROCEEDINGS

The Chargor represents and warrants that the Charged Property is of such a unique nature that, in the event the Chargor sought to reorganize its affairs under any of the laws of Canada (or any province) which provides the ability of a debtor to reorganize its affairs with its creditors (including, without limitation, under the CCAA, the BIA or any other statute) or pursuant to which it sought protection from its creditors, the Chargee would not have a sufficient commonality of interests with any other creditor of the Chargor such that the Chargee would be required to vote on any reorganization, arrangement, compromise or other transaction in a class with any other creditors of the Chargor and, in that regard, covenants and agrees that the Chargee will be treated in its own exclusive class of creditors for such purpose. Without limiting the generality of the foregoing, the Chargor covenants and agrees that:

- a) it will give the Chargee not less than ten (10) days written notice prior to the commencement of any proceedings under any of the CCAA, the BIA or any other similar or analogous legislation (such proceedings being referred to as "**Reorganization Proceedings**");
- b) in no circumstances will the Chargor seek, suffer or permit the right of the Chargee to be stayed or otherwise affected in any Reorganization Proceedings;
- c) in the event that Reorganization Proceedings are commenced, the Chargor will consent to an order directing that all rents or other revenues generated or received in respect of the Charged Property will forthwith be deposited into a segregated trust account under the sole control of the Chargee and that same shall not constitute the Chargee to be a mortgagee in possession of or in control or management of the Charged Property or result in an acceleration of the Indebtedness hereunder unless so designated by the Chargee at its sole option; and

in the event of a Reorganization Proceeding: (i) the Chargor will not oppose any steps taken by the Chargee to seek an Order lifting any stay of proceedings that may be imposed; (ii) will not seek to prime the Chargee through any debtor in possession financing, receiver charge or any court-ordered charges; and (iii) will not seek to have the Charged Property sold as part of any process without the Chargee's prior consent.

ABANDONMENT OF CHATTELS

In the event that the Chargor vacates the Charged Property and leaves its chattels or trade fixtures (collectively, the "**Chattels**") at the Charged Property, or if the Chargor fails to remove the Chattels upon being evicted then:

- (a) the Chattels shall be deemed to have been abandoned by the Chargor;
- (b) the Chargee shall be entitled to dispose of or sell or transfer the Chattels or store them, in its sole discretion;
- (c) the Chargor shall pay all costs incurred by the Chargee relating to any sale, transfer, disposition, dumping or storage of the Chattels by the Chargee;
- (d) the Chargee shall have a charge and lien on any stored Chattels for all storage costs relating thereto; and

- (e) the Chargor hereby releases and forever discharges the Chargee from any claims, actions, causes of action, damages, losses, costs and expenses relating to any steps taken by the Chargee in respect of the Chattels including discarding and dumping same in a junk yard or otherwise for no consideration.

NO EXPLOITATION

The Chargor acknowledges and declares that the Chargor entered into this Charge freely and of its own will. In particular, the Chargor acknowledges that this Charge was freely negotiated by the Chargor and the Chargee in good faith, that this Charge does not constitute a contract of adhesion, that there was no exploitation of the Chargor by the Chargee, and that there is no disproportion between the consideration provided by the Chargee and that provided by the Chargor.

INDEPENDENT LEGAL REPRESENTATION

The Chargor hereto acknowledges that it has full knowledge of the purpose and essence of this Charge/Mortgage transaction, and that it has been appropriately and independently legally represented in that regard. The Chargor acknowledges and agrees with the Chargee that the Chargee's solicitors, Fogler, Rubinoff LLP, do not represent the Chargor or provide the Chargor with any legal advice whatsoever. The Chargor acknowledges that the Charge, all supporting Security Documents and all electronic documents including the Charge, Notice of Assignment of Rents and Acknowledgement and Direction (collectively, the "Documents") and the effect of the Chargee's solicitors signing any of the electronic documents have been fully explained to the Chargor by its own independent counsel. The Chargor acknowledges that it has fully understood the import of the Documents.

NON-TRANSFER

Paragraph 14 of Standard Charge Terms 200033 is hereby deleted.

In the event that the Chargor purports to sell, convey, transfer, assign or exercise a power of appointment with respect to the Lands herein described to a purchaser, transferee or assignee or in the event of a change of shareholders of the Chargor which results in a change of control of the Chargor or in the event of a change in the beneficial ownership of the Lands herein described without first obtaining the consent in writing of the Chargee the entire Indebtedness hereby secured shall, at the option of the Chargee, forthwith become due and payable.

PRE-AUTHORIZED PAYMENT

The Chargor hereby covenants and agrees upon the Chargee's request to participate in the Chargee's pre-authorized chequing program by completing the necessary application and providing the Chargee with a sample "void" cheque, or alternatively, at the Chargee's request, the Chargor shall provide a series of 12 post dated cheques, from time to time.

TAXES

THE CHARGOR in addition to the aforesaid payments of principal and interest, covenants and agrees to pay taxes as hereinafter provided, the Chargee shall estimate the amount of the taxes chargeable against the Lands payable in each year and the Chargor shall pay to the Chargee one-twelfth of the estimated annual amount together with the aforesaid payments of principal and interest in each and every month during the term of this Charge, commencing with the first payment date aforesaid and the Chargee shall apply such payments on the taxes so long as the Chargor is not in default under this Charge, but nothing herein contained shall obligate the Chargee to apply such payments on account of the taxes oftener than yearly; provided, however, that if the Chargor shall pay any sum or sums to the Chargee to apply on the taxes, and if before the same shall have been so applied there shall be default by the Chargor in respect of any payment of principal or interest as herein provided, the Chargee may at its option apply such sum or sums in or towards payments of the principal and/or interest in default; and in the event that

the taxes actually charged for any one year, together with any interest and penalties thereon, exceed the estimated amount, the Chargor shall pay to the Chargee on demand the amount required to make up the deficiency; and if the Chargor desires to take advantage of any discounts or avoid any penalties in connection with the payment of taxes, the Chargor may pay to the Chargee such additional amounts as are required for that purpose; and the Chargor shall transmit to the Chargee forthwith after receiving them the assessment notices, tax bills and other notices affecting the imposition of taxes upon the Lands.

TAXES shall mean and include all taxes, rates and assessments of whatever nature or kind, including local improvement rates and any and all interest and penalties thereon.

THE CHARGEES MAY, unless payment has otherwise been made, deduct from the charge advances, an amount necessary to pay the current year's taxes and an amount which together with the monthly tax payments to be made to and including April of the following calendar year, will be sufficient to pay the taxes for the following calendar year.

NO MONEYS paid to the Chargee pursuant to the foregoing shall be held in trust for nor bear interest to the credit of the Chargor.

THE FOREGOING tax clause is in addition to and without prejudice to the other provisions of the within Charge in regard to realty taxes.

PREPAYMENT PROVISIONS

Provided that upon giving thirty (30) days' written notice, the Chargor, when not in default hereunder, shall have the privilege of prepaying the whole or any part of the said principal sum hereby secured on any banking day without any interest bonus and upon payment of the discharge statement administration fee as herein set out.

- (a) if prepayment of any part of the principal sum secured hereunder is made by reason of payment after acceleration upon the occurrence of a default, the Chargor agrees to pay to the Chargee three (3) months' interest on the principal amount prepaid at the rate of interest chargeable hereunder at the time of prepayment as hereinbefore set out.
- (b) If the Indebtedness and any of the other sums which may be due hereunder or under the Security Documents are not repaid on or before the Balance Due Date, then the Chargor agrees to pay to the Chargee in addition to the amounts required to obtain a discharge, three months interest at the rate of interest chargeable hereunder on the principal amount outstanding on the Balance Due Date.

NO IMPROVEMENT

The Chargor warrants that the purpose of this Charge is not to finance an improvement on the Lands. An "**improvement**" when used in this paragraph, shall have the meaning ascribed thereto in the *Construction Act, S.O. 2018*. An improvement means any alteration, addition or repair to any building on the herein described Lands or any construction, erection or installation on the Lands.

INSURANCE RENEWAL

The Chargee shall be entitled to its standard servicing fee for dealing with each cancellation, premium payment or other non-compliance with insurance requirements. In the event that the evidence of continuation of insurance as herein required has not been delivered to the Chargee, the Chargee shall be entitled to its standard servicing fee for each written inquiry which the Chargee shall make to the insurer pertaining to such renewal (or resulting from the Chargor's non-performance of the within covenant). In the event that the Chargee pursuant to the within provision arranges insurance coverage with respect to the Lands and the Improvements, the Chargee in addition to the afore-noted servicing fee shall be entitled to a further servicing fee for arranging the necessary insurance coverage.

APPOINTMENT OF RECEIVER

AT ANY TIME after the Security Documents hereby constituted become enforceable, or the monies hereby secured shall have become payable, the Chargee may from time to time appoint by writing, or apply to a court of competent jurisdiction for the appointment of, a Receiver (which term shall include a receiver and manager) of the Charged Property or any part thereof, with or without Bond, and may from time to time remove the Receiver and appoint another in his stead, and any such Receiver appointed hereunder shall have the following powers (but shall not be limited to such powers):

- (a) To take possession of the Charged Property and to collect and get in the same and for such purpose to enter into and upon any lands, premises and Improvements wheresoever and whatsoever and for such purpose to do any act and take any proceedings in the name of the Chargor or otherwise as he shall deem necessary;
- (b) To carry on or concur in carrying on the business of the Chargor, and to employ and discharge agents, workmen, accountants and others upon such terms and with such salaries, wages or remuneration as he shall think proper, and to repair and keep in repair the Charged Property and to do all necessary acts and things for the carrying on of the business of the Chargor and the protection of the Charged Property of the Chargor;
- (c) To sell or lease or concur in selling or leasing any or all of the Charged Property, 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 Property; and he may make any stipulations as to title or conveyance or commencement of title or otherwise which he shall deem proper; and he may buy or rescind or vary any contracts for the sale of any part of the Charged Property and may resell the same; and he may sell any of the same on such terms as to credit or part cash and part credit or otherwise as shall appear in his sole opinion to be most advantageous and at such prices as can reasonably be obtained therefor and in the event of a sale on credit neither he nor the Chargee shall be accountable for or charged with any monies 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 Property 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 business of the Chargor and to charge the whole or any part of the Charged Property 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 charge the Charged Property in priority to this Charge;
- (f) To execute and prosecute all suits, proceedings and actions which the Receiver in his opinion considers necessary for the proper protection of the Charged Property, to defend all suits, proceedings and actions against the Chargor or the Receiver, to appear in and conduct the prosecution and defense of any suit, proceeding or action then pending or thereafter instituted and to appeal any suit, proceeding or action;
- (g) To fully manage, develop, operate, lease, construct, deal with agreements, complete, repair, renovate or alter the Charged Property or any part thereof on behalf of the Chargor and to take all such actions as are required in the exercise of such powers including entering into, amending and terminating such contracts and other agreements relating to the Charged Property as are necessary or advisable, in the opinion of the Receiver, and the entering into, renewal, amendment, supplement, or termination of any agreements and leases as the Receiver may deem appropriate in its sole and absolute discretion;
- (h) To execute and deliver to the purchaser of any part or parts of the Charged Property, 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 Lands 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;

- (i) To exercise any powers as may be granted by a court upon such appointment;

AND IT IS AGREED that no purchaser at any sale purporting to be made in pursuance of the aforesaid power or powers shall be bound or concerned to see or inquire whether any default has been made or continued, or whether any notice required hereunder has been given, or as to the necessity or expediency of the stipulations subject to which such sale shall have been made, or otherwise as to the propriety of such sale or regularity of its proceedings, or be affected by notice that no such default has been made or continues, or notice given as aforesaid, or that the sale is otherwise unnecessary, improper or irregular; and notwithstanding any impropriety or irregularity or notice thereof to such purchaser (provided that if the power or powers are exercised by a Receiver appointed by the Chargee, it exercises such powers in good faith), the sale as regards such purchaser shall be deemed to be within the aforesaid power and be valid accordingly and the remedy (if any) of the Chargor, or of any party claiming by or under it, in respect of any impropriety or irregularity whatsoever in any such sale shall be in damages only.

The net profits of the business of the Chargor and the net proceeds of any sale of the Charged Property or part thereof shall be applied by the Receiver subject to the claims of any creditors ranking in priority to this Charge:

- (a) Firstly, in payment of all Costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise by him of all or any of the powers aforesaid including the reasonable remuneration of the Receiver and all amounts properly payable by him;
- (b) Secondly, in payment of all Costs, charges and expenses payable hereunder;
- (c) Thirdly, in payment to the Chargee of the principal sum owing hereunder;
- (d) Fourthly, in payment to the Chargee of all interest and arrears of interest and any other portion of the Indebtedness remaining unpaid hereunder; and
- (e) Fifthly, any surplus shall be paid in accordance with the *Mortgages Act* (Ontario) or any order of the Court; provided that in the event that 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.

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 willful default; and he shall, when so appointed, by notice in writing pursuant hereto, be deemed to be the agent of the Chargor for all purposes and the Chargor shall be solely responsible for his acts and defaults and for his remuneration.

The appointment of a Receiver by the Chargee shall not, to the extent permitted by law, incur or create any liability on the part of the Chargee in connection with anything which may be done by any such Receiver or the removal of any such Receiver or the termination of any such Receivership shall not have the effect of constituting the Chargee as a mortgagee in possession in respect of the Charged Property or any part thereof.

PAYMENT OF COSTS

The Chargor shall pay to the Chargee on demand all legal fees payable on a full indemnity basis, Costs and out-of-pocket expenses incurred by any of the Chargee, its agents, officers and employees as herein set forth including costs incurred with respect to:

- (a) the Chargee obtaining advice at any time as to its rights and responsibilities under this Charge or any of the instruments and documents comprising the Security Documents or relating thereto or in the event of exercise of any or all of its remedies hereunder or thereunder;
- (b) the exercising of any or all of the rights, remedies and powers of the Chargee under this Charge or any of the instruments and documents comprising the Security Documents or relating thereto, or in defending or taking any measures to defend any action, claim, cause of action or in proceedings directly or indirectly relating to the provisions of any such instrument or document;
- (c) any or all of the taking of, recovering of possession of any assets or property of the Chargor, or any proceedings taken for the purpose of enforcing any rights or remedies provided in this Charge or in any instrument or document comprising the Security Documents or relating thereto, or any proceedings otherwise taken in relation to any assets or property of the Chargor or subject to the security given by the Chargor to the Chargee, or any proceedings taken by reason of any non-payment or non-performance of the obligations of the Chargor hereunder; and
- (d) any appraisals, environmental reports, engineering reports, cost consultants reports, or any other reports obtained at any time by the Chargee relating to the Charged Property.

In the event the Chargor fails to pay any such legal fees, Costs and expenses to the Chargee forthwith upon demand by the Chargee, then the amount of such unpaid legal fees, Costs and expenses shall be secured by this Charge and added to the Indebtedness secured hereunder and shall bear interest at the rate herein set forth.

LIMIT ON RATE OF INTEREST

- (a) Adjustment

If any provision of the Commitment, this Charge or any other of the Security Documents would oblige the Chargor to make any payment of interest or other amount payable to the Chargee in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Chargee of interest at a criminal rate (as such terms are construed under the Criminal Code (Canada)), then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in receipt by the Chargee of interest at a criminal rate, such adjustment to be effected, to the extent necessary, as follows:

- (i) firstly, by reducing the amount or rate of interest required to be paid hereunder as applicable; and
- (ii) thereafter, by reducing any fees, commissions, premiums and other amounts which would constitute interest for purposes of Section 347 of the Criminal Code (Canada).

- (b) Reimbursement

If, notwithstanding the provisions subsection (a) above, and after giving effect to all adjustments contemplated thereby, the Chargee shall have received an amount in excess of the maximum permitted by such subsection, then the Chargor shall be entitled, by notice in writing to the Chargee, to obtain reimbursement from the Chargee of an amount equal to such excess, and pending such reimbursement such amount shall be deemed to be an amount payable by the Chargee to the Chargor.

- (c) Calculation

Any amount or rate of interest referred to in this Section shall be determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term of any revolving loan on the assumption that any

charges, fees or expenses that fall within the meaning of “interest” (as defined in the Criminal Code (Canada)) shall, if they relate to a specific period of time be prorated over that period of time and otherwise be prorated over the period from the date of this Charge to the maturity date thereof and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Chargee shall be conclusive for the purposes of such determination.

AGREEMENTS IN WRITING

No agreement for modification to the within Charge or to any other of the Security Documents provided to the Chargee, including any renewals hereof or for extension of the time for payment of the Indebtedness due hereunder shall result from, or be implied from, any payment or payments of any kind whatsoever made by the Chargor to the Chargee after the expiration of the Balance Due Date or of any subsequent term agreed to in writing between the Chargor and the Chargee, and that no modification, amendment, at any time to the within Charge or to any security agreement provided to the Chargee or any renewal hereof or extension of the time for payment of any Indebtedness due hereunder shall result from, or be implied from, any other act, matter or thing, save only an express agreement in writing between the Chargor and the Chargee.

CONTINUING SECURITY

Without limiting any other provision hereof, this Charge secures, *inter alia*, a current or running account and any portion of the principal amount may be advanced or readvanced by the Chargee in one or more sums at any future date or dates and the amount of such advances and readvances when so made will be secured by this Charge and be repayable with interest at the interest rate stipulated in this Charge. This Charge will be security for the ultimate balance owing to the Chargee arising from the current and running accounts represented by advances and readvances of the principal amount or any part thereof with interest at the interest rate stipulated in this Charge and all other amounts secured hereby and notwithstanding any change in the amount, nature and form of the loan Indebtedness from time to time. If the whole or any part of the principal amount hereby or other amount secured hereby is repaid, this Charge shall be and remain valid security for any subsequent advance or re-advance by the Chargee to the Chargor until such time as the Chargee has executed and delivered to the Chargor a complete discharge of this Charge. The provisions relating to defeasance contained in Subsection 6(2) of the *Land Registration Reform Act* (Ontario) are hereby expressly excluded from this Charge. Upon full repayment of the Indebtedness by the Chargor and a request for a discharge of this Charge, the Chargee agrees to discharge this Charge.

FARM DEBT MEDIATION ACT

The Chargor represents and warrants that it is not a “farmer” within the meaning of the *Farm Debt Mediation Act*, S.C. 1997, c.21 (the “Act”) and covenants and agrees with the Chargee that, in the event that at any time during the term of this Charge the Chargor shall, at the option of the Chargee, become a “farmer” within the meaning of the Act, it shall forthwith provide written notice of this fact to the Chargee.

PAYMENT OF AMOUNTS OWING TO GOVERNMENTAL AUTHORITIES

During the term of the Charge and any renewal or extension thereof, the Chargor and/or the Covenantors will pay when due all amounts owing to any governmental authority which, if unpaid, would give such governmental authority recourse for such amounts ranking in priority to the within Charge or any of the other Security Documents and agreements given by the Chargor to the Chargee in connection with the advance of funds hereunder and the failure to pay any such amount when due will constitute, at the option of the Chargee, a default hereunder.

INSURANCE – ADDITIONAL PROVISIONS

In addition to any other insurance provisions contemplated by this Charge, the Commitment, or the Standard Charge Terms registered as No. 200033, the Chargor will at all times during the term maintain the insurance required by the Chargee including, without limitation, the following coverages:

- (a) Comprehensive on an all-risks basis, or if applicable, builder's risk of direct physical loss or damage, including, without limitation, coverage for the foundations of all improvements and flood and earthquake coverage, all on a replacement cost basis with loss payable to the Chargee under an Insurance Bureau of Canada mortgage clause; the policy should allow for the improvements on the Lands to be completed (if applicable), for partial occupancy, and for the Lands to be vacant and unoccupied for a period of at least 30 days;
- (b) Comprehensive broad form boiler and machinery insurance covering all pressure vessels (whether fired or unfired), air conditioning and miscellaneous electrical apparatus on the Lands, for an amount satisfactory to the Chargee, with loss payable to the Chargee under a Boiler and Machinery Insurance Association mortgage clause;
- (c) Business interruption or rental income loss coverage on a gross profits or rentals form sufficient to cover 100% of the loss of Rents or loss of business income from the business conducted on the Lands for a period of twelve (12) months, based on the greater of actual or projected revenue, in respect of all perils described in (a) and (b) above;
- (d) Comprehensive general liability insurance, inclusive of bodily injury, death or property damage or loss, for a minimum amount of \$3,000,000.00 per occurrence or such other amount as the Chargee may reasonably request;
- (e) Theft of chattels;
- (f) Prior to any advance of the principal amount, the Chargor will provide to the Chargee or its solicitors certificates of insurance policies providing the above coverages. The Chargee may have the insurance policies reviewed by a qualified property insurance consultant to ensure the insurance requirements of the Commitment are satisfied;
- (g) Evidence of policy renewal or satisfactory replacement must be provided annually at least thirty (30) days before expiry; and
- (h) Coverage of such other risks and perils as the Chargee may consider advisable or desirable from time to time.

