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IN THE MATTER OF THE RECEIVERSHIP OF

CBJ – Fort Erie Hills Inc.

FIRST REPORT OF THE RECEIVER

APRIL 10, 2025

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1.0 INTRODUCTION

1. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued December 19, 2024 (the “**Appointment Order**”), TDB Restructuring Limited was appointed as receiver and manager (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 Street and o Thompson Road, Fort Erie, Ontario (the “**Real Property**”). A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. The Appointment Order permitted the Receiver to retain counsel to the Applicant, Thornton Grout Finnigan LLP (“**TGF**”) and Fogler Rubinoff LLP (“**Foglers**”), as counsel to the Receiver. The Receiver retained TGF as insolvency counsel and Foglers as real estate counsel. As TGF and Foglers had represented the Applicant on the receivership application, the Receiver engaged Loopstra Nixon LLP (“**Loopstra**”) to provide an independent legal opinion to the Receiver with respect to the validity and enforceability of the registered security of the first mortgagee.
3. The Appointment Order, together with other relevant Court documents related to the receivership proceeding, has been posted on the Receiver’s website, at <https://tdbadvisory.ca/insolvency-case/cbj-fort-erie-hills-inc/>

1.1 Purpose of Report

4. The purpose of this first report to Court (the “**First Report**”) is to:
 - (a) provide the Court with a brief background leading up to the receivership proceedings;
 - (b) provide the Court with information about the Receiver’s activities since the issuance of the Appointment Order to the date of this First Report;
 - (c) report to the Court on the results of the Receiver’s sale process (the “**Sale Process**”) and activities leading to offers for the Real Property;

- (d) provide to the Court support for the relief sought by the Receiver, namely the request for an approval and vesting order in respect of the Real Property, and the sealing of certain confidential documents pending completion of the sale transaction for the Real Property (the “**Transaction**”). In addition to the information contained herein for the benefit of the creditors and other stakeholders, the First Report is also intended to provide the Court with the following confidential information, for which a sealing Order is sought:
 - i. a summary of the terms of all offers received for the Real Property; and,
 - ii. an unredacted copy of the executed Agreement of Purchase and Sale for the Real Property dated and accepted on March 28, 2025 (the “**APS**”) between the Receiver and Dunsire Homes Inc. (the “**Purchaser**”);
- (e) provide the Court with information relating to the Receiver’s Borrowings Charge (as defined below);
- (e) provide the Court with information relating to the secured creditors in respect of the Real Property;
- (f) provide the Court with a summary of the Receiver’s cash receipts and disbursements in respect of the Real Property for the period December 19, 2024, to March 31, 2025 (the “**Interim R&D**”); and
- (g) request that the Court grant orders:
 - i. approving the First Report and the activities of the Receiver set out herein;
 - ii. authorizing and directing the Receiver to enter into and carry out the terms of the APS, together with any further amendments thereto deemed necessary by the Receiver in its sole opinion, and

vesting title to the Real Property in the Purchaser upon the closing of the Transaction contemplated in the APS;

- iii. approving the Proposed Interim Distribution of Proceeds (as defined below) from the sale of the Real Property;
- iv. approving the Interim R&D;
- v. sealing Confidential Appendices 1 and 2; and
- vi. approving the fees and disbursements of the Receiver and of the Receiver's counsel for the period of December 19, 2024 to March 31, 2025.

1.2 Terms of Reference

- 5. In preparing the First Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the **"Information"**). Certain of the information contained in the First Report may refer to, or is based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
- 6. Unless otherwise stated, all dollar amounts contained in the First Report are expressed in Canadian dollars.

2.0 BACKGROUND

7. The Debtor is a company incorporated pursuant to laws of the Province of Ontario, whose principal asset consists of the Real Property.
8. The Debtor is the registered owner of the Real Property. The Real Property has not been developed and is vacant land. The lands were formerly operated as a golf course.
9. The Real Property received draft plan approval by the Town of Fort Erie (the “**Town**”) for the construction of a low-density subdivision development consisting of 79 single family detached homes, 102 single family semi-detached homes, 200 townhomes and 800 apartment units.
10. The applicant in this matter, Hillmount Capital Mortgage Holdings Inc. (“**Hillmount**” or the “**Applicant**”) is a secured creditor of the Debtor. Pursuant to a commitment letter between the Debtor and Hillmount dated August 8, 2023 and an amending agreement dated October 24, 2023, Hillmount provided a secured mortgage loan to the Debtor (the “**Loan**”).
11. 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.
12. Due to the Debtor being in default of its obligations under the Loan with Hillmount, the Applicant made an application for the appointment of the Receiver (the “**Application**”) on November 29, 2024.
13. Further information regarding the background for the Application can be found in the Affidavit of Itzhak (Yitz) Levinson dated November 29, 2024, attached hereto as **Appendix “B”**.
14. The Application was initially scheduled to be heard on December 11, 2024, however, the Court adjourned the hearing to permit other parties to a separate action involving the Real Property to be served with the application materials. A

copy of the related Endorsement of Justice Kimmel dated December 11, 2024 (the “**December 11 Endorsement**”) is attached hereto as **Appendix “C”**.

15. The Receiver requested and received a payout statement from the Applicant (the “**Payout Statement**”). The amount owing to the Applicant in respect of its first charge / mortgage is \$7,923,102.54 as of April 25, 2025, with a per diem interest amount of \$2,714.14 thereafter. A copy of the Payout Statement is attached as **Appendix “D”** to this report.

3.0 RECEIVER’S ACTIVITIES

3.1 Receiver’s Preliminary Inquiries

16. Following the Appointment Order being granted, the Receiver undertook efforts to engage with the representatives of the Debtor and its counsel, for the purpose of obtaining information relevant to the Real Property (i.e. bank account details, insurance policies, HST status, property tax statements, information for the data room, etc.).
17. As the Debtor failed to respond to the Receiver’s multiple requests for information, it was not until January 7, 2025, that the Debtor’s counsel, Mr. David Badham, provided a response to the Receiver. Mr. Badham advised that the request was forwarded to his client, but given the holiday season during which it was sent, he had not received a complete response back. Mr. Badham stated that he would follow up with his client and forward the materials as he receives them. The Receiver has not received any update or information as of the date of this First Report.
18. The Receiver also contacted Hillmount representatives, who furnished a voluminous amount of materials relating to the Real Property. The information assisted the Receiver’s understanding of the Real Property and supported the implementation of a sale and marketing process.

19. In parallel with the above efforts, the Receiver contacted various departments within the Town, including the planning department, tax department, and municipal services department, to obtain information concerning the Real Property. These inquiries related to, among other things, zoning information, draft plans, utility accounts, and various reports that had previously been submitted by the Debtor as part of the development approval process. The Town was very accommodating in responding to the Receiver's requests and provided all requested documentation in a timely manner.

3.2 Insurance

20. Pursuant to the December 11 Endorsement, the Debtor was ordered to renew the certificate of insurance for the Real Property, prior to the expiry of the then-existing policy on December 13, 2024. The Debtor did not comply, and the certificate of insurance was not renewed by the required deadline.
21. Following its appointment, the Receiver took steps to secure insurance coverage for the Real Property by obtaining a new policy through the incumbent broker.
22. The policy obtained by the Receiver is a Commercial General Liability insurance for the Real Property with a coverage limit of approximately \$5,000,0000.
23. The existing insurance coverage is due to expire on December 30, 2025.

3.3 Possession, Security, Conservative and Protective Measures

24. The Receiver relied on Lennard Realty Group ("**Lennard**"), the real estate brokerage retained to sell the Real Property, to conduct an initial site visit and provide photographs to assist in assessing the general condition of the Real Property.
25. The Receiver contacted the Town to obtain information relating to the Real Property. During the course of these inquiries, the Town advised the Receiver of recent by-law enforcement activity on the site. The Receiver subsequently obtained copies of the relevant by-law orders, which confirmed that garbage had

been unlawfully dumped on the site. Additionally, the Receiver was further advised by local residents that children had been observed accessing the roof of one of the structures located on the site. The Receiver addressed all outstanding orders, to be in compliance with applicable by-laws.

26. Due to potential safety hazards and liability, the Receiver retained Richmond Advisory Services Inc. (“**RAS**”) to provide property management services including attending on site to mitigate potential risks such as unauthorized access.
27. In consultation with RAS, the Receiver installed fencing around the perimeter of the Real Property.

3.4 Statutory Notices

28. On December 28, 2024, the Receiver prepared and issued the Notice and Statement of Receiver pursuant to section 245 (1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) to the known creditors of the Debtor and in respect of the Real Property.

3.5 Property Taxes

29. The Receiver contacted the Town to ascertain the outstanding property taxes for the Real Property. Subsequently, the Receiver received the interim tax bill from the Town dated February 3, 2025, for two roll numbers associated with the Real Property:
 - a) o Thompson Road #020 026 12800 0000, and
 - b) 87 Crooks Steet #020 026 12800 0000.
30. On February 19, 2025, the Receiver paid property taxes in respect of 87 Crooks Street in the amount of \$69,264.73.
31. The Receiver did not pay the property taxes in respect of o Thompson Road as Foglers requested that payment be held pending confirmation that the tax

certificate issued by the Town corresponds with the PIN and legal description of the Real Property subject to the receivership. Foglers has now received confirmation from the Town that o Thompson Road is owned by the Debtor.

32. The Receiver intends to pay all outstanding property taxes for both roll numbers from the proceeds generated from the sale of the Real Property.

3.6 Other Activities

33. Other activities performed by the Receiver since the issuance of the Appointment Order include (without limitation):

- a) arranging for a copy of the Appointment Order to be registered against title to the Real Property;
- b) requisitioning and reviewing a title search;
- c) maintaining regular communication with the secured lender and providing periodic updates regarding the Real Property and receivership proceedings;
- d) corresponding with potential financiers and/or purchasers regarding the Real Property;
- e) responding to inquiries from stakeholders, including counsel to the Court-appointed receiver in the matter of Mizue Fukiage et al. v. Clearview Garden Estates Inc. et al - Court File No. CV-25-00736577-00CL. This receivership was commenced by the application of certain equity investors who purportedly invested funds in, among others, the Respondent for the purchase of the Real Property;
- f) entering into a listing agreement with Lennard; and
- g) monitoring Lennard's weekly marketing activities.

4.0 MARKETING AND SALE PROCESS

34. The Receiver engaged in a sale process for the Real Property as described below.

4.1 The Sale Process

35. In or around January 2025, the Receiver was approached by a party who expressed interest in acquiring the Real Property as a potential stalking horse bidder; however, no formal offer was ever submitted, and the matter did not proceed further.
36. The Receiver requested listing proposals from three commercial real estate brokers for the marketing and the sale of the Real Property, including Lennard. Each of the brokers has considerable experience selling residential and commercial real estate in Ontario.
37. The Receiver received proposals from two of the three brokerages and ultimately selected Lennard, in consultation with Hillmount in its capacity as the senior secured creditor and first mortgagee of the Real Property.
38. On January 27, 2025, the Receiver entered into a multiple listing service (“**MLS**”) listing agreement with Lennard to market the Real Property.
39. After discussions with Lennard, the Receiver set an initial bid deadline date of March 25, 2025. Lennard advised the Receiver that it believed this would provide sufficient time to appropriately canvas the market.

4.2 Marketing efforts

40. Lennard officially launched their marketing campaign on February 10, 2025, which included listings on major platforms, targeted outreach, and promotional materials.
41. The Receiver provided Lennard with a template form of APS to be used, which was uploaded to the online data room maintained by Lennard, to facilitate purchaser due diligence. The Receiver also provided a form of confidentiality

agreement for interested parties to execute, in order to be given access to a virtual data room and perform due diligence (the “**Confidentiality Agreement**”).

42. A summary of marketing activities undertaken by Lennard is set out below:
- a) Prepared a brochure / teaser letter that was mailed out along with the Confidentiality Agreement on a targeted basis;
 - b) posted on social media (LinkedIn) which received over 2,000 impressions in the first week;
 - c) delivered e-mails to Lennard’s distribution list of approximately 3,000 parties with 550 targeted developers;
 - d) conducted targeted outreach by calling approximately 175 active developers in Southwestern Ontario;
 - e) listed the Real Property on Lennard’s website and on MLS;
 - f) published advertisements in the Novae Res Urbis - City of Toronto Edition publication on February 26th, 2025, and The Globe and Mail published on February 20, 2025, and March 13, 2025; and
 - g) established an electronic data room to provide access to confidential information pertaining to the Real Property to parties who had executed a Confidentiality Agreement.

4.3 Offers Received

43. As a result of these marketing efforts, Lennard received twenty-five (25) signed Confidentiality Agreements by prospective purchasers or brokers, all of whom were given access to the electronic data room.
44. On March 25, 2025, Lennard received four (4) offers for the Real Property. The Receiver reviewed the offers with Lennard and Hillmount. Based on the offers submitted, the Receiver determined that the offer from the Purchaser is the

highest and best available offer, given, among other things, current market conditions, and should be accepted. A summary of the offers received for the Real Property will be filed with the Court as **Confidential Appendix “1”**, under seal. Confidential Appendix “1” demonstrates that the accepted offer contained the highest and best value.

45. Subject to the terms thereof including a request for Court approval, the Receiver proceeded to execute the APS with the Purchaser on March 28, 2025 on substantially the same terms as the form posted to the electronic data room, as further described below.

4.4 The Agreement of Purchase and Sale

46. Salient terms of the APS and matters relating thereto include:

- (a) the “Purchased Assets” include the Real Property and other documents and property relating to the Real Property;
- (b) the Purchaser was required to provide a deposit two (2) business days following the execution of the APS, which has been received by the Receiver;
- (c) the APS is conditional on Court approval and the issuance of an order vesting the Purchased Assets (as defined in the APS) in the Purchaser free and clear of all claims and encumbrances, other than those specifically listed in the APS as permitted encumbrances (the “**AVO**”);
- (d) there are no conditions to closing other than the issuance of the AVO;
- (e) the Purchaser is buying the Real Property on an “as is, where is” basis; and
- (f) closing of the sale provided for in the APS is scheduled to occur within the earlier of: (i) forty-five (45) calendar days after acceptance of the APS, and (ii) two (2) Business Days immediately following the date upon which

the AVO is granted, or such other date as the Receiver and Purchaser may mutually agree upon.

47. A copy of the APS, with the purchase price and deposit amount redacted, is attached hereto as **Appendix “E”**. An unredacted copy will be filed as **Confidential Appendix “2”** with the Court, under seal.

4.5 Approval of Sale of Real Property

48. The Receiver believes that the marketing process undertaken by Lennard and the Receiver was appropriate considering the nature of the Real Property. The Sale Process allowed for sufficient market exposure for the Real Property, for, among others, the following reasons:
- a) notice of the sale was sent to more than 3,000 parties;
 - b) the Real Property was listed for sale on MLS;
 - c) the Real Property was listed on Lennard’s website;
 - d) the Real Property was marketed in two different publications on two separate dates;
 - e) twenty-five (25) parties executed a Confidentiality Agreement, and four (4) parties submitted offers;
 - f) the Real Property was exposed to the market on MLS for a period of approximately eight weeks, based on Lennard’s recommendation, and consistent with other sales processes in this province for vacant lands in receivership proceedings.
49. Accordingly, based on the above, the Receiver is satisfied that the marketing process was conducted in a commercially reasonable manner and provided a sufficient and fair opportunity for interested parties to participate in the process.
50. The Receiver recommends the approval of the Transaction as:

- (a) the market was widely canvassed and there was significant interest generated in the Real Property;
 - (b) the purchase price of the Transaction is the highest and best price for the Real Property, is superior to the other offers received for the Real Property and is reasonable in the circumstances;
 - (c) the first mortgagee is supportive of the Transaction; and
 - (d) there is no indication that further exposure to the market will result in an offer superior to the Purchaser's offer.
51. The Receiver therefore recommends the approval of the APS by the Court. The Transaction contemplated by the APS provides for the greatest recovery available in the circumstances. The Receiver is advised that Hillmount supports the AVO, and the completion of the Transaction as contemplated in the APS.

5.0 RECEIVER'S BORROWINGS

52. Pursuant to paragraph 21 of the Appointment Order, the Receiver was empowered to borrow up to \$250,000 at any time for the purpose of funding the exercise of the Receiver's powers and duties. The Appointment Order charged the Real Property with 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 is subordinate in priority to the Receiver's Charge (defined below) and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
53. To date, the Receiver has borrowed and has issued Receiver's certificates to the Applicant totaling \$250,000 against the Real Property. The Receiver issued Receiver's certificates to the Applicant in respect of these borrowings.

6.0 SECURED CREDITOR

6.1 Real Property Secured Creditors

54. A copy of the parcel register searches for the Real Property was obtained from the Ontario Land Registry Office (collectively, the “**Title Search Report**”). A copy of the Title Search Report, dated March 31, 2025, is attached hereto as **Appendix “F”**.
55. A summary of the charges and notices registered against the Real Property as set out in the Title Search Report is as follows:

Date of Registration	Nature of Registration	Registrant	Amount
2023/10/25	Charge	Hillmount Capital Mortgage Holdings Inc.	\$8,000,000
2024/02/13	Notice	Dennis Blain / Lakefront Developments Inc.	\$5,000,000
2024/10/29	Charge	1001045239 Ontario Inc.	\$49,000,000

56. The Receiver has obtained an independent legal opinion from Loopstra Nixon LLP, opining that, subject to the usual assumptions and qualifications, Hillmount’s charge / mortgage constitutes a valid and enforceable first ranking charge / mortgage against the Real Property.
57. Following the closing of the sale transaction, the Receiver intends to obtain and review the underlying security documentation in respect of the subsequent \$5,000,000 notice registered in favour of Mr. Dennis Blain and Lakefront Developments Inc. and the further subsequent \$49,000,000 charge registered in favour of the 1001045239 Ontario Inc., to assess the validity and enforceability of these charges. Any further distribution of funds following the Receiver’s review of documentation supporting subsequent encumbrances as set out above will be subject to a future motion on notice to all parties on the Service List. All charges

and encumbrances listed above will be vested off title if the AVO requested on this motion is granted, with the proceeds standing in place of such registrations.

7.0 PROPOSED INTERIM DISTRIBUTION

7.1 Distribution of Real Property Proceeds

58. The Receiver seeks to distribute the proceeds of sale upon closing the Transaction for the Real Property as follows (the “**Proposed Interim Distribution of Proceeds**”):

- (a) payment to the Town for the property taxes owing on the Real Property of approximately \$114,252.51, plus any further interest or fees at the time of closing;
- (b) payment to Lennard of the commissions owed to it upon the successful sale of the Real Property and closing of the Transaction;
- (c) payment of the unpaid fees and disbursements of the Receiver, Foglers, and TGF;
- (d) repayment to Hillmount of the Receiver’s borrowings of \$250,000 plus interest thereon to the date of payment under the Receiver’s Borrowings Charge in respect of the Real Property; and
- (e) payment to Hillmount of all amounts owing by the Debtor to Hillmount pursuant to Hillmount’s first-ranking mortgage to the date of payment.

59. The balance of the proceeds from the Transaction will be held in trust by the Receiver pending further order of the Court.

8.0 RECEIPTS AND DISBURSEMENTS

60. The Interim R&D for the period from December 19, 2024, to March 31, 2025 sets out cash receipts of \$250,471 and cash disbursements of \$155,978 resulting in an

excess of receipts over disbursements of \$94,493, excluding the purchase deposit which is separately held in trust. A copy of the Interim R&D is attached hereto as **Appendix “G”**.

9.0 SEALING

61. The Receiver respectfully requests that the Court seal Confidential Appendices 1 and 2 to this report, being the offer summary relating to the Real Property and an unredacted copy of the APS, respectively. The Receiver believes that the summary of the offers received, and the purchase price and deposit amounts contained in the APS for the Real Property should be kept confidential until the completion of the Transaction with respect to the Real Property.
62. The inclusion in the public record of the offer summary and an unredacted copy of the APS (which discloses the purchase price and deposit amount) would be prejudicial to, among other things, the integrity of the sale process and any additional marketing efforts that may be needed for the Real Property if the Transaction for the Real Property fails to close for any reason.
63. The sealing order sought is limited in time and will automatically expire upon the closing of the Transaction contemplated in the APS or further order of the Court. This will ensure that the offers and purchase price provided in the APS remain confidential until all sale efforts are completed. This is necessary and sufficient to reasonably protect the legitimate stakeholder interests in the circumstances.
64. A full copy of the APS is being publicly filed as **Appendix “E”** to this report, with the purchase price and deposit amounts redacted. As a result, the sealing order’s effect on the completeness of the public record, if any, will be minimal.

10.0 PROFESSIONAL FEES

65. The Appointment Order provides 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 were granted a charge (the “**Receiver's Charge**”) on the Real Property, as security for such fees and disbursements. The Receiver's Charge is a first charge on the Real 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.

66. The Receiver’s accounts for the period from November 11, 2024, to March 31, 2025 total \$103,027.81 in fees and disbursements, plus HST of \$13,393.63, for a total amount of \$116,421.44. A copy of the Receiver’s interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Jeffrey Berger sworn on April 9, 2025 and attached as **Appendix “H”** to this report.
67. The accounts of the Receiver’s insolvency counsel, TGF, for the period from December 20, 2024, to March 31, 2025 total \$21,892.50 in fees and disbursements, plus HST of \$2,846.03 for a total amount of \$24,738.53. A copy of TGF’s interim accounts (redacted only for privilege), together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of D. J. Miller sworn on April 9, 2025 and attached as **Appendix “I”** to this report.
68. The accounts of the Receiver’s real estate counsel, Foglers, for the period from December 20, 2024, to March 31, 2025 total \$27,083.50 in fees and disbursements, plus HST of \$3,511.63 for a total amount of \$30,595.13. A copy of Foglers’ interim accounts (redacted only for privilege), together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Joseph Fried sworn on April 9, 2025 and attached as **Appendix “J”** to this report.
69. The accounts of Loopstra, retained by the Receiver to provide an independent legal opinion regarding the priority and validity of Hillmount’s registered security, for the period from February 24, 2025, to April 7, 2025 total \$4,562.50 in fees and disbursements, plus HST of \$593.13 for a total amount of \$5,155.63.

A copy of Loopsta's interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Matthew Himmel sworn on April 7, 2025 and attached as **Appendix "K"** to this report.

11.0 RECEIVER'S REQUEST OF THE COURT

70. Based on the foregoing, the Receiver respectfully requests that the Court grant the orders described in paragraph 4(g) above.

All of which is respectfully submitted to this Court as of this April 10, 2025.

