

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

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,
c. 29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

**MOTION RECORD OF FAAN MORTGAGE ADMINISTRATORS INC., IN
ITS CAPACITY AS COURT-APPOINTED TRUSTEE**

(OML DISTRIBUTION MOTION)

October 2, 2020

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**SUPERIOR COURT OF JUSTICE
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TAB 1

Court File No. CV-18-596204-00CL

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

BETWEEN

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,
c. 29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

**NOTICE OF MOTION
(Old Market Lane Distribution Motion)**

FAAN Mortgage Administrators Inc., in its capacity as Court-appointed trustee (“**Trustee**”) of all of the assets, undertakings and properties of Building & Development Mortgages Canada Inc. (formerly Centro Mortgage Inc.) (“**BDMC**”) pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended, (“**MBLAA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) (“**Court**”) on October 15, 2020 at 10:00 a.m., or as soon after that time as the motion can be heard, by videoconference in Toronto, in accordance with the changes to the operations of the Commercial List in light of the COVID-19 pandemic.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order (the “**OML Distribution Order**”) substantially in the form attached to the Motion Record, *inter alia*:
 - (a) if necessary, abridging the time for service of this Notice of Motion and the Motion Record and dispensing with service on any person other than those served; and
 - (b) (i) authorizing the Trustee to make a distribution of 85% of the Realized Property received in respect of the OML Sale Transaction (as defined below) on a *pari passu* basis to all remaining OML Investors in accordance with the approach described in the Twentieth Report and pursuant to the terms of the Realized Property Order, as amended; (ii) approving the Twentieth Report and the Trustee’s activities described therein; and (iii) sealing Confidential Appendix “1” to this Twentieth Report until further Order of this Court; and
2. Such further and other relief as this Court may deem just.

THE GROUNDS FOR THE MOTION ARE:**Background**

1. Pursuant to the Order of the Court in respect of BDMC dated April 20, 2018 (“**Appointment Order**”), FAAN Mortgage Administrators Inc. was appointed as the Trustee, without security, of all of the assets, undertakings and properties of BDMC, including, without limitation, all of the assets in the possession or under the control of BDMC, its counsel, agents and/or assignees but held on behalf of any other party, including, but not limited to, Investors (as defined below), brokers, or borrowers, in each case whether or not such property is held in trust or is required to be held in trust;
2. The purpose of the Trustee’s appointment is to protect the interests of the members of the investing public who invested in syndicated mortgage loans made by BDMC in respect of certain real estate development projects secured by mortgages (typically third-ranking or lower priority charges) registered on title to the applicable real property (“**Investors**”);

3. To date, the Trustee has delivered nineteen reports to the Court, which describe the Trustee's activities in carrying out its mandate under the Appointment Order. In connection with this Motion, the Trustee is filing its Twentieth Report to Court dated October 2, 2020 (the "**Twentieth Report**"), which, among other things, provides a description of the OML Project, the OML Loans, the OML Sale Transaction and the Trustee's proposed distribution methodology for the proceeds received from the OML Sale Transaction. Capitalized terms used but not defined herein have the meanings given in the Twentieth Report;

4. On October 30, 2018, this Court issued the Realized Property Order which, among other things:

- (a) required the Trustee to distribute (when aggregated with previous distributions) 70% of (I) all funds held or received by the Trustee as a result of a repayment (in whole or in part) of principal on any loan or other indebtedness administered by BDMC on behalf of Investors, whether or not (i) secured by any Real Property Charges in the name of BDMC or an RRSP Trustee, (ii) received before or after the date of the Appointment Order, or (iii) paid or payable in trust, plus (II) all interest paid or payable to BDMC or the Trustee at the time such repayment (in whole or in part) of principal is made (collectively, "**Realized Property**");
- (b) required the Trustee to retain 30% of all Realized Property; and
- (c) authorized the Trustee to use the retained Realized Property to aid the Trustee in complying with the Appointment Order and in carrying out its mandate, as the Trustee, in its sole discretion, considered necessary or desirable for the administration of the estate;

5. On November 28, 2018, this Court issued the Braestone Settlement Approval Order, which, among other things, amended the Realized Property Order to require the Trustee to distribute (when aggregated with previous distributions) 80% of all Realized Property to Investors;

6. On December 20, 2018, this Court issued the Harlowe Settlement Approval Order which, among other things, further amended the Realized Property Order to require the Trustee to distribute (when aggregated with previous distributions) 85% of all Realized Property to Investors;

Overview of the OML Project

7. The OML Project (also known as the Old Market Lane Project) was proposed to be a mid-rise building with 85 residential units, ground floor retail and three two-story townhouses. It was to be constructed on the properties located at 177, 185 & 197 Woodbridge Avenue, Woodbridge, Ontario (“**OML Properties**”);

8. Prior to the OML Sale Transaction described below, the OML Project was owned by Old Market Lane Inc. (“**OML Inc.**”), an entity related to Fortress. OML Inc. acquired title to the OML Properties on January 14, 2014 from the three separate owners who had previously owned the parcels of land comprising the OML Properties;

9. On October 10, 2014, OML Inc. entered into Agreements of Purchase and Sale with Fortress MarketLane 2011 Inc. (“**Fortress OML Inc.**”, another entity related to Fortress) and Fernbrook Homes (Woodbridge) Limited (“**Fernbrook**”). FCF Old Market Lane 2013 Inc. (“**FCF OML 2013 Inc.**”) was incorporated to take title to the OML Properties on behalf of Fortress OML Inc. and Fernbrook. The Trustee was advised by Fortress that the closing of this transaction (the “**Proposed Fortress/Fernbrook Transaction**”) was extended multiple times and the transaction ultimately fell apart in January 2018. Representatives of Fortress have also advised that FCF OML 2013 Inc. never acquired title to OML Properties and the co-tenancy arrangements contemplated between Fortress OML Inc. and Fernbrook were not implemented;

BDMC Loan Arrangements

10. There were three loans registered on title to the OML Properties prior to the OML Sale Transaction: (i) the OML Original Loans, (ii) the OML 3 Loan, and (iii) the OML Hybrid Loan (each as defined below, and collectively, the “**OML Loans**”). Each of the OML Loans had matured prior to the OML Sale Transaction. At the time of the OML Sale Transaction: (i) approximately \$3.6 million was owed under the OML Original Loans, (ii) approximately \$7.7 million was owed under the OML 3 Loan, and (iii) approximately \$3.6 million was owed under the OML Hybrid Loan;

OML Original Loans

11. Starting in 2011, 2041254 Ontario Ltd., in trust for OML Inc. (in such capacity, the “**OML Original Borrower**”), entered into loan agreements with various individual lenders (the “**OML Original Investors**”) or with Olympia Trust Company (“**Olympia**”) in trust for certain OML Original Investors, totaling approximately \$3.8 million in aggregate (“**OML Original Loans**”, and such agreements, the “**OML Original Loan Agreements**”). To secure the OML Original Loans, Sanjay Pahuja and Olympia, in trust for the OML Original Investors, were granted a mortgage in the amount of \$4 million (the “**OML Original Mortgage**”), which ranked in second priority on title at the time of registration;

12. In contemplation of the Proposed Fortress/Fernbrook Transaction, the OML Original Investors were asked to sign: (i) the OML Original Loan Amending Agreement, (ii) an updated Form 9D disclosure form, and (iii) the Original PASA (collectively, the “**OML Original Amending Documents**”). OML Original Investors were also asked to sign individual accession agreements to an agency agreement between each of the OML Original Investors and Centro Mortgage Inc., dated as of June 1, 2015 (“**Agency Agreement**”);

13. The OML Original Amending Documents amend the OML Original Loan Agreements to provide, among other things, that: (i) the OML Original Investor consents to the transfer of the OML Properties upon closing of the Proposed Fortress/Fernbrook Transaction and the assumption by FCF OML 2013 Inc. of the obligations of the OML Original Borrower under the OML Original Loan Agreement; and (ii) the OML Original Loans, the OML 3 Loan and any future syndicated loans in favour of Derek Sorrenti, BDMC or RRSP trustees will rank *pari passu* with respect to recoveries on their respective loans, notwithstanding the order of registration or advance of monies;

OML 3 Loan

14. On September 4, 2013, FCF OML 2013 Inc. (the “**OML 3 Borrower**”) entered into a loan agreement with Sorrenti Law Professional Corporation (“**Sorrenti**”), in trust for certain syndicated mortgage loan investors (“**OML 3 Investors**”) that provided for a total aggregate loan of up to \$14 million (“**OML 3 Loan**”, and such agreement, the “**OML 3 Loan Agreement**”). On January 14, 2014, OML Inc. granted a mortgage on the OML Properties in favour of Sorrenti for \$3 million

(which subsequently increased to \$7.7 million) to secure the OML 3 Loan (the “**OML 3 Mortgage**”), which OML 3 Mortgage ranked subordinate to the OML Original Mortgage;

15. The OML 3 Loan documentation contained seemingly contradictory statements regarding the proposed ranking of the various OML Loans. In certain places, it stated that the OML 3 Mortgage would be a third ranking mortgage that would postpone to the first and second mortgages (including the OML Original Mortgage), and in other places, it stated that the OML Original Mortgage would “merge with the 3rd mortgage charge”;