Although the Chargee reserves the right to insist that all policies be on a "no co-Insurance" basis, the Chargee may consider accepting stated amount co-insurance provided that the Chargor shall at all times maintain a sufficient amount of insurance to prevent the Chargor from becoming a co-insurer under the terms and conditions of the policy.

Each policy shall be in a form and with an insurer satisfactory to the Chargee and will provide that any loss shall be payable to the Chargee as their interest may appear, subject to the standard form of mortgage clauses approved by the Insurance Bureau of Canada. The above referenced policies shall provide that the Chargee shall receive thirty (30) days' prior written notice of cancellation or material change to the policies. The Chargor will furnish to the Chargee or its solicitors, prior to the advance of any funds, original or certified copies of insurance policies providing the above coverages. Evidence of policy renewal or satisfactory replacement must be provided annually at least (30) days before expiry of the policy.

If the Chargor fails to comply with the insurance obligations herein, the Chargee may take out insurance which it deems adequate, and the Chargor shall pay to the Chargee, on demand, all sums paid for that purpose plus accrued interest up to the reimbursement date at the rate payable hereunder.

In the event of a loss, the Chargor shall immediately advise the Chargee and shall not undertake any repairs or renovations without the consent of the Chargee. The Chargor acknowledges and agrees that any insurance monies received may, at the option of the Chargee, be applied in rebuilding, re-instating, or repairing any building, or be paid to the Chargor, or be applied in the sole discretion of the Chargee, in full or in part against the amounts due hereunder or any part thereof, whether due or not then due, or paid partly in one way and partly in another.

UNDERTAKINGS

In the event that an Event of Default has occurred with respect to any of the terms of any undertakings delivered to the Chargee in consideration of the advance of funds under this Charge, or thereafter or with respect to any covenant contained in these additional provisions and in any of the other Security Documents, such default, at the option of the Chargee, will be an Event of Default under this Charge and entitle the Chargee to all of its remedies hereunder, the Security Documents and at law, including, the acceleration of the Indebtedness without further notice to the Chargor.

AMENDMENT TO STANDARD CHARGE TERMS

Section 24 of Standard Charge Terms 200033 is hereby deleted.

SECURITY FOR INDEBTEDNESS AND OBLIGATIONS

This Charge is given as continuing security for the liability and obligations of the Chargor to the Chargee pursuant to the Commitment, hereunder and under all other Security Documents, including without limitation all of the following: (i) all performance and payment obligations of the Chargor to the Chargee, including payment of the Indebtedness, as provided herein, the Commitment, or the Security Documents; and (ii) all other obligations of the Chargor to the Chargee, in each case howsoever created, arising or evidenced, whether direct or indirect, joint or several, absolute or contingent, now or hereafter existing, absolute or past, contingent, extended or renewed, material or not, due or to become due, whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether the Chargor is bound alone or with another or others, including all Indebtedness and amounts due of any kind arising hereunder, the Commitment, or the other Security Documents and all Costs, including any and all advances, costs or expenses paid or incurred by Chargee to protect any or all of the security granted herein, the Commitment or the Security Documents, to perform any obligations of the Chargor hereunder, under the Commitment or under any other Security Documents, and interest at the interest rate set forth herein, on all of the foregoing.

EXPROPRIATION

If the Charged Property or any part thereof shall be expropriated under any Applicable Laws granting the power of expropriation, the Indebtedness remaining unpaid, shall, at the sole option of the Chargee, forthwith become due and payable, together with any prepayment charges provided for herein. In any event, all the proceeds of any expropriation of the Charged Property or any part thereof shall be paid to the Chargee, at its option, in priority to the claims of any other party.

WARRANTIES, REPRESENTATIONS AND COVENANTS

Each Covenantor represents, warrants to and covenants with the Chargee that:

(a) **Organization, Power and Authority**

Each Covenantor, as applicable, (i) if it is a corporation, is a duly organized and validly existing corporation under the laws of its jurisdiction; (ii) has full power, authority and legal right to own the Charged Property and to carry on its business thereon in compliance with all Applicable Laws and is duly licensed, registered or qualified in all jurisdictions where the character of its undertaking, property and assets or the nature of its activities makes such licensing, registration or qualification necessary or desirable; (iii) has full power, authority and legal right to enter into each of the Security Documents to which it is a party and to do all acts and execute and deliver all other documents as are required to be done, observed or performed by it in accordance with their respective terms; (iv) has taken all necessary action and proceedings to authorize the execution, delivery and performance of the Security Documents to which it is a party and to observe and perform the provisions of each in accordance with its terms; and (v) shall maintain in good standing its existence, capacity, power and authority as a corporation or partnership, as the case may be, and shall not liquidate, dissolve, wind-up, terminate, merge, amalgamate, consolidate, reorganize or restructure or enter into any transaction or take any steps in connection therewith.

(b) Enforceability of Security Documents

The Security Documents executed by each or any Covenantor, constitute valid and legally binding obligations of each Covenantor, enforceable against them in accordance with their terms, and are not subject to any right of rescission, right of set-off, counterclaim or defence of any nature or kind. Neither execution and delivery of the Security Documents, nor compliance with the terms and conditions of any of them (i) has resulted or will result in a violation of the constating documents governing any Covenantor, include any unanimous shareholders' agreement, or any resolution passed by the board of directors, shareholders or partners, as the case may be, of any Covenantor, (ii) has resulted or will result in a breach of or constitute a default under Applicable Laws or any agreement or instrument to which any Covenantor is a party or by which any Covenantor or the Charged Property or any part thereof is bound, or (iii) requires any approval or consent of any Person except such as has already been obtained.

(c) Title

The Chargor has good and marketable title in fee simple to the Charged Property free and clear of all Liens except Permitted Encumbrances and the Lien of this Charge. The Chargor is the sole legal and beneficial owner of the Charged Property. The Chargor shall defend title to the Charged Property for the benefit of the Chargee from and against all actions, proceedings and claims of all Persons. No Person has any option, right of first refusal or other right to acquire the Charged Property or any part thereof or interest therein.

(d) Priority

This Charge and the other Security Documents are and shall be a valid first Lien or Liens on the Charged Property at all times, subject only to the Permitted Encumbrances consented to by the Chargee.

(e) Litigation

No Covenantor has any judgments or orders of any court of tribunal outstanding against it. Except as previously disclosed to the Chargee, there is no litigation, administrative proceeding, investigation or other legal action or claims (including any proceeding under any applicable bankruptcy or insolvency laws) pending or, to the knowledge of each Covenantor, threatened, against the Charged Property or any Covenantor, including any dispute between any Covenantor and any governmental authority affecting any Covenantor or the Charged Property. Upon becoming aware of any such matters, the Covenantor shall promptly notify the Chargee of same and shall provide the Chargee with reasonable information in respect thereof as the Chargee may require from time to time, provided that in doing so, the Covenantor shall not be deemed to have cured the fact that its representation set out in this Subsection has become incorrect.

(i) Rights of Way, Easements, Permits, Services and Access

The Chargor has obtained and shall maintain in good standing at all times all rights of way, easements, grants, privileges, licenses, certificates, permits, approval entitlements, franchises and other similar property and rights necessary for the lawful construction, occupancy, operation and use of the Charged Property. The Charged Property has unrestricted and unconditional rights of access to public highways at all existing access points and is served by all services and utilities necessary or convenient to the full use and enjoyment of the Charged Property. All such services and utilities are located in the public highway(s) abutting the Lands, and are connected so as to serve the Charged Property without passing over other property, except to the extent such other property is subject to a perpetual easement for such utility benefiting the Charged Property. All roads necessary for the full utilization of the Charged Property for its current purpose have been completed and dedicated to public use and accepted by all governmental authorities.

(j) Operation and Maintenance

The Chargor shall diligently maintain, use, manage, operate and repair the Charged Property in a good, safe and insurable condition in accordance with all Applicable Laws, and all Property Agreements, any encumbrances on title such as easements, agreements, restrictions and the like so as to preserve and protect the Charged Property and maximize the earnings, incomes, Rents, issues and profits therefrom. The Chargor has complied and will hereafter at all times comply with all of its obligations under the Property Agreements, any encumbrances on title such as easements, agreements, restrictions and the like and all other permitted Liens and agreements relating to the Charged Property. The Chargor shall promptly make all necessary repair and replacements to the Charged Property. All repairs, replacements and work required under the Security Documents, or otherwise, shall be made in a good and workmanlike manner, shall (if applicable) be of equal or better in quality to the original work, shall be free of all Liens and shall comply with all Applicable Laws and Property Agreements. The Chargor shall preserve and keep in full force and effect its corporate status, franchises, rights and privileges under the laws of the jurisdiction of its formation, and all qualifications, licenses and permits applicable to the ownership, use and operation of the Charged Property.

(k) Compliance with Law

The Charged Property, including the construction thereof, complies with all Applicable Laws, any encumbrances on title such as easements, agreements, restrictions and the like and all Property Agreements. The present use and location of the Improvements are legal conforming uses under all Applicable Laws. No Improvements have been made or removed from the Lands since the date of the survey of the Lands and Improvements delivered by the Chargor prior to the Loan advance and such survey accurately shows the location of all Improvements. The Chargor shall not change the use of the Charged Property, abandon the Charged Property, commit or permit any waste on or of the Charged Property, apply for or consent to any public restriction (including any zoning by-law or amendment or minor variance) or private restriction, or permit the removal of any Improvements or Fixtures from the Charged Property (other than a tenant's improvements removable by a tenant in accordance with its Lease).

The Charged Property is free of structural defects, and all building systems contained therein are in good working order and repair subject to ordinary wear and tear. No proceedings have been commenced or, to the Chargor's knowledge are contemplated with respect to the expropriation of all or any portion of the Charged Property or for the relocation of roadways providing access to the Charged Property.

(l) Full and Accurate Disclosure

To the best of the Chargor's knowledge after investigation and enquiry of officers, directors, employees or consultants of the Chargor having relevant knowledge, none of the Security Documents, Property Agreements, representations, warranties, information, and other documents and materials provided by or on behalf of any Covenantor to the Chargee now, heretofore, or hereafter until the repayment in full of the Indebtedness, contains or shall contain any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. No statement of fact now made or shall be made by or on behalf of any Covenantor in this Charge or in any of the other Security Documents contains or shall contain any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no fact presently known to any Covenantor which has not been disclosed to the Chargee which adversely affects, nor as far as any Covenantor can foresee, might adversely affect, the Charged Property or the business, operations or condition (financial or otherwise) of the Chargor.

(j) Financial Statements

The financial statements and net worth statements (if any) delivered by each Covenantor to the Chargee in connection with the Loan are true, correct and accurately reflect in all material respects the financial condition of each Covenantor, and no change, event, or

condition has occurred since the date of preparation to the date of the Loan advance which has had, or is reasonably likely to have, a material adverse effect on any of the Covenantors or the Charged Property. Except as disclosed in such financial statements and net worth statements, there are no liabilities (fixed or contingent) affecting the Charged Property or the Chargor. The Chargor shall furnish to the Chargee:

- (i) within 15 days before each anniversary date of the Loan advance, a detailed rent roll and detailed operating statement (showing yearly activity and year-to-date) stating operating revenues, operating expenses, operating income and net cash flow for the preceding calendar year; and
- (ii) within 120 days after the end of each fiscal year of the Chargor's operation of the Charged Property, the Chargor shall furnish to the Chargee a current (as of the end of such fiscal year) balance sheet, a detailed rent roll and a detailed operating statement stating operating revenues, operating expenses, operating income and net cash flow for each of the Covenantors and the Charged Property, prepared on a review engagement basis and certified by an independent public accountant reasonably satisfactory to the Chargee.

All financial statements shall be in scope and detail reasonably satisfactory to the Chargee and certified by the chief financial representative of the Chargor. All financial statements shall be prepared in accordance with generally accepted accounting principles in Canada in effect on the date so indicated and consistently applied (or such other accounting basis reasonably acceptable for the Chargee). The Chargor shall deliver to the Chargee such additional information regarding the Chargor, its subsidiaries, its business, any Covenantor and the Charged Property promptly after the Chargee's request therefor. The Chargor shall permit the Chargee to examine such records, books and papers of the Chargor which reflect upon its financial condition and the income and expenses of the Charged Property.

The Chargor has filed all federal, provincial and municipal tax returns required to be filed and have paid or made adequate provision for the payment of all federal, provincial and municipal taxes, charges and assessments payable by the Chargor. The Chargor believes that its tax returns properly reflect the income and taxes of the Chargor for the periods covered thereby, subject only to reasonable adjustments required by the Canada Revenue Agency or other applicable tax authority upon audit. As of the date of the Loan advance, the Chargor has no liability (fixed or contingent) for any taxes, surtaxes, duties, rates, and other similar charges or statutory trusts imposed by Applicable Laws or any governmental authority (including all related interest, penalties and fines), except as reflected in its financial statements delivered to the Chargee.

EVENTS OF DEFAULT

Each of the following shall constitute an "Event of Default" under this Charge:

- (a) the failure of any of the Covenantors to pay any principal, interest or other amount due under the Security Documents when due, or the Covenantors' failure to pay the Loan at the Balance Due Date, or upon acceleration or otherwise;
- (b) any of the Covenantors default in performing or observing any covenant or obligation on its part to be observed and performed in this Charge or in any of the other Security Documents;
- (c) any representation or warranty of any Covenantor in any of the Security Documents or in the Loan application and any document or material provided in connection therewith including any financial statement, rent roll or data at any time delivered by or on behalf of any Covenantor in connection with the Loan is or becomes incorrect or misleading in any material respect;
- (d) any enforcement action (an "**Enforcement Action**") of any kind is taken by a third party or a subsequent mortgagee including: the commencement of power of sale, foreclosure or other judicial or private sale proceedings, appointing or applying for, or obtaining or

- consenting to the appointment of, a receiver, a manager or a receiver and manager or other person having similar powers in respect of the Chargor or all or any part of the Charged Property, taking possession or control of all or any part of the Charged Property, giving notice of default, notice of intention to enforce security, or undertaking, commencing, giving notice of or taking any action or proceeding seeking payment or recovery of all or any part of any indebtedness owed to such third party or damages in lieu thereof, or accepting a transfer of any property in lieu of foreclosure, or the exercise of any other rights or remedies available to a creditor under its security or otherwise at law or in equity, including without limitation, the acceleration of debt, or the commencement of any proceedings seeking the dissolution, liquidation, winding up or termination of any Covenantor, or any participation in or any actions in furtherance of the foregoing;
- (e) or a resolution is passed or an order is made for the dissolution, liquidation, winding-up or termination of any Covenantor or other cancellation or suspension or its incorporation or termination of its existence;
 - (f) a decree or order of a court of competent jurisdiction is sought to adjudge any Covenantor a bankrupt or insolvent or any petition is filed seeking the winding-up, reorganization, reconstruction or arrangement of any Covenantor under the CCAA, the BIA or the *Winding-Up and Restructuring Act (Canada)*(the “WURA”) or any other bankruptcy, insolvency or analogous laws or issuing sequestration or process of execution against any Covenantor or against all or any part of the assets of any Covenantor or seeking the winding up or liquidation of its affairs, or appointing a trustee, receiver, receiver and manager, interim receiver, custodian, liquidator or other person with similar powers of any Covenantor or all or any part of its assets;
 - (g) any Covenantor becomes insolvent, commits an act of bankruptcy, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the BIA or any other comparable law, seeks relief under the CCAA, the WURA or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal in bankruptcy, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other person with similar powers of itself or of all or any part of its assets, or files a petition or application or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditor’s rights or consents to, or acquiesces in, the filing of such petition;
 - (h) any party brings an application seeking the appointment of a receiver, receiver-manager or receiver and manager of any Covenantor of any material part of its properties, assets or undertakings, or if any such party is appointed in respect of any Covenantor;
 - (i) any Person takes any Enforcement Action in respect of the Charged Property;
 - (j) all or any part of the Charged Property becomes subject to any Lien not consented to by the Chargee in writing or if consented to there is default by any Covenantor under any other encumbrances, Liens or security agreements;
 - (k) a judgment or order for the payment of money due shall have been obtained or entered or any writ of execution, distress, attachment or other similar process shall have been issued or levied against any Covenantor in an amount which, in the opinion of the Chargee could materially and adversely affect the ability of such Covenantor to fulfill its obligation to the Chargee to repay the Indebtedness or under any of the Security Documents;
 - (l) any fact, circumstance, event, change or effect occurs or arises that, individually or in aggregate with any other facts, circumstances, events, changes, effects or occurrences, has a material adverse effect on (i) the business, assets, liabilities, results of operation or financial condition of any Covenantor or (ii) the condition or value of the Charged Property;

- (m) any part of the Charged Property is condemned or expropriated;
- (n) if the Charged Property contains a condominium unit and any Covenantor fails to pay any common expenses or special assessments as and when due or fails to observe and comply with the *Condominium Act*, the Condominium Declaration, By-Laws or any rules and regulations of the condominium corporation;
- (q) if the Chargor is in breach or default under any of the Permitted Encumbrances;
- (r) if there is any default by any Covenantor which prejudices the Chargee's security or priority of its Charge over the Charged Property, as determined by the Chargee in its sole discretion; or
- (s) any other event of default occurs under any other of the Security Documents.

REMEDIES

In addition to any other remedies contained herein or in any of the other of the Security Documents or as may be available at law or in equity the Chargee shall have the remedies hereinafter set forth.

Acceleration

Upon an Event of Default, the entire Indebtedness shall, at the option of the Chargee in its sole discretion, immediately become due and payable, with interest thereon at the Interest Rate to the date of actual payment thereof, all without notice, presentment, protest, demand, notice of dishonour or any other demand or notice whatsoever, each of which are hereby expressly waived, and all the Chargee's rights and remedies under this Charge, the other Security Documents, and otherwise at law and in equity shall immediately become enforceable.

Power of Sale

Upon the Chargee's rights and remedies hereunder becoming enforceable for at least fifteen (15) days, on at least thirty-five (35) days notice in writing given to the Chargor, the Chargee may enter on and lease or sell the Charged Property or any part thereof by public auction or private sale and on such terms as to credit and otherwise as may appear to it most advantageous, and for such price as can be reasonably obtained therefor. Such notice shall be given to such persons and in such manner and form and within such time as provided in the *Mortgages Act*. The Chargee shall be entitled to buy in or rescind or vary any contract for sale of any of the Charged Property, and resell without being answerable for any loss occasioned thereby. In the case of a sale on credit, the Chargee shall only be accountable for monies actually received in cash as and when so received. For such purposes, the Chargee may make and execute all agreements and assurances which it shall think fit. The purchaser shall in no case be bound to enquire whether notice of intention to sell has been given or default made, or otherwise as to the regularity or validity of any sale made hereunder, and any sale by the Chargee shall be valid as regards the purchaser and shall not in any way be affected thereby. The Chargee shall be entitled to apply the proceeds of any sale hereunder first in payment of all Costs, charges and expenses incurred in respect of such sale, as more particularly described below, and secondly in payment of all amounts of interest and principal owing hereunder, in such order as the Chargee may select. If any surplus remains after the Chargee has fully satisfied its claims, such surplus shall be paid to the party then entitled by law to receive such surplus, or into court. The powers conferred on the Chargee hereunder are in addition to and not in limitation of any other rights or powers of the Chargee under this Charge, or at law or in equity.

The costs of any sale proceedings or other Enforcement Action hereunder, whether such sale proves abortive or not, including all commissions and other fees payable to real estate agents and brokers in connection with any such sale, and all Costs, charges and expenses (including, without limitation, legal fees on a full indemnity basis) incurred in respect of the Charged Property, which the Chargee shall be entitled to do, or in taking, recovering or keeping possession of the Charged Property, or in enforcing the remedies of the Chargee under this Charge, or by reason of non-payment or in procuring payment of the monies hereby secured, shall be added to the Indebtedness

and bear interest at the Interest Rate provided for in this Charge as well after as before maturity, and shall be a charge on the Charged Property and shall be payable immediately with interest as aforesaid, and in default of payment, may be paid from the proceeds of any sale of the Charged Property.