TDB RESTRUCTURING LIMITED, solely in its capacity as Court-appointed Receiver and Manager of CBJ – Fort Erie Inc. and not in its personal or corporate capacity

Per:



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

APPENDIX “A”



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

)

THURSDAY, THE 19TH

JUSTICE CAVANAGH

)

)

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 counsel for

the Respondent, and on reading the consent of TDB to act as the Receiver, the Affidavit of Service of Daniel Alievsky sworn November 29, 2024, the Affidavit of Service of Norman Ng sworn December 3, 2024, the Affidavits of Service of Christopher Maniaci sworn December 17, 2024, the Affidavit of Service of Sidney Dean Sveinson sworn December 17, 2024 and the Affidavit of Service of Daniel Alievsky sworn December 18, 2024.

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.

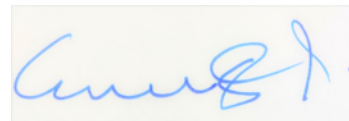
31. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is 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 19th 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

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Email: dkharland@tgf.ca

Lawyers for the Applicant,
Hillmount Capital Mortgage Holdings Inc.

APPENDIX “B”

**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 arrears 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 arrears 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

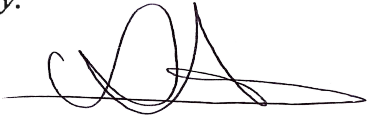
insolvency proceedings, including real-estate companies. A copy of TDB's consent to act as the Receiver is attached hereto as **Exhibit "U"**.

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



Ministry of Public and
Business Service Delivery

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

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V. Quintanilla W.

Director/Registrar

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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

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Corporate Name History

Name

Effective Date

CBJ - FORT ERIE HILLS INC.
September 17, 2021

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V. Quintanilla W.

Director/Registrar

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Active Business Names

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

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

V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

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

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V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
CIA - Notice of Change PAF: 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

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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 handwritten signature in black ink, appearing to read 'Daniel Alievsky', is written over a horizontal line.

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 RO461513 ; 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
EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1999/12/13 ON THIS PIN						
WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/12/13						
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/12/10 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 1999/12/13 **						
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: RO461513						
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	
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	
		REMARKS: SN376098.				
SN378729	2013/06/26	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		
		REMARKS: SN331617.				
SN413152	2014/08/27	DISCH OF CHARGE		*** COMPLETELY DELETED *** BUSINESS SUCCESS & LOAN CENTRE FORT ERIE		
		REMARKS: SN357573.				
SN413676	2014/08/29	TRANSFER		*** COMPLETELY DELETED *** FORT ERIE JAYCEES	FORT ERIE HILLS INC.	
		REMARKS: PLANNING ACT STATEMENTS.				
SN413814	2014/09/02	DISCH OF CHARGE		*** COMPLETELY DELETED *** BUSINESS SUCCESS & LOAN CENTRE FORT ERIE		
		REMARKS: SN376098.				
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	
		REMARKS: SN662609				
SN698783	2021/11/01	TRANSFER	\$15,950,000	FORT ERIE HILLS INC.	CBJ - FORT ERIE HILLS INC.	C
		REMARKS: PLANNING ACT STATEMENTS.				
SN698784	2021/11/01	CHARGE		*** COMPLETELY DELETED *** CBJ - FORT ERIE HILLS INC.	BURRELL, JEFFREY	

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
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						

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
SN759047	2023/03/03	WITHDRAWAL CAUTION	\$8,000,000	*** COMPLETELY DELETED *** SKYLARK OFFICE PROPERTIES LTD. MACPHERSON BUILDERS ACQUISITION CORP.	HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC. HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.	C C
REMARKS: SN757731.						
SN783192	2023/10/25	CHARGE		CBJ - FORT ERIE HILLS INC.		
SN783193	2023/10/25	NO ASSGN RENT GEN		CBJ - FORT ERIE HILLS INC.		
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	1001045239 ONTARIO INC	C	
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.	C	

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

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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

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 Bressi'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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

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 1 st 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:

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

SECURITY:

- First Mortgage registered against the Property.
- Personal and/or Corporate Covenants (as applicable) of the Borrower(s)/Guarantor(s).
- Title insurance.
- 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.
- General Assignment of Rents and Leases and Tenant Acknowledgments in a form to be determined by the Lender's solicitor.
- 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.
- Environmental Indemnity and Warranty.
- 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:

- Written acceptance of the Commitment by the Borrower(s)/Guarantor(s).
- 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 etransfer 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.

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")

Borrower's Solicitor:

Name:

Firm:

Telephone:

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	It is intended and agreed that the Mortgage/Charge loan may not be prepaid prior to the maturity date unless provided herein.
REGULATIONS	The Charged/Mortgaged property must comply with all municipal, provincial and federal statutes, 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	
Total APR: <u>14.88%</u>	
Net Advance of Funds (A) - (C) = \$7,669,435.00	

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

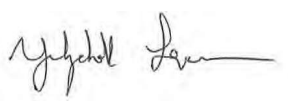
INFORMATION ON THE BROKERAGE

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: 
Yitz Levinson
Mortgage Broker Licence # M08000087

Date: August 9, 2023

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.

August 14, 2023 21:35:01 GMT
Date: _____

E-SIGNED by Jeff Burrell
on 2023-08-14 21:35:00 GMT
Borrower/Guarantor: Jeff Burrell c/o CBJ Fort Erie Hills Inc.

August 14, 2023 21:35:01 GMT
Date: _____

E-SIGNED by Jeff Burrell
on 2023-08-14 21:35:01 GMT
Borrower/Guarantor: Jeff Burrell c/o CBJ Developments Inc.

August 14, 2023 21:35:01 GMT
Date: _____

E-SIGNED by Jeff Burrell
on 2023-08-14 21:35:01 GMT
Borrower/Guarantor: Jeff Burrell

August 14, 2023 22:11:35 GMT
Date: _____

E-SIGNED by Bill Walton
on 2023-08-14 22:11:35 GMT
Borrower/Guarantor: 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.	<table border="1"><tr><td></td><td></td><td></td></tr></table> Borrower/Guarantor Initials			

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: lrittmann@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 handwritten signature in black ink, appearing to read 'Daniel Alievsky', is written over a horizontal line.

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.

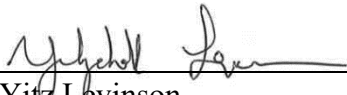
This Amendment to Commitment may be executed by the parties in separate counterparts each of which when so executed and delivered shall be an original, and all such counterparts shall together constitute one and the same instrument.

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:)	Jeffrey Burrell
as to the signature of Jeffrey Burrell)	
)	
)	
WITNESS:)	
)	
)	
_____)	_____
Name:)	Christopher Peter Agagnier
as to the signature of Christopher Peter Agagnier))	
)	
)	
WITNESS:)	
)	
)	
_____)	_____
Name:)	Kimberley Gayle Zacharias
as to the signature of 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.

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

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

DocuSigned by:
Jeff Burrell
Name: Jeffrey Burrell

WITNESS:)
)
DocuSigned by:)
Scott Martyn)
Name:)
as to the signature of Christopher Peter Agagnier)

DocuSigned by:
Chris Agagnier
Name: Christopher Peter Agagnier

WITNESS:)
)
DocuSigned by:)
Scott Martyn)
Name:)
as to the signature of Kimberley Gayle Zacharias)

DocuSigned by:
Kimberley Zacharias
Name: 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 handwritten signature in black ink, appearing to read 'Daniel Alievsky', is written over a horizontal line.

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.

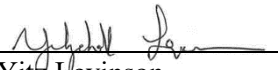
Per: 

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 handwritten signature in black ink, appearing to read 'Daniel Alievsky', is written over a horizontal line.

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
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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 Box 95 TD Centre Toronto M5K 1G8	2023 10 25
----------------------	---	------------

Submitted By

Tel 416-864-9700

Fax 416-941-8852

Fees/Taxes/Payment

<i>Statutory Registration Fee</i>	\$69.00
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<i>Total Paid</i>	\$69.00
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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, statutes, 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 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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

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:



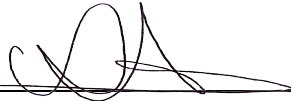
Per: _____

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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

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;

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- (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

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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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

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

- 7 -

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
Name:
as to the signature of Jeffrey Burrell

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

WITNESS:

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


)
) DocuSigned by:
) Chris Agagnier
) 2D8870DF75F3488...
) Christopher Peter Agagnier

WITNESS:

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

)
) DocuSigned by:
) Kimberley Zacharias
) 282FA84160364D2...
) 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 handwritten signature in black ink, appearing to read 'Daniel Alievsky', is written over a horizontal line.

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 Box 95 TD Centre Toronto M5K 1G8	acting for Applicant(s)	Signed	2023 10 24
---------------	---	----------------------------	--------	------------

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 Box 95 TD Centre Toronto M5K 1G8	acting for Party To(s)	Signed	2023 10 24
---------------	---	---------------------------	--------	------------

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 Box 95 TD Centre Toronto M5K 1G8	2023 10 25
----------------------	---	------------

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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D

Enquiry Result

File Currency: 24NOV 2024

All Pages

[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		
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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](#)



All Pages



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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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D



CONTROL NUMBER: 24-0933

THE CORPORATION
OF THE TOWN OF FORT ERIE

REQUEST FOR PROPERTY INFORMATION STATUS RECORD

Package:	Package Value
Certificates Only	\$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	Deferral Amount	0.00
				0.00		
				0.00	Accumulated Int on Deferral	0.00
			Supplemental/Adj	0.00		
			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	75,158.67

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

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



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.



CONTROL NUMBER: 24-0934

THE CORPORATION
OF THE TOWN OF FORT ERIE

REQUEST FOR PROPERTY INFORMATION STATUS RECORD

Package:	Package Value
Certificates Only	\$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

Owner Name :
CBJ - FORT ERIE HILLS INC

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

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		
				0.00	Deferral Amount	0.00
			Supplemental/Adj	0.00	Accumulated Int on Deferral	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

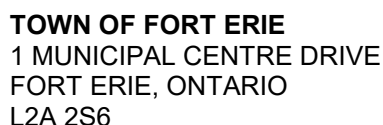
WATER CERTIFICATE

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



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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

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
Toronto
M5H 3T9

acting for
Applicant(s)

Signed 2024 02 13

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
Toronto
M5H 3T9

2024 02 13

Tel

416-601-1800

Fax

416-601-1818

Fees/Taxes/Payment

Statutory Registration Fee

\$69.95

Total Paid

\$69.95

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 (\$250,000.000 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

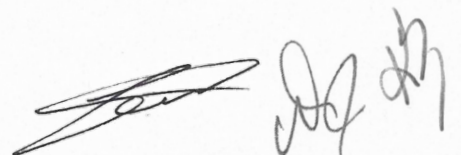
Interest from April 1, 2023, until September 30, 2024, will be at a rate of **Fourteen (14%) Percent** per annum, calculated and compounded monthly not in advance, and paid monthly in equal installments of interest only. The Borrower has agreed to prepay the first six months of interest in the amount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

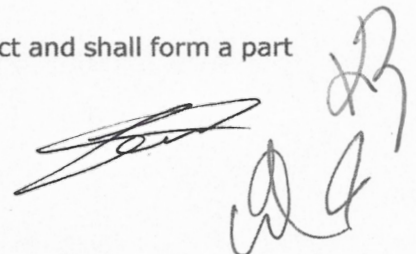
- (a) A first mortgage against title to the lands known as Talbot Crossing located at 5980 Colonel Talbot Road, (PIN 08207-0053 LT, approx. 97 acres in London, Ontario, and confirm registration of same, as security for the funds described herein. The Borrower will arrange with Talbot Crossing Inc. to 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.

The block contains several handwritten signatures in black ink. There are three distinct signatures, with the one on the right being the largest and most prominent, possibly representing a corporate representative or a key party to the 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>

Three handwritten signatures are visible in the bottom right corner of the page. The first signature is a stylized, cursive 'J' or 'L' shape. The second signature is a simple, bold 'A' shape. The third signature is a more complex, cursive 'B' or 'H' shape.

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

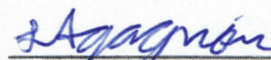
CBJ DEVELOPMENTS INC.

Per: _____
I am authorized to bind the corporation

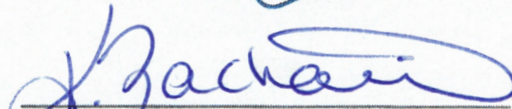
x 

WITNESS

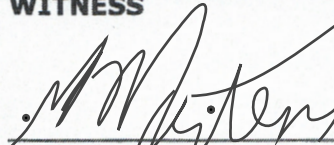
CHRISTOPHER AGAGNIER



WITNESS



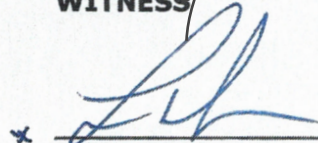
KIMBERLEY ZACHARIAS




WITNESS



WILLIAM WALTON

x 

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 handwritten signature in black ink, appearing to read 'Daniel Alievsky', is written over a horizontal line.

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	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 Mississauga L4W 5A8	acting for Chargor(s)	Signed 2024 10 29
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 Mississauga L4W 5A8	2024 10 29
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 handwritten signature in black ink, appearing to read 'Daniel Alievsky', is written over a horizontal line.

A Commissioner for taking affidavits

DANIEL ALIEVSKY
LSO #90637D



Ministry of Public and
Business Service Delivery

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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

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

September 17, 2024

Our File No. 245170

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 handwritten signature in black ink, appearing to read 'D. Alievsky', is written over a horizontal line.

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)

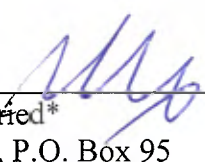
municipally known as 85 Crooks Street, Fort Erie, Ontario

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 handwritten signature in black ink, appearing to read 'Daniel Alievsky', is written over a horizontal line.

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
	<u><u>\$7,322,727.65</u></u>

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 handwritten signature in black ink, appearing to read 'Daniel Alievsky', is written over a horizontal line.

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: 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 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: dkharland@tgf.ca

Lawyers for the Applicant,
Hillmount Capital Mortgage Holdings Inc.

APPENDIX “C”



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00730993-00CL

HEARING DATE: December 11, 2024

NO. ON LIST: 4

TITLE OF PROCEEDING: Hillmount Capital Mortgage Holdings Inc. v. CBJ – Fort Erie Hills Inc.

BEFORE: MADAM JUSTICE KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Derek Harland	Hillmount Capital Mortgage Holdings Inc.	dharland@tgf.ca
Bryan A. Tannenbaum	TDB Restructuring Ltd., Proposed Receiver	btannenbaum@tdbadvisory.ca

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
David Badham	Respondents CBJ-Fort Erie Hills Inc., Vincent Salvatore, and Elena Salvatore	dbadham@btrlaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE KIMMEL:

- [1] This Receivership application is adjourned to December 19, 2024 for one hour commencing at 12:00 p.m. so that the parties to action CV-24-0000723363-00CL who might claim to have a direct or indirect interest in the Property that will be the subject of this Receivership, and the parties who are seeking relief in that action that overlaps with the relief sought in this application, can be provided with notice of the application. Some, but not all, of them were given notice of the December 11, 2024 return date.
- [2] Even if no opposition is expected, it is preferable for all concerned that it be recorded that all potentially interested parties were on notice of the requested relief before it is granted.
- [3] The respondents shall provide the contact information that they have for those other parties. A supplementary affidavit of service shall be uploaded into Case Center in advance of the next return date, confirming service. The parties who were on notice of the December 11, 2024 hearing date shall be notified of the adjournment and new return date.
- [4] If there is property insurance that needs to be renewed in the meantime, the interested parties will address this before the December 19, 2024 return date.

A handwritten signature in dark ink, appearing to read "Kimmel J.", with a stylized, cursive script.

KIMMEL J.

APPENDIX “D”

CBJ - Fort Erie Hills Inc.

Mortgage Discharge Statement as at April 25, 2025

85 Crooks Street, Fort Erie, ON

Please be advised that the balance outstanding under the above mentioned mortgage loan is as follows:

	Total
Principal Balance as at April 25, 2025	\$ 6,955,966.00
Interest - August 1 - 31, 2024	\$ 69,269.83
Interest - September 1 - 30, 2024	\$ 69,959.64
Interest - October 1 - 31, 2024	\$ 70,656.32
Interest - November 1 - 30, 2024	\$ 71,359.94
Interest - December 1 - 31, 2024	\$ 72,070.57
Interest - January 1 - 31, 2025	\$ 72,788.27
Interest - February 1 - 28, 2025	\$ 73,513.12
Interest - March 1 - 31, 2025	\$ 74,245.19
Interest - April 1 - 25, 2025	\$ 61,631.13
Lender Legal Fees to (pre-Receiver'ship)	\$ 84,467.57
Interest re: Lender Legal Fees (January 31, 2025 to April 25, 2025)	\$ 2,322.97
3 Months' Interest pursuant to Provisions under the Charge Terms	\$ 207,809.48
Wire Fee	\$ 90.00
NSF Fees (July 9, 2024 / September 5, 2024)	\$ 1,050.00
Lender Administration Fee re: default, site security, communication with lawyer and Receiver, etc. (79.5hours @ \$395/hour)	\$ 31,402.50
Default Fee (Demand Letter and Notice of Intention to Enforce Security)	\$ 2,000.00
Default Fee (Notice of Sale)	\$ 2,000.00
Discharge Statement and Administration Fee	\$ 500.00
Total Owning - payable in certified funds **	\$ 7,923,102.54

You are hereby authorized and directed to make cheques payable as follows:

1. Hillmount Capital Inc.	\$ 7,923,102.54
TOTAL	\$ 7,923,102.54
Per diem interest - Hillmount Capital Inc.	\$ 2,714.14

**** Certified funds required**

This Discharge Statement is valid until April 29, 2025.

Daily interest is due to and including day of receipt of funds by this office.

If funds are not received before 12:00 noon they MUST include per diem to the next business day.

FRIDAY DEADLINE: If not received before 12:00 noon MUST include per diem to the next business day.

DATED: April 4, 2025

E. & O..E.

APPENDIX “E”

AGREEMENT OF PURCHASE AND SALE

This AGREEMENT made the 28th day of March, 2025.

BETWEEN:

TDB RESTRUCTURING LIMITED,

in its capacity as Court-Appointed Receiver of the assets, undertakings and properties of CBJ – Fort Erie Hills Inc. (“the **Debtor**”) and on behalf of the Debtor and not in its personal or corporate capacity

(the “**Receiver**” or “**Vendor**”)

and

DUNSIRE HOMES INC.

(the “**Purchaser**”)

RECITALS:

- A. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated December 19, 2024, (the “**Appointment Order**”) TDB RESTRUCTURING LIMITED was appointed as receiver of all of the property, assets and undertakings of the Debtor including but not limited to the real property municipally known as 85-87 Crooks Street and 0 Thompson Rd., Fort Erie, Ontario L2A 4H2 and legally described in Schedule “A” (the “**Property**”).
- B. The Vendor desires to sell and the Purchaser desires to purchase the Purchased Assets, as more particularly set out herein, subject to the terms and conditions hereof.

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

SECTION 1 - INTERPRETATION

1.1 Definitions

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

- (a) “**Acceptance Date**” means the date that this Agreement is executed and delivered by the Parties;

- (b) **"Agreement"** means this Agreement of Purchase and Sale, including the Schedules to this Agreement, as it or they may be amended or supplemented from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular Section or other portion of this Agreement.
- (c) **"Applicable Laws"** means, with respect to the Purchased Assets or to any Person, property, transaction or event, all laws, by-laws, rules, regulations, orders, judgments, decrees, decisions or other requirements having the force of law relating to or applicable to such Person, property, transaction or event;
- (d) **"Appointment Order"** has the meaning ascribed to it in Recital A;
- (e) **"Approval and Vesting Order"** means an order or orders made by the Court approving this Agreement and the Transaction and vesting in the Purchaser or its permitted assignee all the right, title and interest of the Debtor in the Purchased Assets free and clear of all Encumbrances (except for the Permitted Encumbrances) in form and substance satisfactory to the Vendor and the Purchaser, acting reasonably. For greater certainty, the vesting portion of the "Approval and Vesting Order" shall be substantially in the form of the model approval and vesting order approved by the "Ontario Commercial List Users Committee".
- (f) **"Assumed Liabilities"** has the meaning ascribed to it in Section 2.10.
- (g) **"Authorities"** means the municipal, regional, provincial or federal governments and their agencies, authorities, branches or departments having or claiming jurisdiction over the Property and **"Authority"** means any one such government, agency, authority, branch or department.
- (h) **"Business Day"** means a day on which banks and the Land Registry Office are open for business but does not include a Saturday, Sunday, or statutory holiday in the Province of Ontario;
- (i) **"CIM"** means the confidential information memorandum prepared by the Vendor's Agent;
- (j) **"Claim"** means any Claim, demand, action, cause of action, damage, loss, cost, liability or expense (including legal fees on a substantial indemnity basis) and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing;
- (k) **"Closing"** means the successful completion of the Transaction in accordance with the provisions of this Agreement;
- (l) **"Closing Date"** means, subject to the extension right of the Vendor set forth in Section 4.5 herein, the earlier of (i) forty-five (45) days after acceptance

of this Agreement; and two (2) Business Days immediately following the date upon which the Approval and Vesting Order is granted, or such other date as the Parties may mutually agree upon;

- (m) **"Court"** has the meaning ascribed to it in Recital A;
- (n) **"Collateral Security"** has the meaning ascribed to it in Section 2.14;
- (o) **"Data Room"** means the electronic data room established by or on behalf of the Vendor containing documents related to the Purchased Assets for review by the Purchaser;
- (p) **"Deposit"** has the meaning ascribed to it in Section 2.5;
- (q) **"Encumbrance"** means any mortgage, charge, pledge, hypothecation, security interest, trust, deemed trust (statutory or otherwise) assignment, lien (statutory or otherwise), Claim, title retention agreement or arrangement, restrictive covenant, rights of way, easements, encroachments, reserves, or other encumbrance of any nature or any other arrangement or condition which, in substance, secures payment or performance of an obligation;
- (r) **"Environmental Condition"** has the meaning ascribed to it in Section 2.2(a).
- (s) **"Environmental Laws"** means all Applicable Laws concerning pollution or protection of the natural environment or otherwise relating to the environment or health or safety matters, including Applicable Laws pertaining to (i) reporting, licensing, permitting, investigating and remediating the presence of Hazardous Materials, and (ii) the storage, generation, use, handling, manufacture, processing, transportation, treatment, release and disposal of Hazardous Materials including without limiting the generality of the foregoing the following any written policies and guidelines and directives, administrative rulings or interpretations, that are in effect and applicable to the Vendor or the Property on the Closing Date, as well as the common law and any judicial or administrative order, consent decree or judgment that is in effect and applicable to the Vendor or the Property on the Closing Date, that relates to pollution or the protection of the environment, including, without limitation, the *Atomic Energy Control Act* (Canada), the *Canadian Environmental Protection Act* (Canada), the *Pest Control Products Act* (Canada), the *Transportation of Dangerous Goods Act* (Canada), the *Environmental Protection Act* (Ontario), the *Environmental Assessment Act* (Ontario), the *Ontario Water Resources Act* (Ontario) and the *Occupational Health & Safety Act* (Ontario), and the regulations and guidelines promulgated pursuant thereto or issued by any Governmental Authority in respect thereof, and equivalent or similar local and provincial ordinances and statutory programs and the regulations and guidelines promulgated pursuant thereto.