16. The OML 3 Amending Documents (which the OML 3 Investors were asked to sign in contemplation of the Proposed Fortress/Fernbrook Transaction) amend the OML 3 Loan Agreement to provide, among other things, that: (i) the OML 3 Investor consents to the transfer of the OML Properties upon closing of the Proposed Fortress/Fernbrook Transaction; and (ii) the OML Original Loans, the OML 3 Loan and any future syndicated loans in favour of Derek Sorrenti, BDMC or RRSP trustees will rank *pari passu* with respect to recoveries on their respective loans, notwithstanding the order of registration or advance of monies;

17. The Trustee understands that OML 3 Investors who invested in later tranches of the OML 3 Loan were provided with different versions of the OML 3 Loan Agreement and were not asked to sign the OML 3 Amending Documents. There does not appear to be a provision in the later version of the OML 3 Loan Agreement requiring *pari passu* treatment among all syndicated loans;

OML Hybrid Loan

18. On April 16, 2016, OML Inc., or its assignees (the “**OML Hybrid Borrower**”) entered into a loan agreement with BDMC in trust for certain syndicated mortgage loan investors (“**OML Hybrid Investors**”) for a loan of “up to and collectively with the *Pari Passu* 3rd mortgage, never exceeding \$19 million” (the “**OML Hybrid Loan**”, and such agreement, the “**OML Hybrid Loan Agreement**”). On November 15, 2016, OML Inc. granted a mortgage on the OML Properties in favour of BDMC for \$1.6 million (which amount was subsequently increased to \$3.82 million) (“**OML Hybrid Mortgage**”) to secure the OML Hybrid Loan. The OML Hybrid Mortgage ranked in fifth priority on title to the OML Properties at the time of registration (behind the OML Original Mortgage in third priority and the OML 3 Mortgage in fourth priority);

19. The OML Hybrid Loan Agreement provided that the OML Hybrid Investors would be granted a *pari passu* third ranking mortgage against the OML Properties. The “Pari Passu 3rd mortgage” is not defined in the OML Hybrid Loan Agreement, and the OML Hybrid Loan documents contain seemingly contradictory statements regarding the proposed *pari passu* treatment of the OML Hybrid Loan. As a result, it is unclear whether the “Pari Passu 3rd mortgage” was intended to rank *pari passu* with the OML 3 Mortgage or the OML Original Mortgage;

20. Further, there does not appear to be documentation (e.g., an interlender agreement or postponement) between the OML Original Investors, the OML 3 Investors and/or the OML Hybrid Investors whereby the higher-ranking Investors agreed to rank *pari passu* with the OML Hybrid Investors. Without such documentation, the OML Hybrid Mortgage, which was registered after the OML Original Mortgage and the OML 3 Mortgage, would generally rank subordinate to such mortgages based on the timing of registration. However, as described above, the OML Original Loan Amending Agreement and OML 3 Loan Amending Agreement did provide for *pari passu* treatment of all existing and future syndicated loans on the OML Project;

OML Sale Transaction

21. In 2018, there were two senior mortgages on title to the OML Properties in priority to the OML Loans, each of which were in default. In late December, 2018, the OML Project was successfully refinanced and the Trustee agreed to subordinate the OML Loans to the new priority lender, Melvyn Eisen, who had advanced \$5.25 million (the “**Mel Eisen Indebtedness**”);

22. On June 30, 2019, the Mel Eisen Indebtedness went into default. On August 23, 2019, Mr. Eisen transferred and assigned his debt and mortgage to 5019203 Ontario Ltd. (“**5019 Ontario**”). On September 25, 2019, 5019 Ontario issued a Notice of Sale Under Mortgage in respect of the debt owing to 5019 Ontario in an amount in excess of \$5.6 million (including accrued interest and fees);

23. In October 2019, the Trustee, on behalf of BDMC, was approached by a representative of 2735447 Ontario Inc. (“**Purchaser**”) who expressed interest in purchasing the OML Properties. Following discussions between the Purchaser and the Trustee, the Purchaser provided 5019 Ontario with a formal agreement of purchase and sale (“**APS**”) which included a purchase price

of \$7.5 million. The purchase price was in excess of the “as-is” appraisal previously commissioned by the Trustee;

24. In December 2019, 5019 Ontario accepted and executed the APS. The sale transaction (the “**OML Sale Transaction**”) closed on January 16, 2020 and all of the mortgages registered on title were discharged;

25. Proceeds from the OML Sale Transaction were first distributed to repay 5019 Ontario, as first mortgagee, and then to the City of Vaughan in respect of property tax and water arrears. The remaining proceeds, net of legal fees, of approximately \$1.57 million (“**Residual Proceeds**”) were paid to the Trustee, on behalf of the OML Investors, as the subsequent ranking mortgagees on the OML Properties. The Residual Proceeds include an additional \$57,500 that the Trustee was able to negotiate with counsel for 5019 Ontario that would have otherwise been paid to 5019 Ontario, as first mortgagee;

Need for the OML Distribution Order

26. The loan documentation governing the various OML Loans contains material inconsistencies and complexities with respect to the stated priorities among such loans which, in the Trustee’s view, renders it extremely difficult for the Trustee to reasonably determine the intended contractual priority arrangements among the three OML Loans. As a result, the Trustee is seeking this Court’s approval for a proposed method to fairly and equitably distribute the Residual Proceeds among the OML Investors;

27. In particular, the OML Original Investors and certain of the OML 3 Investors signed loan amending agreements in contemplation of a Proposed Fortress/Fernbrook Transaction that never closed. As a result, it is unclear whether these loan amending agreements were frustrated in their entirety and rendered ineffective. These amending agreements purported to materially alter the terms of the OML Original Loans and the OML 3 Loan, including with respect to the priority of repayment of such loans. The Trustee understands that OML Investors were not provided notice that the Proposed Fortress/Fernbrook Transaction did not ultimately close;

28. The OML Hybrid Loan Agreement did not contain similar provisions to those contained in the OML Original Loan Amending Agreement and the OML 3 Loan Amending Agreement

regarding *pari passu* treatment among all syndicated loans. Instead, the OML Hybrid Loan Agreement purported to be a “*pari passu* third ranking mortgage” with either the OML Original Mortgage or the OML 3 Mortgage (which is not clear from the documentation);

29. The Trustee also understands that there are no interlender agreements or postponements registered on title that would affect the priorities amongst the OML Loans;

30. Given the complexities and inconsistencies in the loan documentation and all the circumstances regarding the OML Loans, the Trustee is of the view that there are two potential approaches to the distribution of the Residual Proceeds among the OML investors: (i) the Trustee could apply the ranking of the mortgages as registered on title to the OML Properties, being the OML Original Loans, the OML 3 Loan and the OML Hybrid Loan, in that order (the “**Priorities Approach**”), or (ii) the Trustee could distribute the Residual Proceeds on a *pari passu* basis to all OML Investors (the “**Pari Passu Approach**”);

Priorities Approach

31. The Priorities Approach is a simple distribution methodology that is based strictly on title registrations. Given the complexities and inconsistencies contained in the contractual documentation that may otherwise seek to alter such registrations, the Priorities Approach would simply give effect to the priority of the mortgages as registered on title to the OML Properties, notwithstanding anything to the contrary contained in such documentation;

32. Under the Priorities Approach, the Residual Proceeds would be insufficient to repay the amounts owing to the OML Original Investors in full. Accordingly, there would be no recoveries available for distribution to the OML 3 Investors or the OML Hybrid Investors under this approach;

Pari Passu Approach

33. The Pari Passu Approach would provide for a *pari passu* distribution across all OML Loans based on the total principal outstanding under each OML Loan. This approach provides for an equitable distribution of the Residual Proceeds given, among other things, the poor state of BDMC’s records, the various inconsistencies contained in the loan documentation, and the lack of

clear, consistent and sufficient communication to OML Investors regarding the priorities of their loans;

34. The Pari Passu Approach is also consistent with the *pari passu* provisions of the OML Original Loan Amending Agreement and the OML 3 Loan Amending Agreement. The OML Original Investors and the applicable OML 3 Investors were not provided notice that the Proposed Fortress/Fernbrook Transaction had failed to close, and, as a result, to the best of the Trustee's knowledge, such Investors do not have any reason to believe that their Loan Amending Agreements may not govern their investments;

35. The Pari Passu Approach is also consistent with documentation surrounding the OML Hybrid Loan which provide for some level of *pari passu* treatment (although, it is not clear which other OML loan was intended to rank rateably). This provides a fair and equitable result for the OML Hybrid Investors, who signed the loan documentation on the expectation that it would rank *pari passu* with at least one other OML Loan;

36. The Pari Passu Approach would provide for a recovery on principal of 12.6% to all OML Investors;

Impact of Former OML Original Investor Minutes of Settlement

37. The Trustee understands that, on January 12, 2016, 16 out of 74 of the OML Original Investors (the "**Former OML Original Investors**") entered into the Former OML Original Investor Minutes of Settlement with Fortress and OML Inc. The Former OML Original Investor Minutes of Settlement provided for a resolution of all issues and disputes among the parties thereto in exchange for: (i) a settlement payment by OML Inc. to the Former OML Original Investors, (ii) an assignment of the debt then owing to the Former OML Original Investors to an entity directed by OML Inc., and (iii) a release to be given by the Former OML Original Investors;

38. The Former OML Original Investor Minutes of Settlement provided for a payment by the borrower of the OML Project to obtain the rights of the Former OML Original Investors. The Trustee has been informed by representatives of Fortress that the syndicated mortgage debt owing to the Former OML Original Investors was ultimately assigned by OML Inc. to Fortress Orchard 2014 Inc. ("**Fortress Orchard**") in 2017 (the "**Assignment**");