Possession

Upon the Chargee's rights and remedies hereunder becoming enforceable, the Chargee may enter into and take possession of the Charged Property and shall be entitled to:

- (a) have, hold, use, occupy, possess and enjoy the Charged Property without let, suit, hindrance, interruption or denial of the Chargor or any other Person;
- (b) maintain, repair and complete the construction of the Improvements;
- (c) inspect, manage, take care of, collect Rents and lease the Charged Property or any part thereof for such terms and for such Rents (which may extend beyond the Balance Date) and on such conditions and provisions (including providing any leasehold improvements and tenant inducements) as the Chargee may determine in its sole discretion, which Leases shall have the same effect as if made by the Chargor; and
- (d) pay from the Rents received all expenses of maintaining, preserving, protecting and operating the Charged Property, making any additions and replacements thereto and all charges payment of which may be necessary to preserve or protect the Charged Property and the Chargee shall have and enjoy and may exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation power to advance its own monies at the interest rate chargeable hereunder and to enter into contracts and undertake obligations for the foregoing purposes upon security hereof,

and all Costs, charges and expenses incurred by the Chargee in the exercise of such rights (including allowances for the time, service or effort of any person appointed by the Chargee for the above purposes, and all legal fees and disbursements incurred and all commissions and other fees payable to real estate agents and brokers in connection with any lease), together with interest thereon at the interest rate chargeable hereunder, shall be payable forthwith by the Chargor to the Chargee, and until paid shall be added to the Indebtedness and shall be secured by this Charge. Each lease or renewal of lease made by the Chargee while in possession of the Charged Property shall continue for its full term notwithstanding the termination of the Chargee's possession. The Chargee shall not be liable for any loss or damage sustained by the Chargor or any other person resulting from any lease entered into by the Chargee, any failure to lease the Charged Property, or any part thereof, or from any other act or omission of the Chargee or any receiver in managing the Charged Property, nor shall the Chargee be obligated to perform or discharge any obligation or liability of the Chargor under any Lease, Security Documents or otherwise at law or in equity.

Exercise Rights of Chargor; Distraint

Upon the Chargee's rights and remedies hereunder becoming enforceable, the Chargee shall have, enjoy and exercise of all the powers and rights of and enjoyed by the Chargor with respect to the Charged Property or incidental, ancillary, attaching or deriving from the ownership by the Chargor of the Charged Property, including without limitation the powers of the receiver hereinbefore set out and the power to enter into agreements, to grant or agree to mortgages and other encumbrances, and to grant or reserve easements, rights-of-way, rights in the nature of easements and licences, in each case over or pertaining to the whole or any part of the Charged Property. If the Chargor shall make default in payment of any part of the interest payable under this Charge at any of the dates or times fixed for payment thereof, it shall be lawful for the Chargee to distraint therefor upon the Charged Property or any part thereof, and by distress warrant, to recover by way of rent reserved, as in the case of a demise of the Charged Property, so much of such interest as shall from time to time be or remain in arrears and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent. The Chargee may distraint for arrears of principal or other monies owing hereunder in the same manner as if the same were arrears of interest.

Chargee's Right to Perform Obligations

If the Chargor shall fail, refuse or neglect to make any payment or perform any act required by the Security Documents, then while any Event of Default exists, and without notice to demand upon the Chargor and without waiving or releasing any other right, remedy or recourse the Chargee may have because of such Event of Default, the Chargee may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of the Chargor, and shall have the right to enter upon the Charged Property for such purpose and to take all such action thereon and with respect to the Charged Property as it may deem necessary or appropriate. If the Chargee shall elect to pay any sum due with reference to the Charged Property, the Chargee may do so in reliance on any bill, statement or assessment procured from the appropriate governmental authority or other issuer thereof without inquiring into accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created by the Security Documents, the Chargee shall not be bound to inquire into the validity of any apparent or threatened adverse title, lien, encumbrance, action, claim or charge before making an advance for the purpose of preventing or removing the same. The Chargor shall indemnify the Chargee for all Costs, losses, expenses, damages, claims and causes of action, including legal fees (on a full indemnity basis), incurred or accruing by reason of any acts performed by the Chargee pursuant to these provisions. All sums paid by the Chargee pursuant to this section, and all other sums expended by the Chargee to which it shall be entitled to be indemnified, together with interest thereon at the interest rate charged herein from the date of such payment or expenditure until paid, shall be added to the Indebtedness, shall be secured by the Security Documents and shall be paid by the Chargor to the Chargee upon demand.

Concurrent Remedies

The Chargee may exercise all remedies provided for in this Charge or otherwise at law or in equity concurrently or in such order and at such times as it may see fit and will not be obligated to exhaust any right or remedy before exercising any of its other rights or remedies pursuant to any other provisions contained in this Charge, any other Security Documents or otherwise at law or in equity.

Remedies Cumulative

For greater certainty, it is expressly understood and agreed that the rights and remedies of the Chargee hereunder or under any other of the Security Documents or instruments executed pursuant to the Commitment are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity, and any single or partial exercise by the Chargee of any right or remedy for a default or breach of any term, covenant, condition or agreement contained herein, in the Security Documents or other documents or instruments executed pursuant to the Commitment shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Chargee may be lawfully entitled for such default or breach. Any waiver by the Chargee of the strict observance, performance or compliance with any term, covenant, condition or other matter contained herein, in the Security Documents or other documents or instruments executed pursuant to the Commitment or the Security Documents and any indulgence granted, either expressly or by course of conduct, by the Chargee shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Chargee hereunder, in the Security Documents or other documents or instruments executed pursuant to the Commitment as a result of any other default or breach hereunder or thereunder. In the event of a conflict or inconsistency between the application of any of the rights and remedies contained herein and the application of any of the rights or remedies of any of the other Security Documents, the provisions giving the Chargee the greater rights or remedies shall govern (to the maximum extent permitted by applicable law), it being understood that the purpose of this Charge and any of the other Security Documents is to add to, and not detract from, the rights granted to the Chargee under the Security Documents. The Chargee in its exercise of its rights and remedies may proceed to exercise any and all rights hereunder, under the Security Documents, and as available at law and no such remedy for the enforcement of the rights of the Chargee shall be exclusive of, or dependent on, any other remedy, but any one or more of such remedies may from time to time be exercised independently or in combination.

Judgments

The taking of a judgment or judgments against the Chargor or any of the other Covenantors for breach of its obligations contained in this Charge or any other Security Document will not merge or extinguish such obligations or affect the Chargee's rights to interest on the Indebtedness at the interest rate chargeable hereunder. Any such judgment may provide that interest thereon will be computed at the interest rate chargeable hereunder until such judgment is fully paid and satisfied.

Extension of Time and Waiver

Neither any extension of time given by the Chargee to the Chargor or any of the other Covenantors or any person claiming through the Chargor, nor any amendment to this Charge or other dealing by the Chargee with a subsequent owner of the Charged Property will in any way affect or prejudice the rights of the Chargee against the Chargor or any other Covenantor or other persons liable for payment of the Indebtedness. The Chargee may waive any Event of Default in its sole discretion. No waiver will extend to a subsequent Event of Default, whether or not the same as or similar to the Event of Default waived, and no act or omission by the Chargee will extend to, or affect, any subsequent Event of Default or the rights of the Chargee arising from such Event of Default. Any such waiver must be in writing and signed by the Chargee. No failure on the part of the Chargee or the Chargor to exercise, and no delay by the Chargee or the Chargor in exercising, any right pursuant to this Charge will operate as a waiver of such right. No single or partial exercise of any such right will preclude any other or further exercise of such right.

No course of dealing on the part of the Chargee, its officers, employees, consultants or agents, nor any failure or delay by the Chargee with respect to exercising any right, power or privilege of the Chargee under any of the Security Documents, shall operate as a waiver thereof. No waiver of any provision of the Security Documents shall be effective unless in writing and signed by the party against whom enforcement is sought.

Release

The Chargee may release in its discretion and at any time any of the Covenantors or any part or parts of the Charged Property from all or any part of the Indebtedness or the security either with or without any consideration and without releasing any other part of the Charged Property or any other of the Covenantors or other person from this Charge, any of the other Security Documents or from any of the covenants contained in this Charge or any of the other Security Documents, and without being accountable to the Chargor for the value of the Charged Property released or for any money except that actually received by the Chargee. Every part or lot into which the Charged Property is or may hereafter be divided will stand charged with the entire Indebtedness. The Chargee may grant time, renewals, extensions, indulgences, releases and discharges, may take securities from and give the same up, may abstain from taking securities from or from perfecting securities, may accept compositions and proposals, and may otherwise deal with the Chargor and all of the other Covenantors and securities as the Chargee may see fit without prejudicing the rights of the Chargee under the Loan or the Security Documents.

MISCELLANEOUS

General Indemnity

The Chargor shall protect, defend, indemnify and save harmless the Chargee its shareholders, directors, officers, employees and agents from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation reasonable legal fees and expenses), imposed upon or incurred by or asserted against the Chargee by reason of (a) ownership of the Charge, the Charged Property or any interest therein or receipt of any Rents; (b) any accident, injury to or death of persons or loss of or damage to the Charged Property occurring in, on or about the Charged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent Charged Property or adjacent parking areas, streets or ways; (c) any use, non-use or condition in, on or about the Charged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent Charged Property or adjacent parking areas, streets or ways; and (d) performance of any labour or services or the furnishing of any materials or other property in respect of the Charged Property or any part thereof. Any amounts payable to the Chargee by reason of the application of this section shall become immediately due and payable and shall bear interest at the interest rate chargeable hereunder from the date loss or damage is sustained by the Chargee until paid.

Time of the Essence

Time is of the essence with respect to this Charge.

Waivers

No course of dealing on the part of the Chargee, its officers, employees, consultants or agents, nor any failure or delay by the Chargee with respect to exercising any right, power or privilege of the Chargee under the any of the Security Documents, shall operate as a waiver thereof. No waiver of any provision of the Security Documents shall be effective unless in writing and signed by the party against whom enforcement is sought.

Governing Law

This Charge and the Security Documents shall be governed by and construed in accordance with the laws of the Province in which the Charged Property is located and the applicable laws of Canada.

Successors and Assigns

This Charge shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors and permitted assigns of the parties hereto. This Charge may be assigned by the Chargee at any time without prior notice to or consent of the Chargor.

Currency

All dollar references in this Charge are expressed in Canadian dollars.

Obligations as Covenants

Each obligation of the Covenantors expressed in this Charge or in any of the Security Documents, even though not expressed as a covenant, is deemed for all purposes to be a covenant made with the Chargee.

Land Registration Reform Act

The Parties hereby exclude from this Charge all of the covenants deemed to be included by section 7(1) of the *Land Registration Reform Act (Ontario)* (the “**Act**”), which covenants are hereby replaced by the covenants and agreements contained herein.

Electronic Imaging

The parties hereto agree that, at any time, the Chargee may convert paper records of the Security Documents and all other documentation delivered to the Chargee (each, a “**Paper Record**”) into electronic images (each, an “**Electronic Image**”) as part of the Chargee’s normal business practices. The parties agree that each such Electronic Image shall be considered as an authoritative copy of the Paper Record and shall be legally binding on the parties and admissible in any legal, administrative or other proceeding as conclusive evidence of the contents of such document in the same manner as the original Paper Record.

Severability

If any one or more of the provisions contained in this Charge shall for any reason be held by a court or competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Chargee, be severable from and shall not affect any other provision of this Charge, but this Charge shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Charge.

NO RELEASE OF COVENANTS UPON PARTIAL DISCHARGE OF MORTGAGE

In the event that one of the properties secured hereunder is partially discharged by the Chargee, such partial discharge shall not release the owner of such discharged property from his/her/its/their its covenants, including the covenant to pay the Indebtedness, contained in this Charge or in any of the other Security Documents which shall remain in full force and effect until the Indebtedness is repaid in full. This clause shall not confer any rights to the Chargor to obtain a partial discharge of this Charge except as may be otherwise set forth in this Charge.

No Marshalling: This Charge shall be in addition to and not in substitution for any other security which the Chargee may now or hereafter hold in respect of the Indebtedness or any other Security Documents and the Chargee shall be under no obligation to marshal in favour of the Chargor, any other entity or other lender or holder of security, any monies or other assets which the Chargee may be entitled to receive or upon which the Chargee may have a claim.

Attorney: Upon the occurrence of an Event of Default which is continuing, the Chargor hereby irrevocably nominates, constitutes and appoints the Chargee and each of its officers holding office from time to time as the true and lawful attorney of the Chargor with power of substitution in the name of the Chargor to do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Chargee reasonably considers necessary or desirable to carry out the provisions and purposes of this Debenture or to exercise any of its rights and remedies hereunder and the Chargor hereby ratifies and agrees to ratify all reasonable acts of any such attorney taken or done in accordance with this Section. Without in any way limiting the generality of the foregoing, the Chargee shall have the right, upon the occurrence of an Event of Default which is continuing, to execute for and in the name of the Chargor all financing statements, financing change statements, conveyances, transfers, assignments, consents and other instruments as may be required for such purposes. This power of attorney is coupled with an interest and shall not be revoked or terminated by any act or thing other than the discharge of this Charge.

Electronic Execution: The words “execution,” “signed,” “signature,” and words of like import in the Security Documents shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Law, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario) and other similar federal or provincial laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada or its Uniform Electronic Evidence Act, as the case may be. The parties hereto agree to close the within transaction with all Security Documents to be delivered with electronic signatures.

This is Exhibit "I" referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

ACKNOWLEDGEMENT AND DIRECTION
Re: Electronic Registration

**TO: All Lawyers or any duly authorized employee of
FOGLER, RUBINOFF LLP ("FR") and its successor firm**

**Re: Hillmount Capital Mortgage Holdings Inc. (the "Lender") loan to
CBJ - Fort Erie Hills Inc. (the "Borrower")
secured by a first charge (the "Charge") against the title to:
BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S
CROOKS ST PL 525 VILLAGE OF BRIDGEBURG, PT BLK S W/S CROOKS ST
PL 525 VILLAGE OF BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER
BERTIE AS IN RO461513
Town of Fort Erie, Regional Municipality of Niagara
85 Crooks St, Fort Erie, Ontario (the "Property")
Closing Date: October __, 2023**

This will confirm that:

1. I/we have reviewed the information contained on the documents attached hereto and this information is accurate.
2. You are authorized and directed to sign and register electronically the following documents on my/our behalf, copies of which are attached hereto.

Charge/Mortgage

Chargor: CBJ - Fort Erie Hills Inc.
Chargee: Hillmount Capital Mortgage Holdings Inc.
Principal: \$8,000,000.00

General Assignment of Rents

Assignor: CBJ - Fort Erie Hills Inc.
Assignee: Hillmount Capital Mortgage Holdings Inc.

3. You are hereby authorized and directed to enter into an escrow closing arrangement substantially in the form attached hereto being a copy of the version of the Document Registration Agreement, which appears on the website of the Law Society of Ontario as of the date hereof. I/we hereby acknowledge the said Agreement has been reviewed by me/us and that I/we shall be bound by its terms.
4. You are authorized to insert any information that may be required in the documents described in this Acknowledgement and Direction that may not be available to you at the time of execution of this Acknowledgement and Direction.
5. The effect of the electronic documents described in this Acknowledgement and Direction has been fully explained to me/us by my/our own independent solicitor(s), and I/we understand that I/we am party/are parties to and bound by the terms and provisions of these electronic documents to the same extent as if I/we had signed these documents.
6. I am/We are in fact the party/parties (or authorized signing officer(s) of the party/parties) named in the electronic documents described in this Acknowledgement and Direction and I/we have not misrepresented our identities to you or to my/our own independent solicitor(s).
7. I/We hereby authorize you to make any minor, non-material amendments that may be required by the Land Registry Office to effect certification of the electronic documents described in this Acknowledgment and Direction by the Land Registry Office or any amendments required to make the electronic documents consistent with the commitment letter relating to the Loan. In the event that any electronic documents are cancelled or withdrawn for any reason, or if any errors or inconsistencies with the commitment letter

are discovered in any electronic documents whether before or after registration, we further authorize you to prepare new replacement electronic documents in the form required by the Land Registry Office to effect certification, and such new electronic documents may be attached to this signed Acknowledgement and Direction and shall be authorized by the undersigned as if such new electronic documents was originally attached hereto, provided that a copy of same is delivered to the undersigned prior to registration of the new electronic documents. The undersigned further undertakes, covenants and agrees, in consideration of the closing, to forthwith execute and deliver, and in any event within 3 days of request, any acknowledgements, consents or other additional documents or do such other acts as may be required by you in connection with such new electronic documents. Failure of the undersigned to comply with the aforesaid undertaking shall constitute, at the Lender's option, a default under all Security Documents (as defined in the Charge).

8. In the event of any investigation by the Director of Land Registration appointed under subsection 6(1) of the Registry Act (the "Director") regarding suspected fraudulent or unlawful activity or registration in connection with the document attached to this Acknowledgement and Direction, the undersigned hereby irrevocably consents to you releasing to the Director a true copy of this Acknowledgement and Direction upon request by the Director.
9. I/We understand that FR is not the solicitor for me/us. I/we have received independent legal representation.
10. All documentation required to complete the transaction described above may be executed in any number of counterparts, including counterparts delivered electronically by pdf, facsimile or functionally equivalent means, and all such counterparts taken together will be deemed to constitute one and the same instrument.

SIGNATURE(S) TO APPEAR ON THE FOLLOWING PAGE

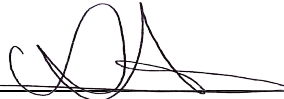
DATED as of the Closing Date.

CBJ - FORT ERIE HILLS INC.

DocuSigned by:
Per: Jeff Burrell
Name: Jeffrey Burrell
Title: President

I have authority to bind the corporation.

This is Exhibit “J” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

GENERAL SECURITY AGREEMENT

THIS AGREEMENT made this 11th day of October, 2023.

B E T W E E N:

CBJ - Fort Erie Hills Inc.

(hereinafter referred to as the “Debtor”)

OF THE FIRST PART,

- and -

Hillmount Capital Mortgage Holdings Inc.

(hereinafter referred to as the “Secured Party”)

OF THE SECOND PART.

WHEREAS the Debtor is now or may hereafter become indebted or otherwise liable to the Secured Party;

AND WHEREAS the Debtor has agreed to grant, as general and continuing security for the payment and performance of all its Obligations (as hereinafter defined) to the Secured Party, a security interest over all its assets, undertaking and property, in addition to other security;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises the Debtor hereby agrees with the Secured Party as follows:

ARTICLE 1 - INTERPRETATION

1.01 Interpretation

(1) In this Agreement, unless something in the subject matter or context is inconsistent therewith

- (a) “Agreement” means this agreement and all amendments made thereto by written agreement between the Secured Party and the Debtor;
- (b) “Collateral” has the meaning ascribed to that term in Section 2.01;
- (c) “Obligations” means all obligations, indebtedness and liability of the Debtor to the Secured Party howsoever arising, whether present or future, direct or indirect, absolute or past, contingent, extended or renewed, or material or not, and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether the Debtor is bound alone or with another or others, including without limitation, the obligations, indebtedness and liability of the Debtor to the Secured Party pursuant

to a commitment letter dated August 8, 2023, as amended (collectively, the "**Commitment**") in the principal amount of \$8,000,000.00 executed by the Debtor in favour of the Secured Party, and whether the said obligations are from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again; and

- (d) the terms "accessions", chattel paper", "documents of title", "goods", "instruments", "intangibles", "inventory", "money", "proceeds" and "securities" whenever used herein shall have the meanings given to those terms, or the singular or plural thereof, as the case may be, in the *Personal Property Security Act* (Ontario), as now enacted or as the same may from time to time be amended, re-enacted or replaced.

(2) The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, reference herein to Articles and Sections are to Articles and Sections of this Agreement.

(3) In this Agreement words importing the singular number only shall include the plural and vice versa, words importing any gender shall include all genders and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.