- (t) **"Ereg"** has the meaning ascribed to it in Section 5.7;
- (u) **"ETA"** means the *Excise Tax Act* (Canada), as it may be amended from time to time;
- (v) **"Government Authority"** means any person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal government having or claiming to have jurisdiction over part or all of the Purchased Assets, the Transaction or one or both of the Parties and shall include a board, commission, courts, bureau, agency or any quasi-governmental or private body exercising any regulatory authority including an association of insurance underwriters;
- (w) **"Hazardous Materials"** means any contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Government Authority and any "contaminants", "dangerous substances", "hazardous materials", "hazardous substances", "hazardous wastes", "industrial wastes", "liquid wastes", "pollutants" and "toxic substances", all as defined in, referred to or contemplated in federal, provincial and/or municipal legislation, regulations, orders and/or ordinances relating to environmental, health or safety matters;
- (x) **"HST"** means all goods and services taxes and harmonized sales tax payable under the ETA;
- (y) **"Land Transfer Tax"** means all the taxes payable under the *Land Transfer Tax Act* (Ontario) and any other applicable provincial or municipal land transfer tax legislation, including all registration fees, license fees, and other like charges payable upon a transfer of real property, together with interest, penalties and additions thereto;
- (z) **"Liabilities"** means all costs, expenses, charges, debts, liabilities, claims, demands and obligations, whether primary or secondary, direct or indirect, fixed, contingent, absolute or otherwise, liquidated or unliquidated under or in respect of any contract, agreement, arrangement, lease, commitment or undertaking, Applicable Law and Transfer Taxes.
- (aa) **"Parties"** means the Vendor, the Purchaser and any other Person who may become a party to this Agreement. **"Party"** means any one of the foregoing;
- (bb) **"Permits"** means any permits, licenses and applications that may have been issued or applied for in the name of the Debtor in connection with the servicing and/or development of the Property;

- (cc) **"Permitted Encumbrances"** means those Encumbrances listed in Schedule "B" attached hereto;
- (dd) **"Person"** means an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;
- (ee) **"Plans"** means all plans and documentation relevant to the development of the Property including, without limitation, any project documents, the CIM, engineering drawings, architectural plans and working drawings, landscaping plans, reports (including the Reports), project documents, surveys, studies and other documentation prepared to illustrate or define a particular aspect of the development of the Property;
- (ff) **"Property"** has the meaning ascribed to it in Recital A;
- (gg) **"Property Documents"** means the documents in the Data Room, or otherwise made available to the Purchaser, the Purchaser's Solicitors, or its agents;
- (hh) **"Purchaser Closing Conditions"** has the meaning ascribed to it in Section 4.1;
- (ii) **"Purchase Price"** shall have the meaning ascribed to it in Section 2.4. For greater certainty, the Purchase Price shall be exclusive of Transfer Taxes and any other taxes payable as a result of or in connection with the Transaction;
- (jj) **"Purchaser's Solicitors"** means the law firm of McKenzie Lake Lawyers LLP;
- (kk) **"Purchased Assets"** means, collectively, the right, title and interest of the Debtor, subject to Section 2.13, in and to:
 - (i) the Property;
 - (ii) the Plans;
 - (iii) the Permits;
 - (iv) the Property Documents; and
 - (v) such other property of the Debtor located at, related to, used in connection with or arising from or out of the Property as the Purchaser may advise the Vendor of in writing before Closing;

- (ll) **"Receiver's Certificate"** means the certificate of the Receiver referred to in the Approval and Vesting Order;
- (mm) **"Receivership Proceedings"** means the receivership proceeding in respect of the Debtor pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended bearing Court File No. CV-24-00730993-00CL;
- (nn) **"Reports"** means collectively any written reports or documents received or obtained by the Receiver from any third party regarding any aspect of the Property including, without limitation, the Reports in the Data Room;
- (oo) **"Rights"** has the meaning ascribed to it in Section 2.13;
- (pp) **"Transaction"** means the transaction of purchase and sale and assignment and assumption contemplated by this Agreement;
- (qq) **"Transfer Taxes"** means all HST, Land Transfer Tax, sales, excise, use, transfer, gross receipts, documentary, filing, recordation, value-added, stamp, stamp duty reserve, and all other similar taxes, duties or other like charges, however denominated together with interest, penalties and additional amounts imposed with respect thereto;
- (rr) **"Vendor Closing Conditions"** has the meaning ascribed to it in Section 4.3;
- (ss) **"Vendor's Agent"** means Lennard Commercial Realty, Brokerage;
- (tt) **"Vendor's Solicitors"** means the law firm of Fogler, Rubinoff LLP; and
- (uu) **"Work Orders"** means any work orders, deficiency notices, outstanding building permits, orders, or requirements to comply with any Applicable Laws or issued by any Governmental Authority.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof.

1.3 Extended Meanings

Words importing the singular include the plural and vice versa, words importing gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations, corporations and governmental

authorities. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings.

1.4 Schedules

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

Schedule "A" Property

Schedule "B" Permitted Encumbrances

SECTION 2 — SALE AND PURCHASE AND ASSIGNMENT

2.1 Sale and Purchase of Purchased Assets

On the Closing Date, subject to the terms and conditions of this Agreement, the Vendor shall sell and the Purchaser shall purchase the Purchased Assets, subject to Section 2.13, and the Purchaser shall assume the Assumed Liabilities, all in accordance with and pursuant to the terms hereof and the Approval and Vesting Order. The Purchaser acknowledges that it is not purchasing any other property or assets of the Debtor other than the Purchased Assets.

2.2 "As is, Where is"

The Purchaser acknowledges and agrees that:

- (a) the Vendor is selling and the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis subject to whatever defects, conditions, impediments, Hazardous Materials or deficiencies which may exist on the Closing Date, including, without limiting the generality of the foregoing, any latent or patent defects in the Purchased Assets. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Purchaser has conducted such inspections of the condition of and title to the Purchased Assets as it deems appropriate and has satisfied itself with regard to these matters. Except as detailed in this Agreement, no representation, warranty or condition is expressed or can be implied as to any matter including, title, encumbrances, description, fitness for purpose or use, merchantability, condition, quantity or quality, latent defects, cost, size, value, state of repair, zoning, permitted uses, permits, compliance with Applicable Laws of Governmental Authorities, threatened claims, litigation, the existence or non-existence of Hazardous Materials flowing onto or from the Property or any part thereof, or in the air, surface or ground water flowing through, onto or from the Property, or any part thereof, any non-compliance with Environmental Laws including any adverse matters contained in the Reports (the "**Environmental Condition**"), compliance with any or all Environmental Laws, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Vendor to sell or assign same save and except as expressly provided for in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not

apply hereto and are hereby waived by the Purchaser. The descriptions of the Purchased Assets set out in the CIM, in this Agreement or in the Property Documents are for the purposes of identification only and no representation, warranty or condition has or will be given by the Vendor concerning the completeness or accuracy of such descriptions. The Purchaser further acknowledges that the CIM, the Property Documents and all other written and oral information (including, without limitation, any analyses, financial information and projections, compilations, studies and the Plans) obtained by the Purchaser from the Vendor or the Vendor's Agent with respect to the Purchased Assets or otherwise relating to the Transaction has been provided for the convenience of the Purchaser only and is not warranted to be accurate or complete. The Purchaser further acknowledges that the Vendor shall not be under any obligation to deliver the Purchased Assets to the Purchaser and that it shall be the Purchaser's responsibility to take possession of the Purchased Assets;

- (b) notwithstanding any statutory provisions to the contrary and except as detailed herein, the Purchaser has no right to submit requisitions on title or in regard to any outstanding Work Orders, and the Purchaser shall accept the title to the Property subject to the Permitted Encumbrances and the Environmental Condition;
- (c) the various parties who prepared the Property Documents may have restricted the use thereof to the Debtor only, in their respective retainers with the Debtor and any purported conveyance of any of the Property Documents by the Vendor to the Purchaser may be subject to such limitations;
- (d) without limiting the generality of this Section 2.2, the Purchaser acknowledges and agrees that the Parties have expressly agreed to exclude from this Agreement all express or implied representations and warranties with respect to the following matters:
 - (i) the compliance of the Property with Applicable Laws, by-laws or regulations including without limitation, municipal zoning by-laws and regulations and Environmental Laws;
 - (ii) any easements, rights of way, instruments, documents, agreements or other registered or unregistered interest in the Property which impacts the use, enjoyment, income or development opportunities connected with the Property;
 - (iii) that the present use or any future use of the Purchased Assets intended by the Purchaser is or will be lawful or permitted;
 - (iv) the execution, good standing, validity, binding effect or enforceability of the Permitted Encumbrances;
 - (v) the description, title, condition, state of repair and fitness for any purpose of the Purchased Assets;

- (vi) that the Receiver and Debtor have any right, title or interest in any goodwill associated with the Purchased Assets, or the use of any name associated with the operation of the Purchased Assets; and
 - (vii) the compliance of the Property with Environmental Laws, Reports or the existence or non-existence of Hazardous Materials, environmental, soil or water contamination or pollution on or about the Property, or otherwise with respect to the environmental condition of the Property;
- (e) the CIM, the Property Documents and any assets lists, information packages and other material concerning the Purchased Assets or the sale thereof provided by or on behalf of the Vendor and the Vendor's Agent have been prepared solely for the convenience of the Purchaser and are not warranted or represented to be complete or accurate and the descriptions of the Purchased Assets provided to the Purchaser are for the purposes of identification only, no conditions, warranty or representation has been or will be given by the Vendor concerning the accuracy, completeness or any other matter concerning such descriptions;
- (f) the Vendor is entering into this Agreement solely in its capacity as Receiver of the assets, undertaking and properties of the Debtor pursuant to the Appointment Order and not in its personal or other capacity and the Vendor and its agents (including the Vendor's Solicitors and the Vendor's Agent), officers, directors and employees will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith;
- (g) save as to any valid objection to title made in respect of matters arising after the Acceptance Date, the Purchaser shall be conclusively deemed to have accepted the title to the Property and to have accepted the Property subject to the Permitted Encumbrances and the Environmental Condition and subject to all Applicable Laws, by-laws and regulations affecting its use. If any valid objection to title expressly permitted herein is made by the Purchaser prior to the Closing Date, which the Vendor is unwilling or unable to remove, remedy, or satisfy and which the Purchaser will not waive or is not satisfied by title insurance, then either Party may terminate this Agreement by Notice to the other, whereupon, except as herein expressly set forth, the Deposit without interest accrued thereon shall be forthwith returned to the Purchaser in accordance with and subject to the terms in Section 2.5 and 2.12 each of the Purchaser and the Receiver shall be released from all obligations under this Agreement;
- (h) the Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title except such of the foregoing as are in the possession or control of the Receiver;
- (i) the Vendor has provided the Purchaser access to the Data Room and that the Purchaser has had sufficient opportunity to review, and has satisfied itself with respect to, the Property Documents. If for any reason the Transaction is not completed, the Purchaser shall forthwith return the Property Documents and delete any electronic copies of them in its possession or control. The Vendor makes no

representation or warranty, express or implied, as to the accuracy or completeness of any information contained in the CIM and any of the Property Documents;

- (j) in entering into this Agreement, the Purchaser has relied and will rely entirely and solely upon its own inspections and investigations with respect to the Property and the Purchased Assets, including the physical condition and the Environmental Condition of the Purchased Assets including compliance with Applicable Laws and has relied solely upon its own judgement resulting from doing so and has not relied and will not rely on any information, written or oral, furnished by the Vendor or any other person or entities on behalf of or at the direction of the Vendor including the Vendor's Agent, including with respect to value of the Purchased Assets, the development potential of the Property, adequacy, marketability, quantity, location, condition, quality, fitness or state of repair. The information in the CIM, the Data Room and the description of the Purchased Assets in any marketing material, listing information, and any like material delivered or made available by the Vendor and/or the Vendor's Agent, the Vendor's agents or any other party on its behalf to the Purchaser or its representatives are believed to be correct, but if any misstatement, error, inaccuracy or omission (collectively the "**Inaccuracies**") is found in the them, the Purchaser shall not be entitled to any abatement, damages, reimbursement, costs or to termination of this Agreement as a result of them and the Purchaser releases the Vendor and its respective agents from any Claims including the Vendor's Agent the Purchaser had, has or may have as a result of such Inaccuracies;
- (k) the Purchaser shall indemnify and save harmless the Vendor and its directors, officers, employees, agents and representatives (collectively, the "**Indemnitees**") from and against any and all Liabilities which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the operations or activities of the Purchaser on the Property or any order, notice, directive, or requirement under, or breaches, violations or non-compliance with, any Environmental Laws but only to the extent that either occurs after the Closing Date or as a result of the use, generation, removal, disposal, transportation, storage, release or threat of release at, on, in, to, from or about the Property of any Hazardous Substances after the Closing Date (the "**Post-Closing Environmental Indemnity**"). Notwithstanding the foregoing, the Post-Closing Environmental Indemnity shall also include any and all matters, events, incidents, releases, breaches, violations or non-compliances with any Environmental Laws or matters involving any Hazardous Substances, that occurred or may have occurred prior to the Closing Date which are caused by, exacerbated by or contributed to by the Purchaser. The obligation of the Purchaser hereunder shall survive the Closing Date; and
- (l) the Purchaser agrees to release and discharge the Vendor and its directors, officers, employees, agents and representatives from every claim of any kind that the Vendor may make, suffer, sustain or incur in regard to any Environmental Condition. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Vendor to clean up, remediate, restore, rehabilitate, mitigate, assess or remove or pay for the clean up, remediation,

restoration, rehabilitation, mitigation, assessment or removal of any Hazardous Substances, remediate, address, restore or rehabilitate any condition or matter in, on, at under, to, from or in the vicinity of the Property or seek an abatement in the Purchase Price or damages in connection with any Hazardous Substances. This provision shall not expire with, or be terminated or extinguished by or merged in the Closing of the transaction of purchase and sale, contemplated by this Agreement, and shall survive the termination of this Agreement for any reason or cause whatsoever and the closing of the transaction contemplated in this Agreement.

2.3 Permitted Encumbrances

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

2.4 Purchase Price

The purchase price payable by the Purchaser to the Vendor for the Purchased Assets (the "**Purchase Price**") shall be an amount of [REDACTED].

2.5 Deposit

The Parties acknowledge and agree that [REDACTED] (the "**Deposit**") will be delivered within two (2) Business Days of the Acceptance Date by the Purchaser to the Vendor in trust. The Deposit shall be held in a non-interest-bearing account of a Canadian chartered bank or trust company, in trust and to be disbursed in accordance with the following provisions:

- (a) if the purchase and sale of the Purchased Assets is completed on the Closing Date, then the Deposit shall be released from trust and applied towards payment of the Purchase Price;
- (b) if the purchase and sale of the Purchased Assets is not completed on the Closing Date for any reason other than the default of the Purchaser hereunder, then the Deposit shall, subject to any Claim by the Vendor under Section 2.12 herein, be released from trust and paid to the Purchaser in full satisfaction of all Claims incurred by the Purchaser as a result of such non-completion; or
- (c) if the purchase and sale of the Purchased Assets is not completed on the Closing Date as a result of the Purchaser's default hereunder, then the Deposit shall be forfeited to the Vendor and released from trust as liquidated damages and not as a penalty and paid to the Vendor in full and final satisfaction of any Claims against the Purchaser related thereto. The Parties confirm that in any circumstances where the Deposit is forfeited to the Vendor pursuant to the terms of this Agreement, it is the intention of the Parties that the forfeited Deposit represents a genuine pre-estimate by both

Parties of the damages incurred by the Vendor as a result of the Purchaser's default under the terms of this Agreement.

2.6 Payment of Purchase Price

The Purchase Price shall be paid and satisfied as follows:

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

2.7 Allocation of Purchase Price

The entire Purchase Price shall be allocated to the Property (as opposed to any other item forming part of the Purchased Assets, to the extent applicable) and the Parties shall ensure that the Purchaser and the Vendor shall follow such allocation in determining and reporting their liabilities for any Transfer Taxes and, without limitation, shall file their respective income tax returns prepared in accordance with such allocation, provided that nothing herein shall require the Vendor to file any income tax returns that it is not otherwise required to file.

2.8 Adjustment of Purchase Price

- (1) The Purchase Price shall be adjusted as of the Closing Date in accordance with the terms of this Agreement for any property taxes (including interest thereon, if applicable), utilities and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets in the context of a Court supervised sale (the "**Adjustments**"). The Vendor shall prepare a statement of adjustments and deliver same to the Purchaser for its approval by no later than 3 Business Days prior to the Closing Date. If the amount of any Adjustments required to be made pursuant to this Purchase Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be made by the Vendor as of the Closing Date based upon the best information available to the Vendor at such time. When such cost or amount is determined, the Vendor or Purchaser, as the case may be, shall, within 30 days of determination, provide a complete statement thereof to the other and within 30 days thereafter the Vendor and the Purchaser shall make a final adjustment as of the Closing Date for the item in question. In the absence of agreement by the Parties, the final cost or amount of an item shall be determined by an accountant or such other financial professional appointed jointly by the Vendor and the Purchaser, with the cost of such accountant's or other financial professional's determination being shared equally between the Parties. all re-adjustments by the Purchaser shall be requested in a detailed manner on or before the 60th day after the Closing Date, except in the case of property taxes for which all re-adjustments requested by the Purchaser

shall be made within 45 days after the last instalment due date for property taxes in 2025, after which times the Purchaser shall not have any right to request a re-adjustment.

- (2) Other than as provided for in this section 2.8, there shall be no Adjustments to the Purchase Price.

2.9 Excluded Liabilities

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

2.10 Assumed Liabilities

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

- (a) Permitted Encumbrances;
- (b) the use of the Purchased Assets from and after the Closing Date to the extent relating to periods from and after the Closing Date; and
- (c) the Environmental Condition, and any and all Liabilities which may result therefrom.

(the foregoing collectively, the “**Assumed Liabilities**”).

2.11 Taxes

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

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

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

addition to the balance due on Closing, an amount equal to the HST that the Vendor shall be obligated to collect and remit in connection with the Transaction.

2.12 Inspections

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

- (a) any invasive testing shall require the Vendor's written approval prior to such testing, acting reasonably;
- (b) the Purchaser shall provide at least two Business Days' notice to the Vendor of any such tests and inspections and the Vendor will be entitled to have a representative present during all such tests and inspections;
- (c) all soil tests or environmental audits shall be coordinated with the Vendor;
- (d) the Purchaser shall comply with all Applicable Laws relating to the Property;
- (e) any damage to the Property caused by such tests and inspections will be promptly repaired by the Purchaser and the Purchaser will indemnify and save the Vendor harmless from all Claims which the Vendor may suffer as a result of the said tests and inspections or any other breach of this Section by the Purchaser; and
- (f) prior to entering the Property to conduct the Purchaser's tests and investigations, the Purchaser shall deliver (or shall cause its representatives completing the Purchaser's investigations on its behalf to deliver) to the Vendor evidence of liability insurance coverage for at least \$2,000,000.

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

2.13 Non-Transferable and Non-Assignable Purchased Assets

To the extent that any of the Purchased Assets to be transferred to the Purchaser on the Closing Date, or any Claim, right or benefit arising under or resulting from such Purchased Assets (collectively, the "**Rights**") is not capable of being transferred without the approval, consent or waiver of any third Person, or if the transfer of a Right would constitute a breach of any obligation under, or a violation of, any Applicable Law unless the approval, consent or waiver of such third Person is obtained, then, except as expressly otherwise provided in this Agreement and without limiting the rights and remedies of the Purchaser

contained elsewhere in this Agreement, this Agreement shall not constitute an agreement to transfer such Rights unless and until such approval, consent or waiver has been obtained. After Closing and for a period of sixty (60) days following the Closing, the Vendor shall:

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

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

SECTION 3 - REPRESENTATIONS AND WARRANTIES

3.1 Purchaser's Covenants

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

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

3.2 Purchaser's Representations and Warranties

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

- (a) the Purchaser is and will be as of Closing, a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and is duly qualified to purchase and own the Purchased Assets;
- (b) the Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and to perform its obligations and the execution and delivery of this Agreement and the consummation of the Transaction has been duly authorized by all necessary corporate action on the part of the Purchaser;
- (c) no consent or approval of or registration, declaration or filing with any Government Authority is required for the execution or delivery of this Agreement by the Purchaser, the validity or enforceability of this Agreement against the Purchaser, or the performance by the Purchaser of any of its obligations hereunder;
- (d) the Purchaser is not a party to, bound or affected by or subject to any indenture, agreement, instrument, charter or by-law provision, order, judgment or decree which would be violated, contravened or breached by the execution and delivery by it of this Agreement or the performance by it of any of the terms contained herein;
- (e) there is no suit, action, litigation, arbitration proceeding or governmental proceeding, including appeals and applications for review, in progress, pending or, to the best of the Purchaser's knowledge, threatened against or relating to the Purchaser or any judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator which, in any case, might adversely affect the ability of the Purchaser to enter into this Agreement or to consummate the Transaction and the Purchaser is not aware of any existing ground on which any action, suit or proceeding may be commenced with any reasonable likelihood of success;
- (f) this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party have been or will be, as of Closing, duly and validly executed and delivered by the Purchaser and constitute or will, as of Closing, constitute legal, valid and binding obligations of the Purchaser, as the case may be, enforceable in accordance with the terms hereof or thereof;
- (g) the Purchaser is not a non-Canadian person as defined in the *Investment Canada Act*;
- (h) the Purchaser is not a non-resident for purposes of Section 116 of the *Income Tax Act* (Canada);
- (i) subject to any exceptions set out or prescribed in the *Prohibition on the Purchase of Residential Property by Non-Canadians Act*, S.C. 2022, c. 10, s. 235, the Purchaser represents and warrants that the Purchaser is not and

on completion, will not be a Non-Canadian under the Non-Canadian provisions of the Prohibition on the *Purchase of Residential property by Non-Canadians Act*, S.C. 2022, c. 10, s. 235, which representation and warranty shall survive and not merge upon the completion of this transaction and the Purchaser shall deliver to the Vendor a statutory declaration that the Purchaser is not then a Non-Canadian of Canada; provided further that if the Purchaser qualifies for any exception as set out or prescribed by the statute, the Purchaser shall deliver to the Vendor a statutory declaration that the Purchaser is a Non-Canadian but is not in contravention of the statute because of a valid exception as set out or prescribed in the statute.