39. Based on discussions with Fortress, the Trustee understands that: (i) Fortress Orchard is a Fortress related entity and has the same ownership structure as OML Inc., the borrower of the OML Project, and (ii) there was a verbal understanding between Fortress Orchard and OML Inc. that, for the purposes of the Assignment, Fortress Orchard was acting as a trustee to the beneficial owner, OML Inc., which is the entity that paid the settlement payment. The Trustee has not seen any evidence of payment made by Fortress Orchard to OML Inc. and as such, there is no evidence of consideration being provided by Fortress Orchard in connection with the Assignment;

40. As a result, the Trustee is of the view that given the Former OML Original Minutes of Settlement, the purported Assignment is, in effect, a redemption and cancellation of such syndicated mortgage debt by the borrower under the OML Original Loan Agreements. Accordingly, the Trustee intends to treat the principal amount of the OML Original Loans in respect of the Former OML Original Investors as having been cancelled and does not intend to make a distribution to Fortress Orchard or any Fortress related entity in respect of such OML Original Loans; instead the proceeds of realization will be distributed among the remaining OML Investors;

41. The Trustee is of the view that a distribution to the remaining OML Investors excluding any Fortress related entity is the most equitable treatment in the circumstances, given that: (i) since the payment to the Former OML Original Investors was made by the borrower of the OML Project, a further repayment to the purported assignees of the borrower in respect of the same loaned amount would result in such loaned amount being, in effect, paid twice and to the detriment of all other OML Investors; (ii) the OML Project failed, and as a result, the OML Investors are receiving only a nominal recovery on their loans to the borrower; (iii) at least approximately \$1.9 million was paid from the principal amount of the OML Loans to Fortress directly or to an agent of Fortress as development consulting fees, and (iv) the Trustee understands that Fortress Orchard is holding the assigned amounts as trustee for the beneficial owner, OML Inc. (the borrower and owner of the OML Project), which entity the Trustee understands granted security against its assets in favour of certain OML Investors (such that the payment would ultimately be returnable to BDMC on behalf of such OML Investors if it was paid);

Proposed Distribution

42. For the reasons described in the Twentieth Report, the Trustee is of the view that, in the circumstances, the Pari Passu Approach is the most fair, reasonable and equitable approach for distribution of the Residual Proceeds to the OML Investors;

43. The OML Investors in each of the three OML Loans were innocent parties who appear not to have been provided with clear, consistent or sufficient information at the time of entering into their loan arrangements with respect to the OML Project, or during the currency of their loans, and were not provided with sufficient updates regarding ownership of the OML Project and the potential implications to the priorities of their respective mortgages. For these reasons, the Trustee believes that it is fair and equitable for the OML Investors to share the Residual Proceeds ratably;

44. Accordingly, the Trustee seeks to make a distribution of 85% of the Realized Property received from the OML Sale Transaction, which funds constitute Realized Property, to all remaining OML Investors in accordance with the Pari Passu Approach described in the Twentieth Report, and with the terms of the Realized Property Order (as amended);

45. The Trustee has reviewed the various inconsistencies in the loan documentation with Representative Counsel and has confirmed that Representative Counsel agrees with the proposed Pari Passu Approach to distribution of the Realized Proceeds;

Approval of Report and Activities

46. As part of the OML Distribution Order, the Trustee seeks the Court's approval of the Twentieth Report and all of the actions, conduct and activities of the Trustee as set out therein;

Sealing

47. The following two-part test applies when determining whether a sealing order should be granted:

- (a) Is the order necessary to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk?

- (b) Do the salutary effects of the order, including the effects on the right of civil litigants to a fair trial, outweigh its deleterious effects, including the effects on the right to free expression, which in this context includes the public interest in open and accessible court proceedings?¹;

48. The Former OML Original Investor Minutes of Settlement contained in Confidential Appendix “1” to the Twentieth Report filed in connection with this motion have been provided as a confidential appendix by the Trustee, subject to a request for a sealing order, out of an abundance of caution and as a result of certain confidentiality restrictions set out therein. The Former OML Original Investor Minutes of Settlement describe the financial and other terms of a settlement reached in resolution of certain disputes between the Former OML Original Investors (who are specifically identified in the settlement document) and OML Inc. in respect of their investments in the OML Original Loans;

49. There are no reasonable measures available to protect certain of the information contained in the Confidential Appendix as an alternative to an Order sealing this information from the public record pending further Order of this Court; and

50. The salutary effects of a sealing Order outweigh the deleterious effects, as the sealing Order would protect the interests of the Former OML Original Investors in these proceedings;

General

51. The provisions of the MBLAA, including Section 37 thereof;

52. The Appointment Order;

53. The Realized Property Order;

54. The Harlowe Settlement Approval Order;

55. Rules 1.04, 1.05, 2.03, 3.02, 16, 37 and 41 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;

¹ *Sierra Club of Canada v Canada (Minister of Finance)*, 2002 SCC 41 at para 53.

56. Sections 101 and 106 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended;
57. The inherent and equitable jurisdiction of this Honourable Court; and
58. Such further and other grounds as counsel may advise and this Court may permit.

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

1. The Twentieth Report of the Trustee and the appendices thereto; and
2. Such further and other evidence as counsel may advise and this Court may permit.

October 2, 2020

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in its capacity as Court-appointed Trustee of
Building & Development Mortgages Canada Inc.

TO: SERVICE LIST

THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Applicant

Respondent

Court File No. CV-18-596204-00CL

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

Proceedings commenced at Toronto

**NOTICE OF MOTION
(Old Market Lane Distribution Motion)**

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Lawyers for FAAN Mortgage Administrators Inc., in its
capacity as Court-appointed Trustee of Building &
Development Mortgages Canada Inc.

TAB 2

Court File No. CV-18-596204-00CL

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

BETWEEN

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,
c. 29 and SECTION 101 OF THE *COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43***

**TWENTIETH REPORT OF THE TRUSTEE
(OLD MARKET LANE PROJECT)**

October 2nd, 2020



FAAN Mortgage Administrators Inc.
Court-Appointed Trustee of the
Respondent

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Court File No. CV-18-596204-00CL

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

BETWEEN

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006, c.
29 and SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. C.43**

**TWENTIETH REPORT OF THE TRUSTEE
(OLD MARKET LANE PROJECT)**

October 2nd, 2020

INTRODUCTION

1. On April 20, 2018, pursuant to an order (“**Appointment Order**”) of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (“**Court**”), FAAN Mortgage Administrators Inc. was appointed as trustee (“**Trustee**”) over all of the assets, undertakings and properties of Building & Development Mortgages Canada Inc. (“**BDMC**”) including, without limitation, all of the assets in the possession or under the control of BDMC, its counsel, agents and/or assignees but held on behalf of any other party, including, but not limited to, lenders under syndicated mortgage loans (“**Investors**”), brokers, or borrowers, in each case whether or not such property was or is held in trust or was or is required to be held in trust (collectively, the “**Property**”). The Appointment Order was issued following an application made by the Superintendent of Financial Services pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*

(Ontario), as amended, and section 101 of the *Courts of Justice Act* (Ontario), as amended. A copy of the Appointment Order is attached as **Appendix “1”**.

2. On October 30, 2018, this Court issued an Order (“**Realized Property Order**”) that, among other things,
 - (a) required the Trustee to distribute (when aggregated with previous distributions) 70% of (I) all funds held or received by the Trustee as a result of a repayment (in whole or in part) of principal on any loan or other indebtedness administered by BDMC on behalf of Investors (including funds originally obtained with respect to the Victoria Medical SML Loans), whether or not (i) secured by any Real Property Charges in the name of BDMC or an RRSP Trustee, (ii) received before or after the date of the Appointment Order, or (iii) paid or payable in trust, plus (II) all interest paid or payable to BDMC or the Trustee at the time such repayment (in whole or in part) of principal is made (collectively, “**Realized Property**”);
 - (b) required the Trustee to retain 30% of all Realized Property; and
 - (c) authorized the Trustee to use the retained Realized Property to aid the Trustee in complying with the Appointment Order and in carrying out its mandate, as the Trustee, in its sole discretion, considered necessary or desirable for the administration of the estate, including in respect of those matters set out in paragraph 17 of the Interim Stabilization Order made in these proceedings on June 26, 2018.

A copy of the Realized Property Order is attached as **Appendix “2”**.

3. On November 28, 2018, the Court issued the Braestone Settlement Approval Order that, among other things, amended the Realized Property Order to require the Trustee to distribute (when aggregated with previous distributions) 80% of all Realized Property to Investors following receipt of the payment in respect of the settlement agreement relating to the Braestone Project.
4. On December 20, 2018, the Court issued the Harlowe Settlement Approval Order that, among other things, further amended the Realized Property Order to require the Trustee to distribute (when aggregated with previous distributions) 85% of all Realized Property to Investors following receipt of the payment in respect of the settlement agreement relating

to the Harlowe Project. A copy of the Harlowe Settlement Approval Order is attached as **Appendix “3”**.