ARTICLE 2 - GRANT OF SECURITY INTEREST

2.01 Security Interest

As general and continuing security for the payment and performance of the Obligations, the Debtor hereby grants to the Secured Party a security interest (the "Security Interest") in the undertaking of the Debtor and in all of the Debtor's present and after acquired personal property including, without limitation, in all Goods (including all parts, accessories, attachments, special tools, additions and accessions thereto), Chattel Paper, Documents of Title (whether negotiable or not), Instruments, Intangibles, Money and Securities now owned or hereafter owned or acquired by or on behalf of the Debtor (including such as may be returned to or repossessed by the Debtor) and in all proceeds and renewals thereof, accretions thereto and substitutions therefor (hereinafter collectively called the "Collateral"), and including, without limitation, all of the following now owned or hereafter owned or acquired by or on behalf of the Debtor:

- (a) Accounts Receivable: all debts, accounts, claims and choses in action which are now or which may hereafter become due, owing or accruing due to the Debtor (collectively, the "Receivables");

- (b) Inventory: all inventory of whatever kind and wherever situated (whether or not supplied or sold by the Secured Party to the Debtor) including, without limiting the generality of the foregoing, all goods held for sale or lease or that have been leased or that are to be furnished or have been furnished under contracts for service or used or consumed in the business of the Debtor (collectively, the “Inventory”);
- (c) Equipment: all machinery, equipment, fixtures, furniture, tools, plant, vehicles and other tangible personal property which are not Inventory, whether or not described in any schedule hereto (collectively, the “Equipment”);
- (d) Chattel Paper: all chattel paper;
- (e) Documents of Title: all warehouse receipts, bills of lading and other documents of title, whether negotiable or not;
- (f) Securities and Instruments: all shares, stock, warrants, bonds, debentures, debenture stock and other securities and all instruments (collectively, the “Securities”);
- (g) Intangibles: all intangibles not described in Section 2.01 (a) including, without limiting the generality of the foregoing, all goodwill, patents, trademarks, copyrights and other industrial property;
- (h) Money: all coins or bills or other medium of exchange adopted for use as part of the currency of Canada or of any foreign government;
- (i) Accounts: all monies deposited in an account opened at a financial institution;
- (j) Books, Records, Etc.: all books, papers, accounts, invoices, documents and other records in any form evidencing or relating to any of the property described in Sections 2.01(a) to (i) inclusive, and all contracts, securities, instruments and other rights and benefits in respect thereof;
- (k) Substitutions, Etc.: all replacements of, substitutions for and increases, additions and accessions to any of the property described in Sections 2.01(a) to (i) inclusive; and
- (l) Proceeds: all proceeds of the property described in Sections 2.01(a) to (j) inclusive including, without limiting the generality of the foregoing, all personal property in any form or fixtures derived directly or indirectly from any dealing with such property or the proceeds therefrom and any payment that indemnifies or compensates for the loss of or damage to such property or the proceeds therefrom;

provided that the Security Interest granted hereby shall not extend or apply to and the Collateral shall not include the last day of the term of any lease or agreement therefore, or any extension or renewal thereof, but upon the enforcement of the Security Interest, the Debtor shall stand possessed of such last day in trust to assign the same to any person acquiring such term or to otherwise dispose thereof as Lender may direct.

**ARTICLE 3 - GENERAL REPRESENTATIONS,
WARRANTIES AND COVENANTS OF THE DEBTOR**

3.01 Representations and Warranties

The Debtor hereby represents and warrants to the Secured Party that:

- (a) the Debtor is a corporation duly incorporated, organized and subsisting under the laws of the Province of Ontario, with the corporate power to enter into this Agreement; this Agreement has been duly authorized by all necessary corporate action on the part of the Debtor and constitutes a legal and valid agreement binding upon the Debtor and enforceable in accordance with its terms; the making and performance of this Agreement will not result in the breach of, constitute a default under, contravene any provision of, or result in the creation of, any lien, charge, security interest, encumbrance or any other rights of others upon any property of the Debtor pursuant to any agreement, indenture or other instrument to which the Debtor is a party or by which the Debtor or any of its property may be bound or affected;
- (b) all financial information provided by the Debtor to the Secured Party is true, correct and complete; all financial statements have been prepared in accordance with Canadian generally accepted accounting principles consistently applied; there has been no material adverse change in the Debtor's financial condition since the date of the most recent financial statements provided to the Secured Party;
- (c) except for prior security interests provided to the Debtor's bank or disclosed in a schedule hereto, all of the Collateral is the sole property of the Debtor free from any liens, charges, security interests, encumbrances or any rights of others which rank prior to or pari passu with the Security Interest;
- (d) the address of the Debtor's chief executive office and the office where it keeps its records respecting the Receivables is set out below the Debtor's name on the signature page of this Agreement; and
- (e) if the Debtor is a corporation, its name as set forth on page 1 of this General Security Agreement is its full, true and correct name as stated in its constating

documents, it does not have or use a French language form of its name or a combined English language and French language form of its name, and the Debtor has provided to the Secured Party an accurate written list of all prior corporate or business names under which the Debtor has operated.

3.02 Covenants

The Debtor covenants with the Secured Party that the Debtor shall:

- (a) ensure that the representations and warranties set forth in Section 3.01 shall be true and correct at all times;
- (b) maintain, use and operate the Collateral and carry on and conduct its business in a lawful and business-like manner and in accordance with any agreement now or hereafter entered into with the Secured Party;
- (c) not permit the Collateral to be affixed to real or personal property so as to become a fixture or accession without the prior written consent of the Secured Party;
- (d) defend the Collateral against all claims and demands respecting the Collateral made by all persons at any time and, except as otherwise provided herein, shall keep the Collateral free and clear of all security interests, mortgages, charges, liens and other encumbrances or interests except for those disclosed in a schedule hereto or hereafter approved in writing by the Secured Party prior to their creation or assumption;
- (e) not change its chief executive office and the location of the office where it keeps its records respecting the Receivables, or move any of the Inventory or Equipment from the address set out below the name of the Debtor on the signature page hereof or the locations specified in any schedule hereto, without the prior written consent of the Secured Party;
- (f) pay all rents, taxes, levies, assessments and government fees or dues lawfully levied, assessed or imposed in respect of the Collateral or any part thereof as and when the same shall become due and payable, and shall exhibit to the Secured Party, when required, the receipts and vouchers establishing such payment;
- (g) keep proper books of account in accordance with sound accounting practice, and furnish to the Secured Party such financial information and statements and such information and statements relating to the Collateral as the Secured Party may from time to time require, and the Debtor shall permit the Secured Party or its authorized agents at any time at the expense of the Debtor to examine the books of account and other financial records and reports relating to the Collateral and to make copies thereof and take extracts therefrom;

- (h) from time to time forthwith at the request of the Secured Party furnish to the Secured Party in writing all information requested relating to the Collateral, and the Secured Party shall be entitled from time to time at any reasonable time to inspect the Collateral and make copies of all information relating to the Collateral and for such purposes the Secured Party shall have access to all premises occupied by the Debtor or where the Collateral may be found;
- (i) from time to time forthwith at the request of the Secured Party execute and deliver all such financing statements, schedules, assignments and documents, and do all such further acts and things as may be reasonably required by the Secured Party to effectively carry out the full intent and meaning of this Agreement or to better evidence and perfect the Security Interest, and the Debtor hereby irrevocably constitutes and appoints the Secured Party, or any Receiver appointed by the court or the Secured Party, the true and lawful attorney of the Debtor, with full power of substitution, to do any of the foregoing in the name of the Debtor whenever and wherever the Secured Party or any such Receiver may consider it to be necessary or expedient;
- (j) not change its name or amalgamate with any other corporation without first giving notice to the Secured Party of its new name and the names of all amalgamating corporations and the date when such new name or amalgamation is to become effective; and
- (k) pay to the Secured Party forthwith upon demand all reasonable costs and expenses (including, without limiting the generality of the foregoing, all legal, Receiver's and accounting fees and expenses) incurred by or on behalf of the Secured Party in connection with the preparation, execution and perfection of this Agreement and the carrying out of any of the provisions of this Agreement including, without limiting the generality of the foregoing, protecting and preserving the Security Interest and enforcing by legal process or otherwise the remedies provided herein; and all such costs and expenses shall be added to and form part of the Obligations secured hereunder.

ARTICLE 4 - INSURANCE

4.01 Insurance

The Debtor shall obtain and maintain, at its own expense, insurance against loss or damage to the Collateral including, without limiting the generality of the foregoing, loss by fire (including so-called extended coverage), theft, collision and such other risks of loss as are customarily insured against on this type of Collateral, in an amount not less than the full replacement value thereof, in such form and with such insurers as shall be reasonably satisfactory to the Secured Party. If any such policies of insurance contain a co-insurance clause, the Debtor shall either cause any such co-insurance clause to be waived or maintain at all times a sufficient amount of insurance to meet the requirements of any such co-insurance clause so as to

prevent the Debtor from becoming a co-insurer under the terms of any such policy. All such policies shall name the Secured Party as an additional insured and loss payee thereof, as the Secured Party's interests may appear, and shall provide that the insurer will give the Secured Party at least 10 days written notice of intended cancellation. At the Secured Party's request, the Debtor shall furnish the Secured Party with a copy of any policy of insurance and certificate of insurance or other evidence satisfactory to the Secured Party that such insurance coverage is in effect. The Debtor shall give the Secured Party notice of any damage to, or loss of, the Collateral forthwith upon the occurrence of any such damage or loss. Should the Debtor fail to make any payment or perform any other obligation provided in this Section 4.01, the Secured Party shall have the right, but not the obligation, without notice or demand upon the Debtor and without releasing the Debtor from any obligation hereunder or waiving any rights to enforce this Agreement, to perform any or all of such obligations. The amount of all such payments made and all costs, fees and expenses incurred by the Secured Party in performing such obligations shall be immediately due and payable by the Debtor.

ARTICLE 5 - DEALING WITH COLLATERAL

5.01 Dealing with Collateral by the Debtor

The Debtor shall not sell, lease or otherwise dispose of any of the Collateral without the prior written consent of the Secured Party, except that the Debtor may, until an Event of Default occurs, sell items of Inventory in the ordinary course of its business so that the purchaser thereof takes title thereto free and clear of the Security Interest, but all proceeds of any such sale shall continue to be subject to the Security Interest, and all money received by the Debtor shall be received as trustee for the Secured Party and shall be held separate and apart from other money of the Debtor and shall be paid over to the Secured Party upon request.

5.02 Registration of Securities

The Secured Party may have any Securities registered in its name or in the name of its nominee and shall be entitled, but not bound or required, to exercise any of the rights that any holder of such Securities may at any time have, provided that until an Event of Default has occurred and is continuing, the Debtor shall be entitled to exercise, in a manner not prejudicial to the interests of the Secured Party or which would violate or be inconsistent with this Agreement, all voting power from time to time exercisable in respect of the Securities. The Secured Party shall not be responsible for any loss occasioned by its exercise of any of such rights or by failure to exercise the same within the time limited for the exercise thereof. The Debtor shall from time to time forthwith upon the request of the Secured Party deliver to the Secured Party those Securities requested by the Secured Party duly endorsed for transfer to the Secured Party or its nominee to be held by the Secured Party subject to the terms of this Agreement.

5.03 Notification of Account Debtors

Before an Event of Default occurs, the Secured Party may give notice of this Agreement and the Security Interest and assignment granted hereby to any account debtors of the Debtor or

to any other person liable to the Debtor and, after the occurrence of an Event of Default, may give notice to any such account debtors or other person to make all further payments to the Secured Party, and any payment or other proceeds of Collateral received by the Debtor from account debtors or from any other person liable to the Debtor whether before or after any notice is given by the Secured Party shall be held by the Debtor in trust for the Secured Party and paid over to the Secured Party on request.

5.04 Application of Funds

Except where the Debtor, when not in default hereunder, so directs in writing at the time of payment, all money collected or received by the Secured Party in respect of the Collateral may be applied on account of such parts of the Obligations as the Secured Party in its sole discretion determines, or may be held unappropriated in a collateral account, or in the discretion of the Secured Party may be released to the Debtor, all without prejudice to the Secured Party's rights against the Debtor.

ARTICLE 6 - DEFAULT AND REMEDIES

6.01 Events of Default

The Debtor shall be in default under this Agreement upon the occurrence of any of the following events (herein referred to as an "Event of Default"):

- (a) the Debtor does not pay to the Secured Party any sum when due;
- (b) the Debtor does not perform any of its obligations under Section 4.01;
- (c) the Debtor does not observe or perform any covenant or obligation of the Debtor contained in this Agreement (other than a covenant or condition the breach or default in performance of which is specifically dealt with elsewhere in this Section 6.01) and such default is not remedied within five days after notice has been given by the Secured Party to the Debtor specifying such default;
- (d) any representation or warranty made by the Debtor herein or in any document or certificate provided at any time to the Secured Party in connection herewith shall prove to be incorrect or misleading in any material respect;
- (e) the Debtor is in default under any other agreement with the Secured Party;
- (f) the Debtor ceases or threatens to cease to carry on the business currently being carried on by it or a substantial portion thereof or makes or agrees to make an assignment, disposition or conveyance, whether by way of sale or otherwise, of its assets in bulk;

- (g) the Debtor shall be an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or commit or threaten to commit any act of bankruptcy;
- (h) the commencement of any proceeding or the taking of any step by or against the Debtor for the dissolution, liquidation or winding up of the Debtor or for any relief under the laws of any jurisdiction relating to bankruptcy, insolvency, reorganization, arrangement or compromise, or for the appointment of one or more of a trustee, receiver, receiver and manager, custodian, liquidator or any other person with similar powers with respect to the Debtor or the Collateral or any part thereof;
- (i) the Collateral or any part thereof is seized or otherwise attached by anyone pursuant to any legal process or other means, including distress, execution or any other step or proceeding with similar effect; or
- (j) the Secured Party believes in good faith that the prospect of payment or performance of any of the Obligations is impaired or that the Collateral is in danger of being lost, damaged or confiscated, or of being encumbered by the Debtor or seized or otherwise attached by anyone pursuant to any legal process.

6.02 Remedies

(1) On or after the occurrence of any Event of Default and at any time thereafter, (a) any or all of the Obligations shall at the option of the Secured Party become immediately due and payable or be subject to immediate performance, as the case may be, without presentment, protest or notice of dishonour, all of which are expressly waived; (b) the obligation, if any, of the Secured Party to extend further credit to the Debtor shall cease; and (c) any or all security granted hereby shall, at the option of the Secured Party, become immediately enforceable.

(2) In addition to any right or remedy provided by law, the Secured Party will have the rights and remedies set out below, all of which rights and remedies will be enforceable successively, concurrently or both:

- (a) the Secured Party may by appointment in writing appoint a receiver or receiver and manager (each herein referred to as the “Receiver”) of the Collateral (which term when used in this Section 6.02 shall include the whole or any part of the Collateral) and may remove or replace such Receiver from time to time or may institute proceedings in any court of competent jurisdiction for the appointment of a Receiver of the Collateral; and the term “Secured Party” when used in this Section 6.02 shall include any Receiver so appointed and the agents, officers and employees of such Receiver; and the Secured Party shall not be in any way responsible for any misconduct or negligence of any such Receiver;

- (b) the Secured Party may take possession of the Collateral and require the Debtor to assemble the Collateral and deliver or make the Collateral available to the Secured Party at such place or places as may be specified by the Secured Party;
- (c) the Secured Party may take such steps as it considers desirable to maintain, preserve or protect the Collateral;
- (d) the Secured Party may carry on or concur in the carrying on of all or any part of the business of the Debtor;
- (e) the Secured Party may enforce any rights of the Debtor in respect of the Collateral by any manner permitted by law;
- (f) the Secured Party may sell, lease or otherwise dispose of the Collateral at public auction, by private tender, by private sale or otherwise either for cash or upon credit upon such terms and conditions as the Secured Party may determine and without notice to the Debtor unless required by law;
- (g) the Secured Party may accept the Collateral in satisfaction of the Obligations upon notice to the Debtor of its intention to do so in the manner required by law;
- (h) the Secured Party may, for any purpose specified herein, borrow money on the security of the Collateral in priority to the Security Interest;
- (i) the Secured Party may enter upon, occupy and use all or any of the premises, buildings and plant occupied by the Debtor and use all or any of the Equipment and other personal property of the Debtor for such time as the Secured Party requires to facilitate the realization of the Collateral, free of charge, and the Secured Party will not be liable to the Debtor for any neglect in so doing or in respect of any rent, charges, depreciation or damages in connection with such actions;
- (j) the Secured Party may charge on its own behalf and pay to others all reasonable amounts for expenses incurred and for services rendered in connection with the exercise of the rights and remedies of the Secured Party hereunder, including, without limiting the generality of the foregoing, reasonable legal, Receiver and accounting fees and expenses, and in every such case the amounts so paid together with all costs, charges and expenses incurred in connection therewith, including interest thereon at such rate as the Secured Party deems reasonable, will be added to and form part of the Obligations hereby secured; and
- (k) the Secured Party may discharge any claim, lien, mortgage, charge, security interest, encumbrance or any rights of others that may exist or be threatened against the Collateral, and in every such case the amounts so paid together with

costs, charges and expenses incurred in connection therewith shall be added to the Obligations hereby secured.

(3) The Secured Party may grant extensions of time, take, abstain from taking and perfecting and give up securities, accept compositions, grant releases and discharges, release any part of the Collateral and otherwise deal with the Debtor, debtors of the Debtor, sureties and others and with the Collateral and other security as the Secured Party sees fit without prejudice to the liability of the Debtor to the Secured Party or the Secured Party's rights hereunder.

(4) The Secured Party will not be liable or responsible for any failure to seize, collect, realize, or obtain payment with respect to the Collateral and is not bound to institute proceedings or to take other steps for the purpose of seizing, collecting, realizing or obtaining possession or payment with respect to the Collateral or for the purpose of preserving any rights of the Secured Party, the Debtor or any other person, firm or corporation in respect of the Collateral.

(5) The Secured Party may apply any proceeds of realization of the Collateral to payment of expenses in connection with the preservation and realization of the Collateral as above described and the Secured Party may apply any balance of such proceeds to payment of the Obligations in such order as the Secured Party sees fit. If there is any surplus remaining, the Secured Party may pay it to any person having a claim thereto in priority to the Debtor of whom the Secured Party has knowledge and any balance remaining shall be paid to the Debtor. If the disposition of the Collateral fails to satisfy the Obligations secured by this Agreement and the aforesaid expenses, the Debtor will be liable to pay any deficiency to the Secured Party forthwith on demand.

ARTICLE 7 - GENERAL

7.01 Benefit of the Agreement

This Agreement shall be binding upon the heirs, executors, administrators, successors and permitted assigns of the Debtor and shall benefit the heirs, executors, administrators, successors and assigns of the Secured Party. If there is more than one Debtor named herein, the term "Debtor" shall mean all and each of them, their obligations under this Agreement shall be joint and several, the Obligations shall include those of all or any one of them and no Debtor shall have any right of subrogation, exoneration, reimbursement or indemnity whatsoever and no right of recourse to the Collateral for the Obligations hereunder unless and until all of the Obligations have been paid or performed in full.

7.02 Entire Agreement; Attachment

This Agreement, including any schedule now or hereafter annexed hereto, constitutes the entire agreement between the Debtor and the Secured Party with respect to the subject matter hereof. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties except as expressly set forth

herein, and, without limiting the generality of the foregoing, the parties have not agreed to postpone the time for the attachment of the security interest granted hereby.

7.03 No Waiver

No delay or failure by the Secured Party in the exercise of any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude the other or further exercise thereof or the exercise of any other right.

7.04 Severability

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect. To the extent permitted by applicable law the parties hereby waive any provision of law that renders any provision hereof prohibited or unenforceable in any respect.

7.05 Notices

Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and may be given by personal delivery, registered mail or by electronic means, addressed to the Debtor at the address set out below the Debtor's name on the signature page hereof, or, in the case of the Secured Party to:

89 Tycos Drive, Suite 208, Toronto, Ontario M6B 1W3

or such other address, electronic communication number or to the attention of such other individual as may be designated by notice by any party to the other. Any demand, notice or other communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third day following the deposit thereof in the mail and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the next business day if given after normal business hours on any day. If the party giving any communication knows or ought reasonably to know of any difficulties with the postal system that might affect the delivery of mail, any such demand, notice or other communication shall not be mailed but shall be given by personal delivery or by electronic communication.

7.06 Modification; Assignment

This Agreement may not be amended or modified in any respect except by written instrument signed by all parties. The rights of the Secured Party under this Agreement may be assigned by the Secured Party without the prior consent of the Debtor. The Debtor may not assign its obligations under this Agreement.

7.07 Additional Continuing Security

This Agreement and the security interest, assignment and mortgage and charge granted hereby are in addition to and not in substitution for any other security now or hereafter held by the Secured Party and this Agreement is a continuing agreement and security that shall remain in full force and effect until discharged by the Secured Party.

7.08 Discharge

The Debtor shall not be discharged from any of the Obligations or from this Agreement except by a release or discharge signed in writing by the Secured Party.

7.09 Governing Law

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

7.10 Executed Copy


The Debtor acknowledges receipt of a fully executed copy of this Agreement.

Electronic execution of this Agreement including without limitation by DocuSign, and by fax or electronic mail shall be as binding on the undersigned as if this Agreement has been executed and delivered in the original.

SIGNATURE(S) ON THE FOLLOWING PAGE

IN WITNESS WHEREOF the Debtor has executed this Agreement.

CBJ - FORT ERIE HILLS INC.

DocuSigned by:
Per: 
Name: Jeffrey Burrell
Title: President

I have authority to bind the corporation.

ADDRESS OF DEBTOR:

150 King St. West, Suite 278, Toronto, ON, M5H 1J9

This is Exhibit “K” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

GUARANTEE

THIS INDENTURE made on October __, 2023.

BY:

**CBJ DEVELOPMENTS INC., JEFFREY BURRELL,
CHRISTOPHER PETER AGAGNIER AND KIMBERLEY
GAYLE ZACHARIAS**

hereinafter collectively called the “Guarantor”,

IN FAVOUR OF:

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

hereinafter called the “Lender”.