- (j) the Purchaser has now and will have on the Closing Date the financial resources to complete this Transaction in accordance with the terms of this Agreement; and
- (k) the Purchaser is registered or will be registered on Closing under Part IX of the ETA.

3.3 Receiver's Representations

The Receiver represents and warrants to the Purchaser, which representations and warranties shall survive Closing for a period of six months from the Closing Date, as follows:

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

3.4 Survival of Representations, Warranties and Covenants of the Purchaser

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

SECTION 4 — CONDITIONS

4.1 Purchaser Closing Conditions

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

- (a) all representations and warranties of the Vendor contained in this Agreement shall be true as of the Closing Date in all material respects with the same effect as though made on and as of that date;
- (b) the Vendor shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at Closing all the documents contemplated in Section 5.3 or elsewhere in this Agreement; and
- (c) the Approval and Vesting Order shall have been granted and shall not have been stayed, varied or set aside.

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

4.2 Purchaser Closing Conditions Not Fulfilled

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

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

The Closing of the Transaction shall deem all conditions to be waived or satisfied.

4.3 Vendor Closing Conditions

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

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true as of the Closing Date in all material respects with the same effect as though made on and as of that date;
- (b) the Purchaser shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents contemplated in Section 5.2 or elsewhere in

this Agreement;

- (c) there shall be no litigation or proceedings pending against the Vendor, in respect of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper; and
- (d) the Approval and Vesting Order shall have been granted and shall not have been stayed, varied or set aside.

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

4.4 Vendor Closing Conditions Not Fulfilled

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

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

4.5 Approval and Vesting Order

The obligations of the Vendor and the Purchaser hereunder are subject to the mutual condition that the Approval and Vesting Order shall have been granted by the Court within forty-five (45) days of the Acceptance Date, subject to the right of the Receiver to extend such time period for thirty (30) days upon written notice of such extension to the Purchaser by the thirtieth (30th) day of the Acceptance Date, (or such later date agreed upon by the Parties) approving this Agreement and the Transaction and vesting in the Purchaser all the right, title and interest of the Debtor in the Purchased Assets free and clear of all Encumbrances, other than the Permitted Encumbrances. The Parties hereto acknowledge that the foregoing condition has been inserted for the mutual benefit of the Parties and is incapable of waiver. In the event that said condition has not been fulfilled by the aforesaid date, the Transaction shall automatically be deemed to be null and void and of no further force and effect as of said date and provided that the Purchaser is not in default of its obligations hereunder, the Deposit shall be promptly returned to the Purchaser in accordance with and subject to the provisions of Section 2.5 hereof.

SECTION 5 — CLOSING

5.1. Closing

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

5.2. Purchaser's Deliveries on Closing

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

- (a) payment of the Purchase Price;
- (b) a certificate, dated as of the Closing Date, confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true as of the Closing Date, in all material respects, with the same effect as though made on and as of the Closing Date;
- (c) an acknowledgement dated as of the Closing Date, that each of the Purchaser Closing Conditions have been fulfilled, performed or waived as of the Closing Date;
- (d) assignment of the Purchased Assets and assumption of the Assumed Liabilities with an indemnification by the Purchaser in favour of the Vendor for any Claims under the Assumed Liabilities;
- (e) the certificate and indemnity provided for under Section 2.11;
- (f) an undertaking to re-adjust any item on or omitted from the statement of adjustments; and
- (g) the DRA (as defined below);
- (h) a declaration that the Purchaser is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada);
- (i) the Statutory Declaration pursuant to Section 3.2(i);
- (j) DocuSign certificate of completion, if applicable; and
- (k) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

5.3 Vendor's Deliveries on Closing

- (a) On or before Closing, the Vendor shall execute and deliver to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:
 - (i) statement of adjustments;
 - (ii) an acknowledgement dated as of the Closing Date, that each of the Vendor Closing Conditions have been fulfilled, performed or waived as of the Closing Date;
 - (iii) an assignment of the Purchased Assets and assumption of the Assumed Liabilities with an indemnification by the Purchaser in favour of the Vendor for any Claims under the Assumed Liabilities;
 - (iv) the Approval and Vesting Order;
 - (viii) an undertaking to re-adjust any item on or omitted from the statement of adjustments subject to Section 2.8;
 - (ix) a declaration that the Vendor is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada);
 - (x) a certificate, dated as of the Closing Date, confirming that all of the representations and warranties of the Vendor contained in this Agreement are true as of the Closing Date, in all material respects, with the same effect as though made on and as of the Closing Date and which survive for a period of sixty days from the Closing Date and thereafter merge and are of no further force and effect;
 - (x) DocuSign certificate of completion, if applicable;
 - (xi) the DRA; and
 - (xii) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.
- (b) Upon the completion of the deliveries pursuant to Section 5.2 and 5.3(a), the Vendor shall deliver to the Purchaser an executed copy of the Receiver's Certificate. The Receiver will thereafter promptly file a copy of the Receiver's Certificate with the Court confirming that the Transaction has been completed.

5.4 Risk

The Purchased Assets shall be and remain at the risk of the Debtor until Closing. From and after Closing, the Purchased Assets shall be at the risk of the Purchaser. In the event

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

5.5 Termination

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

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

5.6 Breach by Purchaser

If all of the Purchaser Closing Conditions have been complied with or waived by the Purchaser and the Purchaser fails to comply with the terms of this Agreement, the Vendor may by notice to the Purchaser elect to treat this Agreement as having been repudiated by the Purchaser.

5.7 Electronic Registration

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

SECTION 6 - GENERAL

6.1. Further Assurances

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

6.2. Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered personally or transmitted by electronic transmission, addressed:

in the case of the Purchaser, as follows:

Dunsire Homes Inc.
29 Harriet Street
Hamilton, ON L8R 2E5

Attention: Shawn Keeper and Allan Drewlo
Email: [REDACTED]

with copies to:

McKenzie Lake Lawyers LLP
1800-140 Fullarton Street
London ON N6A 5P2
Attention: Beth Mullin
Email: beth.mullin@mckenzielake.com

and in the case of the Vendor, as follows:

TDB RESTRUCTURING LIMITED, Court-Appointed
Receiver of the Debtor.
11 King Street West
Suite 700
Toronto, ON M5H 4C7

Attention: Bryan Tannenbaum
Email: btannenbaum@tdbadvisory.ca

with copies to:

Fogler, Rubinoff LLP
40 King Street West
Suite 2400, PO Box 215
Scotia Plaza
Toronto, ON M5H 3Y2

Attention: Joseph Fried
Email: jfried@foglers.com

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

6.3. Time

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

6.4. Currency

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

6.5. Benefit of Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. The Purchaser shall not assign the benefit of this Agreement without the prior written consent of the Vendor; provided the Purchaser may assign, within ten (10) Business Days of the Acceptance Date, its rights and obligations under this Agreement to an "affiliate" of the Purchaser (as such term is defined in the *Business Corporations Act* (Ontario)), provided that the Purchaser remains liable, jointly, with such affiliate for all the obligations of the Purchaser hereunder. To the extent that any such assignment occurs, this Agreement and all provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

6.6. Amendments and Waiver

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

6.7. Entire Agreement

This Agreement and the attached Schedules A and B constitute the entire agreement between the Parties with respect to the subject matter and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Parties. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any

other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed by the Party to be bound thereby. Subject to the Approval & Vesting Order being issued by the Court, this Agreement is intended to create binding obligations on the part of the Vendor as set forth herein and on acceptance by the Purchaser, is intended to create binding obligations on the part of the Purchaser, as set out herein.

6.8. Paramountcy

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

6.9. Severability

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

6.10. Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the Laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court in the Receivership Proceedings. The Parties consent to the jurisdiction and venue of the Court for the resolution of any disputes under this Agreement, such disputes to be adjudicated in the Receivership Proceedings. In the event that the Receivership Proceedings have been terminated, then notwithstanding the foregoing, each of the Parties irrevocably attorns to the non-exclusive jurisdiction of the Courts in the Province of Ontario, and the Parties consent to the jurisdiction and venue of the Courts of the Province of Ontario for the resolution of any disputes under this Agreement.

6.11. Commission

The Purchaser and Vendor acknowledge that there are commissions payable by the Vendor on the Purchase Price to the Vendor's Agent. If the Purchaser has retained an agent then the commissions are further detailed in the Confirmation of Co-operation and Representation Agreement between the Vendor's Agent and the Purchaser's agent. Furthermore, the Purchaser agrees to indemnify the Vendor against any Claim for compensation or commission by any third party or agent retained by the Purchaser in connection with, or in contemplation of, the Transaction other than for commissions payable pursuant to the Confirmation and Co-operation and Representation Agreement.

6.12. Certain Words

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

6.13. Statutory References

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

6.14. Actions to be Performed on a Business Day

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

6.15. No Registrations

The Purchaser hereby covenants and agrees not to register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Agreement against title to the Property. Should the Purchaser be in default of its obligations under this Section, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Agreement, caution, certificate of pending litigation or other document providing evidence of this Agreement or any assignment of this Agreement from the title to the Property and the Purchaser shall be deemed to be in default of its obligations hereunder. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Property.

6.16. Strict Construction

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

6.17. Capacity of Vendor

The Purchaser acknowledges that TDB RESTRUCTURING LIMITED has been appointed as the Receiver pursuant to the Appointment Order. The Purchaser acknowledges and agrees that TDB RESTRUCTURING LIMITED is entering into this Agreement solely in its capacity as the Receiver and that TDB RESTRUCTURING LIMITED, its directors, agents, officers, partners and employees shall have no personal or corporate liability of any kind whatsoever, in contract, in tort, or at equity as a result of or in any way connected with this Agreement or as a result of the Vendor performing or

failing to perform any of its obligations hereunder.

6.18. No Third-Party Beneficiaries

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

6.19. Planning Act

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

6.20. Counterparts and Electronic Transmission

This Agreement, notices, amendments, waivers and the closing documents delivered pursuant to Section 5.2 and 5.3 hereof may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Delivery by facsimile or electronic transmission (including by DocuSign) of any of the forgoing documents shall be deemed to constitute due and sufficient delivery of such document as if delivered in the original. If any document is delivered by DocuSign a certificate of completion shall be provided.

6.21 Expenses

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

6.22 Confidentiality and Public Announcements

The Parties agree that the terms and conditions of this Agreement are confidential and shall not be disclosed to any Person, except: (a) to such Parties' solicitors, advisors, agents or representatives acting in connection herewith and, then, only on the basis that such Persons are also required to keep such information confidential as aforesaid; (b) to Hillmount Capital Mortgage Holdings Inc. and its solicitors, advisors, agents or representatives; and (c) the Court in furtherance of obtaining the Approval and Vesting Order(s).

Notwithstanding the foregoing, the obligation to maintain the confidentiality of such

information will not apply to the extent that disclosure of such information is required by the Court, by law or otherwise in connection with governmental or other applicable filings relating to the transactions hereunder, provided that, in such case, unless the Purchaser otherwise agrees, the Vendor may, if possible in its sole discretion, request confidentiality in respect of such legal proceedings or governmental or other filings.

Except as required by law including applicable regulatory and stock exchange requirements, all public announcements concerning the Transaction shall be jointly approved as to form, substance and timing by the Parties after consultation. The Purchaser agrees that no public announcements shall be made prior to the Closing.

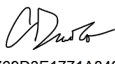
(Remainder of this page intentionally left blank)

IN WITNESS WHEREOF this Agreement has been executed and accepted in accordance with the terms herein.

DUNSIRE HOMES INC.

DocuSigned by:

Per: _____
B509511553BB410...
Name: Shawn Keeper
Title: President

DocuSigned by:

Per: _____
769D3E1771A8498...
Name: Allan Drewlo
Title: Secretary Treasurer

We have authority to bind the Corporation

DATED this _____ day of _____, 2025.

TDB RESTRUCTURING LIMITED in its

**capacity as Court-Appointed Receiver
of the assets, undertakings and properties of
the Debtor and not in its personal capacity**

Per: _____
Name: Bryan A. Tannenbaum,
Title: President

I have authority to bind the Corporation

IN WITNESS WHEREOF this Agreement has been executed and accepted in accordance with the terms herein.

DUNSIRE HOMES INC.

Per: _____

Name: Shawn Keeper

Title: President

Per: _____

Name: Allan Drewlo

Title: Secretary Treasurer

We have authority to bind the Corporation

DATED this 28th day of March, 2025.

TDB RESTRUCTURING LIMITED in its

**capacity as Court-Appointed Receiver
of the assets, undertakings and properties of
the Debtor and not in its personal capacity**

Per:  _____

Name: Bryan A. Tannenbaum,

Title: President

I have authority to bind the Corporation

Schedule A

Property

**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

Permitted Encumbrances

“Permitted Encumbrances” means the following:

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

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

	Reg. Num.	Date	Instrument Type	Parties To	Cert/CHKD
1.	BB50775	1966/08/26	BYLAW		C
2.	RO106181	1969/07/31	BYLAW		C
3.	SN127630 REMARKS: SITE PLAN AGREEMENT	2006/07/10	NOTICE	FORT ERIE JAYCEES	C
4.	59R17149 REMARKS: SN706508	2021/12/23	PLAN REFERENCE		C
5.	59R17187 REMARKS: SN713009	2022/02/14	PLAN REFERENCE		C

APPENDIX “F”

LAND
REGISTRY
OFFICE #59

64233-0064 (LT)

PAGE 1 OF 2
PREPARED FOR Medina01
ON 2025/03/31 AT 09:09:49

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

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 RO461513 ; FORT ERIE

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

OWNERS' NAMES

CBJ - FORT ERIE HILLS INC.

RECENTLY:

FIRST CONVERSION FROM BOOK

CAPACITY SHARE

PIN CREATION DATE:

1999/12/13

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<div><div>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1999/12/13 ON THIS PIN**</div><div>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/12/13**</div><div>** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **</div><div>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</div><div>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *</div><div>** AND ESCHEATS OR FORFEITURE TO THE CROWN.</div><div>** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF</div><div>** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY</div><div>** CONVENTION.</div><div>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</div><div>**DATE OF CONVERSION TO LAND TITLES: 1999/12/13 **</div></div>						
BB50775	1966/08/26	BYLAW				C
RO106181	1969/07/31	BYLAW				C
SN127630	2006/07/10	NOTICE		THE CORPORATION OF THE TOWN OF FORT ERIE	FORT ERIE JAYCEES	C
REMARKS: SITE PLAN AGREEMENT						
SN698783	2021/11/01	TRANSFER	\$15,950,000	FORT ERIE HILLS INC.	CBJ - FORT ERIE HILLS INC.	C
REMARKS: PLANNING ACT STATEMENTS.						
59R17149	2021/12/23	PLAN REFERENCE				C
REMARKS: SN706508.						
59R17187	2022/02/14	PLAN REFERENCE				C

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
		REMARKS: SN713009.				
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				
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
SN825972	2025/01/09	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	TDB RESTRUCTURING LIMITED	C
		REMARKS: APPOINTING TDB RESTRUCTURING LIMITED AS RECEIVER				

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.

APPENDIX “G”

TDB Restructuring Limited
Court-Appointed Receiver of CBJ – Fort Erie Hills Inc.
Interim Statement of Receipts and Disbursements
For the period December 19, 2024 to March 31, 2025

Receipts

Advance from Secured Lenders	250,000
Interest	471

Total receipts	\$ 250,471
-----------------------	-------------------

Disbursements

Property Tax - 87 Crooks St.	\$ 69,265
Lender Charges (Interest January 22-31, 2025 and Commitment fee)	10,335
Insurance	4,118
Miscellaneous	998
Waste Removal	441
Receiver's Fees	46,578
Legal Fees/disbursements	16,068
HST Paid	8,177

Total disbursements	\$ 155,978
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Excess of Receipts over Disbursements	\$ 94,493
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E & OE

APPENDIX ‘H’

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N :

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicant

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

AFFIDAVIT OF JEFFREY BERGER
(Sworn April 9, 2025)

I, **JEFFREY BERGER**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Managing Director of TDB Restructuring Limited (“**TDB**”) and as such I have personal knowledge of the matters to which I hereinafter depose, save and except those matters based upon information and belief, in which case I have stated the source of such facts, all of which I verily believe to be true.
2. Pursuant to an order of the Court dated December 19, 2024, TDB was appointed receiver and manager (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 o Thomson Road, Fort Erie, Ontario.

3. Attached hereto and marked as **Exhibit "A"** to this affidavit are copies of invoices issued for fees incurred by TDB in respect of the receivership proceedings for the period November 11, 2024, to March 31, 2025 (the "**Period**"). The total fees charged for the Period are \$103,009.00, the total disbursements are \$18.81, plus HST of \$13,393.63 for a total of \$116,421.44. The average hourly rate charged during the Period was \$556.78.

4. The invoices are a fair and accurate description of the services provided and the amounts charged by TDB for the Period.

5. Attached hereto and marked as **Exhibit "B"** is a schedule summarizing the invoices in Exhibit "A", the total billable hours charged, the total fees charged and the average hourly rate charged.


6. I make this affidavit in support of a motion for an Order approving the Receiver's fees and disbursements and for no other or improper purpose.

SWORN BEFORE ME at the City of)
 Toronto in the Province of Ontario, on)
 April 9th, 2025)
)



 A Commissioner, etc.

Arif Nazarali Dhanani,
 a Commissioner, etc., Province of Ontario,
 for TDB Restructuring Limited.
 Expires April 21, 2026.



 JEFFREY BERGER

**THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF JEFFREY BERGER SWORN BEFORE ME
THIS 9th DAY OF APRIL 2025**



A Commissioner, etc.

Arif Nazarali Dhanani,
a Commissioner, etc., Province of Ontario,
for TDB Restructuring Limited.
Expires April 21, 2026.



To TDB Restructuring Limited
Court-Appointed Receiver of CBJ-Fort Erie Hills Inc.
11 King Street West, Suite 700
Toronto, ON M5H 4C7

TDB Restructuring Limited
Licensed Insolvency Trustee

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

info@tdbadvisory.ca
416-575-4440
416-915-6228

tdbadvisory.ca

Date January 30, 2025

Client File 50-001

Invoice TDB #1

No. 2501037

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of CBJ-Fort Erie Hills Inc. (the "Debtor") for the period November 11, 2024 to December 31, 2024.

Date	Professional	Description
11/11/2024	Bryan Tannenbaum	Emails re notice of Application; emails re insurance renewal; email re same with Thornton Grout Finnigan LLP ("TGF").
11/12/2024	Bryan Tannenbaum	Receipt and review of D. Falcione of Hillmount Capital Mortgage Holdings Inc. ("Hillmount") email re insurance; response sent.
12/11/2024	Bryan Tannenbaum	Attend court; adjourned to December 19 th due to additional service required.
12/12/2024	Bryan Tannenbaum	Receipt and review of the Endorsement.
12/12/2024	Nisan Thurairatnam	Attend a call with M. Cargher re preparation for day one activities following appointment.
12/12/2024	Margarita Cargher	Attend a call with N. Thurairatnam re preparation for day one activities following appointment.
12/16/2024	Nisan Thurairatnam	Receipt and review of the Endorsement.
12/19/2024	Margarita Cargher	Review of Order, Factum, and Endorsement; coordination of website posting; draft receivership plan.
12/19/2024	Donna Nishimura	Create webpage on TDB website and upload documents.
12/19/2024	Bryan Tannenbaum	Attend court for appointment; email to insurance broker to reinstate the coverage; emails re insurance to D. Harland; receipt and review of Court Order and Endorsement sent to service list; email to prospective purchaser's lawyer.
12/20/2024	Margarita Cargher	Preparation of the information request, S.245(1) Notice using Application Record; meeting with B. Tannenbaum, TGF team, Hillmount team, J. Fried of Foglers et al.; review of appraisals, email communication internally and to the Debtor counsel.
12/20/2024	Donna Nishimura	Post document to the client webpage on the TDB website.
12/20/2024	Bryan Tannenbaum	Various organizational emails with M. Cargher; teams call with Hillmount (D. Falcone/Y. Levinson), J. Fried, TGF (D. Harland/D. Alivesky/D.J. Miller) and M. Cargher to launch and organize assignment; email and telephone call with prospective purchaser's lawyer re stalking horse and submit an LOI; receipt and review of Hillmount discharge statement as at December 19, 2024.

Date	Professional	Description
12/23/2024	Bryan Tannenbaum	Receipt and review of A. Gagnier emails and responses sent re attempting to redeem; various emails regarding insurance with Brokerlink, FCA and M. Cargher.
12/23/2024	Margarita Cargher	S.245 notice editing per B. Tannenbaum comments; RFP and Confidentiality Agreement preparation - first drafts prepared; insurance email communication with various insurance agents (incl. forms).
12/23/2024	Nisan Thurairatnam	Review draft S.245 notice.
12/24/2024	Bryan Tannenbaum	Various emails with Brokerlink to place insurance coverage, etc.; various emails re policy lapsing; emails re same to TGF and put Debtor's lawyer on notice, etc.
12/27/2024	Margarita Cargher	Finalizing, printing, and mailing of the S.245 notice and Schedule A.
12/30/2024	Bryan Tannenbaum	Various emails regarding insurance and signing Brokerlink document; email to prospective stalking horse lawyer; response reviewed.
12/31/2024	Bryan Tannenbaum	Receipt and review of Foglers email attaching acknowledgement and direction to register receiving order on title; execute and return same.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	6.90	\$ 695	\$ 4,795.50
Nisan Thurairatnam, CPA	Manager	0.60	\$ 425	255.00
Margarita Cargher, MBA, MAcc	Manager	7.80	\$ 425	3,315.00
Donna Nishimura	Estate Administrator	0.70	\$ 150	105.00
Total hours and professional fees		16.00		\$ 8,470.50
Disbursements				
Postage			\$ 18.81	
Total disbursements				18.81
Total professional fees and disbursements				\$ 8,489.31
HST @ 13%				1,103.62
Total payable				\$ 9,592.93



To TDB Restructuring Limited
Court-Appointed Receiver of CBJ-Fort Erie Hills Inc.
11 King Street West, Suite 700
Toronto, ON M5H 4C7

TDB Restructuring Limited
Licensed Insolvency Trustee

11 King St. W., Suite 700
Toronto, ON M5H 4C7
info@tdbadvisory.ca
416-575-4440
416-915-6228
tdbadvisory.ca

Date February 19, 2025

Client File 50-001
Invoice TDB #2
No. 2502016

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of CBJ-Fort Erie Hills Inc. (the "Debtor") for the period January 1, 2025 to January 31, 2025.