5. The Trustee has delivered nineteen previous reports to Court (collectively, the “**Reports**”) detailing, among other things, the Trustee’s activities during these proceedings and providing updates to stakeholders on various projects, including the OML Project (as defined below). Notably, on November 22, 2019, the Trustee submitted its thirteenth report in these proceedings, which provided a comprehensive update on the Trustee’s activities and a status update on each project, including the OML Project.
6. Capitalized terms not otherwise defined in this Report have the meanings ascribed to them in previous Reports filed by the Trustee, as applicable. Materials filed with the Court with respect to these proceedings, including the Reports and the various Court orders issued in these proceedings, are accessible on the Trustee’s website at: www.faanmortgageadmin.com. The Trustee intends to maintain its website for the duration of these proceedings and will be updating it as appropriate.

PURPOSE OF THE TWENTIETH REPORT

7. The purpose of this twentieth report of the Trustee (“**Twentieth Report**”) is to:
 - (a) provide the Court and stakeholders with additional information regarding the sale of the properties located at 177 Woodbridge Avenue, 185 Woodbridge Avenue and 197 Woodbridge Avenue in Woodbridge, Ontario (“**OML Project**”), which sale was conducted pursuant to a power of sale enforcement process initiated by 5019 Ontario (as defined below) in its capacity as first mortgagee registered on title to the OML Project;
 - (b) provide information to support the Trustee’s request for an Order (“**OML Distribution Order**”) that, among other things: (i) approves the distribution of 85% of the Realized Property received in respect of the OML Sale Transaction (as defined below) on a *pari passu* basis to all remaining OML Investors in accordance with the approach described in this Twentieth Report and pursuant to the terms of the Realized Property Order, as amended, (ii) approves the Twentieth Report and the Trustee’s activities described therein, and (iii) seals Confidential Appendix “1”

to this Twentieth Report, as discussed further herein, until further Order of this Court; and

- (c) provide information regarding funds originally loaned by certain Former OML Original Investors (as defined below) in respect of the OML Project and which became subject to Minutes of Settlement made as of December 5, 2015 among OML Inc., the Former OML Original Investors and Fortress (each as defined below) (the “**Former OML Original Investor Minutes of Settlement**”), along with the Trustee’s view and recommendation regarding the effect of the Former OML Original Investor Minutes of Settlement and related matters on the proposed distribution to the OML Investors.

8. This Twentieth Report includes the following:

- (a) an overview of the OML Project and the underlying syndicated mortgage loans pursuant to which the OML Investors loaned money in respect of the OML Project, being the OML Original Loans, the OML 3 Loan and the OML Hybrid Loan (each as defined and discussed below, collectively, the “**OML Loans**”);
- (b) details of the OML Sale Transaction;
- (c) information that supports the Trustee’s recommendation that the Realized Property received in respect of the OML Sale Transaction should be distributed on a *pari passu* basis to all remaining OML Investors; and
- (d) information that supports the Trustee’s recommendation regarding the effect of the Former OML Original Investor Minutes of Settlement and related matters on the proposed distribution to the OML Investors.

SCOPE AND TERMS OF REFERENCE

- 9. In preparing this Twentieth Report, the Trustee has relied upon unaudited financial and other information provided by, *inter alia*, BDMC, Fortress Real Developments Inc. (“**Fortress**”), Canadian Development Capital & Mortgage Services Inc. (“**CDCM**”), FCF Old Market Lane 2013 Inc., Old Market Lane Inc., Sanjay Pahuja, and Derek Sorrenti. However, the Trustee notes that it cannot be certain that it is in receipt of all applicable and relevant information with respect to the OML Project and the administration business

of BDMC. While the Trustee reviewed various documents provided by BDMC, CDCM, Fortress and Old Market Lane Inc. (including, among other things, unaudited internal information, appraisals and financial projections), the Trustee's review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Assurance Standards ("**GAAS**"), Generally Accepted Accounting Principles ("**GAAP**"), or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Trustee expresses no opinion or other form of assurance pursuant to GAAS, GAAP or IFRS, or any other guidelines, with respect to such information.

10. Some of the information used and relied upon in preparing this Twentieth Report consists of financial projections and other information received from various third parties, including appraisals and project cost information. The Trustee cautions that the projections and other information used and relied upon are generally based upon assumptions and estimates about future events and/or market conditions that are not ascertainable or that could change. As such, the information presented in this Twentieth Report may vary from the projections and information used to prepare this Twentieth Report and the actual results may differ both from the results projected therein and herein. Even if the assumptions relied upon therein or herein materialize, the variations from the projections could be significant. The Trustee's review of the future oriented information used to prepare this Twentieth Report did not constitute an audit or review of such information under GAAS, GAAP or IFRS or any other guidelines.
11. This Twentieth Report has been prepared for the use of this Court and BDMC's stakeholders as general information relating to BDMC and to assist the Court with respect to the Trustee's request for the proposed OML Distribution Order. Accordingly, the reader is cautioned that this Twentieth Report may not be appropriate for any other purpose.
12. All references to dollars are in Canadian currency.

OVERVIEW OF OML PROJECT AND BDMC LOAN ARRANGEMENTS

Overview of OML Project

13. The OML Project (also known as the Old Market Lane Project) was proposed to be a mid-rise building with 85 residential units, ground floor retail and three two-story townhouses.

It was to be constructed on the properties located at 177, 185 & 197 Woodbridge Avenue, Woodbridge, Ontario ("**OML Properties**").

14. The OML Project was approved by the Ontario Municipal Board ("**OMB**") in April 2017, subject to certain conditions. A sales and marketing program was expected to follow once full site plan approval was obtained, but it appears that the OMB's conditions were not satisfied and the marketing program never commenced.
15. Prior to the OML Sale Transaction described below, the OML Project was owned by Old Market Lane Inc. ("**OML Inc.**"), an entity related to Fortress. OML Inc. acquired title to the OML Properties on January 14, 2014 from: (i) 2041254 Ontario Ltd. ("**204 Ontario**"), the previous registered owner of 177 Woodbridge Avenue, (ii) Frank Cundari, the previous registered owner of 185 Woodbridge Avenue, and (iii) Joseph Ieradi, the previous registered owner of 197 Woodbridge Avenue.
16. Later in 2014, the Trustee understands that OML Inc. proposed to sell the OML Properties to Fortress MarketLane 2011 Inc. ("**Fortress OML Inc.**", another entity related to Fortress) and Fernbrook Homes (Woodbridge) Limited ("**Fernbrook**"). The Trustee understands that OML Inc. entered into Agreements of Purchase and Sale with Fortress OML Inc. and Fernbrook dated October 10, 2014 pursuant to which a 75% and 25% undivided beneficial interest in the OML Properties would be transferred to Fortress OML Inc. and Fernbrook, respectively. FCF Old Market Lane 2013 Inc. ("**FCF OML 2013 Inc.**") was incorporated to take title to the OML Properties on behalf of Fortress OML Inc. and Fernbrook, pursuant to the terms of a Co-Tenancy Agreement dated August 29, 2014 between Fernbrook, Fortress OML Inc., FCF OML 2013 Inc. and Dominus Construction (2005) Corporation ("**Co-Tenancy Agreement**"). The Trustee has been advised by representatives of Fortress that the closing of the transaction contemplated by the Agreements of Purchase and Sale ("**Proposed Fortress/Fernbrook Transaction**") was extended multiple times and the transaction ultimately fell apart in January 2018. Representatives of Fortress have also advised that FCF OML 2013 Inc. never acquired title to the properties and the co-tenancy arrangements contemplated by the Co-Tenancy Agreement were not implemented.

Mortgages on Title to the OML Properties Prior to the OML Sale Transaction

17. In 2018, the OML Project was subject to a first ranking mortgage in favour of Firm Capital

Mortgage Fund Inc. ("**Firm**") in respect of financing of approximately \$3.5 million, and a second ranking mortgage in favour of JYR Real Capital Mortgage Investment Corporation ("**JYR**") in respect of financing of approximately \$695,000. Firm and JYR each commenced enforcement proceedings in respect of their mortgages.

18. On or about December 21, 2018, the OML Project was successfully refinanced and JYR and Firm were repaid in full. In connection with the refinancing, the Trustee agreed to subordinate the OML Loans to the new priority lender, Melvyn Eisen, who advanced \$5.25 million ("**Mel Eisen Indebtedness**"). The Mel Eisen Indebtedness would be for a term of 12 months. Certain of the funds advanced were reserved to provide for the payment of interest that would accrue on the Mel Eisen Indebtedness up to June 30, 2019.

THE OML SALE TRANSACTION

19. On June 30, 2019, the interest reserve in respect of the Mel Eisen Indebtedness was exhausted. The Trustee was advised by a representative of OML Inc. that Mr. Eisen was not interested in extending any further funds to replenish the interest reserve and the Trustee was informed that OML Inc. was not prepared and/or unable to make the required interest payments itself. As a result, the Mel Eisen Indebtedness went into default. On August 23, 2019, the Trustee received notice that Mr. Eisen had transferred and assigned his debt and mortgage to 5019203 Ontario Ltd. ("**5019 Ontario**").
20. On September 25, 2019, 5019 Ontario issued a Notice of Sale Under Mortgage ("**Notice of Sale**") in respect of the debt owing to 5019 Ontario in an amount in excess of \$5.6 million (including accrued interest and fees). The Notice of Sale provided that, if the full amount owing was not paid on or before November 15, 2019, 5019 Ontario would be entitled to list the OML Properties for sale.
21. Subsequent to the issuance of the Notice of Sale by 5019 Ontario, the Trustee contacted counsel to 5019 Ontario, Murray Maltz Professional Corporation ("**MMPC**"), to request details of the planned sale process, including, among other things, the method of marketing the OML Properties and the expected timeline for accepting offers.
22. In late October 2019, the Trustee, on behalf of BDMC, was also approached by a representative of 2735447 Ontario Inc. ("**Purchaser**") who expressed interest in purchasing the OML Properties. The Purchaser is not known to be related to Fortress. The Trustee advised the Purchaser that the OML Properties were subject to a Notice of Sale

proceeding and that it understood that 5019 Ontario would be proceeding to list the OML Properties for sale in the near term if its loan was not repaid. Following discussions between the Purchaser and the Trustee, the Purchaser provided the Trustee with a letter of intent, which set out the business terms upon which the Purchaser was prepared to enter into a purchase and sale agreement for the OML Properties (“**LOI**”). The LOI included, among other things, a proposed purchase price of \$7.5 million (“**Purchase Price**”), which amount was in excess of the value contained in the “as-is” appraisal previously commissioned by the Trustee.