WHEREAS Hillmount Capital Inc. issued a Commitment Letter in favour of CBJ - Fort Erie Hills Inc. (hereinafter called the “**Borrower**”) dated August 8, 2023 as amended and as assigned to the Lender (collectively, the “**Commitment Letter**”), respecting the provision of mortgage financing for the property municipally known as **85 Crooks St, Fort Erie, Ontario** (the “**Property**”);

AND WHEREAS pursuant to the Commitment Letter, the Borrower has given a Charge/Mortgage in favour of the Lender in the principal sum of **EIGHT MILLION DOLLARS (\$8,000,000.00)** respecting the Property (the “**Mortgage**”);

AND WHEREAS, for good and valuable consideration, the Guarantor has agreed to guarantee the due payment and performance of the obligations of the Borrower to the Lender under or pursuant to the Security Documents;

AND WHEREAS capitalized but undefined terms used herein shall have the meanings ascribed thereto in the Mortgage.

NOW THEREFORE THIS INDENTURE WITNESSETH THAT, in consideration of the Lender making the Loan and the sum of ONE DOLLAR (\$1.00) of lawful money of Canada now paid by the Lender to the Guarantor (the receipt and sufficiency of which is hereby acknowledged by the Guarantor), the Guarantor does hereby covenant and agree with the Lender, as principal debtor and not as surety and, if more than one guarantor, on a joint and several basis, that it will pay or cause to be paid to the Lender all monies payable under or pursuant to the Mortgage and the Security Documents as and when same fall due, as well as all damages, costs, legal costs on a full indemnity basis charges and expenses which may become due or payable to the Lender pursuant to the Security Documents or enforcement thereof, and that the Guarantor will well and truly observe and perform all of the covenants, terms and conditions of the Security Documents to be observed and performed by the Borrower (all of which promises to pay, observe and perform being hereinafter collectively referred to as the “**Liabilities**”);

AND, in furtherance of the foregoing:

1. The Guarantor hereby undertakes and agrees to indemnify and hold harmless the Lender from and against any and all liability, loss, harm, damage or expense, including legal fees on a full indemnity basis, which it may suffer, incur or sustain by reason of the default of the Borrower under the Loan Documents or any of them.
2. As between the Guarantor and the Lender, the Guarantor is and shall continue to be liable as a principal debtor, notwithstanding the bankruptcy of the Borrower or any act in connection with this guarantee, any agreement between the Lender and the Borrower or any security held by the Lender, whereby the Guarantor would otherwise be released or exonerated from its obligations under this guarantee including, without limitation, the granting of time or other indulgences to the Borrower, the giving up, discharging, releasing, abandoning, modification, variation, exchange, renewal, assigning, or abstinence from perfecting or taking advantage of any security given or to be given to the Lender by the Borrower or the Guarantor, in whole or in part, the discharge of any part or parts of or acceptance of any composition or arrangement or realization upon any security given or to be given to the Lender by the Borrower or the Guarantor, or any neglect or omission with respect to any security given to the Lender by the Borrower or the Guarantor. No release of the Borrower or any other thing whatsoever whereby the Guarantor as surety only would or might have been released shall in any way modify, alter, vary or in any way prejudice the Lender or affect the liability of the Guarantor in any way under this covenant, which shall continue and be binding on the Guarantor, and as well after as before maturity of the Mortgage and both before and after default and judgment, until the Liabilities are fully paid and satisfied.
3. The Guarantor shall continue to remain liable on any guarantee, covenant and agreement notwithstanding:
 - (i) Any extension of time or extensions of time from time to time which may be given by the Lender(s) to the Borrower for payment, observance, performance or fulfilment of any liabilities, indebtedness, agreements or obligations hereby guaranteed and the Guarantor hereby covenants and agrees with the Lenders that payment shall be made in accordance with such extension or extensions of time and that if payments are not made in accordance with such extension or extensions of time the Guarantor shall make or cause to be made the payments in accordance with such extension of time;
 - (ii) Realization of any securities now or hereafter held by the Lender; and
 - (iii) Doing or omitting to do any other act, matter or thing whatsoever with relation to the Liabilities hereby guaranteed or any security or securities now or hereafter held in respect thereof or any part of same.

The Liabilities of the Guarantor shall continue and be binding on the Guarantor, and as well after as before default and after as before maturity of the Mortgage, until the Liabilities are fully paid and satisfied.

4. Any account settled or stated by or between the Lender and the Borrower or admitted by or on behalf of the Borrower may be adduced by the Lender and shall in that case be accepted by the Guarantor as conclusive evidence that the balance or amount thereof thereby appearing is due by the Borrower to the Lender.
5. The Guarantor will not at any time claim to be subrogated in any manner to the position of the Lender and will not claim the benefit of any security at any time held by the Lender.
6. The Lender shall not be bound to exhaust its recourses against the Borrower before requiring payment from the Guarantor and the Lender may enforce all available remedies and realize upon securities held or any part thereof in the order that it may determine.
7. Any change or changes in the name of the Borrower shall not affect or in any way limit or lessen the liability of the Guarantor hereunder.
8. The Guarantor agrees that:
 - a. The covenants of the Guarantor hereunder shall continue for the full term of the Mortgage including any renewal thereof, unless a release in writing has been authorized by the Lender and shall be binding upon the successors and permitted assigns of the Guarantor;
 - b. It is the intention of the parties that if for any reason the Borrower has no legal existence and is or becomes under no legal obligation to discharge the monies secured by the Mortgage or if any monies owing by the Borrower to the Lender become irrecoverable from the Borrower by operation of law or for any reason whatsoever, this covenant and the covenants, agreements and obligations of the Guarantor contained herein shall nevertheless be binding upon the Guarantor as principal debtor until such time as the Indebtedness owing by the Borrower to the Lender have been paid in full and the liabilities secured by the Mortgage have been discharged.
 - c. This covenant shall be in addition to and not in substitution for any other guarantees or other securities which the Lender may now or hereafter hold in respect of the monies secured by the Mortgage and the Lender shall be under no obligation to marshal in favour of the Guarantor any other covenants or other securities or any monies or other assets which the Lender may be entitled to receive or may have a claim upon; and no loss of or in respect of or unenforceability of any other covenants or other securities which the Lender may now or hereafter hold in respect of the monies secured by the Mortgage and the Security Documents whether occasioned by the fault of the Lender or otherwise shall in any way limit or lessen the Guarantor's liability;
 - d. The Guarantor agrees that the Lender shall not be obliged to make any demand upon, or take any proceedings, or action against the Borrower or any other person before pursuing its rights against the Guarantor pursuant hereto. In the event that

Lender in its absolute discretion makes demand upon the Guarantor, the Guarantor shall be held and be bound to the Lender directly as principal debtor in respect of the payment of the amounts hereby guaranteed; and

- e. The Guarantor shall not raise, in any proceedings concerning the enforcement of the Security Documents or this Guarantee, any defences relating to any alleged invalidity or unenforceability of any of the Security Documents, or any of the provisions thereof. This provision may be pleaded by the Lender as an estoppel in any such proceedings.
9. Should the Lender receive from the Guarantor a payment or payments in full or on account of its liability under this guarantee, the Guarantor shall not be entitled to claim repayment against the Borrower or the Borrower's estate until the Lender's claims against the Borrower have been paid in full and in case of the liquidation, winding up or bankruptcy of the Borrower (whether voluntary or compulsory) or if the Borrower makes a bulk sale of any of its assets or any composition with creditors or scheme of arrangements, the Lender shall have the right to rank for its full claim and receive all dividends or other payments in respect thereof until its claim has been paid in full, and the Guarantor shall continue liable up to the amount guaranteed (less any payments made by the Guarantor) for any balance which may be owing to the Lender on any of its securities and/or the retention thereof by the Lender, such valuation and/or retention shall not, as between the Lender and the Guarantor, be considered as a purchase of such security or as payment or satisfaction or reduction of the Borrower's liability to the Lender or any part thereof.
 10. The Guarantor shall make payments to the Lender of the amount of the liability of the Guarantor hereunder forthwith after demand therefor made in writing, and such demand shall be deemed to have been effectually made when an envelope containing it addressed to the Guarantor at the last address of any of the Guarantor known to the Lender is sent by registered mail and the liability of the Guarantor shall bear interest at the same rate.
 11. The Guarantor shall, at its sole cost and expense, at any time and from time to time, prepare or cause to be prepared, and provide to the Lender upon the Lender's request: (a) such financial statements and reports concerning the Guarantor for such periods of time as the Lender may designate; (b) any other information concerning the Guarantor's business, financial condition or affairs as the Lender may request; and (c) copies of any and all tax returns and reports of or relating to the Guarantor as the Lender may from time to time request. The Guarantor hereby intentionally and knowingly waives any and all rights and privileges it may have not to divulge or deliver said tax returns, reports and other information that are requested by the Lender hereunder or in any litigation in which the Lender may be involved relating directly or indirectly to the Borrower or to the Guarantor. The Guarantor further agrees immediately to give written notice to the Lender of any adverse change in a Guarantor's financial condition and of any condition or event that constitutes an event of default under this Guarantee.
 12. The Guarantor hereby represents and warrants that: (a) it is in the Guarantor's direct interest to assist the Borrower in procuring credit, because the Guarantor is an affiliate of

the Borrower, furnishes goods or services to the Borrower, purchases or acquires goods or services from the Borrower, and/or otherwise has a direct or indirect corporate or business relationship with the Borrower; (b) this Guarantee has been duly and validly authorized, executed and delivered and constitutes the binding obligation of the Guarantor, enforceable in accordance with its terms; and (c) the execution and delivery of this Guarantee does not violate or constitute a default under any order, judgment, decree, instrument or agreement to which the Guarantor is a party or by which it or its property are affected or bound. No action or proceeding brought or instituted under this guarantee and no recovery in pursuance thereof shall be a bar or defence to any further action or proceeding which may be brought under this guarantee by reason of any further default or defaults hereunder and/or in payment of the debts and liabilities of the Borrower referred to herein.

13. There are no representations, collateral agreements or conditions with respect to this instrument or affecting the liability of the Guarantor hereunder, other than as contained herein and no modification of this guarantee shall be effective unless the same be in writing and signed by the Guarantor and by the Lender.
14. All Indebtedness and liability, present and future, of the Borrower to the Guarantor are hereby assigned to the Lender and postponed to the repayment of the Mortgage and all monies received by the Guarantor in respect thereof shall be received in trust for the Lender, the whole without limiting or lessening the liabilities of the Guarantor under this guarantee and this assignment and postponement is independent of the said guarantee and shall remain in full effect until repayment in full to the Lender of the Mortgage notwithstanding that the liabilities of the Guarantor under the said guarantee may have been discharged or terminated, the Guarantor acknowledges the assignment to the Lender as set forth herein shall not impose upon the Lender any obligation to do anything to realize on the assigned debts and claims or to ensure that those debts or claims do not become statute barred by the operation of law relating to limitation of actions or otherwise.
15. The Guarantor acknowledges and agrees that the Lender may make a claim or demand payment hereunder notwithstanding any limitation period regarding such claim or demand set forth in the Limitations Act, 2002 (Ontario) or under any other applicable law with similar effect and, to the maximum extent permitted by applicable law, any limitations periods set forth in such act or applicable law are hereby explicitly excluded or, if excluding such limitations periods is not permitted by such act or applicable law, are hereby extended for a period of ten (10) years from the date of first advance under the Mortgage or the maximum limitation period permitted by such act or applicable law. For greater certainty, the Guarantor acknowledges and agrees that this Guarantee is a "business agreement" as defined under Section 22 of the Limitations Act, 2002 (Ontario).
16. The Guarantor's guarantee hereunder shall be on a joint and several basis with the Borrower and any other guarantor of the Liabilities not named herein, if any.
17. This Guarantee shall be read and construed with all changes of gender and number of the party or parties referred to in each case as required by the context. This Guarantee shall

be governed by and interpreted in accordance with the laws of the Province of Ontario and the parties hereto hereby attorn to the jurisdiction of the Province of Ontario.

18. The Guarantor acknowledges receipt of this Guarantee, the Commitment Letter, the Mortgage, the Standard Charge Terms and all other Security Documents.

This Guarantee, together with all rights, entitlements, duties and obligations arising from the same, shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective heirs, legal personal representatives, successors and assigns.

Electronic execution of this Guarantee including without limitation by DocuSign, and by fax or electronic mail shall be as binding on the undersigned as if this Guarantee has been executed and delivered in the original.

SIGNATURE(S) ON THE FOLLOWING PAGE

IN WITNESS WHEREOF the Guarantor has executed this Guarantee as of the date first mentioned above.

CBJ DEVELOPMENTS INC.

DocuSigned by:
Per: Jeff Burrell
Name: Jeffrey Burrell
Title: President

I have authority to bind the corporation.

WITNESS:

DocuSigned by:
Scott Martyn
37B93091C9DE423...

Name:
as to the signature of Jeffrey Burrell

)
)
) DocuSigned by:
) Jeff Burrell
) 1E1AF911CDD1488...

) Jeffrey Burrell

WITNESS:

DocuSigned by:
Scott Martyn
37B93091C9DE423...

Name:
as to the signature of Christopher Peter Agagnier)

)
) DocuSigned by:
) Chris Agagnier
) 2D8670DF75F3488...

) Christopher Peter Agagnier

WITNESS:

DocuSigned by:
Scott Martyn
37B93091C9DE423...

Name:
as to the signature of Kimberley Gayle Zacharias)

)
) DocuSigned by:
) Kimberley Zacharias
) 282EA84160364D2...

) Kimberley Gayle Zacharias

This is Exhibit “L” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

Properties

PIN 64233 - 0064 LT
Description BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513 ; FORT ERIE
Address 85 CROOKS STREET
 FORT ERIE

Applicant(s)

The assignor(s) hereby assigns their interest in the rents of the above described land. The notice is based on or affects a valid and existing estate, right, interest or equity in land.

Name CBJ - FORT ERIE HILLS INC.
Address for Service 150 King St. West, Suite 278, Toronto,
 ON, M5H 1J9

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

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

Party To(s)*Capacity**Share*

Name HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.
Address for Service 89 Tycos Drive, Suite 208, Toronto, Ontario M6B 1W3

Statements

The applicant applies for the entry of a notice of general assignment of rents.

This notice may be deleted by the Land Registrar when the registered instrument, SN783192 registered on 2023/10/25 to which this notice relates is deleted

Schedule: See Schedules

Signed By

Liya Rakhshan 77 King Street West Suite 3000 PO acting for Signed 2023 10 24
 Box 95 TD Centre Applicant(s)
 Toronto
 M5K 1G8

Tel 416-864-9700

Fax 416-941-8852

I have the authority to sign and register the document on behalf of all parties to the document.

Liya Rakhshan 77 King Street West Suite 3000 PO acting for Signed 2023 10 24
 Box 95 TD Centre Party To(s)
 Toronto
 M5K 1G8

Tel 416-864-9700

Fax 416-941-8852

I have the authority to sign and register the document on behalf of all parties to the document.

Submitted By

FOGLER, RUBINOFF LLP 77 King Street West Suite 3000 PO 2023 10 25
 Box 95 TD Centre
 Toronto
 M5K 1G8

Tel 416-864-9700

Fax 416-941-8852

Fees/Taxes/Payment

Statutory Registration Fee \$69.00

Total Paid \$69.00

File Number

Party To Client File Number : 234586 JF/LR

THIS INDENTURE made on the 11th day of October, 2023.

B E T W E E N :

CBJ - FORT ERIE HILLS INC.

(hereinafter called the "**Mortgagor**")

OF THE FIRST PART

- A N D -

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

(hereinafter called the "**Mortgagee**")

OF THE SECOND PART

WHEREAS:

- A: The Mortgagee is advancing to the Mortgagor the sum of **Eight Million Dollars (\$8,000,000.00)** upon the security of a Charge/Mortgage, (the "**Mortgage**") registered in the Land Titles Office for the Niagara South Land Registry (NO. 59) and made by the Mortgagor in favour of the Mortgagee on the security of the lands and premises owned by the Mortgagor and described herein under "Properties" on page 1 hereof, which lands and all buildings at any time thereon during the existence of the Mortgage are herein referred to as the "**Mortgaged Premises**";
- B: As a condition precedent of making the aforesaid mortgage loan, the Mortgagee has required an assignment to the Mortgagee; and its heirs successors and assigns, as additional security for the observance and performance by the Mortgagor of its covenants and agreements contained in the Mortgage, all rents and other monies due or accruing due or at any time hereafter to become due and payable and all of the other rights of the Mortgagor (the "**Lessor**") under:
- (i) all present and future leases, agreements to lease and subleases of any part of the Mortgaged Premises and all tenancies, present or future licences affording any person a right to use or occupy any part of the Mortgaged Premises, in such case for the time being in effect, and all revisions, alterations, modifications, amendments, changes, extensions, renewals, replacements, or substitutions thereof or therefore which are now or may hereafter be effected or entered into (hereinafter collectively referred to as the "**Leases**" and each a "**Lease**");
 - (ii) all present and future (i) guarantees of any or all of the obligations of any tenant or any person who now or hereafter is a party to a Lease for the time being in effect and has any right of use or occupancy of all or any part of the Mortgaged Premises under a Lease (each a "**Lessee**"); (ii) indemnities in respect of all or any of the obligations of any Lessee under any Lease and (iii) arrangements with a similar person for any other person to take over all or part of the balance of the term of any tenant under any Lease, and all revisions, alterations, modifications, amendments, changes, extensions, renewals, replacements and substitutions thereof or therefore which may hereafter be effected or entered into (hereinafter collectively referred to as the "**Guarantee of Leases**").

NOW THEREFORE this Indenture witnesseth that in consideration of the premises and the sum of TWO (\$ 2.00) DOLLARS now paid by the Mortgagee to the Mortgagor (the receipt and sufficiency whereof is hereby acknowledged):

1. The granting of this assignment does not derogate from the Mortgagor's obligation under the Mortgage not to lease, rent or part with possession of the Mortgaged Premises without

first obtaining the Mortgagee's prior written consent, which consent may be unreasonably withheld.

Subject to paragraph 2 hereof, the Mortgagor hereby assigns, transfers and sets over unto the Mortgagee, its heirs, executors, administrators, successors and assigns, (a) The Leases and Guarantees of Leases; and (b) all rents and other monies now due or accruing due or at any time hereafter to become due and payable under each and every Lease and Guarantee of Leases, all other obligations of the other parties thereto and all benefits, advantages and powers to be derived therefrom; with full power and authority in each case to demand, sue for, recover, receive and give receipts for all rents and other moneys payable thereunder; to have and to hold unto the Mortgagee until all moneys owing and all obligations of the Mortgagor in respect of the Mortgage have been fully paid and fulfilled and after the Mortgage has been fully released and discharged this Agreement shall be void and of no further effect.