Date	Professional	Description
1/2/2025	Bryan Tannenbaum	Receipt and review of emails between two principals of the Debtor; response sent clearing up his misunderstanding.
1/6/2025	Nisan Thuraiaratnam	Attend a call with M. Cargher re RFP and CA; discuss next steps on file including Canada Revenue Agency ("CRA") letter and information request follow up.
1/6/2025	Bryan Tannenbaum	Various emails to arrange a meeting; email to S. Brunswick re client potential offer; teams call with S. Brunswick of Teplitsky LLP and his client to discuss interest as stalking horse bidder, etc.; receipt and review of M. Cargher email to D. Badham re information request follow up; review agenda for meeting with secured creditor with M. Cargher.
1/6/2025	Margarita Cargher	Prepare for status call to be held on Tuesday and send B. Tannenbaum email re same; call with N. Thuraiaratnam re RFP and CA.
1/7/2025	Nisan Thuraiaratnam	Review emails re RFP; email to M. Cargher re data room and property taxes.
1/7/2025	Bryan Tannenbaum	Receipt and review of D. Badham email re information request; teams call with Hillmount Capital Mortgage Holdings Inc. (Y. Levison/D. Falcone), Foglers (J. Fried), Thornton Grout Finnigan LLP (D.J. Miller/D. Harland/D. Alievsky) re launch status meeting on insurance, 245 Notices, RFP to brokers, stalking horse, etc.; draft email to S. Brunswick for submission of stalking horse bid; receipt and review of D. Falcone email attaching claim against CBJ by Skymark and MacPherson Builders; receipt and review of Y. Levinson email re realtor information; review and approve proposal letter to realtors; review email from J. Pearlstein of Lennard Realty with executed CA.
1/7/2025	Margarita Cargher	Status/insurance update meeting with Y. Levison/D. Falcone, D.J. Miller/D. Harland/D. Alievsky, J. Fried; sent RFP to brokers; review of D. Falcone email re Skymark/MacPherson Builders; receipt and review of NDAs from real estate brokers and set up for shared folders; email to D. Falcone re information to be provided.
1/8/2025	Margarita Cargher	Email communications with real estate agents regarding information and set up for data room; call with real estate agent from Lennard Realty re o Thompson Rd., email to J. Fried and D. Harland re o Thompson Rd.; email to insurance re loss payee; prepare receivership checklist and email to request outstanding tasks to be performed; communication with the Office of the Superintendent of Bankruptcy ("OSB") re order and receivership certificate.

Date	Professional	Description
1/8/2025	Jennifer Hornbostel	Fax S.245 notice and order to the OSB.
1/9/2025	Tanveel Irshad	Correspond with M. Cargher re business number in order to open HST account with CRA; prepare letter to CRA to open HST account.
1/9/2025	Nisan Thurairatnam	Correspond with M. Cargher re the Lender Update and provide guidance re same.
1/9/2025	Bryan Tannenbaum	Follow up email to S. Brunswick re status of stalking horse bid by his client; teams meeting with Lennard Realty and M. Cargher; email from Foglers confirming Order registered on title.
1/9/2025	Margarita Cargher	Call with Lennard Realty re proposal; discussion with B. Tannenbaum re Receivership Checklist; follow up on title registration; receipt and review of the same; follow up with real estate agents regarding proposals.
1/10/2025	Tanveel Irshad	Review email from M. Cargher re request for insurance certificate.
1/10/2025	Bryan Tannenbaum	Receipt and review of OSB Filing of Receivership and Reporting Duties of Receiver certificate; telephone call with prospective purchaser re stalking horse bid and submission of LOI on Monday.
1/12/2025	Bryan Tannenbaum	Receipt and review of Bennet Jones email letter; response sent re meeting dates; forward same to secured lender and counsel; receipt and review of D.J. Miller email; email to Bennett Jones to include D.J. Miller in a call; receipt and review of J. Fried email responding with comments on Bennett Jones letter; various emails with Bennett Jones to arrange a call.
1/13/2025	Tanveel Irshad	Review emails from insurer re certificate of insurance; discuss same with M. Cargher; response email sent to insurer; call with insurer re same.
1/13/2025	Bryan Tannenbaum	Edit Receiver's report #1; receipt and review of prospective purchaser stalking horse proposal; response sent pointing out difficulties with the stalking horse proposal.
1/13/2025	Margarita Cargher	Receipt/review emails from insurer regarding insurance certificate; discussion with T. Irshad regarding same; draft of Receiver's report #1 for B. Tannenbaum's review; follow up with Diane re property information; comparison of insurance quotes; call with CBRE real estate agent re propcsal/question re \$49M mortgage charge.
1/14/2025	Tanveel Irshad	Update master insurance schedule with policy details; review letter from CRA re outstanding HST returns on the Debtor's HST account.
1/14/2025	Bryan Tannenbaum	Zoom call with Bennett Jones and TGF and M. Cargher re their clients unsecured claim against shareholders; receipt and review of M. Libman email regarding filing of unsecured claim; telephone call with S. Brunswick re form of stalking horse LOI.
1/14/2025	Margarita Cargher	Zoom meeting with Bennett Jones, B. Tannenbaum, D.J. Miller re Bennett Jones' clients unsecured claim against shareholders.
1/15/2025	Bryan Tannenbaum	To record call last evening from V. Salvatore; receipt and review of broker's proposals from CBRE and Lennard Realty.
1/15/2025	Margarita Cargher	Draft reply to unsecured counsel M. Libman; receipt/replies to proposal emails; review and summarize proposals for B. Tannenbaum's review; draft email to B. Tannenbaum with summary and recommendation on same.
1/16/2025	Bryan Tannenbaum	Follow up email to S. Brunswick re client's position on stalking horse bid; edit Receiver's Report #1 and discuss with M. Cargher; finalize and send Receiver's Report #1; review Y. Levinson email regarding listing unpriced; email to Lennard Realty regarding unpriced rationale; email from Y. Levinson re stalking horse bid letter; response sent; telephone call from Y. Levinson; review of J. Perlstein email with response.
1/16/2025	Margarita Cargher	Email communication with M. Libman, representing unsecured creditors; follow up with Town of Fort Erie re taxes; review of draft Receiver's report #1

Date	Professional	Description
		with B. Tannenbaum; call with D. Serravalle (realtor), review of D. Serravalle's proposal, reply to D. Serravalle re same.
1/17/2025	Margarita Cargher	Review and save information in various folders contained in 11 emails from Hillmount, including financials, geo reports, environmental reports, relevant mails, etc.
1/17/2025	Bryan Tannenbaum	Email to counsel re preparation of APS; receipt and review of Bennett Jones notice of appearance.
1/20/2025	Bryan Tannenbaum	Receipt and review of J. Fried email re APS and due diligence period; teams call with D. Falcone, Y. Levinson, J. Fried, D.J. Miller, D. Harland and M. Cargher to review Receiver's Report #1 and status; debrief tasks with M. Cargher; email to Lennard Realty for a call to discuss listing agreement; email from Y. Levinson re response to prospective purchaser; review D.J. Miller response for him not to respond; teams call with Lennard Realty to discuss and request listing agreement.
1/20/2025	Margarita Cargher	Teams call with Hillmount (D. Falcone, Y. Levinson), Foglers (J. Fried), TGF (D.J. Miller, D. Harland) to review Receiver's Report #1 and status; debrief tasks with B. Tannenbaum; teams call with Lennard Realty to discuss and request listing agreement; various email review/reply re borrowing certificate, preparation of same; call with D. Falcone re borrowing certificate terms.
1/20/2025	Jennifer Hornbostel	Draft Receiver's certificate; prepare templates.
1/21/2025	Bryan Tannenbaum	Review Receiver's Certificate #1; send same to Hillmount requisitioning funds; execute Draw Schedule and Receiver's Certificate #1 and return to Hillmount.
1/22/2025	Tanveel Irshad	Print letter to CRA to open HST account for J. Eerger's review and signature.
1/22/2025	Margarita Cargher	Mark up the listing agreement, review with B. Tannenbaum and revise based on feedback from B. Tannenbaum; review of Asced information; call with Diane re wire confirmation; email with Diane re interest accrual; call with P. Campbell (Lennard re Due Diligence); email to B. Tannenbaum re same; follow up with tax department re payment of taxes/invoice.
1/22/2025	Bryan Tannenbaum	Review amendments/edits to the listing agreement; send to J. Fried for review; review of J. Fried's email regarding commission and response sent; email to broker and their response sent to J. Fried; review of M. Cargher email with data room information and review of same ; response sent to M. Cargher with comments; subsequent discussion re same.
1/22/2025	Jennifer Hornbostel	Confirm receipt wire; create receipt; prepare payment.
1/23/2025	Tanveel Irshad	Assemble and fax letter to CRA to open HST account; save confirmation to iManage.
1/23/2025	Bryan Tannenbaum	Receipt and review of property tax arrears bills; email to J. Fried to ensure security on both properties before paying; various emails regarding the broker's name.
1/23/2025	Margarita Cargher	Download the due diligence material into shared data room for realtors and send email to the real estate team regarding contents; follow up regarding legal name of Lennard Realty.
1/24/2025	Margarita Cargher	Review of changes made to listing agreement by Foglers, call with B. Tannenbaum re same; email to Foglers and Lennard Realty team re same.
1/24/2025	Jeff Berger	Review and process vendor payments.
1/24/2025	Bryan Tannenbaum	Receipt and review of Foglers email with edits to the listing agreement and Schedule A.1; review of J. Fried email regarding property tax contact.
1/27/2025	Jennifer Hornbostel	Prepare and post payments and receipt.
1/27/2025	Bryan Tannenbaum	Telephone call from P. DeGuerre regarding listing agreement changes.

Date	Professional	Description
1/27/2025	Margarita Cargher	Review marked-up agreement from Lennard Realty before final sign-off, comparing to original marked-up agreement for any changes/missed changes; email to B. Tannenbaum/Lennard Realty re same; call with Lennard Realty regarding the changes; email from insurance re payment; coordination of payment with J. Hornbostel.
1/28/2025	Jeff Berger	Review and process payments.
1/28/2025	Bryan Tannenbaum	Review changes and sign the listing agreement.
1/28/2025	Margarita Cargher	Call with Town of Erie re water account associated with 85 Crooks St.
1/29/2025	Jennifer Hornbostel	Post payment; e-file and mail cheque to OSB.
1/30/2025	Margarita Cargher	Prepare draft statement of receipts and disbursements and draft Receiver's second report to the lender.
1/31/2025	Margarita Cargher	Call with B. Tannenbaum editing second report and compilation of the final version; call with real estate agent re due diligence items; follow up emails to Lennard Realty/Foglers re status of various items; review of marketing email from Lennard Realty.
1/31/2025	Bryan Tannenbaum	Edit Receiver's Report #2 and issue same; receipt and review of J. Perlstein email regarding marketing status.
1/31/2025	Jennifer Hornbostel	Prepare payment.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	15.40	\$ 750	\$ 11,550.00
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Managing Director	0.30	\$ 595	178.50
Nisan Thurairatnam, CPA	Manager	0.80	\$ 450	360.00
Margarita Cargher, MBA, MAcc	Manager	21.60	\$ 450	9,720.00
Tanveel Irshad	Associate	2.70	\$ 325	877.50
Jennifer Hornbostel	Estate Administrator	2.20	\$ 195	429.00
Total hours and professional fees		43.00		\$ 23,115.00
HST @ 13%				3,004.95
Total payable				\$ 26,119.95

*Annual increase in rates effective January 1, 2025.



To TDB Restructuring Limited
Court-Appointed Receiver of CBJ-Fort Erie Hills Inc.
11 King Street West, Suite 700
Toronto, ON M5H 4C7

TDB Restructuring Limited
Licensed Insolvency Trustee

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

info@tdbadvisory.ca
416-575-4440
416-915-6228

tdbadvisory.ca

Date March 14, 2025

Client File 50-001

Invoice TDB #3

No. 2503016

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of CBJ-Fort Erie Hills Inc. (the "Debtor") for the period February 1, 2025 to February 28, 2025.

Date	Professional	Description
2/2/2025	Bryan Tannenbaum	Send Lennard Realty marketing report to secured lender.
2/3/2025	Margarita Cargher	Follow up with Fogler, Rubinoff LLP ("Foglers") re APS; review of marketing report sent by Lennard Realty.
2/3/2025	Bryan Tannenbaum	Receipt and review of J. Fried of Foglers email attaching draft APS.
2/3/2025	Jennifer Hornbostel	Post payment.
2/4/2025	Bryan Tannenbaum	Receipt and review of Lennard Realty email attaching data room and examination of its contents.
2/5/2025	Margarita Cargher	Review of marketing materials, compare to precedents, fact check, and draft email for B. Tannenbaum's review.
2/5/2025	Bryan Tannenbaum	Receipt and review of Thornton Grout Finnigan LLP ("TGF") email to J. Fried with comments on draft APS.
2/6/2025	Margarita Cargher	Review of draft APS for land; email to B. Tannenbaum and discuss same over call; send email to Foglers on suggested changes to the APS; review of MLS Data Information Form from real estate agent; call with real estate agent re inclusion of o Thompson Rd.; email communication regarding MLS description change.
2/6/2025	Bryan Tannenbaum	Receipt and review of M. Cargher's email with comments on the draft APS; discuss with M. Cargher; review of M. Cargher's email to J. Fried with comments on APS.
2/7/2025	Bryan Tannenbaum	Receipt, review and sign Lennard Realty MLS Data Information Form - Commercial - Sale; receipt and review of Lennard Realty weekly marketing report; forward same to secured creditor; review of Lennard Realty's responses to M. Cargher on questions on marketing report.
2/7/2025	Margarita Cargher	Review weekly progress report and email to real estate agent re same, as well as inquire about the launch.
2/9/2025	Anne Baptiste	Prepare bank reconciliation.
2/10/2025	Bryan Tannenbaum	Email from J. Fried to Hillmount re draft plan; review of Hillmount response; email from J. Fried with comments on the marketing material; emails regarding existence of letters of credit.
2/10/2025	Margarita Cargher	Communication with lawyers, realtors, and Debtor re launch of the listing, revision of marketing materials, and data room access.

Date	Professional	Description
2/11/2025	Bryan Tannenbaum	Receipt and review of several email with counsel to finalize the form of APS; forward final version to Lennard Realty to include in the data room; email from Lennard Realty regarding uploading draft plan; review of J. Fried response; review of Lennard Realty's email attaching draft plans; review of J. Fried confirmation to include in data room.
2/12/2025	Margarita Cargher	Review tax bills from the Town of Erie, follow up with Foglers on the same; review realtor data room; communication with lawyers and realtors re letters of credit.
2/12/2025	Bryan Tannenbaum	Review email with 2025 interim tax bills.
2/13/2025	Margarita Cargher	Draft of Receiver's Third Report, including review of tax bill and communication with lawyer re same.
2/14/2025	Margarita Cargher	Review of marketing report; email to realtors feedback and items to add; forward the same to Debtor.
2/18/2025	Tanveel Irshad	Call from M. Cargher re request for general ledger; send same.
2/18/2025	Bryan Tannenbaum	Receipt and review of J. Perlstein email regarding speaking to principal; response sent; review of draft Third Report.
2/18/2025	Margarita Cargher	Prepare draft statement of receipts and disbursements; edit lender report based on B. Tannenbaum's comments; arrange payment for property taxes (87 Crooks St.) and other invoices; follow up with Foglers re their invoice; email to realtors re feedback from CBJ Developments Inc. principals.
2/19/2025	Bryan Tannenbaum	Receipt and review of Lennard Realty's email regarding inquiry of Debtor principal; receipt and review of Lennard Realty email re the Archaeological Assessments; review and edit Third Report; discuss with M. Cargher; issue same.
2/19/2025	Margarita Cargher	Receipt and review of email from Lennard Realty re new potential bid; sent an inquiry to Ministry re Stage 1-4 Archaeological Assessment; receipt and review of water bill, arrange for payment.
2/19/2025	Jennifer Hornbostel	Prepare and post payment.
2/20/2025	Bryan Tannenbaum	Receipt and review of J. Perlstein email attaching Globe advertisement; emails with J. Perlstein re kids playing on roof of building, etc., and discuss fix, if required.
2/20/2025	Margarita Cargher	Email from Lennard Realty re property hazard; call with an individual that reported the property hazard; email report to B. Tannenbaum on same; call with Lennard Realty to request to drive out to the property and provide pictures; review of the marketing report provided by Lennard Realty and provide comments on same.
2/20/2025	Jennifer Hornbostel	Prepare and post payment.
2/21/2025	Bryan Tannenbaum	Emails from J. Perlstein attaching correspondence from C. Agagnier; response sent; receipt and review of Lennard Realty marketing report #4; forward same to secured creditor and lawyers; various emails with comments thereon; review of J. Fried email regarding security package and legal opinion, etc.
2/21/2025	Margarita Cargher	Call with J. Perlstein discussing the marketing report and other aspect of the property (i.e., progressing on the fencing); review Town of Fort Erie notice; call with B. Tannenbaum re outstanding items on the property and Town of Fort Erie notice; draft of an email to Supervisor of Development Approvals to request Archaeological Assessments; email review from lender/reply re same; call with Supervisor of Development Approvals discussing questions he had, and discussion of "sensitive information" in the Archaeological Assessments and how information may not get released; review pictures from realtors re building/property status.

Date	Professional	Description
2/24/2025	Jennifer Hornbostel	Prepare payment.
2/24/2025	Jeff Berger	Review and process property tax payment.
2/24/2025	Bryan Tannenbaum	Emails regarding obtaining security opinion with Foglers and Loopstra Nixon; review of building pictures from Lennard Realty; telephone call from prospective purchaser.
2/25/2025	Jennifer Hornbostel	Prepare and post payments.
2/25/2025	Bryan Tannenbaum	Telephone call from J. Perlstein re S. Keeper and potential offer.
2/25/2025	Margarita Cargher	Send email to J. Fried re Fort Erie (Ft. Erie) Outstanding Taxes and By-Law notice; follow up with Fort Erie Planning, Building and By-law Services; correspondence with Ft. Erie By-Law officers regarding the By-Law Orders and understand what happened on the property; review By-law orders sent by the officer.
2/26/2025	Bryan Tannenbaum	Receipt and review of J. Perlstein email on archaeological studies reports; receipt and review of M. Cargher response to Town of Fort Erie regarding securities disclosure; receipt and review of Town of Fort Erie response regarding registration of plan of subdivision when draft plan conditions complete; review of Town of Fort Erie response re archaeological studies reports; review of M. Cargher email to Hillmount re archaeological studies reports.
2/26/2025	Margarita Cargher	Email to T. Bayle from Planning and Development Services, Development Approvals department at Town of Ft. Erie; refused to provide information in regards to LCs - had to write a well-worded strong email to request release of information regarding LCs on the property; brief review of archaeology reports and call with Lennard Realty to discuss what certain items mean for the sale and what's missing from the reports; further communication exchanges (email and phone) with Planning and Development Services, Development Approvals department at Town of Ft. Erie; email to lender re findings of the archaeology reports and LCs.
2/27/2025	Bryan Tannenbaum	Receipt and review of M. Cargher email to lender regarding bylaw order(s); review Y. Levinson responding email re same.
2/27/2025	Margarita Cargher	Emails to/from Archaeological Database Co-Ordinator at the Ontario Ministry of Citizenship and Multiculturalism re missing archaeological report; email correspondence to/from Debtor re By-laws and issues around the property.
2/28/2025	Bryan Tannenbaum	Telephone call from P. Deguerre re second mortgagee offer; receipt and review of Lennard Realty marketing report #5; forward same to lenders and counsel; teams call with Y. Levinson, D. Falcione, D. Harland, J. Fried and M. Cargher re bylaw infractions and safeguarding the property from further trespass and dumping.
2/28/2025	Margarita Cargher	Review of marketing report from Lennard Realty review in detail, including new sales on the market; write email to Lennard Realty on feedback re marketing material asking for inclusion of some items; meeting with Y. Levinson, D. Falcione, D. Harland, J. Fried and B. Tannenbaum re bylaw infractions and safeguarding the property from further trespass and dumping.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	9.20	\$ 750	\$ 6,900.00
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Managing Director	0.10	\$ 595	59.50
Margarita Cargher, MBA, MAcc	Manager	17.00	\$ 450	7,650.00
Tanveel Irshad	Associate	0.10	\$ 325	32.50
Anne Baptiste/Jennifer Hornbostel	Estate Administrator	1.70	\$ 195	331.50
Total hours and professional fees		28.10		\$ 14,973.50
HST @ 13%				1,946.56
Total payable				\$16,920.06

* Annual increase in rates effective January 1, 2025.

GST/HST: 80784 1440 RT0001



To TDB Restructuring Limited
Court-Appointed Receiver of CBJ-Fort Erie Hills Inc.
11 King Street West, Suite 700
Toronto, ON M5H 4C7

TDB Restructuring Limited
Licensed Insolvency Trustee

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

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Date April 8, 2025

Client File 50-001
Invoice TDB #4
No. 2504003

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of CBJ-Fort Erie Hills Inc. (the "Debtor") for the period March 1, 2025 to March 31, 2025.