23. Upon receipt of the LOI, the Trustee contacted MMPC to advise of the Purchaser’s interest in purchasing the OML Properties and of the proposed Purchase Price. The Trustee was advised by MMPC that the Purchase Price was also significantly higher than the two appraisals recently commissioned by 5019 Ontario as part of its Notice of Sale proceeding.
24. The Purchaser then engaged in discussions with MMPC directly and ultimately provided 5019 Ontario with a formal agreement of purchase and sale reflecting the Purchase Price (“**APS**”). Following its review of the APS and discussions with the Trustee, MMPC determined that it would forego incurring the cost of listing the OML Properties for sale with a real estate agent and would accept the APS.
25. In late December 2019, 5019 Ontario accepted the offer and executed the APS. The sale transaction closed on January 16, 2020 (“**OML Sale Transaction**”). In connection with the closing of the OML Sale Transaction, all of the mortgages on title were discharged and 5019 Ontario obtained a release from all parties, including the Trustee and Representative Counsel, which released it from all obligations in connection with the sale of the OML Properties.
26. Proceeds from the OML Sale Transaction were distributed as follows:
 - (a) approximately \$5.8 million to repay 5019 Ontario, as first mortgagee;
 - (b) approximately \$74,000 to the City of Vaughan in respect of property tax and water arrears; and
 - (c) the remaining proceeds, net of legal fees, of approximately \$1.57 million (“**Residual Proceeds**”) were paid to the Trustee, on behalf of the OML Investors (as defined below), as the subsequent ranking mortgagees on the OML Properties. The Residual Proceeds include an additional \$57,500 that the Trustee was able to

negotiate with MMPC that would have otherwise been paid to 5019 Ontario, as first mortgagee.

27. The acceptance of the APS by 5019 Ontario resulted in significant savings to the benefit of the OML Original Investors, OML 3 Investors and the OML Hybrid Investors (each as defined below and collectively, the “**OML Investors**”)¹ due to the lack of real estate commissions which would have otherwise been payable in priority to the repayment of the OML Loans, as well as the additional interest that would have accrued on 5019 Ontario’s mortgage over the duration of a sales process (which interest accrued at a per diem rate of \$1,475).

SUMMARY OF MORTGAGES ON TITLE TO THE OML PROPERTIES PRIOR TO THE OML SALE TRANSACTION AND INCONSISTENCIES IN THE UNDERLYING LOAN AND RELATED DOCUMENTATION

28. Set out below is a detailed summary of the various loan documents involving the OML Investors and the OML Project and the mortgages in favour of BDMC that were registered on title to the OML Properties prior to the closing of the OML Sale Transaction. The following table summarizes the amounts owed under each of the three BDMC loans at the time of the OML Sale Transaction:

	OML Original	OML 3	OML Hybrid
Number of OML Investors	58	136	47
Principal outstanding (A)	2,977,200	6,379,500	3,094,200
Accrued Interest ² (B)	643,737	1,291,912	466,779
Total outstanding (A+B)	3,620,937	7,670,412	3,560,979
Previously paid interest	1,631,531 ³	1,379,498	247,536

29. As more particularly described below, the Trustee has identified various material inconsistencies in the documentation governing the various OML Loans, including in respect of contractual priority arrangements among such loans. The Trustee reviewed the

¹ For greater certainty, the OML Investors do not include the Former OML Original Investors.

² Accrued interest as at January 16, 2020, the date of the closing of the OML Sale Transaction.

³ Previously paid interest on the OML Original Loan includes interest paid to the Former OML Original Investors. However, the total outstanding amount does not include amounts in respect of the Former OML Original Investors.

inconsistencies with Representative Counsel, and Representative Counsel has confirmed that it shares the same view with respect to these inconsistencies.

30. In addition, the records provided to the Trustee by Fortress and its representatives relating to the OML Project were fragmented and missing material pieces of information. As the Trustee made additional information requests to Fortress and its representatives, it continued to learn new information regarding the purported attributes of the loans and the status of the OML Project. While the Trustee used its reasonable best efforts to: (i) locate all of the various loan documents, amending documents and/or ancillary documents, (ii) determine whether the OML Investors executed such documentation, and (iii) review what communications, if any, were made to the OML Investors regarding the status of the project, the implications of requested loan amendments on their investments and the Proposed Fortress/Fernbrook Transaction, the Trustee believes that the information in its possession is incomplete.
31. As a result, after the completion of the OML Sale Transaction, the Trustee wrote to the OML Investors and advised that, given the complexities in the documentation governing each of the three loan facilities advanced to the OML Project (and, in particular, the priorities as amongst them), the Trustee intended to return to Court to seek approval of a method to distribute the Residual Proceeds among the OML Investors. Copies of the OML Investor notices sent by the Trustee are attached as **Appendix “4”**.
32. The Trustee has therefore prepared this Twentieth Report to seek approval of a *pari passu* distribution of the Residual Proceeds to all OML Investors across all OML Loans. To support this recommendation, this Twentieth Report summarizes the Trustee’s review of the loan documentation (including various inconsistencies with the underlying loan documentation), the incomplete nature of such information, and other relevant facts and circumstances supporting a *pari passu* distribution. For ease of reference, paragraphs 34 to 69 provide a summary of the loan documentation governing each of the three OML Loans and the inconsistencies within and among them. Paragraphs 70 to 87 summarize the material issues with the loan documentation and the complexities regarding the stated priorities which, in the Trustee’s view, render it extremely difficult, if not impossible, for the Trustee to reasonably determine the intended contractual priority arrangements among the three OML Loans. For the purposes of the Trustee’s analysis, the Trustee has assumed that, where records of signed loan documentation are incomplete, the Investors

were adequately provided with copies of, and signed, the applicable documentation at the appropriate times.

33. Beginning at paragraph 102 herein, this Twentieth Report describes the alternative distribution approaches considered by the Trustee and information that supports the Trustee's recommendation to distribute 85% of the Realized Property received in respect of the OML Sale Transaction on a *pari passu* basis to all remaining OML Investors. The Twentieth Report concludes with a brief section providing information relating to the Former OML Original Investor Minutes of Settlement and the Trustee's view and recommendation regarding the effect of this settlement on the recommended distribution to the OML Investors.

OML Original Loans

34. Starting in 2011, 204 Ontario, in trust for OML Inc. (in such capacity, the "**OML Original Borrower**"), entered into certain loan agreements with various individual lenders ("**OML Original Investors**") or with Olympia Trust Company ("**Olympia**"), in trust for certain OML Original Investors, totaling approximately \$3.8 million in aggregate ("**OML Original Loans**", and such agreements, the "**OML Original Loan Agreements**"). A sample OML Original Loan Agreement, with private information redacted, is attached as **Appendix "5"**⁴. On December 22, 2011, 204 Ontario, Joseph Ieradi and Frank Cundari each granted a mortgage in favour of Sanjay Pahuja, as trustee for certain OML Original Investors, and Olympia, as trustee for certain OML Original Investors, in the amount of \$4 million ("**OML Original Mortgage**"). The Trustee understands that the OML Original Mortgage ranked in second priority on title to each of the OML Properties at the time of registration. A copy of the OML Original Mortgage (without schedules) registered on each OML Property is attached as **Appendix "6"**. As noted above, 204 Ontario, Frank Cundari and Joseph Ieradi transferred the ownership of the OML Properties to OML Inc. on January 14, 2014.
35. The OML Original Loan Agreements provided for an original maturity date of May 4, 2014 (with an extension available to May 4, 2015). As more particularly described below, on or

⁴ The Trustee notes that it appears that the thirteenth and final tranche of the OML Original Investors were provided with a different version of the loan document than the version provided to the OML Original Investors in the other twelve tranches of the OML Original Loans. The Trustee has attached a sample of an OML Original Loan Agreement that is representative of the version provided to the majority of the OML Original Investors. References in this Report to the OML Original Loan Agreements are to the representative sample.

around June 2015, the Trustee understands that the OML Original Investors were asked to sign the following documentation in contemplation of completing the Proposed Fortress/Fernbrook Transaction:

- (a) a Loan Amending Agreement dated June 1, 2015 between the applicable OML Original Investor, OML Inc., Fortress OML Inc., FCF OML 2013 Inc. and Centro Mortgage Inc. (now BDMC) (“**OML Original Loan Amending Agreement**”);
 - (b) a revised Form 9D disclosure form; and
 - (c) a participation and servicing agreement dated as of June 1, 2015 between the applicable OML Original Investors and Centro Mortgage Inc., in trust (now BDMC) (“**Original PASA**”, and collectively, the “**OML Original Amending Documents**”).
36. Further, the Trustee understands that the OML Original Investors were asked to sign accession agreements to an Agency Agreement between each of the OML Original Investors and Centro Mortgage Inc. (now BDMC) dated as of June 1, 2015 (“**Agency Agreement**”), which Agency Agreement does not appear to reference the Proposed Fortress/Fernbrook Transaction.
37. The Trustee understands that most, if not all, of the OML Original Investors signed the accession agreements to the Agency Agreement. With respect to the remainder of the OML Original Amending Documents, the Trustee was unable to locate executed documentation for the majority of the OML Original Investors. It is unclear how many OML Original Investors signed such OML Original Amending Documents, but the Trustee has assumed for the purposes of its analysis that such documentation was presented to OML Original Investors and signed at the relevant times. A sample of the OML Original Amending Documents and the Agency Agreement, with private information redacted, is attached as **Appendix “7”**.
38. The OML Original Loan Amending Agreement amends the OML Original Loan Agreements to provide, among other things, that:
- (a) the OML Original Investor consents to the transfer of the OML Properties to Fortress OML Inc. and Fernbrook. In consideration of such transfer, FCF OML 2013 Inc. shall assume all of the obligations of the OML Original Borrower under the OML Original Loan Agreements upon the registration of the proposed transfers

in respect of the Proposed Fortress/Fernbrook Transaction where FCF OML 2013 Inc. would take title to the OML Properties;

- (b) the maturity date shall be extended to October 4, 2018 (with a further extension available to October 4, 2019);
- (c) the repayment of the OML Original Loans shall be in accordance with terms of the Co-Tenancy Agreement;
- (d) the OML Original Loan, the OML 3 Loan (as defined below) and any future syndicated loans in favour of Derek Sorrenti, BDMC, RRSP trustees or other parties will rank *pari passu* with respect to any recoveries or distributions on their respective loans, notwithstanding the order of registration or advance of monies;
- (e) the applicable OML Original Investor consents and directs Sanjay Pahuja to transfer its interest to BDMC as the new trustee on behalf of such Investor; and
- (f) the applicable OML Original Investor agrees to enter into the Original PASA.

The recitals to the OML Original Loan Amending Agreement state that the amendments to the loan were being made “in order to permit the completion of the sale transaction to Fernbrook and Fortress and in order to comply with the provisions of the Co-Tenancy Agreement between them”, and that FCF OML 2013 Inc. will take title to the OML Properties and assume the obligations of the OML Original Borrower upon the closing of the purchase agreement in respect of the Proposed Fortress/Fernbrook Transaction.

- 39. The OML Original Loan Amending Agreement contains an “Acknowledgement of Co-Tenancy Provisions” as Schedule “A”, which contains a separate signature line for the applicable OML Original Investor to evidence its acknowledgement of such provisions. The Acknowledgement provides that “in order to induce Fortress and Fernbrook to enter into and require title to the Properties and to cause [FCF OML 2013 Inc.] to assume the obligations of the borrower under the terms of the Loan Agreement, the [OML Original Investor] consents to and agrees to be bound by the Co-Tenancy Provisions”.
- 40. Although excerpts of the “Co-Tenancy Provisions” were attached to the Acknowledgement, it is unclear whether the OML Original Investors were provided with a complete copy of the Co-Tenancy Agreement. Neither BDMC nor the OML Original Investors are party to the Co-Tenancy Agreement. The Co-Tenancy Agreement contains

provisions that govern the rights among the parties thereto and that purportedly affect the payment rights and priorities among the OML Investors.

41. The Form 9D disclosure form signed by the applicable OML Original Investors at the time of the initial investment provides certain investment authority to the loan administrator and, among other things, summarizes the terms of the loan. The additional Form 9D disclosure form signed by the OML Original Investors at the time that the OML Original Loan Amending Agreement was entered into states that the OML Original Mortgage shall be for a principal amount of \$4 million, increasing to a maximum of \$19 million. However, such proposed increase of the principal amount does not appear to be authorized in the OML Original Loan Amending Agreement.
42. The Original PASA describes certain terms and conditions of BDMC's administration of the OML Original Loans. It states that it was made in contemplation of various loan facilities to FCF OML 2013 Inc. totaling \$19 million (which aligns with the statement in the updated Form 9D disclosure form but does not appear to be authorized in the OML Original Loan Amending Agreement).
43. The Agency Agreement appoints BDMC as agent for the OML Original Investors to facilitate the management of such Investors' interests in the OML Original Loans and the OML Properties, including the OML Original Mortgage. It does not reference the Proposed Fortress/Fernbrook Transaction and appears to be signed independently of such transaction.
44. Although the OML Original Loan Amending Agreement directed Sanjay Pahuja to transfer his interest in the OML Original Loans to BDMC, the OML Original Mortgage remained in his and Olympia's names after the documents were signed. In late 2018, the Trustee, with the cooperation of Mr. Pahuja and Olympia, transferred the applicable portion of the OML Original Mortgage to BDMC.
45. Based on BDMC's records, there are 58 remaining OML Original Investors with investments in the OML Original Loans. The number of OML Original Investors was reduced in 2016 on account of the Former OML Original Investor Minutes of Settlement, which is discussed further below.

OML 3 Loan

46. On September 4, 2013, FCF OML 2013 Inc. (in such capacity, the “**OML 3 Borrower**”) entered into a loan agreement with Sorrenti Law Professional Corporation (“**Sorrenti**”), in trust for certain syndicated mortgage loan investors (“**OML 3 Investors**”) that provided for a total aggregate loan of up to \$14 million (“**OML 3 Loan**”, and such agreement, the “**OML 3 Loan Agreement**”). A copy of the OML 3 Loan Agreement and related Form 9D disclosure form, with private information redacted, is attached as **Appendix “8”**.⁵ On January 14, 2014 (the same date that the OML Properties were transferred into OML Inc.’s name), OML Inc. granted a mortgage on the OML Properties in favour of Sorrenti for \$3 million (which amount was subsequently increased to \$7.7 million) (“**OML 3 Mortgage**”). The Trustee understands that the OML 3 Mortgage ranked in third priority on title to the OML Properties at the time of registration (behind the first mortgagee and OML Original Mortgage). A copy of the OML 3 Mortgage (without schedules) is attached as **Appendix “9”**.
47. The OML 3 Loan Agreement included a representation from the OML 3 Borrower that it has good, valid and marketable title to the OML Properties. However, at the time the OML 3 Loan was entered into, the OML Properties were owned by OML Inc. In addition, the OML 3 Mortgage was granted by OML Inc., not FCF OML 2013 Inc.
48. The Form 9D disclosure form that was signed by the OML 3 Investors in the early tranches of the OML 3 Loan contains various seemingly contradictory statements regarding the proposed ranking of the various OML Loans. In a reference to the second-ranking OML Original Mortgage, it states that such mortgage “will merge with the 3rd mortgage charge increasing over the duration of the term to a maximum of \$14 million”. In another section, it provides that the new third ranking mortgage would postpone its position to the first and second ranking mortgages. The Trustee understands that there was no documentation

⁵ As discussed in greater detail at paragraph 55 below, the Trustee notes that it appears that later tranches of the OML 3 Investors were provided with a different version of the loan document than the version provided to the OML 3 Investors in the earlier tranches of the OML 3 Loan. The version of the OML 3 Loan Agreement attached as Appendix “8” to this Report is representative of the version provided to the earlier tranches of OML 3 Investors. Except where explicitly stated, references in this Report to the OML 3 Loan Agreement are to the version provided to the earlier tranches of OML 3 Investors.

between the OML Original Investors and the OML 3 Investors evidencing any agreement to merge or increase the authorized amount of the loans at the time.

49. The OML 3 Loan Agreement provided for a maturity date of October 4, 2016 (with an extension available to October 4, 2017). The Trustee understands from representatives of Fortress that, in 2014 and 2015, the OML 3 Investors were asked to sign certain additional documents in respect of their investments in the OML 3 Loan in contemplation of completing the Proposed Fortress/Fernbrook Transaction, including:
- (a) a Loan Amending Agreement between Sorrenti, OML Inc., Fortress OML Inc. and FCF OML 2013 Inc. (“**OML 3 Loan Amending Agreement**”);
 - (b) a participation and servicing agreement between the applicable OML 3 Investor and Sorrenti (“**OML 3 PASA**”); and
 - (c) an updated Form 9D disclosure form in respect of the OML 3 Loan (collectively, the “**OML 3 Amending Documents**”).
50. Despite multiple attempts, the Trustee has been unable to obtain signed copies of the OML 3 Amending Documents for each applicable OML 3 Investor. Accordingly, it is unclear how many investors executed such documentation. However, for the purposes of this analysis, the Trustee has assumed that the applicable OML 3 Investors were provided with, and signed, the appropriate OML 3 Amending Documents at the relevant time. A sample of the OML 3 Amending Documents, with private information redacted, is attached as **Appendix “10”**.
51. The OML 3 Loan Amending Agreement amends the OML 3 Loan Agreement to provide, among other things, that:
- (a) the OML 3 Investor consents to the transfer of the property to Fortress and Fernbrook. In consideration of such transfer, FCF OML 2013 Inc. shall assume all of the obligations of OML Inc. under the OML 3 Loan Agreement upon the registration of the proposed transfers in respect of the Proposed Fortress/Fernbrook Transaction where FCF OML 2013 Inc. would take title to the OML Properties;
 - (b) the maturity date shall be extended to October 4, 2018 (with a further extension available to October 4, 2019);

- (c) the repayment of the OML 3 Loan shall be in accordance with terms of the Co-Tenancy Agreement; and
- (d) the OML Original Loan, the OML 3 Loan and any future syndicated loans in favour of Derek Sorrenti, BDMC, RRSP trustees or other parties will rank *pari passu* with respect to any recoveries or distributions on their respective loans, notwithstanding the order of registration or advance of monies.