2. It is the intention of the parties hereto that this instrument shall be a present assignment provided that the Mortgagee shall not exercise any rights or remedies herein given to it until the Mortgagor is in default under any of the terms and provisions of the Mortgage or of this assignment. Until such default, the Mortgagor shall be permitted to collect, take, retain and use or permit the collection, taking, retention and use of the rents and revenues from the Mortgaged Premises. Default under this Indenture shall constitute default under the Mortgage.
3.
 - (a) At any time, whether or not the Mortgagor is in default hereunder and whether or not the Mortgagee has determined to enforce the security hereof, upon request by the Mortgagee, the Mortgagor will promptly deliver, to the extent that the same have not been previously delivered, to the Mortgagee a copy of any or all of the Leases and any Guarantees of Leases;
 - (b) The Mortgagor covenants and agrees that all the obligations of the Lessor under each of the Leases will be observed and performed except to the extent that such observance or performance may be waived by the obligees;
 - (c) The Mortgagor covenants and agrees that it will, from time to time, on request by the Mortgagee, execute or join in the execution of and deliver to the Mortgagee any one or more of the following which shall be subject to this Indenture:
 - (i) A Specific Assignment of all of the rights, title and interest of the Mortgagor as Lessor in, to, under, or in respect of all rents and other moneys now due and payable under any one or more of the Leases and any Guarantees of Leases;
 - (ii) A Specific Assignment of all the right, title and interest of the Mortgagor, as Lessor in, to, under or in respect of any of the Leases, all rent or other moneys now due and payable or hereafter to become due and payable thereunder, all other obligations of the other parties thereunder and all the benefits, advantages and powers to be derived therefrom and each and every Guarantee of Lease, with full power and authority to demand, sue for, recover, receive and give receipts for all rents and other moneys payable thereunder and otherwise to enforce the rights of the Mortgagor thereunder in the name of the Mortgagor;
4. Whenever the Mortgagor has been in default under any of the terms or provisions of the Mortgage, the Mortgagee shall be entitled to enter into possession of the Mortgaged Premises and collect the rents and revenues thereof, distrain in the name of the Mortgagor for the same and appoint its agents to manage the Mortgaged Premises and pay such agents reasonable charges for their services and charge the same to the account of the Mortgagor; and that any agents so appointed by the Mortgagee shall have the authority and power:

- (a) to make any Lease or Leases of the Mortgaged Premises or of any part thereof at such rent and on such terms as the Mortgagee in its discretion may consider proper and to cancel or surrender existing Leases, to alter or amend the terms of existing Leases, to renew existing Leases, or to make concessions to Lessees as the Mortgagee in its discretion may consider proper;
 - (b) to manage generally the Mortgaged Premises to the same extent as the Mortgagor could do; and
 - (i) to collect the rents and revenues and give good and sufficient receipts and discharges therefor, and in their discretion, distrain in the name of the Mortgagor for such rents and revenues;
 - (ii) to pay all insurance premiums, taxes, necessary repairs, renovations and upkeep, carrying charges, rent or lease commissions, salary of any janitor or caretaker, cost of heating, and any and all payments due on the Mortgage to the Mortgagee; and
 - (iii) to accumulate the rents and revenues in such agent's hands in a reasonable amount to make provision for maturing payments of interest and principal on the Mortgage, and for the payments of taxes, insurance, heating, repairs, renovations and upkeep, costs and expenses of collection of rents and revenues, and other expenses or carrying charges connected with the Mortgaged Premises.
5. Where any discretionary powers hereunder are vested in the Mortgagee or its agents, the same may be exercised by any officer, investment manager or manager of the Mortgagee or its appointed agents, as the case may be.
 6. Any entry upon the Mortgaged Premises under the terms of this Indenture shall not constitute the Mortgagee a "Mortgagee in Possession" in contemplation of law and the Mortgagee shall not become liable to account to the Mortgagor or credit the Mortgagor with any moneys on account of the Mortgage except those which shall come into its hands or into the hands of any agents appointed by it pursuant hereto; the Mortgagee shall not be liable for failure to collect rents or revenues and shall be under no obligation to take any action or proceeding or exercise any remedy for the collection or recovery of the said rents and revenues, or any part thereof, and then, subject to all deductions and payments made out of the rents and revenues received from the Mortgaged Premises as herein provided.
 7. That whenever any and all default under the Mortgage has been cured, and all taxes and insurance on the Mortgaged Premises have been paid to date, and all moneys which the Mortgagee or its agents may have expended or become liable for in connection with the Mortgaged Premises have been fully repaid, then the Mortgagee, shall redeliver possession of the Mortgaged Premises to the Mortgagor and the Mortgagor shall resume collection of the rents or revenues on the Mortgaged Premises until further default has occurred as aforesaid, and shall thereupon also be permitted to receive any remaining balance of the rents and revenues realized from the Mortgaged Premises.
 8. That the Mortgagor warrants that it has not, and covenants that it shall not, at any time during the existence of the Mortgage, assign, pledge or hypothecate any Lease or Leases now or hereafter existing in respect of the Mortgaged Premises or the rents and revenues due or to become due thereunder, or any part thereof, other than to the Mortgagee; and the Mortgagor shall not, at any time during the existence of the Mortgage, commit, either by act or omission, any breach of covenant on the part of the Lessor under any of the Leases to be observed and performed, terminate, accept a surrender of, or amend in any manner, any Lease or Leases now or hereafter existing in respect of the Mortgaged Premises, or receive or permit the payment of any rents or revenues by anticipation in respect thereof, except as provided in the Leases, without the consent in writing of the Mortgagee, which consent shall not be arbitrarily or unreasonably withheld.

9. That this assignment is taken by way of additional security only and neither the taking of this assignment nor anything done in pursuance hereof shall make the Mortgagee liable in any way, as landlord or otherwise, for the performance of any covenants, obligations or liabilities under the Leases or any of them.
10. The Mortgagor waives any rights of set-off against the Lessees.
11. The Mortgagor covenants and agrees with the Mortgagee:
 - (a) that the Leases shall remain in full force and effect irrespective of any merger of the interest of the Lessor and Lessee thereunder; and that it will not transfer or convey the fee title to the said premises to any of the Lessees without requiring such Lessees, in writing, to assume and agree to pay the debt secured hereby in accordance with the terms, covenants and conditions of the Mortgage hereinbefore described;
 - (b) that if the Leases provide for the abatement of rent during the repair of the demised premises by reason of fire or other casualty, the Mortgagor shall furnish rental insurance to the Mortgagee, the policies to be in an amount and form and written by such insurance companies as shall be satisfactory to the Mortgagee;
 - (c) not to terminate, modify or amend said Leases or any of the terms thereof, or grant any concessions in connection therewith, either orally or in writing, or to accept a surrender thereof without the written consent of the Mortgagee and that any attempted termination, modification or amendments of said Leases without such written consent shall be null and void;
 - (d) other than last month's rent, not to collect any of the rent, income and profits arising or accruing under said Leases in advance nor to accept any prepayments of rent;
 - (e) not to discount any future accruing rents;
 - (f) not to execute any other assignments of said Leases or any interest therein or any of the rents thereunder;
 - (g) to perform all of the Mortgagor's covenants and agreements as Lessor under the said Leases and not to suffer or permit to occur any release of liability of the Lessees, or any rights to the Lessees to withhold payment of rent; and to give prompt notices to the Mortgagee of any notice of default on the part of the Mortgagor with respect to the said Leases received from the Lessees thereunder, and to furnish the Mortgagee with complete copies of the said notices;
 - (h) that all offers to lease and Leases shall be bona fide, the terms of which are to be approved by the Mortgagee prior to execution, and shall be at rental rates and terms consistent with comparable space in the area of the Mortgaged Premises;
 - (i) if so requested by the Mortgagee, to enforce the said Leases and all remedies available to the Mortgagor against the Lessees, in case of default under the said Leases by the Lessee;
 - (j) that none of the rights or remedies of the Mortgagee under the Mortgage shall be delayed or in any way prejudiced by this assignment;
 - (k) that notwithstanding any variation of the terms of the Mortgage or any extension of time for payment thereunder, the Leases and benefits hereby assigned shall continue as additional security in accordance with the terms hereof;
 - (l) not to alter, modify or change the terms of any Guarantees of Leases or cancel or terminate such Guarantees of Leases without the prior written consent of the Mortgagee;

- (m) not to consent to any assignment of the said Leases, or any subletting thereunder, whether or not in accordance with their terms, without the prior written consent of the Mortgagee;
 - (n) not to request, consent to, agree to or accept subordination of the said Leases to any mortgage or other encumbrance now or hereafter affecting the Mortgaged Premises;
 - (o) not to exercise any right of election, whether specifically set forth in any such Leases or otherwise which would in any way diminish the tenant's liability or have the effect of shortening the stated term of the Lease; and
 - (p) to pay the costs, charges and expenses of and incidental to the taking, preparation and filing of this Agreement or any notice hereof which may be required and of every renewal related thereto.
12. Upon any vesting of title to the Mortgaged Premises in the Mortgagee or other party by Court Order, operation of law, or otherwise and upon delivery of a deed or deeds pursuant to the Mortgagee's exercise of remedies under the Mortgage, all right, title and interest of the Mortgagor in and to the Lease shall by virtue of this instrument, thereupon vest in and become the absolute property of the party vested with such title or the grantee or grantees in such deed or deeds without any further act or assignment by the Mortgagor. The Mortgagor hereby irrevocably appoints the Mortgagee and its successors and assigns, as its agent and attorney in fact, to execute all instruments of assignment or further assurances in favour of such party vested with title or the grantee or grantees.
13. In the exercise of the powers herein granted to the Mortgagee, no liability shall be asserted or enforced against the Mortgagee, all such liability being hereby expressly waived and released by the Mortgagor. The Mortgagee shall not be obligated to perform or discharge any obligation, duty or liability under the Lease, or under or by reason of this assignment, and the Mortgagor shall and does hereby agree to indemnify the Mortgagee for, and to save and hold it harmless of and from, any and all liability, loss or damage which it may or might incur under the Lease or under or by reason of this assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Lease. Should the Mortgagee incur any such liability, loss or damage under the Lease or under or by reason of this assignment, or in the defence of any such claims or demands, the amount thereof, including costs, expenses and reasonable legal fees, shall be secured hereby, and the Mortgagor shall reimburse the Mortgagee therefore immediately upon demand.
14. This assignment is intended to be additional to and not in substitution for or in derogation of any assignment of rents contained in the Mortgage or in any other document.
15. That the rights or remedies given to the Mortgagee hereunder shall be cumulative of and not substituted for any rights or remedies to which the Mortgagee may be entitled under the Mortgage or at law.
16. That the terms and conditions hereof shall be binding upon and enure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereof as the case may be.
17. A discharge of the Mortgage in favour of the Mortgagor shall operate as a reassignment of this Assignment of Rents.

PROVIDED that it is hereby agreed that in construing this Indenture the words "Mortgagor" or "Mortgagors" or "Mortgagee" or "Mortgagees", and "he", "she", "they" or "it", "his", "her", "their", or "its", respectively, as the number and gender of the parties referred to in each case require, and the number of the verb agreeing therewith shall be construed as agreeing with the said word or pronoun so substituted. And that all rights, advantages, privileges, immunities, powers and things hereby secured to the Mortgagor or Mortgagors, Mortgagee or Mortgagees, shall be equally secured to and exercisable by his, her, their or its heirs, executors, administrators and assigns, or successors and assigns, as the case may be. And that all covenants, liabilities and obligation entered into or imposed hereunder upon the Mortgagor or Mortgagors, Mortgagee or Mortgagees, shall be equally binding upon his, her, their or its heirs, executors, administrators and assigns, or successors and assigns, as the case may be, and that all such covenants and liabilities and obligations shall be joint and several.

DATED as of the date first mentioned above.

CBJ - FORT ERIE HILLS INC.

DocuSigned by:
Per: Jeff Burrell
Name: Jeffrey Burrell
Title: President

I have authority to bind the corporation.

This is Exhibit “M” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

Enquiry Result

File Currency: 24NOV 2024

Show All Pages

Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	CBJ - FORT ERIE HILLS INC.								
File Currency	24NOV 2024								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	797654817	1	2	1	3	29SEP 2025			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
797654817		001	2		20230929 1314 1901 6465	P PPSA	02		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	CBJ - FORT ERIE HILLS INC.								
	Address				City	Province	Postal Code		
	150 KING STREET WEST, SUITE 278				TORONTO	ON	M5H 1J9		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.								
	Address				City	Province	Postal Code		
	89 TYCOS DRIVE, SUITE 208				TORONTO	ON	M6B 1W3		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	ASSIGNMENT OF RENTS AND INCOME, AND SECURITY AGREEMENT(S) CREATING A SECURITY INTEREST IN ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY OF THE DEBTOR LOCATED AT, ON, USED IN CONNECTION WITH,								
Registering Agent	Registering Agent								
	FOGLER, RUBINOFF LLP (JF/LR) (HILLM. 85 CROOKS)								

	Address	City	Province	Postal Code
	77 KING ST. W. SUITE 3000, PO. BOX 95	TORONTO	ON	M5K 1G8

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	CBJ - FORT ERIE HILLS INC.								
File Currency	24NOV 2024								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	797654817	1	2	2	3	29SEP 2025			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
797654817		002	2		20230929 1314 1901 6465				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	Address			City	Province	Postal Code			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	RELATING TO OR DERIVED FROM THE PROPERTY MUNICIPALLY KNOWN AS 85 CROOKS STREET, FORT ERIE, ONTARIO.								
Registering Agent	Registering Agent								
	Address			City	Province	Postal Code			

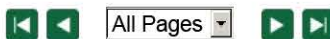
END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	CBJ - FORT ERIE HILLS INC.								
File Currency	24NOV 2024								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	798105987	2	2	3	3	16OCT 2025			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
798105987		001	1		20231016 1446 1901 1757	P PPSA	02		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	CBJ - FORT ERIE HILLS INC.								
	Address			City	Province	Postal Code			
	150 KING STREET WEST, SUITE 278			TORONTO	ON	M5H 1J9			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.								
	Address			City	Province	Postal Code			
	89 TYCOS DRIVE, SUITE 208			TORONTO	ON	M6B 1W3			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	A SECURITY AGREEMENT CREATING INTEREST IN MONIES HELD AS AN INTEREST RESERVE FOR INTEREST DUE ON THE LOAN FROM THE SECURED PARTY TO THE DEBTOR.								
Registering Agent	Registering Agent								
	FOGLER, RUBINOFF LLP (JF/LR) (234586 - 85 CROOKS)								
	Address			City	Province	Postal Code			
	77 KING ST. W. SUITE 3000, PO. BOX 95			TORONTO	ON	M5K 1G8			

LAST PAGE

Note: All pages have been returned.

[BACK TO TOP](#)



Show All Pages

This service is tested daily with McAfee SECURE™ to ensure the security of the transaction and information.

At ServiceOntario, we respect your right to privacy and value the trust you place in us. [Read more about ServiceOntario's Privacy Statement](#)


[ServiceOntario Contact Centre](#)

[Privacy](#) 

[Accessibility](#) 


[Contact us](#) 

[FAQ](#) 

[Terms of Use](#) 

© [Queen's Printer for Ontario 2015](#) 

This is Exhibit “N” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D



THE CORPORATION OF THE TOWN OF FORT ERIE

REQUEST FOR PROPERTY INFORMATION STATUS RECORD

Package: Certificates Only	Package Value \$60.00
--------------------------------------	---------------------------------

APPLICANT:

Name: FOGLER, RUBINOFF LLP	Telephone: 416.864.9700
Attention: _____	Fax Number: 416.941.8852
Address: 77 KING ST. WEST	
SUITE 2000	Application Date: 27-Nov-2024
City / Province: TORONTO, ON	Closing Date: 27-Nov-2024
Postal Code: M5K 1G8	Due Date: 27-Nov-2024

ON BEHALF OF:

Purchaser: _____	
Vendor: CBJ FORT ERIE HILLS INC	
Vendor's Solicitor: _____	Telephone: _____

SUBJECT PROPERTY:

Street Name: THOMPSON ROAD	Street No: 0
Legal Description: BERTIE CON 2 NR PT LOT 8 CORNER 45.08AC FR D	
Roll Number: 020026128000000	

Town of Fort Erie

1 Municipal Centre Drive
Fort Erie ON
L2A 2S6

TAX ARREARS/TAXES CURRENT CERTIFICATE

UNDER SECTION 352(1) OF THE MUNICIPAL ACT, S.O. 2001 C.25

Issued To :
LAWYER ID

Certificate No: 19457
Roll Number: 020.026.12800.0000

Statement showing Taxes upon the following lands as at : 2024/11/27

Your Reference No :
24-0933

DESCRIPTION OF PROPERTY:
0 THOMPSON RD ES
BERTIE CON 2 NR PT LOT 8
CORNER
45.08AC FR D

Owner Name :
CBJ - FORT ERIE HILLS INC

PRIOR YEARS	STATEMENT OF TAX ARREARS		STATEMENT OF CURRENT TAXES		TAX ACCOUNT SUMMARY	
	TAX/OTHER CHARGES	PENALTY / INTEREST	DUE DATE	TAX INSTALLMENT		
There are no prior year tax arrears on this property			2024/02/29	12,129.00	Prior Years Arrears	0.00
			2024/04/30	12,128.60	Current Year Balance	75,158.67
			2024/06/28	13,368.00		
			2024/09/27	13,368.83		
				0.00	Deferral Amount	0.00
				0.00	Accumulated Int on Deferral	0.00
			Supplemental/Adj Other Charges	19,270.35	Admin. Charge	0.00
			Penalty/Interest	4,893.89		
			Credits This Year	0.00		
		Prior Years Arrears	0.00	Current Year Balance	75,158.67	TOTAL UNPAID TAXES

TAXES LEVIED PREVIOUS YEAR: 48,515.23 CURRENT YEAR LEVY TO DATE: 50,994.43

LOCAL IMPROVEMENTS CHARGES INCLUDED ARE AS FOLLOWS :

<u>TYPE</u>	<u>ANNUAL AMOUNT</u>	<u>START YEAR</u>	<u>EXPIRES JAN 1 OF</u>
-------------	----------------------	-------------------	-------------------------

THERE ARE NO LOCAL IMPROVEMENTS RECORDED ON THE COLLECTORS ROLL AT THE DATE OF THIS CERTIFICATE.

PENDING LOCAL IMPROVEMENT CHARGES:

<u>TYPE</u>	<u>ESTIMATED AMOUNT IF SHOWN</u>
-------------	----------------------------------

I hereby certify that the above statement shows all arrears of taxes against the above lands.
Penalty/interest has been calculated to the date of issue of this certificate.
Penalty/interest is charged at a rate of 1.25% per month unless otherwise indicated.

TREASURER / TAX COLLECTOR



**THE CORPORATION
OF THE TOWN OF FORT ERIE**

REQUEST FOR PROPERTY INFORMATION STATUS RECORD

Certificate - Tax

Completed By: Jonna Gates

Date: 27-Nov-2024

Comments: THE PAST DUE AMOUNT IS \$75158.67. DECEMBER 1ST PENALTY WILL BE AN ADDITIONAL \$878.31.

Certificate - Water

Completed By: Jonna Gates

Date: 27-Nov-2024

Comments: THERE IS NO TOWN WATER ACCOUNT FOR THIS PROPERTY.



THE CORPORATION
OF THE TOWN OF FORT ERIE

REQUEST FOR PROPERTY INFORMATION STATUS RECORD

Package: Certificates Only	Package Value \$60.00
--------------------------------------	---------------------------------

APPLICANT:

Name: FOGLER, RUBINOFF LLP	Telephone: 416.864.9700
Attention: _____	Fax Number: 416.941.8852
Address: 77 KING ST. WEST	
SUITE 2000	Application Date: 27-Nov-2024
City / Province: TORONTO, ON	Closing Date: 27-Nov-2024
Postal Code: M5K 1G8	Due Date: 27-Nov-2024

ON BEHALF OF:

Purchaser: _____	
Vendor: CBJ FORT ERIE HILLS INC.	
Vendor's Solicitor: _____	Telephone: _____

SUBJECT PROPERTY:

Street Name: CROOKS STREET	Street No: 87
Legal Description: PLAN 24 LOT 84 LOT 8 BLK R NP525 REG 36.80AC FR D	
Roll Number: 010054026000000	

Town of Fort Erie

1 Municipal Centre Drive
 Fort Erie ON
 L2A 2S6

TAX ARREARS/TAXES CURRENT CERTIFICATE

UNDER SECTION 352(1) OF THE MUNICIPAL ACT, S.O. 2001 C.25

Issued To :
 LAWYER ID

Certificate No: 19456
Roll Number: 010.054.02600.0000

Statement showing Taxes upon the following lands as at : 2024/11/27

Your Reference No :
 24-0934

DESCRIPTION OF PROPERTY:
 87 CROOKS ST
 PLAN 24 LOT 84 LOT 8 BLK R
 NP525
 REG
 36.80AC FR D

Owner Name :
 CBJ - FORT ERIE HILLS INC

PRIOR YEARS	STATEMENT OF TAX ARREARS		STATEMENT OF CURRENT TAXES		TAX ACCOUNT SUMMARY	
	TAX/OTHER CHARGES	PENALTY / INTEREST	DUE DATE	TAX INSTALLMENT		
There are no prior year tax arrears on this property			2024/02/29	10,514.00	Prior Years Arrears	0.00
			2024/04/30	10,514.11	Current Year Balance	56,235.11
			2024/06/28	11,589.00		
			2024/09/27	11,588.27		
				0.00	Deferral Amount	0.00
				0.00	Accumulated Int on Deferral	0.00
			Supplemental/Adj	0.00		
			Other Charges	8,557.69	Admin. Charge	0.00
			Penalty/Interest	3,472.04		
			Credits This Year	0.00		
	Prior Years Arrears	0.00	Current Year Balance	56,235.11	TOTAL UNPAID TAXES	56,235.11

TAXES LEVIED PREVIOUS YEAR: 42,076.25 CURRENT YEAR LEVY TO DATE: 44,205.38

LOCAL IMPROVEMENTS CHARGES INCLUDED ARE AS FOLLOWS :

TYPE ANNUAL AMOUNT START YEAR EXPIRES JAN 1 OF

THERE ARE NO LOCAL IMPROVEMENTS RECORDED ON THE COLLECTORS ROLL AT THE DATE OF THIS CERTIFICATE.

PENDING LOCAL IMPROVEMENT CHARGES:

TYPE ESTIMATED AMOUNT IF SHOWN

I hereby certify that the above statement shows all arrears of taxes against the above lands.
 Penalty/interest has been calculated to the date of issue of this certificate.
 Penalty/interest is charged at a rate of 1.25% per month unless otherwise indicated.