Date	Professional	Description
3/3/2025	Margarita Cargher	Email exchange with MFS Property Services Inc.
3/4/2025	Margarita Cargher	Email to Home Alone property manager; call with Home Alone discussing the property; email to the Town of Fort Erie re additional report request; discuss same with B. Tannenbaum; email exchanges with Lennard Realty agent.
3/4/2025	Bryan Tannenbaum	Receipt and review of several emails from D. Morton of Town of Fort Erie with traffic impact study, planning jurisdiction report, storm water management plan, etc.; discuss same with M. Cargher.
3/5/2025	Margarita Cargher	Call with D. Falcione of Hillmount Capital Mortgage Holdings Inc. ("Hillmount") re property management update; email to Apex Property Management ("Apex") firm re same.
3/5/2025	Bryan Tannenbaum	Receipt and review of Lennard Realty email requesting permission to upload municipal documents; detailed review of documents; response approving same sent.
3/7/2025	Margarita Cargher	Email exchange with Lennard Realty agent re additional development reports, call with agent re same; call with Town of Fort Erie re if reports can be obtained by the Receiver; email to Town of Fort Erie re same; review of reports provided by Town of Fort Erie; additional emails to property managers; call with Apex manager; email to Upper Canada Consulting ("UCC") to obtain additional report requested; email to Detritus Consulting to obtain 4th outstanding archaeological report.
3/7/2025	Bryan Tannenbaum	Receipt and review of Lennard Realty email requesting additional reports; receipt and review of Lennard Realty marketing progress report of March 7, 2025; forward same to secured lender.
3/10/2025	Margarita Cargher	Call with property management firm re securing property; review and redact Stage 4 investigation of P1 (AfGr-88) report per request from realtor.
3/10/2025	Bryan Tannenbaum	Telephone call with J. Perlstein of Lennard Realty re MacPherson inquiry for CA through a broker and background details as to my prior conversations with MacPherson representatives.
3/11/2025	Tanveel Irshad	Prepare statement of receipts and disbursements ("R&D"); discuss with M. Cargher to contact Richmond Advisory Services Inc. ("RAS") as a prospective

Date	Professional	Description
		property manager; review email from M. Cargher to RAS; receipt and review of HST filing packages; update HST tracking schedule.
3/11/2025	Margarita Cargher	Call and email communications with property management firms (Orange, Apex), call with D. Falcione re property management challenges; security package email to M. Himmel from Loopstra Nixon LLP; review of Apex's proposal, discuss same with B. Tannenbaum; call with Apex re submitted proposal and request for additional information.
3/11/2025	Bryan Tannenbaum	Receipt and review proposal from Apex; discuss same with M. Cargher
3/12/2025	Jeff Berger	Review and process vendor payments.
3/12/2025	Tanveel Irshad	Review emails re request for proposal from prospective property manager.
3/12/2025	Anne Baptiste	Prepare bank reconciliation.
3/12/2025	Margarita Cargher	Call with RAS to discuss property requirements; meeting with UCC and Lennard Realty to discuss the functional servicing report as well as other matters; review and redact of additional reports sent by UCC, discussion with Lennard re same.
3/13/2025	Tanveel Irshad	Receipt and review of emails and proposal from prospective property manager and M. Cargher.
3/13/2025	Anne Baptiste	Prepare bank reconciliation.
3/13/2025	Jennifer Hornbostel	Post payments.
3/13/2025	Margarita Cargher	Review of Apex property management proposal, email re same asking for more information; review of response; draft of Receiver's Report #4 to Lender; review B. Tannenbaum's comments on the same and prepare second version of the draft.
3/13/2025	Bryan Tannenbaum	Review and edit Receiver's Report #4 to secured creditor.
3/14/2025	Jennifer Hornbostel	Prepare and post payment.
3/14/2025	Margarita Cargher	Email to municipality re additional reports request; review and redact of same, send to Lennard Realty to post into the data room; final version of Receiver's report assembly; communication with RAS re additional request for information.
3/14/2025	Bryan Tannenbaum	Issue Receiver's Report #4 to secured creditors; receipt and review of D. Falcione email regarding security/possession matters; review of M. Cargher responding emails; receipt and review of Lennard Realty weekly marketing report #7; forward same to secured creditor and counsel.
3/16/2025	Bryan Tannenbaum	Receipt and review of Aird & Berlis LLP email re being added to the service list; forward same to counsel; email from D. Harland of Thornton Grout Finnigan LLP ("TGF") and response sent providing background to the Aird & Berlis inquiry.
3/17/2025	Margarita Cargher	Email communication re Y. Levinson of Hillmount regarding UCC meeting; email communication and call with Lennard Realty agents regarding reports posted to data room; teams call with J. Perlstein and B. Tannenbaum regarding UCC meeting; meeting with Y. Levinson, D. Falcione, J. Fried of Fogler, Rubinoff LLP ("Foglers"), D. Harland and B. Tannenbaum re data room/zoning information and property management; review of property management proposal re fencing from RAS; email to Debtor re same; email to Town of Fort Erie re noise study report.
3/17/2025	Bryan Tannenbaum	Receipt and review of 2 emails from Y. Levinson regarding UCC information; receipt and review of J. Perlstein email regarding new items posted to data room; teams call with J. Perlstein and M. Cargher regarding UCC comments, etc.; receipt and review of J. Perlstein email with unit description (type) breakdown; further emails from Y. Levinson re zoning issue; teams call with

Date	Professional	Description
		Y. Levinson, D. Falcione, J. Fried, D. Harland and M. Cargher re data room and zoning information, and security, etc.
3/18/2025	Tanveel Irshad	Review emails re fencing of the property; leave voicemail to Canada Revenue Agency representative to close Debtor's HST account effective the date of receivership.
3/18/2025	Margarita Cargher	Received noise study from the Town of Fort Erie, reviewed and redacted the same, sent to realtor; review additional quote from the property management firm and update proposals; communicated with the lender regarding same; communicated with the property manager regarding certain lender inquiries; requested an updated service list from legal and posted same; communicate with B. Tannenbaum regarding property management choices and recommendations.
3/18/2025	Bryan Tannenbaum	Various emails regarding securing of the property and emails from M. Cargher re proposals from Apex and RAS.
3/19/2025	Donna Nishimura	Post Service List to the client webpage on the TDB website.
3/19/2025	Margarita Cargher	Receipt/review email from Foglers re taxes; email to property manager re outcome and asking for next steps; reviewed and edited property management contract for the land; email to B. Tannenbaum re same; consulted J. Berger re property management contract and format/running by legal; review emails re drawing of funds.
3/19/2025	Jeff Berger	Discuss property management contract with M. Cargher.
3/19/2025	Bryan Tannenbaum	Receipt and review of D. Falcione email with draw certificate; execute same and return; review of J. Fried email regarding property taxes for o Thompson Rd.; telephone call from P. DeGuerre regarding prospective purchaser issue.
3/20/2025	Tanveel Irshad	Email M. Cargher precedent property manager contract.
3/20/2025	Arif Dhanani	Call with M. Cargher re property management contract and questions regarding same; email to and review of response from B. Tannenbaum.
3/20/2025	Margarita Cargher	Edit second draft of property management contract based on B. Tannenbaum's comments and review against a precedent request from T. Irshad; discussion of property management contract suggestions with B. Tannenbaum in person and email, consult A. Dhanani re same.
3/20/2025	Margarita Cargher	Review wire emails; prepare Receiver's Certificate.
3/20/2025	Bryan Tannenbaum	Receipt and review of wire confirmation; complete Receiver's Certificate No. 2 and arrange for return.
3/20/2025	Jennifer Hornbostel	Confirm wire details.
3/21/2025	Tanveel Irshad	Review of property manager email re fencing.
3/21/2025	Margarita Cargher	Review of Lennard Realty's marketing proposal and make comments on same.
3/21/2025	Bryan Tannenbaum	Receipt and review of Lennard Realty's weekly marketing update; forward same to lender.
3/21/2025	Jennifer Hornbostel	Post receipt.
3/24/2025	Bryan Tannenbaum	Receipt and review of A. Ho of Aird & Berlis email to TGF regarding status of sale; email from J. Fried regarding J. Burrell's agent fishing for information; receipt and review of D. Harland email that he will respond to Aird & Berlis; email to D. Harland with comments provided; review of D. Harland response; receipt and review of D. Harland email to A. Ho; receipt and review of D. Harland email re same to Foglers and Hillmount; receipt and review of RAS contract for property management services.

Date	Professional	Description
3/24/2025	Margarita Cargher	Call with RAS re signing agreement and changes to be made; review email from KSV Appointment Order, communications with D. Harland re Order wording.
3/25/2025	Jeff Berger	Review and respond to email from prospective purchaser; discuss same with M. Cargher.
3/25/2025	Bryan Tannenbaum	Telephone call from S. Keeper re submitting an offer; email from S. Keeper re deposit banking details; email regarding if a MacPherson offer received; email from J. Burrell re an offer forthcoming; telephone message from T. Dunn of Blaneys; receipt and review of Lennard Realty bid matrix and offers; teams call with Lennard Realty (J. Perlstein/P. Campbell) and M. Cargher to discuss same; email forwarding bid matrix and offers to secured lender and counsel; response form Y. Levinson; response from D.J. Miller of TGF.
3/25/2025	Margarita Cargher	Emails re deposit with potential purchaser; review of draft APS to check for deposit conditions; discuss with J. Berger an email from a prospective purchaser; calls with realtors re status of offers and additional questions from purchasers; review of each offer (APS); discuss offer with B. Tannenbaum; teams call with Lennard Realty and B. Tannenbaum re offers summary; draft email to Lender re offers.
3/26/2025	Bryan Tannenbaum	Discussion with M. Cargher regarding outstanding matters and preparation of Court report; receipt and review of J. Fried email with comments on prospective purchaser's APS amendments; review of M. Cargher email to M. Himmel re status of security opinion; email regarding arranging a meeting to discuss the red-lined offer; emails re obtaining a Court date for approval of offer; receipt and review of J. Perlstein email attaching offer from numbered company; response sent to J. Perlstein regarding not being on Receiver's form of APS and received late; forward to secured creditor and counsel for their information; email from J. Fried confirming receipt of word copy of APS; review and sign property management agreement; email from property manager re first steps to be taken, etc.; email from TGF re available Court dates; review of email from J. Schwartz forwarded to me from M. Cargher; receipt and review of M. Cargher email to J. Schwartz.
3/26/2025	Margarita Cargher	Discuss with B. Tannenbaum all outstanding matters in preparation for Court report; receipt/reply to J. Fried's email; review APS with J. Fried's comments; follow up with Loopstra Nixon LLP re security agreement, coordination of call; call with RAS re PM Contract, highlight changes for B. Tannenbaum's review; send to B. Tannenbaum re same; send same to RAS; reply to inquiry re interest in property.
3/27/2025	Bryan Tannenbaum	Review the draft APS; teams call with J. Fried, D. Harland and M. Cargher to review the APS in detail for sign back; receipt and review of J. Fried email with his correspondence with B. Mullins; receipt and review of M. Cargher email to J. Fried confirming no broker on the offer, only Lennard Realty; review of A. Mehta of RAS email with fence details; receipt and review of fence quotes; review of M. Cargher email to A. Mehta to contract fence rental; A. Mehta email as to which option and M. Cargher response.
3/27/2025	Margarita Cargher	Review the revised APS received from J. Fried, and prepare for meeting with J. Fried and D. Harland; teams call with J. Fried, D. Harland and B. Tannenbaum to review the APS in detail for sign back; call with Lennard Realty to discuss status and request email confirming sole representation on the transaction, send same to J. Fried, review of A. Mehta email with fence details and prepare schedule for fence quotes provided for B. Tannenbaum's review with recommendation; email to A. Mehta re option chosen.
3/28/2025	Bryan Tannenbaum	Receipt and review of J. Fried email regarding edits to the APS and expect pushback, etc.; review of M. Cargher response to J. Fried; receipt and review of

Date	Professional	Description
		M. Cargher email attaching edits review of APS draft sent by J. Fried; receipt and review of D. Harland email to J. Fried with comments/edits to draft APS; email from D. Harland to J. Fried regarding any response from B. Mullins; email from J. Fried attaching B. Mullins response and his draft comments thereto; review of J. Fried email with final comments and version from B. Mullins; receipt and review of D. Harland email approving APS as being ready to sign; email re wire instructions; final review of APS and sign and return to Foglers; email re contact for access to property; email with wire instructions for the deposit; email from D. Harland re Court date; email re notify secured creditor that APS signed; review of M. Cargher email to purchaser regarding a visit to the site.
3/28/2025	Margarita Cargher	Call with D. Harland discussing J. Fried's revised APS and ask if need to revise anything re pushback, etc.; responses to J. Fried edit of APS draft sent by J. Fried; review of J. Fried emails re final versions of APS; email from purchaser to access to property; send final copy to real estate agents and email Foglers re correct copy of APS; emails and calls with fence provider for property to set up customer account; email to B. Tannenbaum re payment of utilities; set-up meeting with PM and B. Tannenbaum.
3/29/2025	Bryan Tannenbaum	Emails to RAS re meeting to discuss security of property; review M. Cargher email on pending disbursements and respond to same.
3/30/2025	Bryan Tannenbaum	Receipt and review of D. Harland email regarding Court date; responding email confirming same and noting preparation of Court report and request current title search, etc.; receipt and review of D.J. Miller response confirming same; receipt and review of J. Fried email re same.
3/31/2025	Nisan Thurairatnam	Discuss the Court Report with M. Cargher.
3/31/2025	Bryan Tannenbaum	Teams call with A. Mehta and M. Cargher regarding arrangements for security of the property; receipt and review of M. Young of Foglers email attaching title search; email to M. Young to follow up on deposit status; D. Harland email confirming Court date; review of A. Mehta email regarding access arrangements.
3/31/2025	Margarita Cargher	Meeting with RAS property management regarding arrangements for security of the property; receipt and review of M. Young email attaching title search; request to payment of bills; follow up re deposit with counsel; call with Lennex re fence arrangement and ask for contract; discuss Court report with N. Thurairatnam and draft strategy on Court report
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	47.10	\$ 750	\$ 35,325.00
Arif N. Dhanani, CPA, CA, CIRP, LIT	Managing Director	0.50	\$ 650	325.00
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Managing Director	0.40	\$ 595	238.00
Nisan Thurairatnam, CPA	Manager	0.70	\$ 450	315.00
Margarita Cargher, MBA, MAcc	Manager	43.00	\$ 450	19,350.00
Tanveel Irshad	Associate	1.80	\$ 325	585.00
Anne Baptiste/Jennifer Hornbostel/Donna Nishimura	Estate Administrator	1.60	\$ 195	312.00
Total hours and professional fees		95.10		\$ 56,450.00
HST @ 13%				7,338.50
Total payable				\$ 63,788.50

GST/HST: 80784 1440 RT0001

**THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF JEFFREY BERGER SWORN BEFORE ME
THIS 9th DAY OF APRIL 2025**



A Commissioner, etc.

Arif Nazarali Dhanani,
a Commissioner, etc., Province of Ontario,
for TDB Restructuring Limited.
Expires April 21, 2026.

In the Matter of the Receivership of
CBJ -Fort Erie Hills Inc.
Summary of Receiver's Fees
November 11, 2024 to March 31, 2025

Invoice #	Invoice Date	Period	Hours	Fees	Disburse - ments	Subtotal	HST	Total	Average Hourly Rate
1	30-Jan-25	November 11, 2024 to December 31, 2024	18.8	\$ 8,470.50	\$ 18.81	\$ 8,489.31	\$ 1,103.62	\$ 9,592.93	\$ 450.32
2	19-Feb-25	January 1, 2025 to January 31, 2025	43.0	\$ 23,115.00	\$ -	\$ 23,115.00	\$ 3,004.95	\$ 26,119.95	\$ 537.56
3	14-Mar-25	February 1, 2025 to February 28, 2025	28.1	\$ 14,973.50	\$ -	\$ 14,973.50	\$ 1,946.56	\$ 16,920.06	\$ 532.86
4	8-Apr-25	March 1, 2025 to March 31, 2025	95.1	\$ 56,450.00	\$ -	\$ 56,450.00	\$ 7,338.50	\$ 63,788.50	\$ 593.59
Total			185.0	\$ 103,009.00	\$ 18.81	\$ 103,027.81	\$ 13,393.63	\$ 116,421.44	\$ 556.78

APPENDIX “I”

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

B E T W E E N:

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicant

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

APPLICATION UNDER SUBSECTION 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

**AFFIDAVIT OF D.J. MILLER
(Sworn April 9, 2025)**

I, **D.J. MILLER**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND
SAY:**

1. I am a barrister and solicitor qualified to practice law in the Province of Ontario and I am a partner at Thornton Grout Finnigan LLP (“**TGF**”), lawyers for TDB Restructuring Limited, in its capacity as Court-appointed receiver (the “**Receiver**”) in this proceeding and, as such, I have knowledge of the matters to which I hereinafter depose. Unless I indicate to the contrary, the facts herein are within my personal knowledge and are true. Where I have indicated that I have obtained facts from other sources, I believe those facts to be true.

2. Attached hereto as Exhibit “**A**” are redacted copies of the invoices (the “**Invoices**”) issued by TGF to the Receiver for fees and disbursements incurred by TGF in the course of this proceeding for the period from December 20, 2024, through to March 31, 2025 (the “**Fee Approval Period**”).
3. As set out in the Invoices attached hereto at Exhibit “**A**”, during the Fee Approval Period, TGF has spent a total of 27 hours in connection with this proceeding, and have incurred CAD \$21,892.50 in fees, and CAD \$2,846.03 in HST, for a total of CAD \$24,738.53.
4. Attached hereto as Exhibit “**B**” is a schedule summarizing each invoice in Exhibit “**A**”, the total billable hours charged per invoice, the total fees charged per invoice and the average hourly rate charged per invoice.
5. Attached hereto as Exhibit “**C**” is a schedule summarizing the respective years of call, where applicable, and billing rates of each of the TGF professionals who acted for the Receiver during the Fee Approval Period.
6. To the best of my knowledge, the rates charged by TGF in the course of this proceeding are comparable to the rates charged by other law firms in the Toronto market for the provision of similar services. The hourly billing rates are comparable to the hourly rates charged by TGF for services rendered in relation to similar proceedings. I believe the total hours, fees, and disbursements incurred by TGF in this matter are reasonable and appropriate in the circumstances.

7. I make this affidavit in support of a motion for, *inter alia*, approval of the fees and disbursements of TGF and for no other reason.

SWORN via video conference,
by D.J. Miller at the City of Toronto, in the
Province of Ontario, before me on this 9th
day of April, 2025, in accordance with
O. Reg. 431/20, *Administering Oath or
Declaration Remotely*.



Commissioner for Taking Affidavits
(or as may be)

DEREK HARLAND
(LSO #79504N)



D.J. MILLER

This is Exhibit “A” referred to in the
Affidavit of D.J. Miller sworn by D.J. Miller at the City of
Toronto, in the Province of Ontario, before me
this 9th day of April, 2025 in accordance with *O. Reg. 431/20*,
Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DEREK HARLAND
(LSO #79504N)



Thornton Grout Finnigan LLP
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre
100 Wellington Street West
Suite 3200, P.O. Box 329
Toronto, ON Canada M5K 1K7
T 416.304.1616 F 416.304.1313

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

January 22, 2025

Invoice No. 41992
File No. 2290-002

Attention: Bryan A. Tannenbaum, Managing Director

RE: Receivership of CBJ - Fort Erie Hills Inc.

TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: December 31, 2024

FEES

2024-12-20	Exchange emails with M. Cargher regarding [REDACTED] kickoff call with J. Fried, Hillmount and TDB to discuss [REDACTED]; draft emails to M. Cargher and J. Fried regarding [REDACTED];	DH	0.70
2024-12-20	Call with Hillmount, J. Fried and the Receiver to discuss [REDACTED]; email to D. Harland; email from Hillmount with payout statement;	DJM	0.40
2024-12-24	Email to M. Myers regarding update to receivership; email to D. Harland regarding same;	DA	0.20
2024-12-24	Email to D. Alievsky regarding [REDACTED]; email to B. Tannenbaum regarding insurance; email to [REDACTED] regarding same;	DH	0.20

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
D.J. Miller	0.40	1,175.00	470.00
Derek Harland	0.90	600.00	540.00
Daniel Alievsky	0.20	450.00	90.00

Total FEES	\$1,100.00
GST/HST on Fees	\$143.00

Total Fees & Disbursements	\$1,100.00
HST	\$143.00
Total	\$1,243.00

Thornton Grout Finnigan LLP

Per: D.J. Miller

E. & O. E. 87042 1039 RT0001

Terms: Payment due upon receipt. Any disbursements not posted to your account on the date of this statement will be billed later. In accordance with Section 33 of The Solicitor's Act, interest will be charged at the rate of 4.00% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this Statement is delivered.

Please note that all our accounts are rendered in Canadian Dollars. Payment can be made to us by:

- 1. Cheque Payable to Thornton Grout Finnigan LLP or*
- 2. Wire Transfer to:*

Account No.: 1000413

Transit No.: 02955

Institution No.: 003

Account Name: Thornton Grout Finnigan LLP

Address of Bank: 111 Yonge Street, Toronto, Ontario M5C 1W4

Name of Bank: Royal Bank of Canada

Swift Code: ROYCCAT2



Thornton Grout Finnigan LLP
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre
100 Wellington Street West
Suite 3200, P.O. Box 329
Toronto, ON Canada M5K 1K7
T 416.304.1616 F 416.304.1313

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

February 13, 2025

Invoice No. 42090
File No. 2290-002

Attention: Bryan A. Tannenbaum, Managing Director

RE: Receivership of CBJ - Fort Erie Hills Inc.

TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: January 31, 2025

FEES

2025-01-06	Emails from and to Hillmount and the Receiver as to [REDACTED];	DJM	0.10
2025-01-06	Draft email to B. Tannenbaum regarding [REDACTED];	DH	0.10
2025-01-07	Call with the Receiver, real estate counsel and Hillmount to discuss [REDACTED] [REDACTED]; consider [REDACTED] [REDACTED]; emails from B. Tannenbaum and Hillmount with information on property;	DJM	0.80
2025-01-07	Exchange emails with B. Tannenbaum regarding [REDACTED]; call with B. Tannenbaum and Hillmount to discuss [REDACTED]; exchange emails with D. Alievsky regarding [REDACTED];	DH	1.40
2025-01-07	Consider [REDACTED]; email to and from D. Harland regarding same;	DA	0.60
2025-01-08	Discussion with D. Harland as to [REDACTED];	DJM	0.10
2025-01-08	Email to D.J. Miller regarding [REDACTED]; exchange emails with M. Cargher regarding real property;	DH	0.50
2025-01-09	Email from the Receiver as to [REDACTED];	DJM	0.10
2025-01-12	Email from the Receiver as to [REDACTED]; emails to and from counsel for this claimant and coordinate call to discuss [REDACTED]; emails to the Receiver, Hillmount and Fogler as to same;	DJM	0.30
2025-01-14	Call with the Receiver and Hillmount and discussion as to [REDACTED];	DJM	0.40
2025-01-14	Email to M. Libman regarding receiver contact information;	DA	0.10
2025-01-16	Email from the Receiver with [REDACTED] [REDACTED] review materials provided by the Receiver;	DJM	0.30

2025-01-17	Email from the Receiver as to [REDACTED] [REDACTED]; emails from J. Fried as to [REDACTED] [REDACTED];	DJM	0.10
2025-01-20	Attend call with Hillmount and TBD to discuss [REDACTED] [REDACTED]; [REDACTED]; review email received by Hillmount [REDACTED];	DJM	0.50
2025-01-20	Attend call with TDB and Hillmount to discuss [REDACTED] [REDACTED]; review [REDACTED];	DH	0.80

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
D.J. Miller	2.70	1,225.00	3,307.50
Derek Harland	2.80	675.00	1,890.00
Daniel Alievsky	0.70	525.00	367.50
Total FEES			\$5,565.00
GST/HST on Fees			\$723.45

Total Fees & Disbursements	\$5,565.00
HST	\$723.45
Total	\$6,288.45

Thornton Grout Finnigan LLP

Per:  D.J. Miller

E. & O. E. 87042 1039 RT0001

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Please note that all our accounts are rendered in Canadian Dollars. Payment can be made to us by:

1. *Cheque Payable to Thornton Grout Finnigan LLP or*

2. *Wire Transfer to:*

Account No.: 1000413
 Transit No.: 02955
 Institution No.: 003
 Account Name: Thornton Grout Finnigan LLP
 Address of Bank: 111 Yonge Street, Toronto, Ontario M5C 1W4
 Name of Bank: Royal Bank of Canada
 Swift Code: ROYCCAT2



Thornton Grout Finnigan LLP
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre
100 Wellington Street West
Suite 3200, P.O. Box 329
Toronto, ON Canada M5K 1K7
T 416.304.1616 F 416.304.1313

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

March 28, 2025

Invoice No. 42266
File No. 2290-002

Attention: Bryan A. Tannenbaum, Managing Director

RE: Receivership of CBJ - Fort Erie Hills Inc.

TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: February 28, 2025

FEES

2025-02-03	Email from J. Fried as to [REDACTED]; email to D. Harland;	DJM	0.10
2025-02-05	Review draft APS; exchange various emails with D.J. Miller regarding same; draft email to J. Fried regarding APS;	DH	2.30
2025-02-05	Review and revise draft Agreement of Purchase and Sale drafted by J. Fried; discussion with D. Harland;	DJM	0.60
2025-02-06	Emails as to information on letters of credit, permits and plans;	DJM	0.10
2025-02-10	Exchange emails with Lennard regarding data room; revise APS; exchange emails with J. Fried regarding same;	DH	1.20
2025-02-10	Emails with Hillmount and J. Fried as to [REDACTED]; discussion with D. Harland as to draft Agreement of Purchase and Sale;	DJM	0.20
2025-02-11	Exchange emails with J. Fried regarding APS;	DH	0.20
2025-02-11	Emails with J. Fried and D. Harland as to revisions to Agreement of Purchase and Sale and materials for data room; discussion with D. Harland;	DJM	0.20
2025-02-12	Exchange emails with M. Cargher regarding APS;	DH	0.20
2025-02-12	Emails with J. Fried as to [REDACTED];	DJM	0.10
2025-02-19	Emails as to considerations relating to [REDACTED];	DJM	0.20
2025-02-21	Review various emails regarding marketing update;	DH	0.40
2025-02-21	Emails regarding marketing update, information requested and means of locating same; emails from J. Fried as to [REDACTED]; emails from the Receiver as to [REDACTED];	DJM	0.40
2025-02-22	Email as to [REDACTED];	DJM	0.10
2025-02-26	Email from the Receiver as to [REDACTED];	DJM	0.10

2025-02-27	Emails from the Receiver and Y. Levinson as to [REDACTED]; [REDACTED];	DJM	0.10
2025-02-28	Call with Y. Levinson, D. Falcione, J. Fried and receiver to discuss [REDACTED]; [REDACTED];	DH	0.40

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
D.J. Miller	2.20	1,225.00	2,695.00
Derek Harland	4.70	675.00	3,172.50
Total FEES			\$5,867.50
GST/HST on Fees			\$762.78

Total Fees & Disbursements	\$5,867.50
HST	\$762.78
Total	\$6,630.28

Thornton Grout Finnigan LLP


Per: D.J. Miller

E. & O. E. 87042 1039 RT0001

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2. *Wire Transfer to:*

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 Transit No.: 02955
 Institution No.: 003
 Account Name: Thornton Grout Finnigan LLP
 Address of Bank: 111 Yonge Street, Toronto, Ontario M5C 1W4
 Name of Bank: Royal Bank of Canada
 Swift Code: ROYCCAT2



Thornton Grout Finnigan LLP
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre
100 Wellington Street West
Suite 3200, P.O. Box 329
Toronto, ON Canada M5K 1K7
T 416.304.1616 F 416.304.1313

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

April 7, 2025

Invoice No. 42365
File No. 2290-002

Attention: Bryan A. Tannenbaum, Managing Director

RE: Receivership of CBJ - Fort Erie Hills Inc.

TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: March 31, 2025

FEES

2025-03-14	Review Receiver's Fourth Report and summary of property management proposals; receive and review 7th marketing report;	DJM	0.20
2025-03-16	Review email from A. Ho regarding receivership; exchange emails with B. Tannenbaum and D.J. Miller regarding same;	DH	0.40
2025-03-17	Review various emails regarding [REDACTED]; call with TDB and Hillmount to discuss same; update Service List; draft email to M. Cargher regarding same;	DH	1.40
2025-03-21	Review marketing update;	DJM	0.10
2025-03-24	Consider email from counsel to KSV as to appointment over property including proceeds of property subject to TDB receivership; review two receivership orders and consider overlap and priority; discussion with D. Harland as to appropriate response;	DJM	0.60
2025-03-24	Review email from A. Ho regarding receivership; exchange various emails with B. Tannenbaum regarding response to same; discuss KSV receivership with D.J. Miller; draft email to A. Ho regarding same; draft email to Y. Levinson and D. Falcione regarding same;	DH	1.20
2025-03-25	Email from the Receiver with overview as to [REDACTED];	DJM	0.10
2025-03-26	Email from the Receiver as to [REDACTED]; emails as to [REDACTED];	DJM	0.20
2025-03-26	Review offers; draft email to J. Fried and B. Tannenbaum regarding same; review email from J. Fried regarding Dunsire offer; draft email to Commercial List Office regarding court time; draft email to J. Fried regarding court availability;	DH	2.40
2025-03-27	Discussion with D. Harland as to [REDACTED];	DJM	0.20
2025-03-27	Review Dunsire APS; call with J. Fried and TDB to discuss Dunsire APS;	DH	1.80

2025-03-28	Review revised APS from J. Fried; draft email to J. Fried regarding same; call with J. Fried and TDB to discuss APS; review various emails regarding same; exchange various emails with D.J. Miller regarding APS;	DH	2.60
2025-03-28	Discussion with D. Harland as to finalizing of Agreement of Purchase and Sale with purchaser's counsel, and intended court date;	DJM	0.10
2025-03-29	Emails with D. Harland as to court date for sale approval motion and distribution to Hillmount;	DJM	0.10
2025-03-29	Exchange emails with D.J. Miller regarding scheduling court hearing;	DH	0.20
2025-03-30	Emails as to motion and interim distribution to Hillmount, searches to be undertaken by J. Fried;	DJM	0.20
2025-03-30	Draft email to TDB regarding scheduling court hearing;	DH	0.10
2025-03-31	Draft Commercial List Request Form; exchange emails with D.J. Miller regarding same; draft email to B. Mullin regarding hearing date; exchange emails with Commercial List office to book hearing date; draft email to B. Tannenbaum regarding same;	DH	0.50

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
D.J. Miller	1.80	1,225.00	2,205.00
Derek Harland	10.60	675.00	7,155.00
Total FEES			\$9,360.00
GST/HST on Fees			\$1,216.80

Total Fees & Disbursements	\$9,360.00
HST	\$1,216.80
Total	\$10,576.80

Thornton Grout Finnigan LLPPer:  D.J. Miller**E. & O. E. 87042 1039 RT0001**

Terms: Payment due upon receipt. Any disbursements not posted to your account on the date of this statement will be billed later. In accordance with Section 33 of The Solicitor's Act, interest will be charged at the rate of 4.00% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this Statement is delivered.

Please note that all our accounts are rendered in Canadian Dollars. Payment can be made to us by:

- 1. Cheque Payable to Thornton Grout Finnigan LLP or*
- 2. Wire Transfer to:*

Account No.: 1000413

Transit No.: 02955

Institution No.: 003

Account Name: Thornton Grout Finnigan LLP

Address of Bank: 111 Yonge Street, Toronto, Ontario M5C 1W4

Name of Bank: Royal Bank of Canada

Swift Code: ROYCCAT2

This is Exhibit “B” referred to in the
Affidavit of D.J. Miller sworn by D.J. Miller at the City of
Toronto, in the Province of Ontario, before me
this 9th day of April, 2025 in accordance with *O. Reg. 431/20*,
Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DEREK HARLAND
(LSO #79504N)

EXHIBIT “B”

Calculation of Average Hourly Billing Rates of
Thornton Grout Finnigan LLP
for the period December 20, 2024 to March 31, 2025

Invoice No. & Billing Period	Fees	Disbursements	HST	Total Hours	Average Hourly Rate	Total (Fees, Disb., HST)
41992 (period ended December 31, 2024)	\$ 1,100.00	\$ -	\$ 143.00	1.5	\$ 733.33	\$ 1,243.00
42090 (period ended January 31, 2025)	\$ 5,565.00	\$ -	\$ 723.45	6.2	\$ 897.58	\$ 6,288.45
42266 (period ended February 28, 2025)	\$ 5,867.50	\$ -	\$ 762.78	6.9	\$ 850.36	\$ 6,630.28
42365 (period ended March 31, 2025)	\$ 9,360.00	\$ -	\$ 1,216.80	12.4	\$ 754.84	\$ 10,576.80
TOTAL	\$ 21,892.50	\$ -	\$ 2,846.03	27		\$ 24,738.53

This is Exhibit “C” referred to in the
Affidavit of D.J. Miller sworn by D.J. Miller at the City of
Toronto, in the Province of Ontario, before me
this 9th day of April, 2025 in accordance with *O. Reg. 431/20*,
Administering Oath or Declaration Remotely.



A Commissioner for taking affidavits

DEREK HARLAND
(LSO #79504N)

EXHIBIT “C”

**Billing Rates of Thornton Grout Finnigan LLP
for the period December 20, 2024 to March 31, 2025**

	<u>Position</u>	<u>Rate 2024</u>	<u>Rate 2025</u>	<u>Year of Call</u>
D.J. Miller	Partner	\$ 1,175.00	\$ 1,225.00	1993
Derek Harland	Associate	\$ 600.00	\$ 675.00	2020
Daniel Alievsky	Associate	\$ 450.00	\$ 525.00	2024

APPLICATION UNDER SUBSECTION 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

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

- and

CBJ – FORT ERIE HILLS INC.

Applicant

Respondent

Court File No. CV-24-00730993-00CL

	<div>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</div> <div>Proceedings commenced at Toronto, Ontario</div>
	<div>AFFIDAVIT OF D.J. MILLER (SWORN APRIL 9, 2025)</div>
	<div>Thornton Grout Finnigan LLP TD West Tower, Toronto-Dominion Centre 100 Wellington Street West, Suite 3200 Toronto, ON M5K 1K7</div> <div>D.J. Miller (LSO# 34393P) Tel:(416) 304-0559 / Email: djmiller@tgf.ca</div> <div>Derek Harland (LSO# 79504N) Tel: (416) 304-1127 / Email: dkharland@tgf.ca</div> <div>Lawyers for the Court-appointed Receiver, TDB Restructuring Limited</div>

APPENDIX “J”

Court File No. CV-24-00730993-00CL

ONTARIO

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

**IN THE MATTER OF SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990 C.C.43, AS AMENDED**

BETWEEN:

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicant

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

AFFIDAVIT OF JOSEPH FRIED
(Affirmed 9th day of April 2025)

I, **JOSEPH FRIED**, of the City of Toronto, in the Province of Ontario, **AFFIRM AND SAY:**

1. I am a barrister and solicitor qualified to practice law in the Province of Ontario and I am a Partner at Fogler, Rubinoff LLP ("**FR**"), lawyers for TDB Restructuring Limited, in its capacity as Court-appointed receiver (the "**Receiver**") in this proceeding and, as such, I have knowledge of the matters hereinafter deposed to. Unless I indicate to the contrary, the facts herein are within my personal knowledge and are true. Where I have indicated that I have obtained facts from other sources, I believe those facts to be true.
2. This affidavit is made in connection with the Receiver's motion for, *inter alia*, the approval of the fees and disbursements of FR. Attached hereto as **Exhibit "A"** are copies of the invoices (collectively the "**Invoices**") issued by FR to the receiver for fees and disbursements

incurred by FR in the court of this proceeding for the period from December 20, 2024 to March 31, 2025 (the “**Fee Approval Period**”).


3. As set out in the Invoices attached hereto as **Exhibit “A”**, during the Fee Approval Period, FY has spent a total of 40.23 hours in connection with this proceeding, and have incurred CAD \$26,761.10 in fees, total disbursements of CAD \$322.40 and CAD \$3,511.63 in HST, for a total of CAD \$30,595.13.

4. Attached as **Exhibit "B"** is a schedule summarizing each invoice in Exhibit "A", the total billable hours charged per invoice, the total fees charged per invoice and the average hourly rate charged per invoice.

5. Attached hereto as **Exhibit "C"** is a schedule summarizing the respective years of call, where applicable, and billing rates of each of the FR professionals who acted for the Receiver during the Fee Approval Period.

6. To the best of my knowledge, the rates charged by FR in the course of this proceeding are comparable to the rates charged by other law firms in Toronto market for the provision of similar services. The hourly billing rates are comparable to the hourly rates charged by FR for services rendered in relation to similar proceedings. I believe the total hours, fees, and disbursements incurred by FR in this matter are reasonable and appropriate in the circumstances.

7. I make this affidavit in support of a motion for, *inter alia*, approval of the fees and disbursement of FR and for no other reason.

affirmed by Joseph Fried at the City of)
Toronto, in the Province of Ontario,)
in accordance with O. Reg. 431/20,)
Administering Oath or Declaration)
Remotely)
this 9th day of April, 2025)
DocuSigned by:)
)
_____)
A Commissioner for Taking Affidavits)
(Shirley Bai)

Signed by: 

170DB188D080403...
JOSEPH FRIED

THIS IS EXHIBIT "A"

TO THE AFFIDAVIT OF JOSEPH FRIED

AFFIRMED THE 9th DAY OF APRIL, 2025

DocuSigned by:



7D4AE30C575A45D

A COMMISSIONER, ETC.
(Shirley Bai)

Invoice Num: 22502595

February 21, 2025

TDB RESTRUCTURING LIMITED
 11 King Street West, Suite 700
 Toronto ON
 MSH 4C7
 Attention: Bryan Tannenbaum

IN ACCOUNT WITH
 Fogler, Rubinoff LLP
 Scotia Plaza
 40 King Street West, Suite 2400
 P.O. Box #215
 Toronto, ON
 M5H 3Y2
 Telephone: 416-864-9700
 Fax: 416-941-8852
 www.foglers.com

fogler
 rubinoff

Our File: T3260 / 246813
Receivership of 85 Crooks Street, Fort Erie

Docketed Time (December 20, 2024 to January 25, 2025) \$9,171.30

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Dec-20-24	JF	To conf call with TGF team TDB team and Hillmount Team re plan for marketing, insurance, stalking horse bid etc; to call with Yitz after the conf call re stalking horse bid.	0.35	306.25
Dec-30-24	JF	To email exchange with Julia Re Application to Register Court Order.	0.15	131.25
Dec-30-24	JFL	Prepare Ereg and draft Application To Register Court Order, email to Joe Fried for review.	0.26	89.70
Dec-31-24	JF	To receipt and review of ref pl partial disch and Ereg Ackt and direction; to email to Julia to send to client to sign.	0.20	175.00
Dec-31-24	JFL	Joe review and approved draft application, email to client for sign up Ereg Ack.	0.30	103.50
Dec-31-24	JFL	received signed Ereg back from client and save to ND.	0.15	51.75
Jan-02-25	JF	To receipt of signed ereg A & D from Bryan T.	0.10	90.00
Jan-06-25	JF	to emails re scheduling a call.	0.10	90.00
Jan-06-25	MY	Email review to set up call.	0.10	39.50
Jan-07-25	JF	To conference call with Hillmount team, TGF team and Bryan Tannenbaum discussed marketing, stalking horse bid and credit bid; to receipt of August 2023 appraisal to forwarding to Medina to save; to receipt and review of claim from the McPherson Group and borrower's lawyers letter to Stephen Brunswick.	0.65	585.00



<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Jan-09-25	MY	Review of eReg and draft registration documents; instruct Julia to proceed to register same.	0.20	79.00
Jan-09-25	JFL	email Medina for review application, register and email to client.	0.37	135.05
Jan-16-25	JF	To receipt of Receiver's Report and request for a call on Monday; to responding to same; to email from Yitz re email from Higigns with stalking horse bid and request for VTB; To email from Bryan T for Yitz not to respond before we have a discussion; to email we can discuss on call on Monday.	0.25	225.00
Jan-17-25	JF	To email to Medina to get me APS for Ellesmere and do compare version from first draft to last version; to email to Gideon to prepare permitted encumbrance schedule; to email from Bryan Tannebaum who is preapring the Aps and responding thereto with queries re the offer.	0.25	225.00
Jan-17-25	MY	Call with J Fried to receive inst. to obtain copy of APS; provide to J Fried and compared versions.	0.30	118.50
Jan-17-25	GA	Review email from J. Fried; Pull and review updated PIN; Prepare Schedule with Permitted Encumbrances.	0.75	270.00
Jan-19-25	JF	To drafting APS; to review of listing proposal summary and notations thereon; to review of Letter from Receiver dated Jan 16 to hillmount regarding matters to date; to review Bennet Jones Letter re Japanese investor including the realtors engaged with.	1.10	990.00
Jan-20-25	AME	Call with Joe Fried about Record of Site Condition; Reviewed Record of Site Condition and environmental reports and reported back to Joe Fried regarding same.	1.65	1,039.50
Jan-20-25	JF	Conf call with Bryan Tannenbaum, Yitz, Dianne, DJ & Derek re listing, Bennet Jones letter and receiver's certificate; to receipt of environmental reports and to forwarding same to Albert Engel; to call with Albert Engel re reports and RSC; to email from Yltz re prospective stalking horse bidder asking re financing and DJ responding thereto; to email report from Albert Engel and review of same; to email to Albert if Lender would lend on this basis without further data; To email from Albert if they understand it they would so lend; to forwarding same to the client.	0.90	810.00
Jan-20-25	MY	Review of emails from J Fried to Engel; save all reports to matter.	0.20	79.00
Jan-20-25	GA	Review updated PIN; Draft Schedules B, and C.	1.60	576.00



<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Jan-21-25	JF	Email from Receiver with draw request; to hillmount email to receiver asking them to sign draw request and if received today can do advance tomorrow morning.	0.15	135.00
Jan-21-25	GA	Review PIN; Draft Schedule D Permitted encumbrances.	1.06	381.60
Jan-22-25	JF	To review of Listing Agreement; to sending listing agreement together with Agent's proposal to Gideon and to giving him instructions; to exchange of emails with Bryan re commission payable to co-operating broker.	0.35	315.00
Jan-22-25	GA	Review email correspondence thread; Pull and review updated PIN; Meeting with J. Fried to discuss Listing Agreement and Schedule A.	0.52	187.20
Jan-23-25	JF	To review of Gideon's mark up of listing agreement to calls with Gideon re amendments to listing agreement; to email exchanges re Lennard name.	0.35	315.00
Jan-23-25	GA	Draft and amend Listing Agreement; Draft and amend Schedule A.1 for receiver and Schedule A.1 to Listing Agreement; Meeting with J. Fried to review Listing Agreement and Schedule A.1; Amend Schedule A.1.	2.92	1,051.20
Jan-24-25	GA	Phone call with J. Fried to discuss Schedule A.1; Amend Schedule A.1; Email client Listing Agreement and Schedule A.1.	0.43	154.80
Jan-25-25	JF	To receipt of two statement of accounts for 85 crooks and 0 Thompson and query by receiver if 0 Thomson is correct for this property; to review of loopnet link, pin and Transfer and reporting back to client re description and different owner and why I think St of accounts correct but will investigate with tax dept.	0.25	225.00
Feb-21-25	MY	Prepare account for receiver.	0.50	197.50
TOTAL FEES:				\$9,171.30
OUR FEE HEREIN:				\$9,171.30

Disbursements

Taxable	Copies of Instruments	\$3.00
Taxable	Prints	\$4.80
Exempt	Registration	\$70.90
Taxable	Search of Title	\$75.80
Taxable	Teranet remote registration charge	\$11.80
Taxable	Transaction levy surcharge	\$65.00
Total Disbursements		<u>\$231.30</u>



Total Fees and Disbursements	\$9,402.60
HST @ 13% on Fees and Taxable Disbursements	\$1,213.12
Total Fees, Disbursements and Taxes this Bill	\$10,615.72
Balance Due:	\$10,615.72

**THIS IS OUR ACCOUNT HEREIN
FOGLER, RUBINOFF LLP**

THIS ACCOUNT BEARS INTEREST, COMMENCING ONE MONTH AFTER DELIVERY, AT THE RATE OF 5.30% PER ANNUM AS AUTHORIZED BY THE SOLICITORS' ACT. ANY DISBURSEMENTS NOT POSTED TO YOUR ACCOUNT ON THE DATE OF THIS STATEMENT WILL BE BILLED LATER.

E. & O.E. GST/HST No : R119420859
Please return a copy of this account with your payment. Thank you.

Joseph Fried

For your convenience, we have the following payment options:

- Online banking using the Bill Payment Service at most Canadian chartered banks. Please reference your file or account number in the notes box.
- Direct Deposits at a TD Branch (please provide your Fogler, Rubinoff lawyer with a copy of the cheque and deposit receipt).
- Wire transfer (please reference your file or account number).
- Electronic Funds Transfer (EFT).
- Cheque by mail or courier.

Should you require assistance, please contact our Accounts Receivable Department at 416.864.9700 x152 or by e-mail accountsreceivable@foglers.com.

MOVE ALERT: Effective December 2, 2024, our office has moved to:

**Scotia Plaza
40 King Street West, Suite 2400
P.O. Box 215
Toronto, ON M5H 3Y2**

All phone and email contact information will remain the same. Please update your records.