The recitals to the OML 3 Loan Amending Agreement state that the amendments to the loan were being made “in order to permit the completion of the sale transaction to Fernbrook and Fortress and in order to comply with the provisions of the Co-Tenancy Agreement between them”, and that FCF OML 2013 Inc. will take title to the OML Properties and assume the obligations of the OML 3 Borrower upon the closing of the purchase agreement in respect of the Proposed Fortress/Fernbrook Transaction.

- 52. The Trustee notes that the OML 3 Loan Amending Agreement describes the OML 3 Loan Agreement as having been entered into by OML Inc. and Sorrenti (i.e., it does not say that the OML 3 Loan Agreement was signed by FCF OML 2013 Inc., as was the case). OML Inc. was not a party to the OML 3 Loan Agreement, despite being the owner of the OML Properties at the relevant time, but such agreement was instead signed by FCF OML 2013 Inc., an entity that the Trustee understands did not ever ultimately come into control of the OML Properties.
- 53. The updated Form 9D disclosure form signed by the applicable OML 3 Investors states that the OML 3 Mortgage shall be a third ranking charge in the principal amount of \$5.7 million, increasing to a maximum of \$19 million. However, such proposed increase of the principal amount does not appear to be authorized in the OML 3 Loan Amending Agreement. The updated Form 9D disclosure form also contains similar contradicting statements to those made in the original Form 9D disclosure form signed by such Investors regarding the intended priority of the OML 3 Mortgage. For example, in one section, it provides that the third ranking mortgage shall rank below and postpone to the second ranking charge in favour of BDMC of \$4 million (being the OML Original Mortgage), but, in another section, provides that the second ranking mortgage may merge with the third ranking mortgage, increasing over the duration of the term to a maximum of \$19 million.

The “merger” of the mortgages may reflect the proposed *pari passu* treatment described in the OML Original Loan Amending Agreement and OML 3 Loan Amending Agreement.

54. The OML 3 PASA describes certain terms and conditions of Sorrenti’s administration of the OML 3 Mortgage. It references a loan of up to \$19 million to FCF OML 2013 Inc. (which amount aligns with the updated Form 9D but is not authorized under the OML 3 Loan Amending Agreement).
55. The Trustee also notes that the OML 3 Investors who invested in later tranches of the OML 3 Loan (starting in late 2015) were provided with different versions of the OML 3 Loan Agreement and related documentation than the earlier Investors (despite such documents still being dated as of September 4, 2013 and relating to the same loan). The later forms of the OML 3 Loan documentation included, among other things, an amended maturity date of October 4, 2018, the inclusion of a new Schedule “C” in the loan agreement containing the “Co-Tenancy Provisions” (although the Trustee notes that Schedule “C” is not referenced in the body of the loan agreement itself), and clearer statements in the Form 9D stating that the loan would be a third-ranking mortgage (without reference to any concept of a potential “merger” of mortgages). There were also many other material changes made to the OML 3 Loan Agreement, including an amended principal amount of \$19 million, changes to the frequency of interest payments and changes to the deferred lender fee provisions. It appears that the OML 3 Investors who invested in these later tranches were not required to sign the OML 3 Amending Documents, and there does not appear to be a provision in this version of the OML 3 Loan Agreement that requires *pari passu* treatment among all syndicated loans. A copy of an OML 3 Loan Agreement and related Form 9D disclosure form from a later tranche, with private information redacted, is attached as **Appendix “11”**.
56. The administration of the OML 3 Loan was transferred from Sorrenti to BDMC pursuant to a transfer of charge registered on title to the properties on September 8, 2016 (“**Sorrenti Transfer**”). A copy of the Sorrenti Transfer is attached as **Appendix “12”**.
57. Based on BDMC’s records, there are 136 OML 3 Investors with investments in the OML 3 Loan.

OML Hybrid Loan

58. On April 16, 2016, OML Inc., or its assignees (in such capacity, the “**OML Hybrid Borrower**”) entered into a loan agreement with BDMC, in trust for certain syndicated mortgage loan investors (“**OML Hybrid Investors**”) that provided for a loan of “up to and collectively with the Pari Passu 3rd mortgage, never exceeding \$19 million” (“**OML Hybrid Loan**”, and such agreement, the “**OML Hybrid Loan Agreement**”). A copy of the OML Hybrid Loan Agreement, the OML Hybrid PASA (as defined below) and the related Form 9D disclosure form, with private information redacted, is attached as **Appendix “13”**.
59. On November 15, 2016, OML Inc. granted a mortgage on the OML Properties in favour of BDMC for \$1.6 million (which amount was subsequently increased to \$3.82 million) (“**OML Hybrid Mortgage**”). The Trustee understands that the OML Hybrid Mortgage ranked in fifth priority on title to the OML Properties at the time of registration (behind Firm in first priority, JYR in second priority, the OML Original Mortgage in third priority and the OML 3 Mortgage in fourth priority). A copy of the OML Hybrid Mortgage (without schedules) is attached as **Appendix “14”**.
60. The OML Hybrid Loan Agreement provided that the OML Hybrid Investors would be granted a *pari passu* third ranking mortgage against the OML Properties, which would mature 2.5 years from the date of the first advance. The “Pari Passu 3rd mortgage” is not defined in the OML Hybrid Loan Agreement. The Trustee notes that between the date of the OML Hybrid Loan Agreement and the registration of the OML Hybrid Mortgage, the JYR mortgage was registered in second priority on title. Therefore, it is unclear whether the “Pari Passu 3rd mortgage” was intended to rank *pari passu* with the 3rd mortgage as of the date of the OML Hybrid Loan Agreement (being the OML 3 Mortgage) or the date of registration of the OML Hybrid Mortgage (being the OML Original Mortgage).
61. The OML Hybrid Loan Agreement also included a repayment waterfall as Schedule “C” (although the Trustee notes that Schedule “C” does not appear to be referenced in the body of the OML Hybrid Loan Agreement). This repayment waterfall provided that, after repayment of the senior mortgages on title, the OML Hybrid Loan and the OML Original Loans would be repaid (as part of the same step in the payment waterfall), following which the OML 3 Loan would be repaid.

62. Although the Trustee understands that the Proposed Fortress/Fernbrook Transaction did not collapse until January 2018, the OML Hybrid Loan documents do not appear to reference the Proposed Fortress/Fernbrook Transaction in the same manner as the amending agreements in respect of the OML Original Loans and the OML 3 Loan.
63. The OML Hybrid Investors entered into participation and servicing agreements in connection with their investments in the OML Hybrid Loan (collectively, “**OML Hybrid PASA**”). However, the Trustee notes that certain of the OML Hybrid PASAs were executed between the applicable OML Hybrid Investor and Sorrenti (as opposed to BDMC). The PASAs also state that the borrower under the loan is FCF OML 2013 Inc. (not the OML Hybrid Borrower).
64. In addition, the OML Hybrid Investors signed a Form 9D disclosure form in connection with their investments in the OML Hybrid Loan. The Form 9D disclosure forms state that the borrower is FCF OML 2013 Inc. (not the OML Hybrid Borrower) and some of the Form 9D disclosure forms are addressed to Sorrenti (while others are addressed to BDMC). The Form 9D disclosure forms also describe the OML Hybrid Mortgage as being a mortgage of \$1.6 million, which would increase collectively with the *Pari Passu* third mortgage to an amount “never exceeding \$19 million”.
65. The Form 9D disclosure form contains contradictory statements regarding the *pari passu* treatment of the OML Hybrid Mortgage. In certain sections, it states that the OML Hybrid Mortgage will rank *pari passu* with the OML 3 Mortgage, which would both rank below the second-ranking OML Original Mortgage. However, in another section it incorporates the repayment waterfall included as Schedule “C” to the OML Hybrid Loan Agreement, which provides that the OML Hybrid Mortgage would rank *pari passu* with the OML Original Mortgage, with the OML 3 Mortgage being subsequent in priority.
66. The Trustee also reviewed certain notices sent to OML Hybrid Investors by BDMC prior to the Trustee’s involvement. Notices sent on March 15, 2017 and June 1, 2017, which described certain increases in the OML Hybrid Loan, refer to such loan as being “on the security of a 5th mortgage”. This implies that the *pari passu* treatment of the mortgages may never have been effective. These notices are attached as **Appendix “15”**.
67. The Trustee notes that it appears there is no documentation (e.g., an interlender agreement or postponement) between the OML Original Investors, the OML 3 Investors

and/or the OML Hybrid Investors whereby the OML Original Investors and/or the OML 3 Investors agreed to rank *pari passu* with the OML Hybrid Investors. Without such documentation, the OML Hybrid Mortgage, which was registered after the registration of the OML Original Mortgage and the OML 3 Mortgage, would generally rank subordinate to such mortgages based on the timing of registration. However, as described above, the OML Original Loan Amending Agreement and OML 3 Loan Amending Agreement provided for *pari passu* treatment of all existing and future syndicated loans on the OML Project.