 TREASURER / TAX COLLECTOR



TOWN OF FORT ERIE
1 MUNICIPAL CENTRE DRIVE
FORT ERIE, ONTARIO
L2A 2S6

WATER CERTIFICATE

Account Number: 22411701
Account Holder: CBJ - FORT ERIE HILLS INC

Location: 87 CROOKS STREET

Account Balance: \$-70.95

NYD Balance: \$70.95

Date	Consumption	Reference	Amount	Balance
18-Nov-2024	0	TSF TO TAXES	\$ -606.62	\$ 0.00
05-Nov-2024	0	PENALTY	\$ 1.06	\$ 606.62
31-Oct-2024	0	BILLING - BILLING - ESTIMATE	\$ 70.95	\$ 605.56
31-Oct-2024	0	NOTICE FIN FEE	\$ 7.90	\$ 534.61
11-Oct-2024	0	NOTICE REM FEE	\$ 7.90	\$ 526.71
03-Oct-2024	0	PENALTY	\$ 1.06	\$ 518.81
30-Sep-2024	0	BILLING - BILLING - ESTIMATE	\$ 70.95	\$ 517.75
05-Sep-2024	0	PENALTY	\$ 1.06	\$ 446.80
31-Aug-2024	0	BILLING - BILLING - ESTIMATE	\$ 70.95	\$ 445.74
30-Aug-2024	0	NOTICE FIN FEE	\$ 7.90	\$ 374.79



TOWN OF FORT ERIE
1 MUNICIPAL CENTRE DRIVE
FORT ERIE, ONTARIO
L2A 2S6

WATER CERTIFICATE

Account Number: 09725501

Location: 87 CROOKS STREET

Account Holder: CBJ - FORT ERIE HILLS INC

Account Balance: \$-70.95

NYD Balance: \$70.95

Date	Consumption	Reference	Amount	Balance
18-Nov-2024	0	TSF TO TAXES	\$ -606.62	\$ 0.00
05-Nov-2024	0	PENALTY	\$ 1.06	\$ 606.62
31-Oct-2024	0	BILLING - BILLING - ESTIMATE	\$ 70.95	\$ 605.56
31-Oct-2024	0	NOTICE FIN FEE	\$ 7.90	\$ 534.61
11-Oct-2024	0	NOTICE REM FEE	\$ 7.90	\$ 526.71
03-Oct-2024	0	PENALTY	\$ 1.06	\$ 518.81
30-Sep-2024	0	BILLING - BILLING - ESTIMATE	\$ 70.95	\$ 517.75
05-Sep-2024	0	PENALTY	\$ 1.06	\$ 446.80
31-Aug-2024	0	BILLING - BILLING - ESTIMATE	\$ 70.95	\$ 445.74
30-Aug-2024	0	NOTICE FIN FEE	\$ 7.90	\$ 374.79



**THE CORPORATION
OF THE TOWN OF FORT ERIE**

REQUEST FOR PROPERTY INFORMATION STATUS RECORD

Certificate - Tax

Completed By: Jonna Gates

Date: 27-Nov-2024

Comments: THE TOTAL PAST DUE IS \$56235.11. DEC 1ST PENALTY WILL BE AN ADDITIONAL \$659.54.

Certificate - Water

Completed By: Jonna Gates

Date: 27-Nov-2024

Comments: THE WATER HAS BEEN TURNED OFF. In order to finalize a water account, a written request for a final meter read must be faxed to (905) 871-9984. Please be advised that the water certificate only provides information up to and including the most recent billing. The billing summary does not include the final water bill. The final water will be posted after the final reading. If water has been turned off there will be an \$113.00 charge for water reconnection.

This is Exhibit “O” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

Properties

PIN 64233 - 0064 LT
Description BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST
 PL 525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF
 BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513 ; FORT ERIE
Address 85 CROOKS STREET
 FORT ERIE

Consideration

Consideration \$5,000,000.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name BLAIN, DENNIS
Address for Service c/o Counsel
 Papazian Heisey Myers
 121 King Street West
 Suite 510
 Toronto, Ontario
 M5H 3T9

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

Name LAKEFRONT DEVELOPMENTS INC.
Address for Service c/o Counsel
 Papazian Heisey Myers
 121 King Street West
 Suite 510
 Toronto, Ontario
 M5H 3T9

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

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

Statements

This notice is pursuant to Section 71 of the Land Titles Act.

This notice is for an indeterminate period

Schedule: See Schedules

Signed By

Parjot Singh Benipal 121 King St. West, 5th Floor, Suite 510 acting for Signed 2024 02 13
 Applicant(s)
 Toronto
 M5H 3T9

Tel 416-601-1800

Fax 416-601-1818

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

Submitted By

PAPAZIAN, HEISEY, MYERS 121 King St. West, 5th Floor, Suite 510 2024 02 13
 Toronto
 M5H 3T9

Tel 416-601-1800

Fax 416-601-1818

Fees/Taxes/Payment

Statutory Registration Fee \$69.95

Total Paid \$69.95

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

File Number

Applicant Client File Number : 104513

THIS LOAN AMENDING AGREEMENT is made effective April 2, 2023.

BETWEEN:

DENNIS BLAIN an individual residing in the City of Calgary, in the Province of Alberta

-and-

LAKEFRONT DEVELOPMENTS LTD., a corporation duly incorporated pursuant to the laws of the Province of Alberta

(collectively, the "**Lender**")

- and -

CBJ DEVELOPMENTS INC., a corporation duly incorporated pursuant to the laws of the Province of Ontario

(the "**Borrower**")

-and-

CHRISTOPHER AGAGNIER an individual residing in the City of Calgary, in the Province of Alberta

-and-

KIMBERLEY ZACHARIAS an individual residing in the City of Calgary, in the Province of Alberta

-and-

WILLIAM WALTON an individual residing in the City of Calgary, in the Province of Alberta

-and-

JEFF BURRELL an individual residing in the City of Toronto, in the Province of Ontario

WHEREAS:

- A. The Lender and Borrower entered into a loan agreement dated November 1, 2022 (the "**Loan Agreement**") for the principal amount of **Five Million (\$5,000,000.00) Dollars** plus the accumulated interest as set forth therein (the "**Indebtedness**");
- B. The Lender has agreed to amend the loan as outlined below and the changes will be added to increase the Indebtedness;
- C. The Borrower wishes to change the lands provided by it as security for the Indebtedness.


Type text here

NOW THEREFORE, in consideration of the promises and covenants contained herein, the receipt and sufficiency of same is hereby acknowledged, the Lender agrees to advance/transfer funds to the Borrower on the terms and conditions set out herein, and the parties agree that the Loan Agreement shall be amended as set forth below. This entire agreement will be conditional to Lawyers legally being able to perform the terms that have been spelled out in this contract!

ARTICLE 1 AMENDMENTS

1.1 Term

The amended loan will be for two (2) years and will mature on March 31, 2025 (the "**Maturity Date**").

1.2 Indebtedness

The Borrower has agreed to pay down the Indebtedness by **Three Hundred Sixty Thousand (\$360,000.00) Dollars** and has agreed to pay an amending fee in the amount of **Two Hundred Fifty Thousand (\$250,000.00) Dollars**, which shall be added to the Indebtedness. As of April 1, 2023, the total Indebtedness shall be **Four Million Eight Hundred Ninety Thousand (\$4,890,000.00) Dollars**.

1.3 Interest

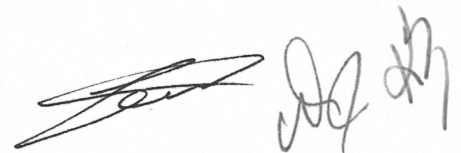
Interest from April 1, 2023, until September 30, 2024, will be at a rate of **Fourteen (14%) Percent** per annum, calculated and compounded monthly not in advance, and paid monthly in equal installments of interest only. The Borrower has agreed to prepay the first six months of interest in the amount of **Three Hundred Forty-Two Thousand Three Hundred (\$342,300.00) Dollars**.

From October 1, 2023, until the Maturity Date, the interest on the outstanding Indebtedness shall be calculated at a rate equal to **Fourteen (14%) Percent** per annum, calculated and compounded monthly, not in advance, to be pre-paid every Three (3) months in advance, until the Maturity Date, at which time the Indebtedness, and all interest thereon, shall be repaid in full.

After April 1, 2024, the Borrower may, after the payment of three month's worth of interest, repay the total Indebtedness, together with any interest thereon, at any time without penalty or bonus.

Should any amount remain outstanding after the Maturity Date or should the Borrower default on any payment, the Lender shall have the right to Caveat any property owned by Borrower for any such outstanding amount.

The Borrower agrees to pay outstanding interest on the original Indebtedness, estimated at **Three Hundred Seven Thousand Six Hundred (\$307,600.00) Dollars** (as at April 30th 2023, plus a per diem of **One Thousand Seven Hundred Sixty Nine (\$1,769.00) Dollars** thereafter), plus the **Three Hundred Sixty Thousand (\$360,000.00) Dollars** principal payment set forth above plus the **Three Hundred Forty Two Thousand Three Hundred (\$342,300.00) Dollars** in prepaid interest, within five (5) days of it receiving the proceeds of its current third party financing in Ontario



1.4 Additional Consideration

In addition to the above, and in the event that the Borrower is successful in any court action it may take with respect to its failed bid to purchase the office tower located at 801-7th Avenue SW, Calgary, Alberta, the Borrower shall, after retaining the sum of **Four Million (\$4,000,000.00) Dollars** and its actual legal fees and disbursements incurred for such action, share **Twenty Five (25%) Percent** of the proceeds of such award with the Lender.

If the Borrower is in default for any reason hereunder, then the first **Four Million (\$4,000,000.00) Dollars** in proceeds received by the Borrower from the court action shall firstly go to payout the Indebtedness, with **Twenty-Five (25%) Percent** of the balance of any court action proceeds to be paid to the Lender.

This additional consideration is an addition to the participation bonus in the Borrower's Eureka Valley Project described in the Loan Agreement.

1.5 Security

The Borrower shall provide to the Lender the following as security against the Indebtedness:

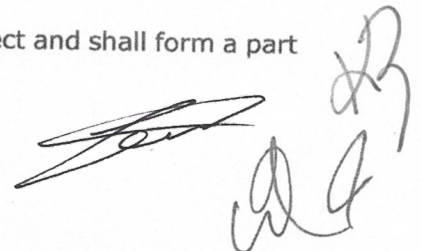
- (a) A first mortgage against title to the lands known as Talbot Crossing located at 5980 Colonel Talbot Road, (PIN 08207-0053 LT, approx. 97 acres in London, Ontario, and confirm registration of same, as security for the funds described herein. The Borrower will arrange with Talbot Crossing Inc. to provide this security along with an appraisal transmittal letter.
- (b) A first mortgage against title to the lands known as Green Valley Estates II, located at Dingman Road and Highbury Avenue South in and Sodom Road, (PIN 082030076, approx. 66.9 ac. With last appraisal of \$6,690,000), in London, Ontario, and confirm registration of same, as security for the funds described herein. The Borrower will arrange with Green Valley Estates II Inc. to provide this security, along with an appraisal transmittal letter.
- (c) Christopher Agagnier and Kimberley Zacharias agree to pledge their shares in Borrower, totalling 21.8% of the total issued share capital of the Borrower, as further security if 1.5 (a) and 1.5 (b) are not able to repay the Indebtedness in the event of default.
- (d) Christopher Agagnier, Kimberley Zacharias, William Walton and Jeff Burrell will provide joint and several personal guarantees of the Indebtedness to the Lender.

Once the security granted above is confirmed as having been registered, the Lender shall forthwith release its security registered against the title to the lands legally described in Parcel Register 64265-0034(LT).

ARTICLE 2 GENERAL TERMS

2.1 Recitals

The parties acknowledge and agree that the recitals are true and correct and shall form a part of this Agreement.



2.2 No Modification

Except as expressly modified by this Loan Amending Agreement, all the terms and provisions of the Loan Agreement shall remain in full force and effect.

2.3 Authority

Each party executing this Amendment warrants and represents that it is fully authorized to do so.

2.4 Defined Terms

All defined terms as signified by an initial capital letter shall have the meaning assigned to them in the Loan Agreement unless otherwise defined in this Loan Amending Agreement.

2.5 Representation

This Loan Amending Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and all prior understandings, negotiations, representations and agreements concerning the subject matter hereof, whether verbal or written, are superseded by this Loan Amending Agreement. This Loan Amending shall be binding only upon full execution by each of the parties.

2.6 Assignment

The parties acknowledge and agree that the Loan Agreement and this Loan Amending Agreement shall not be assigned, sold or otherwise transferred to any third party without the expressed written consent of the other party.

2.7 Time is of the Essence

The parties confirm that time is of the essence under the Loan Agreement and is not waived by this Loan Amending Agreement as to the performance under the Loan Agreement by any party.

2.8 Costs

The Borrower agrees to be responsible for all costs incurred by the Lender, on a solicitor and client basis, in relation to the drafting, registration, and enforcement of this Agreement.

2.9 Counterparts

This Loan Amending Agreement may be signed in one or more counterparts each of which shall be deemed to be an original and all of which together shall constitute one and the same document. This Loan Amending Agreement may be signed and delivered by electronic portable document format (PDF) or such similar electronic form and shall be binding on the parties as original signed when so executed.

<THE EXECUTION PAGE FOLLOWS>

The image shows three handwritten signatures in black ink. The first signature on the left is a cursive signature that appears to be 'John'. The second signature in the middle is a stylized signature that appears to be 'A'. The third signature on the right is a cursive signature that appears to be 'F'. There are also some additional scribbles and marks around the signatures.

IN WITNESS WHEREOF the parties have affixed their hands and seals on the date first written above.

WITNESS


DENNIS BLAIN

LAKEFRONT DEVELOPMENTS LTD.

Per: _____
I am authorized to bind the corporation

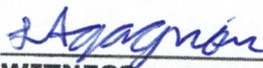
CBJ DEVELOPMENTS INC.

Per: _____
I am authorized to bind the corporation

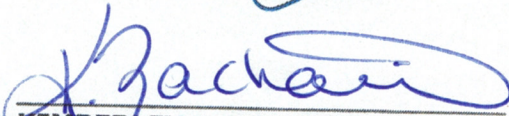
* 

WITNESS

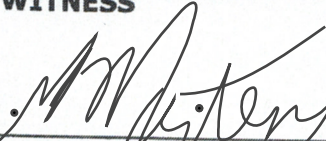
CHRISTOPHER AGAGNIER



WITNESS



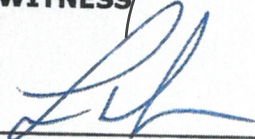
KIMBERLEY ZACHARIAS



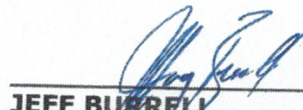
WITNESS



WILLIAM WALTON

* 

WITNESS



JEFF BURRELL



This is Exhibit “P” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

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

Properties

PIN 64233 - 0064 LT *Interest/Estate* Fee Simple
Description BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513 ; FORT ERIE
Address 85 CROOKS STREET
FORT ERIE

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 CBJ - FORT ERIE HILLS INC.
Address for Service 85 Crooks Street, Fort Erie
A person or persons with authority to bind the corporation has/have consented to the registration of this document.
This document is not authorized under Power of Attorney by this party.

Chargee(s) *Capacity* *Share*

Name 1001045239 ONTARIO INC
Address for Service PH5-801 Lawrence Avenue East, North York, Ontario, M3C 3W2

Statements

The text added or imported if any, is legible and relates to the parties in this document.

Provisions

Principal \$49,000,000.00 *Currency* CDN
Calculation Period
Balance Due Date 2025/10/30
Interest Rate 10% compounded monthly
Payments
Interest Adjustment Date
Payment Date ON DEMAND
First Payment Date
Last Payment Date
Standard Charge Terms 200033
Insurance Amount See standard charge terms
Guarantor

Signed By

Hamraz Singh Toor 2601 Matheson Blvd E Unit 17 acting for Signed 2024 10 29
Mississauga Chargor(s)
L4W 5A8

Tel 877-892-7778
Fax 877-892-2209

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

Submitted By

FALCON LAW PROFESSIONAL CORPORATION 2601 Matheson Blvd E Unit 17 2024 10 29
Mississauga
L4W 5A8

Tel 877-892-7778
Fax 877-892-2209

Fees/Taxes/Payment

Statutory Registration Fee	\$69.95
Total Paid	\$69.95

This is Exhibit “Q” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D



Profile Report

1001045239 ONTARIO INCORPORATED as of November 25, 2024

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	1001045239 ONTARIO INCORPORATED
Ontario Corporation Number (OCN)	1001045239
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	October 25, 2024
Registered or Head Office Address	801 Laurence Avenue, Apartment Ph5, Toronto, Ontario, M3C3W2, 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.

Active Director(s)

Fixed Number of Directors

1

Name

VINCENT SALVATORE

Address for Service

801 Laurence Avenue, Apartment Ph5, Toronto, Ontario,
M5A 0K9, Canada

Resident Canadian

Yes

Date Began

October 25, 2024

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)

There are no active Officers currently on file for this corporation.

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

1001045239 ONTARIO INCORPORATED

Effective Date

October 25, 2024

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

BCA - Articles of Incorporation

Effective Date

October 25, 2024

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.

This is Exhibit “**R**” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D



Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

Law Clerk: Medina Young
Direct Dial: 416-864-9700 ext. 204
E-mail: myoung@foglers.com

Lawyer: Joseph Fried
Direct Dial: 416.941.8836
E-mail: jfried@foglers.com

Our File No. 245170

September 17, 2024

**DELIVERED BY REGISTERED MAIL
AND BY EMAIL TO JEFF@CBJDEVELOPMENTS.COM
CHRISA@CBJDEVELOPMENTS.COM KIMBERLEYZ@CBJDEVELOPMENTS.COM
ELENASALV2000@YAHOO.CA**

CBJ – Fort Erie Hills Inc.
150 King Street West, Suite 278
Toronto, Ontario
M5H 1J9

CBJ Developments Inc.
150 King Street West, Suite 278
Toronto, Ontario
M5H 1J9

CBJ – Fort Erie Hills Inc.
c/o 801 Lawrence Avenue East,
Suite PH5
Toronto, Ontario
M3C 3W2

Jeffrey Burrell
72 Babcombe Drive
Thornhill, Ontario
L3T 1N1

Attention: Elena Salvatore and Vincent
Salvatore Jr.

Christiopher Peter Agagnier
100 Carr Crescent
Okotoks, Alberta
T1S 1E2

Kimberley Gayle Zacharias
100 Carr Crescent
Okotoks, Alberta
T1S 1E2

Dear Sir/Madam:

Re: Hillmount Capital Mortgage Holdings Inc. (the "Lender") mortgage loan to CBJ – Fort Erie Hills Inc. (the "Borrower") secured *inter alia*, by a first mortgage on 85 Crooks Street, Fort Erie, Ontario registered as Instrument No. SN783192 (the "Mortgage") which Mortgage loan was guaranteed by CBJ Developments Inc., Jeffrey Burrell, Christopher Peter Agagnier and Kimberley Gayle Zacharias (collectively the "Guarantor")

We have been retained by the Lender with respect to the Borrower's default in failure to make the September 1, 2024, mortgage payment.

As you are aware, the Borrower covenanted to pay and the Guarantor, guaranteed to pay all of the Indebtedness (as defined in the Mortgage) and liabilities, present or future, direct or indirect, absolute or contingent, matured or not at any time owing by the Borrower to the Lender pursuant to the Mortgage and guaranteed by the Guarantor pursuant to a Guarantee dated October 11, 2023, with respect to the above noted loan.

The following are the particulars of the default under the said loan and security therefor:

1. The payment due on September 1, 2024 in the amount of \$69,269.83 was not made; and
2. The following are the amounts now due and payable under the subject loan and particulars of same are in the attached statement of our client plus per diem from September 1 to September 17, 2024 in the amount of \$38,715.12.

AMOUNT OWING TO HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC. (as per statement attached)	\$7,273,123.07 as of September 17, 2024 (per diem \$2,277.36)
AMOUNT OWING FOGLER RUBINOFF, LLP as detailed below	\$5,300.86
TOTAL INDEBTEDNESS	\$7,278,423.93

Legal fees for time prior to issuance of the demand and Notice of Intention to Enforce Security	\$2,452.65
Legal fees for issuing demand letter and Notice of Intention to Enforce Security	\$2,000.00
HST on legal fees	\$578.85
Disbursements and HST	\$269.36
TOTAL PAYABLE TO FOGLER, RUBINOFF LLP	<u>\$5,300.86</u>

By virtue of such defaults the Lender is demanding repayment in full of the above Indebtedness and costs.

On behalf of the Lender, we hereby make demand upon you for payment by the 27th day of September, 2024 of all of the amounts expressed above, all interest accruing thereon from the date hereof up until the date of payment in full, as well as any further costs, under the Mortgage and under the Guarantee, as applicable, in accordance with the security delivered by the Borrower to the Lender.