Invoice Num: 22505805

April 8, 2025

TDB RESTRUCTURING LIMITED
 11 King Street West, Suite 700
 Toronto ON
 MSH 4C7
 Attention: Bryan Tannenbaum

IN ACCOUNT WITH
 Fogler, Rubinoff LLP
 Scotia Plaza
 40 King Street West, Suite 2400
 P.O. Box #215
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 www.foglers.com

fogler
 rubinoff

Our File: T3260 / 246813
Receivership of 85 Crooks Street, Fort Erie

Docketed Time from February 1, 2025 to March 31, 2025

\$17,589.80

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Rate</u>	<u>Fees</u>
Feb-03-25	JF	To drafting APS.	1.90	900.00	1,710.00
Feb-03-25	DW	emails, save APS and make minor change, pull parcel register.	0.20	365.00	73.00
Feb-03-25	GA	Receive instructions from J. Fried; Review Schedule A; Review updated PIN and draft Schedule B, permitted encumbrances.	0.93	360.00	334.80
Feb-07-25	JF	To email from Receiver re review of marketing material and to replying; to email from Receiver to Hillmount re marketing.	0.20	900.00	180.00
Feb-08-25	JF	To review of marketing material; to email to Albert Engel re description of the RSC; to review and mark ups to the APS; to review of Permitted Encumbrance Schedule drafted by Gideon.	1.70	900.00	1,530.00
Feb-10-25	AME	Reviewed, considered and responded to email from Joe Fried regarding Records of Site Condition.	0.13	630.00	81.90
Feb-10-25	JF	To email from TDB re NTD in the draft APS; to request fro access to data room; to receipt of same and to review of the plans therein; to email to Derek if plans should be included in the Purchased Assets;.	0.35	900.00	315.00



<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Rate</u>	<u>Fees</u>
Feb-10-25	GA	Attend to correspondence from J. Fried; Review PIN; Amend "Permitted Encumbrances related to the Property" on Clean APS and clean up document; Amend "Permitted Encumbrances related to the Property" on Redline APS; Attend to correspondence from J. Fried re saving new versions of clean and redline APS to NetDocs.	0.84	360.00	302.40
Feb-11-25	JF	to email from Derek with revisions to the APS and to review of same; to email to Derek querying section re delivery of Receiver's Certificate and to follow up email re closing; to response from Derek and Receiver; to revising the APS and sending out the APS for posting in the data room; to review of draft conditions and to advising agents to post same in the data room.	0.80	900.00	720.00
Feb-11-25	MY	Review of emails dealing with APS; save marked up offer from opposing lawyer to file.	0.20	395.00	79.00
Feb-11-25	GA	Attend to correspondence from J. Fried re saving redline and clean version of APS;.	0.17	360.00	61.20
Feb-12-25	JF	To email exchange with Receiver re payment of 2025 interim taxes and arrears and to responding thereto; to email exchange between Hillmount and Receiver re LC posted with Fort Erie.	0.20	900.00	180.00
Feb-18-25	JF	To receipt & review of Lennard 3rd report; to email from Receiver for account & to forwarding same to Medina to prepare; to email from Yitz with comments on Lennard's report.	0.30	900.00	270.00
Feb-19-25	JF	To receipt and review of Receiver's 3rd report to Hillmount.	0.10	900.00	90.00



<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Rate</u>	<u>Fees</u>
Feb-21-25	JF	To receipt and review of 4th Lennard Report; and to email to client re one of the potential bidders; to call with Medina re account to Jan 31, 2025 and to review of draft account; to email from Yitz to Receiver re archeological reports that we have an assignment of Material Contracts so Receiver should obtain; to email to Receiver if he has final report which would include said assignment; to assembling the Lennard reports and sending to medina to save as she was not copied; to email from Receiver that they are in touch with Town re getting reports and if there are LC's will have better idea next week.	0.70	900.00	630.00
Feb-22-25	JF	To email from Bryan T that we should get opinion and who do I recommend; to responding to Bryan; to email from Bryan to Hillmount to send final report; to Diane sending final report in 4 emails as too large and to saving same.	0.25	900.00	225.00
Feb-24-25	MY	Review of numerous emails; save all mortgage security docs to matter.	0.30	395.00	118.50
Feb-26-25	MY	Emails from client with copies of reports/assessments save to file and tax info.	0.20	395.00	79.00
Feb-27-25	JF	To several emails from receiver re by-law order re city taking action due to dangerous conditions; to arranging fro call to-morrow; to Yitz email to receiver to deal with issue asap.	0.20	900.00	180.00
Feb-27-25	JF	To several emails from receiver re by-law order re city taking action due to dangerous conditions; to arranging fro call to-morrow; to Yitz email to receiver to deal with issue asap; to call with Yitz re securing site.	0.25	900.00	225.00
Feb-28-25	JF	Conf Call with Bryan Tannebaum; Margarita, Yitz, Dianne and Derek re securing the site and to brief discussion of Lennard report which had just been sent; to review of Lennard report; to email reminder to Deanna to assemble the security docs.	0.45	900.00	405.00
Mar-07-25	JF	To receipt and review of Lennard's latest report; to forwarding to medina to save.	0.20	900.00	180.00



<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Rate</u>	<u>Fees</u>
Mar-09-25	JF	To email from Dianne to Receiver re securing the site; To response from Receiver requested two quotes expecting same by Monday.	0.15	900.00	135.00
Mar-11-25	MY	receive/save Progress Report No. 6.	0.10	395.00	39.50
Mar-12-25	MY	Download and save reports from Receiver and Lennards to matter.	0.25	395.00	98.75
Mar-14-25	JF	To receipt and review of receiver's fourth report; to email to Emily Lych re tax issue to see me regarding same; To email exchange re timing for quote for security implementation between receiver's officer and lender's office.	0.35	900.00	315.00
Mar-14-25	MY	Call from J Fried for copy of APS in word; email same to Joe.	0.20	395.00	79.00
Mar-16-25	JF	To email from Receiver with order appointing KSV Receiver of number of properties for Japanese investors and asking TGF to add them to Service List; to email exchanges between Derek Harland and Receiver and to email from DJ with background re this appointment; to email from Yitz with queries re Receiver's 4th report; to further email from Yitz with additional questions on the report.	0.55	900.00	495.00
Mar-17-25	JF	To call from Yitz re Receiver's report as well email from Yitz re payments made to consultant while he claims he has not been paid; to conference call with Bryan and Margarita, Yitz and Diane and Derek re Receiver's latest report and re security.	0.80	900.00	720.00
Mar-17-25	MY	Review of ongoing emails; save court docs to matter as well as docs from Yitz; further docs received and saved to matter.	0.35	395.00	138.25
Mar-18-25	JF	To email from Margarita Cargher re descrition of proposed palns to secure.	0.15	900.00	135.00
Mar-18-25	MY	Receive further docs from Lennard, download and save.	0.15	395.00	59.25
Mar-19-25	JF	To assembling data re taxes on 0 Thomson and call with Emily to reach out to tax dept re conflicting lands relating to 0 Thomson; to Emily sending confirmation that tax cert has correct address and to sending same to Receiver.	0.25	900.00	225.00
Mar-19-25	EL	Call with J. Fried; Inquire about tax certificate for 0 Thompson Road.	0.40	300.00	120.00



<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Rate</u>	<u>Fees</u>
Mar-21-25	JF	To receipt of Lennard's 8th report and to review of same. To forwarding to medina as she was not on the email.	0.20	900.00	180.00
Mar-24-25	JF	To email exchanges between Derek Harland and lawyer for Japenes investors re the Recivership orders.	0.20	900.00	180.00
Mar-24-25	MY	Call from David Caporiccio and advise J Fried of conversation.	0.25	395.00	98.75
Mar-25-25	JF	to call from Yitz Levinson re APS no conditions and \$3 Mill deposit.	0.20	900.00	180.00
Mar-26-25	JF	To receipt of APS Matrix together with three offers; to reviewing the Dusnsire offer; to forwarding offers to medina as she was not copied; to sending email comment son offer to Receiver and TGF and suggesting a call to review; to email from Margarita re my comments on APS; to emails re word version and will ask agent to obtain; to emails re time for a call; to email from Derek to change to 45 days for court approval; to bryan suggesting I deal with Buyer's lawyer for word APS; to email to Beth Mullins for clean version in word; to email from Bryna with a further offer to quicl glance at the offer.	1.65	900.00	1,485.00
Mar-26-25	MY	Review of numerous emails to set up call; save offers received to matter.	0.35	395.00	138.25
Mar-27-25	JF	To Conference Call to review APS with Bryan T, Margarita, and Derek H; to email to Medina to save same; to email to Beth to advise re turn around; to email from Beth acknowledging my email; to email from Beth confirming Buyer did not use any other agent; to email from Margarita forwarding email from the Town that no securities posted.	1.40	900.00	1,260.00



<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Rate</u>	<u>Fees</u>
Mar-28-25	JF	To reviewing and revising the APS; to email to Medina to save docs in NetDocs. to email to Receiver and to Derek H sending revised agreement and to providing comments; to email from Margarita she will review Bryan in meeting; to email to Derek if he can review by 10 am; to receipt of Derek's email with edit of typo; to sending to Buyer's lawyer; to receipt of email from Buyer's lawyer with three areas of concern; to memo re Buyer's lawyer to sending send memo to Bryan T, Margarita and Derek and suggesting quick call; To call with said parties and all in agreement with suggested response to Brth Mullin; to email response to Beth Mullins and is she is K with same to do re-draft of APS; to receipt of redraft from Beth; to sending redraft of APS to Receiver and Derek; to review of revised agreement and advising all good to sign; to emails re signed agreement and deposit etc.	2.35	900.00	2,115.00
Mar-28-25	MY	Ongoing calls, emails, saving documents etc. to finalize the Agreement of Purchase and Sale; emails with client finalized copy and to Ms. Mullin. Deal with deposit request.	1.00	395.00	395.00
Mar-30-25	JF	to email exchanges re distribution and report and to email requesting Medina to get updated PIN.	0.15	900.00	135.00
Mar-30-25	JF	To email exchanges with Matthew Himmel re opinion letter.	0.20	900.00	180.00
Mar-31-25	JF	to email from Derek Harland to Beth Mullins with proposed date for hearing; to email from Beth re requirment for sealing of the AVO; to derek responding will be sealed; to email from Bryan re wire.	0.20	900.00	180.00
Mar-31-25	MY	Prepare invoice to March 31 and Affidavit.	1.00	395.00	395.00
Mar-31-25	MY	Review of numerous emails; pull updated PIN and provide to team.	0.35	395.00	138.25
TOTAL FEES:					\$17,589.80
OUR FEE HEREIN:					\$17,589.80

Disbursements

Taxable	Copies of Instruments	\$3.00
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Taxable	Prints	\$17.10	
Taxable	Search of Title	\$71.00	
	Total Disbursements		\$91.10
	Total Fees and Disbursements		\$17,680.90
	HST @ 13% on Fees and Taxable Disbursements		\$2,298.51
	Total Fees, Disbursements and Taxes this Bill		\$19,979.41
	Balance Due:		\$19,979.41

**THIS IS OUR ACCOUNT HEREIN
FOGLER, RUBINOFF LLP**

THIS ACCOUNT BEARS INTEREST, COMMENCING ONE MONTH AFTER DELIVERY, AT THE RATE OF 5.30% PER ANNUM AS AUTHORIZED BY THE SOLICITORS' ACT. ANY DISBURSEMENTS NOT POSTED TO YOUR ACCOUNT ON THE DATE OF THIS STATEMENT WILL BE BILLED LATER.

E. & O.E. **GST/HST No : R119420859**
Please return a copy of this account with your payment. Thank you.

Joseph Fried

For your convenience, we have the following payment options:

- Online banking using the Bill Payment Service at most Canadian chartered banks. Please reference your file or account number in the notes box.
- Direct Deposits at a TD Branch (please provide your Fogler, Rubinoﬀ lawyer with a copy of the cheque and deposit receipt).
- Wire transfer (please reference your file or account number).
- Electronic Funds Transfer (EFT).
- Cheque by mail or courier.

Should you require assistance, please contact our Accounts Receivable Department at 416.864.9700 x152 or by e-mail accountsreceivable@foglers.com.

MOVE ALERT: Effective December 2, 2024, our office has moved to:

**Scotia Plaza
40 King Street West, Suite 2400
P.O. Box 215
Toronto, ON M5H 3Y2**

All phone and email contact information will remain the same. Please update your records.

fogler
rubinoff

THIS IS EXHIBIT "B"

TO THE AFFIDAVIT OF JOSEPH FRIED

AFFIRMED THE 9TH DAY OF APRIL, 2025

DocuSigned by:



ZD4AE30C575A45D


A COMMISSIONER, ETC.

(Shirley Bai)

Fees and Disbursements Summary of Fogler, Rubinoff LLP for the period from
December 20, 2024 to March 31, 2025

Name of Professional	Total Hours Billed	Average Hourly Rate (\$/hr)	Total Charged
Joseph Fried (Lawyer)	21.55	\$900.00	\$19,377.50
Albert Engel (Lawyer)	1.78	\$630.00	\$1,121.40
Medina Young (Sr. Law Clerk)	6.00	\$395.00	\$2,370.00
Gideon Ampofo (Lawyer)	9.22	\$360.00	\$3,319.20
Emily Lynch (Articling Student)	0.40	\$300.00	\$120.00
Deanna Wehby (Law Clerk)	0.20	\$365.00	\$73.00
Julia Li (Law Clerk)	1.08	\$351.85	\$380.00
TOTAL HR/AVG RATE/TOTAL FEES	40.23	\$471.69	\$26,761.11
TOTAL DISBURSEMENTS			\$322.40
TOTAL FEES AND DISBURSEMENTS EXCLUDING TAXES			\$27,083.50
TAXES			\$3,511.63
TOTAL FEES AND DISBURSEMENTS INCLUDING TAXES			\$30,595.13

THIS IS EXHBIT “C”
TO THE AFFIDAVIT OF JOSEPH FRIED
AFFIRMED THE 9TH DAY OF APRIL, 2025

DocuSigned by:

7D4AE30C575A45D...
A COMMISSIONER, ETC.
(Shirley Bai)

Billing Rates of Fogler, Rubinoff LLP
For the period December 20, 2024 to March 31, 2025

<u>Lawyer</u>	<u>Position</u>	<u>Rate 2025</u>	<u>Year of Call</u>
Joseph Fried	Partner	\$900.00	1975
Albert Engel	Partner	\$630.00	2000
Gideon Ampofo	Associate	\$360.00	2024

APPLICATION UNDER SUBSECTION 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
HILLMOUNT CAPITAL MORTGAGE HOLDINGS - 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

**AFFIDVIT OF JOSEPH FRIED
 Affirmed on April 9, 2025**

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

D.J. Miller (LSO# 34393P)
 Tel:(416) 304-0559 / Email: djmiller@tgf.ca

Derek Harland (LSO# 79504N)
 Tel: (416) 304-1127 / Email: ddharland@tgf.ca

Lawyers for the Court-appointed Receiver,
 TDB Restructuring Limited

APPENDIX “K”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.

Applicants

- and -

CBJ – FORT ERIE HILLS INC.

Respondent

APPLICATION UNDER SUBSECTION 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

**AFFIDAVIT OF MATTHEW HIMMEL
(Affirmed April 7, 2025)**

I, **MATTHEW HIMMEL**, of the City of Toronto, in the Province of Ontario, **AFFIRM AND SAY:**

1. I am a lawyer at the law firm of Loopstra Nixon LLP ("**Loopstra Nixon**"), counsel to TDB Restructuring Limited, in its capacity as receiver and manager (the "**Receiver**"), of all of the assets, undertaking and properties of the Responded. Accordingly, I have knowledge of matters hereinafter deposed to.

2. Attached hereto and marked as **Exhibit "A"** is a true copy of the Statement of Account issued by Loopstra Nixon in respect of services rendered to the Receiver for the period from February 24, 2025, through to April 7, 2025 (the "**Billing Period**"). During the Billing Period, the total fees and disbursements billed were \$4,495.00 and \$67.50 respectively, and applicable taxes of \$593.13 for an aggregate amount of \$5,155.63.

3. As set out in the following table, 7.5 hours were billed by Loopstra Nixon during the Billing Period:

Name of Professional	Total Hours	Hourly Rate(s) (\$)
Steven Sager	2.80	\$850.00
Matthew Himmel	4.70	\$450.00


4. I confirm that the activities detailed in the Statement of Account attached hereto as Exhibit "A" accurately reflect the services provided by Loopstra Nixon; and, that the rates charged are the standard hourly rates for each such professional at the time that such charges were incurred.

5. In connection with the within accounts, Loopstra Nixon has been paid nil (\$0.00) and holds nil (\$0.00) on retainer in trust.

6. I affirm this affidavit in support of a motion for, *inter alia*, approval of the fees and disbursements of Loopstra Nixon, and for no other reason or improper purpose.

AFFIRMED REMOTELY by Matthew Himmel, stated as residing in the City of Toronto, of the Province of Ontario, before me at the City of Toronto, of the Province of Ontario, on the 7th day of April 2025, in accordance with O.Reg 431/20, Administering Declaration Remotely



A Commissioner for taking affidavits, etc.

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MATTHEW HIMMEL

EXHIBIT A

This is **Exhibit “A”** to the Affidavit
of Matthew Himmel affirmed on April 7, 2025

A handwritten signature in blue ink, appearing to be 'H. B.', is written above a horizontal line.

A commissioner for taking affidavits, etc.



April 8, 2025

Invoice No. 168225

Matter No. 26821-0005

TDB Restructuring Limited
11 King Street West, Suite 700
Box 27
Toronto, ON
M5H 4C7

RE: Security Opinion re Receivership of CBJ Fort Erie Hills Inc.

STATEMENT OF ACCOUNT

To receiving instruction from TDB; to review of security package provided by the first mortgagee; to reviewing due diligence searches; to preparing opinion on security; and to all other correspondence, communications, attendances, documentation and services necessary or incidental to facilitate the loan.

OUR FEE	\$4,495.00
HST on Fees @ 13%	\$584.35

DISBURSEMENTS (E=HST exempt)

Amount

PPSA Oncorp	32.00
Abstract Search	35.50

Total Disbursements	\$67.50
HST on Disbursements	\$8.78

Total Fees, Disbursements and HST	\$5,155.63
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The above account represents a summary of the professional services rendered to you, and this firm reserves the right to provide further particulars of our professional services rendered in the event the same is required or requested.

THIS IS OUR STATEMENT OF ACCOUNT HEREIN

LOOPSTRA NIXON LLP

Per:

Matthew Himmel
MAH/tha

In accordance with the Solicitor's Act, interest will be charged on this account until paid, at the rate of 2.0% per annum, commencing one month after delivery, E. & O.E. * HST No. 122610298RT0001





TDB Restructuring Limited
11 King Street West, Suite 700
Box 27
Toronto, ON
M5H 4C7

Matter ID: 26821-0005
Statement No: 168225
Statement Date: 4/8/2025

Amount Due: \$5,155.63

RE: Security Opinion re Receivership of CBJ Fort Erie Hills Inc.

PAYMENT OPTIONS

1. BMO or Credit Union Client? Pay us by Telephone, On-Line & ABM payment systems. Use your matter number listed above (<u>no dash</u>) as your customer account #			
2. PAYMENT BY E-TRANSFER (CAD only) - Please reference the Invoice Number or Matter Number in the message box. Email e-transfer funds to etransfer@loonix.com			
3. PAYMENT BY WIRE			
Beneficiary's Bank:	Bank of Montreal 31 Rexdale Blvd Etobicoke, Ontario M9W 1P1	Beneficiary Name:	LOOPSTRA NIXON LLP
SWIFT CODE:	BOFMCAM2	Beneficiary Address:	135 Queens Plate Drive, Suite 600 Toronto, Ontario Canada M9W 6V7
Beneficiary Account #:	24161017758	BNF field / SWIFT field 59:	24161017758 CDN (11 digit transit and account #)
4. PAYMENT BY EFT (Electronic Funds Transfer) - Please send remittance copy to mmartins@ln.law			
Bank Name:	Bank of Montreal	Account Number:	1017758
Bank Code:	0001	Account Name:	<u>LOOPSTRA NIXON LLP</u>
Transit Number :	24162		
5. PAYMENT BY CHEQUE PAYABLE TO: <u>LOOPSTRA NIXON LLP</u>			
6. PAYMENT BY CREDIT CARD (Please put the Invoice Number in the reference field when paying by credit card)			
To pay by VISA, M/C or AMEX in CAD		https://secure.lawpay.com/pages/loopstra-nixon-llp/operating-can	
To pay by VISA, M/C or AMEX in USD		https://secure.lawpay.com/pages/loopstra-nixon-llp/usd-op	
7. PAYMENT BY QR Code (Please put the statement number in the reference field when paying by credit card)			
To pay in CAD:		To pay in USD:	
			

Applicant

Respondent

APPLICATION UNDER SUBSECTION 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

Court File No. CV-24-00730993-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

Proceedings commenced at **TORONTO**

AFFIDAVIT OF FEES

LOOPSTRA NIXON LLP

135 Queens Plate Drive – Suite 600
Toronto, ON, M9W 6V7

Steven Sager (LSO No.: 29661N)
&

Matthew Himmel (LSO No.: 82241H)

t. 416.364.6163

f. 416.361.2503

e. ssager@ln.law /
mhimmel@ln.law

*Counsel to the Receiver, TDB Restructuring
Limited*

Confidential Appendix “1”

Confidential Appendix “1”
to the Motion Record (returnable April 25, 2025) of the
Court-appointed Receiver, TDB Restructuring Limited

Summary of Offers

(to be filed with Court subject to a request for sealing order)

Confidential Appendix “2”

Confidential Appendix “2”
to the Motion Record (returnable April 25, 2025) of the
Court-appointed Receiver, TDB Restructuring Limited

Unredacted copy of the Agreement of Purchase and Sale dated
March 28, 2025

(to be filed with Court subject to a request for sealing order)

APPLICATION UNDER SUBSECTION 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

HILLMOUNT CAPITAL MORTGAGE HOLDINGS INC.
Applicant

- and -

CBJ – FORT ERIE HILLS INC.
Respondent

Court File No. CV-24-00730993-00CL

	<div>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceedings commenced at Toronto, Ontario</div>
	<div>FIRST REPORT OF THE COURT-APPOINTED RECEIVER, TDB RESTRUCTURING LIMITED</div>
	<div>Thornton Grout Finnigan LLP TD West Tower, Toronto-Dominion Centre 100 Wellington Street West, Suite 3200 Toronto, ON M5K 1K7 D.J. Miller (LSO# 34393P) Tel:(416) 304-0559 / Email: djmiller@tgf.ca Derek Harland (LSO# 79504N) Tel: (416) 304-1127 / Email: dkharland@tgf.ca Lawyers for the Court-appointed Receiver, TDB Restructuring Limited</div>