In the event payment is not made as demanded, by the aforesaid date, the Lender shall commence such legal proceedings as it is entitled to commence against the Borrower and the Guarantor in connection with their respective liabilities and obligations under the Mortgage, the

Guarantee, and any of the other Security, including those set out in the attached Notice of Intention to Enforce Security.

We enclose herewith Notice of Intention to Enforce Security being served upon you on behalf of the Lender.

If you wish to discuss this matter with us, please contact us immediately either directly or through your solicitor.

Yours very truly,

FOGLER, RUBINOFF LLP

Per: Joseph Fried**

Joseph Fried*

**On behalf of Joseph Fried Professional Corporation*

*** Executed pursuant to the Electronic Commerce Act*

E.O. & E.

cc: client.

This is Exhibit "S" referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

NOTICE OF INTENTION TO ENFORCE SECURITY
(Subsection 244(1) Bankruptcy and Insolvency Act)

TO: CBJ – Fort Erie Hills Inc., an insolvent corporation
150 King Street West, Suite 278
Toronto, Ontario
M5H 1J9

AND

TO: CBJ – Fort Erie Hills Inc., an insolvent corporation
c/o 801 Lawrence Avenue East,
Suite PH5
Toronto, Ontario
M3C 3W2

Attention: Elena Salvatore and Vincent Salvatore Jr.

TAKE NOTICE THAT:

1. Hillmount Capital Mortgage Holdings Inc., a secured creditor, intends to enforce its security on the property of the insolvent person described below:

PIN No. 64233-0064 (LT)

BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513; FORT ERIE

City of Niagara

Niagara South/Niagara Land Titles Office for the Land Registry Office (No. 59)

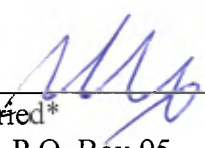
municipally known as 85 Crooks Street, Fort Erie, Ontario

2. The security that is to be enforced is in the form of:
 - (a) a Charge/Mortgage of Land signed October 24, 2023 and registered in the Niagara South/Niagara Land Titles office for the Niagara South/Niagara Registry Office (No. 59) on October 25, 2023 as Instrument No. SN783192;
 - (b) a General Assignment of Rents registered in the said Land Titles Office on October 25, 2023 as Instrument No. SN783193;
 - (c) an Assignment of Funds; and
 - (d) a General Security Agreement dated October 11, 2023.
3. The total amount of the indebtedness secured by the security is **\$7,278,423.93** as at the 17th day of September, 2024, inclusive of \$2,000.00 costs plus HST thereon for issuing this Notice and the demand, with a per diem payment thereafter of \$2,277.36 on the mortgage loan.
4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at the City of Toronto, this 17th day of September, 2024.

**HILLMOUNT CAPITAL MORTGAGE
HOLDINGS INC.**

by its solicitors
FOGLER, RUBINOFF LLP

Per: 
Joseph Fried*
Ste 3000, P.O. Box 95
77 King Street West
TD Centre North Tower
Toronto, Ontario M5K1G8
T: 416-864-9700
F: 416-941-8852

*on behalf of ON BEHALF OF JOSEPH FRIED PROFESSIONAL CORPORATION

Please direct any enquiries to: **Medina Young at 416-864-9700 ext. 204 cell 905-758-0530**
(myoung@foglers.com)

This Notice is a required document under the Bankruptcy & Insolvency Act ("Act"). The use of the word "insolvent" is prescribed by the Act but nothing herein shall be deemed to imply that any person to whom this Notice is delivered is, in fact insolvent.

This is Exhibit “T” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

NOTICE OF SALE UNDER MORTGAGE

TO: CBJ -Fort Erie Hills Inc.
150 King Street West, Suite 278
Toronto, Ontario M5H 1J9

AND TO: CBJ -Fort Erie Hills Inc.
c/o 801 Lawrence Avenue East
PH5
Toronto, Ontario M3C 3W2

Attention: Elena Salvatore and Vincent Salvatore Jr.

AND TO: CBJ - FORT ERIE HILLS INC.
72 Babcombe Drive
Thornhill, Ontario L3T 1N1

AND TO: CBJ Developments Inc.
150 King Street West, Suite 278
Toronto, Ontario M5H 1J9

AND TO: Jeffrey Burrell
72 Babcombe Drive
Thornhill, Ontario L3T 1N1

AND TO: Christopher Peter Agagnier
100 Carr Crescent
Okotoks, Alberta T1S 1E2

AND TO: Chris Agagnier
106 Ridge Road North
Ridgeway, Ontario L0S 1N0

AND TO: Kimberley Gayle Zacharias
100 Carr Crescent
Okotoks, Alberta T1S 1E2

AND TO: Dennis Blain
c/o Counsel
Papazian Heisey Myers
121 King Street West
Suite 501
Toronto, Ontario M5H 3T9

AND TO: Lakefront Developments Inc.
c/o Counsel
Papazian Heisey Myers
121 King Street West
Suite 501
Toronto, Ontario M5H 3T9

TAKE NOTICE that default has been made in payment of the moneys due under a certain mortgage signed October 24, 2023, made between

CBJ - FORT ERIE HILLS INC.

as Mortgagor(s),

- and -

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

as Mortgagee,

upon the following property namely:

PIN No.64233-0064 (LT)

BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG, PT BLK S W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513; FORT ERIE

Town of Fort Erie

Regional Municipality of Niagara

Niagara South Land Registry Office (NO. 59)

Municipal Address: 85 Crooks St, Fort Erie, Ontario L2A 4H2

which mortgage was registered on October 25, 2023, in the Land Titles Office for the Niagara South Land Registry Office (NO. 59) as No. SN783192.

AND I hereby give you notice that the amount now due on the mortgage for principal money, interest, late payment interest, collection costs, three months' interest pursuant to the terms of the mortgage, missed/returned payment fees, and costs respectively, are as follows:

For principal	\$6,955,966.00
For interest from August 1, 2024 to October 1, 2024	\$141,552.42
For three month's interest pursuant to the provisions of the mortgage	\$207,809.48
For missed/returned payment fees of the mortgagee (July 9/24 and September 5/24)	\$1,050.00
For statement fee of the mortgagee	\$500.00
For lender's default legal action administration fee of mortgagee (demand letter and Notice of Intention)	\$2,000.00
For lender's default legal action administration fee of mortgagee (Notice of Sale)	\$2,000.00
For legal fees for time prior to issuance of the Notice of Sale	\$4,486.50
For legal fees for issuing demand letter and Notice of Intention to Enforce Security (September 17, 2024)	\$2,000.00
For legal fees only in connection with the service of this notice but not including disbursements and costs incurred to date (and thereafter such further legal fees incurred plus disbursements and costs incurred to date and after the date hereof will be charged)	\$4,000.00
For HST on costs	\$1,363.25

\$7,322,727.65

together with interest at the greater of 11.95% per annum or the Prime Rate of the Royal Bank of Canada plus 4.75% per annum per annum, on the principal and interest hereinbefore mentioned, from the 1st day of October, 2024, to the date of payment.

AND unless the said sums are paid on or before the 6th day of November, 2024, I shall sell the property covered by the said mortgage under the provisions contained in it.

THIS notice is given to you as you appear to have an interest in the mortgaged property and may be entitled to redeem the same.

DATED the 1st day of October, 2024.

**HILLMOUNT CAPITAL MORTGAGE
HOLDINGS INC.**

by its solicitors
FOGLER, RUBINOFF LLP

Per: _____
Joseph Fried*



*on behalf of ON BEHALF OF JOSEPH FRIED PROFESSIONAL CORPORATION
Fogler, Rubinoff LLP HST Registration #R119420859

Municipal Address is: 85 Crooks St, Fort Erie, Ontario L2A 4H2

Please direct any enquiries to:

Medina Stella Young, Law Clerk
Fogler, Rubinoff LLP
Barristers & Solicitors
3000-77 King St W, PO Box 95
TD Centre North Tower
Toronto, Ontario M5K 1G8

Telephone: 416-864-9700 ext. 204
Fax: (416) 941-8852
Cell: 905-758-0530
Email: myoung@foglers.com

OR to:
Joseph Fried
Fogler, Rubinoff LLP
Email: jfried@foglers.com

Matter No. 245170

This is Exhibit “U” referred to in the
Affidavit of Affidavit of Itzhak (Yitz) Levinson sworn by
Affidavit of Itzhak (Yitz) Levinson at the City of Toronto, in
the Province of Ontario, before me
this 28th day of November, 2024 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

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

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

B E T W E E N:

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicant

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

CONSENT

TDB RESTRUCTURING LIMITED (“TDB”) hereby consents to act as court-appointed receiver and manager, without security, of all of the assets, undertakings and properties of CBJ – Fort Erie Hills Inc. in accordance with an order substantially in the form requested by the Applicant, or as such order may be amended in a manner satisfactory to TDB.

Dated at Toronto, Ontario, this 27th day of November, 2024.

TDB RESTRUCTURING LIMITED.

Per:



Name: Bryan A. Tannenbaum

Title: Managing Director

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

**HILLMOUNT CAPITAL MORTGAGE
HOLDINGS INC.
Applicant**

-AND-

**CBJ – FORT ERIE HILLS INC.
Respondent**

Court File No.: CV-24-00730993-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceedings commenced at Toronto, Ontario

CONSENT

Thornton Grout Finnigan LLP
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
Tel: (416) 304-1616

D.J. Miller (LSO# 34393P)
Email: djmillertgf.ca

Derek Harland (LSO #79504N)
Email: dharland@tgf.ca

Lawyers for the Applicant,
Hillmount Capital Mortgage Holdings Inc.

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

**HILLMOUNT CAPITAL MORTGAGE
HOLDINGS INC.
Applicant**

-AND-

**CBJ – FORT ERIE HILLS INC.
Respondent**

Court File No.: CV-24-00730993-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceedings commenced at Toronto, Ontario

**AFFIDAVIT OF ITZHAK (YITZ) LEVINSON
(Affirmed November 28, 2024)**

Thornton Grout Finnigan LLP
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
Tel: (416) 304-1616

D.J. Miller (LSO# 34393P)
Email: djmiller@tgf.ca

Derek Harland (LSO #79504N)
Email: धारland@tgf.ca

Lawyers for the Applicant,
Hillmount Capital Mortgage Holdings Inc.

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 C. C.43, AS AMENDED

THE HONOURABLE) WEDNESDAY, THE 11TH
)
JUSTICE KIMMEL) DAY OF DECEMBER, 2024
)

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicant

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing TDB Restructuring Limited (“**TDB**”) as receiver and manager (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of CBJ – Fort Erie Hills Inc. (the “**Debtor**”), including, without limitation, the real property municipally known as 85-87 Crooks St and 0 Thompson Road, Fort Erie, Ontario and legally described at Schedule “A” (the “**Real Property**”), was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the affidavit of Yitzhak (Yitz) Levinson sworn November 28, 2024 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, and on reading the consent of TDB to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby validated such that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, TDB is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, and all proceeds thereof, including, without limitation, the Real Property (the “**Property**”).

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement or renewal of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary

course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor in respect of the Property and any offers or agreements that were accepted or entered into by the Debtor regarding the sale of the Property or the conveyance of any interest of the Debtor in the Property;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising, listing the Real Property on a multiple listing service and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$[100,000.00], provided that the aggregate consideration for all such transactions does not exceed \$[500,000.00]; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and

on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (p) to take steps and actions necessary to maintain or prepare the Property for realization, including arranging for any repairs and maintenance as necessary;
- (q) to enter into agreements with any trustee in bankruptcy that may be appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records,

and any other papers, records and information of any kind related to the business or affairs of the Debtor, including but not limited to any reports in respect of the Real Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

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

landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such

amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers

under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant by way of advances, a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$[250,000] (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service->

[protocol/](#)) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://tdbadvisory.ca/insolvency-case/cbj-fort-erie-hills-inc/>.

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

GENERAL

27. **THIS COURT ORDERS** that the Receiver may retain solicitors to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation, those conferred by this Order. Such solicitors may include Folger Rubinoff LLP and Thornton Grout Finnigan LLP, solicitors for the Applicant herein, in respect of any matter where there is no conflict of interest. The Receiver shall, however, retain independent solicitors in respect of any legal advice or services where a conflict exists or may arise.

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

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

30. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give

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

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

32. **THIS COURT ORDERS** that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

REGISTRATION ON TITLE

34. **THIS COURT ORDERS** that, as soon as practicable, the Land Registry Office for the Land Titles Division of Niagara South (LRO #59) accept this Order for registration on title to the Real Property.

SCHEDULE "A"

LEGAL DESCRIPTION OF THE REAL PROPERTY

PIN 64233-0064 (LT)

BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513 ; FORT ERIE

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that TDB Restructuring Limited, the receiver (the "**Receiver**") of the assets, undertakings and properties of CBJ – Fort Erie Hills Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 11th day of December, 2024 (the "**Order**") made in an application having Court File No. CV-24-00730993-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the ____ day of _____, 20__.

TDB Restructuring Limited, solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title:

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

**HILLMOUNT CAPITAL MORTGAGE
HOLDINGS INC.**

- and -

CBJ – FORT ERIE HILLS INC.

Applicant

Respondent

Court File No. CV-24-00730993-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceedings commenced at Toronto, Ontario

ORDER

Thornton Grout Finnigan LLP
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
Tel: (416) 304-1616

D.J. Miller (LSO# 34393P)
Email: djmiller@tgf.ca

Derek Harland (LSO #79504N)
Email: धारland@tgf.ca

Lawyers for the Applicant,
Hillmount Capital Mortgage Holdings Inc.

TAB 4

Revised: January 21, 2014
s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver

Court File No. —

Court File No. CV-24-00730993-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF
Justice ACT, R.S.O. 1990 C. C.43, AS AMENDED

THE HONOURABLE —) ~~WEEKDAY~~WEDNESDAY, THE #11TH
)
JUSTICE —KIMMEL) DAY OF ~~MONTH~~DECEMBER,
) 20~~YR~~2024

~~PLAINTIFF~~[†]

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

~~Plaintiff~~Applicant

- and -

CBJ – FORT ERIE HILLS INC.

~~DEFENDANT~~Respondent

~~Defendant~~

ORDER
(~~appointing~~Appointing Receiver)

[†]—~~The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

THIS MOTION APPLICATION made by the **Plaintiff² Applicant** for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing **[RECEIVER'S NAME]TDB Restructuring Limited ("TDB")** as receiver ~~[and manager]~~ (in such ~~capacities~~ capacity, the "**Receiver**") without security, of all of the assets, undertakings and properties of **[DEBTOR'S NAME] (the "Debtor")** ~~acquired for, or used in relation to a business carried on by the Debtor~~ CBJ – Fort Erie Hills Inc. (the "Debtor"), including, without limitation, the real property municipally known as 85-87 Crooks St and 0 Thompson Road, Fort Erie, Ontario and legally described at Schedule "A" (the "**Real Property**"), was heard this day ~~at 330 University Avenue,~~ by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the affidavit of **[NAME]Yitzhak (Yitz) Levinson** sworn ~~[DATE]~~ November 28, 2024 and the Exhibits thereto and on hearing the submissions of counsel for **[NAMES]**, ~~no one appearing for [NAME] although duly served as appears from the affidavit of service of [NAME] sworn [DATE]~~ the Applicant, and on reading the consent of ~~-~~ **[RECEIVER'S NAME]TDB** to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of **Motion Application** and the **Motion Application Record** is hereby ~~abridged and~~ validated³ so such that this ~~motion~~ application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, **[RECEIVER'S NAME]TDB** is hereby appointed Receiver, without security, of all of

²Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".

³If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.

the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, ~~including~~and all proceeds thereof ~~(the "~~including, without limitation, the Real Property (the "Property")~~)~~.

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement or renewal of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor in respect of the Property and any offers or agreements that were accepted or entered into by the Debtor regarding the sale of the Property or the conveyance of any interest of the Debtor in the Property;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise

of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.⁴ The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising, [listing the Real Property on a multiple listing service](#) and soliciting offers in respect of the

~~⁴ This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$~~_____~~[100,000.00], provided that the aggregate consideration for all such transactions does not exceed \$~~_____~~[500,000.00]; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, ~~for~~ section 31 of the Ontario *Mortgages Act*, as the case may be,⁵ shall not be required, ~~and in each case the Ontario Bulk Sales Act shall not apply.~~

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

~~⁵ If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to take steps and actions necessary to maintain or prepare the Property for realization, including arranging for any repairs and maintenance as necessary;
- (q) ~~(p)~~ to enter into agreements with any trustee in bankruptcy that may be appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) ~~(q)~~ to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) ~~(r)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations².

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “Persons” and each being a “Person”) shall forthwith advise

the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, [including but not limited to any reports in respect of the Real Property](#), and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

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

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from

compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this

Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “Post Receivership Accounts”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

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

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's" "Receiver's")

Charge⁶) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.⁶

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

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

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant by way of advances, a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$~~_____~~[250,000] (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the ~~"Receiver's~~"Receiver's Borrowings Charge⁶) as security for the payment of the monies

~~⁶Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

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

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

GENERAL

27. **THIS COURT ORDERS** that the Receiver may retain solicitors to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation, those conferred by this Order. Such solicitors may include Folger Rubinoff LLP and Thornton Grout Finnigan LLP, solicitors for the Applicant herein, in respect of any matter where there is no conflict of interest. The Receiver shall, however, retain independent solicitors in respect of any legal advice or services where a conflict exists or may arise.

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

29. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

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

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

32. ~~31.~~ **THIS COURT ORDERS** that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

REGISTRATION ON TITLE

34. _____ **THIS COURT ORDERS** that, as soon as practicable, the Land Registry Office for the Land Titles Division of Niagara South (LRO #59) accept this Order for registration on title to the Real Property.

~~SCHEDULE~~ "SCHEDULE "A"

LEGAL DESCRIPTION OF THE REAL PROPERTY

PIN 64233-0064 (LT)

BLK R W/S CROOKS ST PL 525 VILLAGE OF BRIDGEBURG; LT 84 W/S CROOKS ST PL
525 VILLAGE OF BRIDGEBURG; PT BLK S W/S CROOKS ST PL 525 VILLAGE OF
BRIDGEBURG; PT LT 8 CON 2 NIAGARA RIVER BERTIE AS IN RO461513 ; FORT ERIE

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ TDB Restructuring Limited, the receiver (the "Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ of CBJ – Fort Erie Hills Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 11th day of December, 2024 (the "Order") made in an action application having Court ~~file number~~ CL File No. CV-24-00730993-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the ____ day of _____, 20__.

~~[RECEIVER'S NAME]~~ TDB Restructuring Limited, solely in its capacity
- as Receiver of the Property, and not in its personal capacity

Per: _____
Name:
Title:

[Different first page link-to-previous setting changed from off in original to on in modified.]

DOCSTOR: 17717428

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

HILLMOUNT CAPITAL MORTGAGE
HOLDINGS INC.

- and -

CBJ – FORT ERIE HILLS INC.

Applicant

Respondent

Court File No. CV-24-00730993-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto, Ontario

ORDER

Thornton Grout Finnigan LLP
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
Tel: (416) 304-1616

D.J. Miller (LSO# 34393P)
Email: djmiller@tgf.ca

Derek Harland (LSO #79504N)
Email: dharland@tgf.ca

Lawyers for the Applicant,

[Different first page link-to-previous setting changed from off in original to on in modified.]

DOCSTOR: 17717428 Model_Receivership_Order_(T_Reyes).doc

[Link-to-previous setting changed from off in original to on in modified.]

~~2~~

Hillmount Capital Mortgage Holdings Inc.

[Link-to-previous setting changed from off in original to on in modified.]

~~DOCSTOR:47747429-8-Model_Receivership_Order_(T_Reyes).doc~~

Summary report:	
Litera Compare for Word 11.8.0.56 Document comparison done on 2024-11-29 1:52:02 PM	
Style name: Redline	
Intelligent Table Comparison: Active	
Original filename: C:\Users\dsalita\Downloads\receivership-order-EN.doc	
Modified filename: C:\Users\dsalita\AppData\Local\Litera\Temp\A49918\Receivership Order [Draft November 27, 2024].docx	
Changes:	
Add	120
Delete	145
Move From	0
Move To	0
Table Insert	1
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	266

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

**HILLMOUNT CAPITAL MORTGAGE
HOLDINGS INC.**

- and -

CBJ – FORT ERIE HILLS INC.

Applicant

Respondent

Court File No.: CV-24-00730993-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceedings commenced at Toronto, Ontario

APPLICATION RECORD

Thornton Grout Finnigan LLP
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
Tel: (416) 304-1616

D.J. Miller (LSO# 34393P)
Email: djmiller@tgf.ca
Telephone: (416) 304-0559

Derek Harland (LSO #79504N)
Email: धारland@tgf.ca
Telephone: (416) 304-1127

Lawyers for the Applicant,
Hillmount Capital Mortgage Holdings Inc.