68. Based on BDMC's records, there are 47 OML Hybrid Investors with investments in the OML Hybrid Loan.
69. The Trustee notes that all of the OML Loans had matured prior to the OML Sale Transaction. A title search showing the mortgages registered on title to the OML Properties prior to the completion of the OML Sale Transaction is attached hereto as **Appendix "16"**.

COMPLEXITIES AND ISSUES SURROUNDING THE OML LOAN ARRANGEMENTS AND PRIORITIES AMONG RELATED CHARGES

70. To assist in understanding the key aspects of each set of loan documentation and mortgages in favour of BDMC with respect to the OML Properties, as well as key issues and inconsistencies contained therein, the Trustee prepared the summary chart attached hereto as **Appendix "17"** which summarizes the descriptions of the loan arrangements set out above.

Complexities of the OML Loan Arrangements

71. As described above, there are various significant inconsistencies contained in the documentation governing each of the various OML Loans.
72. Of particular importance, with respect to the OML Hybrid Loan, a waterfall schedule is attached to the OML Hybrid Loan Agreement but is never alluded to in the body of that agreement, and certain of the related OML Hybrid PASAs are executed by the incorrect administrator (Sorrenti, as opposed to BDMC).

73. With respect to the OML 3 Loan, the borrower under the OML 3 Loan is FCF OML 2013 Inc., which entity never actually acquired title to the OML Properties. Further, different tranches of OML 3 Investors entered into materially different versions of the loan documentation, and it is unclear which version should govern.
74. The OML Original Loan Amending Agreement and the OML 3 Loan Amending Agreement were also entered into in contemplation of the closing of the Proposed Fortress/Fernbrook Transaction, which the Trustee understands did not occur. As noted above, the Trustee has been advised by representatives of Fortress that: (i) the closing of the transaction contemplated by the Proposed Fortress/Fernbrook Transaction ultimately fell apart in January 2018, (ii) FCF OML 2013 Inc. therefore never acquired any of the properties, and (iii) the co-tenancy arrangements contemplated by the Co-Tenancy Agreement were not implemented. Unfortunately, adding to the confusion and complexity surrounding the OML Loans, the Trustee understands that OML Investors were not provided notice that the Proposed Fortress/Fernbrook Transaction did not ultimately close and that the arrangements under the Co-Tenancy Agreement were not implemented.
75. Given that the OML Original Loan Amending Agreement and the OML 3 Loan Amending Agreement were entered into in contemplation of a Proposed Fortress/Fernbrook Transaction that did not close, there is some uncertainty about the effectiveness of these amendments. These amending agreements purported to materially alter the terms of the OML Original Loans and the OML 3 Loan, including with respect to the priority of repayment of such loans.
76. The priority provisions are of particular importance to the Trustee as they govern any potential distribution to the OML Investors. The priority provisions contained in the various OML Loan documents are also littered with inconsistencies and errors, as summarized below.

Priorities Among the OML Loans

77. The OML Original Loan Agreements provided that the OML Original Mortgage would be a second ranking mortgage. Immediately prior to the OML Sale Transaction, it did rank in second priority on title to the OML Properties.

78. The OML 3 Loan Agreement provided that the OML 3 Mortgage would be a third ranking mortgage. Immediately prior to the sale, it did rank in third priority on title to the OML Properties.
79. The OML Hybrid Loan Agreement provided that the OML Hybrid Mortgage would be a *pari passu* third ranking mortgage. It did not specify which mortgage would rank *pari passu* with the OML Hybrid Mortgage, but the Trustee notes that: (i) the OML 3 Mortgage ranked in third priority as of the date of the OML Hybrid Loan Agreement, and (ii) the OML Original Mortgage ranked in third priority at the time of registration of the OML Hybrid Mortgage. Immediately prior to the OML Sale Transaction, there was only one senior mortgagee to the OML Loans (being the mortgage in favour of 5019 Ontario), and the OML Hybrid Mortgage ranked in fourth priority on title to the OML Properties (behind the OML Original Mortgage and the OML 3 Mortgage).
80. The Trustee understands that there are no interlender agreements among the various OML Loans whereby the OML Original Investors or the OML 3 Investors agreed to contractually subordinate their ranking on title to rank *pari passu* with any other OML Loans. In addition, there are no postponements registered on title that would alter the priority of registration of the OML Loans as among each other.
81. However, the OML Original Loan Amending Agreement and the OML 3 Loan Amending Agreement both provide that all existing and future syndicated loans, including the OML Original Loans and the OML 3 Loan, would rank *pari passu* with each other. As described above, these loan agreements also purported to change the borrower under the loan agreements to FCF OML 2013 Inc., in contemplation of the Proposed Fortress/Fernbrook Transaction, and to purportedly bind the OML Original Investors and the applicable OML 3 Investors to the terms of the Co-Tenancy Agreement.
82. The Co-Tenancy Agreement was entered into between Fortress OML Inc., Fernbrook, FCF OML 2013 Inc. and Dominus Construction (2005) Corporation to govern their respective rights and interests in the OML Properties. The Co-Tenancy Agreement provides that the OML Properties “have been or will be acquired” and registered in the name of FCF OML 2013 Inc. It contains provisions that purportedly affect the payment rights and priorities among the OML Investors, who are not a party to such agreement, through a repayment waterfall.

83. Despite not being parties to the Co-Tenancy Agreement, the OML Original Investors and the OML 3 Investors agreed to be bound by the waterfall provisions contained therein pursuant to the terms of the OML Original Loan Amending Agreement, the OML 3 Loan Amending Agreement and/or the later version of the OML 3 Loan Agreement (which each contained limited excerpts of the Co-Tenancy Agreement). To the best of the Trustee's knowledge, the OML Hybrid Investors never agreed to be bound by the Co-Tenancy Agreement. Further, to the best of the Trustee's knowledge, none of the OML Investors were provided with a full copy of the Co-Tenancy Agreement.
84. The Trustee is of the view that the Co-Tenancy Agreement is inapplicable and possibly rendered frustrated in these circumstances because Fortress OML Inc. and Fernbrook never acquired the OML Properties (and therefore never had an ownership interest in the OML Properties) and the OML Project was not completed by FCF OML 2013 Inc., each as contemplated under the Co-Tenancy Agreement. In addition, Fortress has advised the Trustee that the co-tenancy arrangements contemplated by the Co-Tenancy Agreement were never implemented. However, even if the Co-Tenancy Agreement was not a frustrated contract and the terms contained therein remained valid, it is the Trustee's view that the waterfall provisions would not apply to the Residual Proceeds because they are not "Project revenue" of the co-tenancy, which is required for the waterfall distribution scheme to apply.
85. For these reasons, the Trustee is of the view that the references to the Co-Tenancy Agreement in the OML Original Loan Amending Agreement, the OML 3 Loan Amending Agreement and the later version of the OML 3 Loan Agreement do not apply to the distribution of the Residual Proceeds.
86. It is unclear whether the OML Original Loan Amending Agreement and the OML 3 Loan Amending Agreement were frustrated in their entirety and rendered ineffective, given that they were made in contemplation of the Proposed Fortress/Fernbrook Transaction that did not ultimately close. However, certain provisions contained in the Loan Amending Agreements, including the provisions regarding *pari passu* distributions among the syndicated loans, were not expressly linked to the Co-Tenancy Agreement or the Proposed Fortress/Fernbrook Transaction and therefore may still be in force. As a result, the *pari passu* treatment described therein may still apply to the distribution of the Residual

Proceeds regardless of the effectiveness of the Co-Tenancy Agreement or the failure of the Proposed Fortress/Fernbrook Transaction to close.

87. Further, the OML Hybrid Loan documentation is internally inconsistent with respect to the proposed priority of the OML Hybrid Loan as among the other OML Loans, and the Trustee understands that neither the OML Hybrid Investors nor the OML 3 Investors who invested in the later tranches of the OML 3 Loan agreed to any equivalent provision to the one contained in the Loan Amending Agreements regarding *pari passu* treatment of all syndicated loans.

PROPOSED DISTRIBUTION

88. Given the complexities and inconsistencies contained in the OML Loan documentation identified above and all of the circumstances regarding the OML Loans, the Trustee considered the best approach to distribute the Residual Proceeds to the OML Investors.
89. The Trustee considered two potential approaches to the distribution of the Residual Proceeds among the OML Investors, as follows:
- (a) the Trustee could apply the ranking of the mortgages as registered on title to the OML Properties, being the (i) OML Original Loans; (ii) OML 3 Loan; and (iii) OML Hybrid Loan, in that order ("**Priorities Approach**"); or
 - (b) the Trustee could distribute the Residual Proceeds on a *pari passu* basis to all OML Investors ("**Pari Passu Approach**").

Priorities Approach

90. The Priorities Approach gives effect to the priorities of the various mortgages as registered on title to the OML Properties immediately prior to the OML Sale Transaction.
91. The Priorities Approach would be consistent with the notion that the OML Original Loan Amending Agreement and the OML 3 Loan Amending Agreement were deemed to be frustrated contracts and rendered ineffective due to the fact that the Proposed Fortress/Fernbrook Transaction did not close. Equitable considerations with respect to the OML Investors and their collective losses in respect of the OML Project would also not be given any weight. Instead, the original loan documentation described above would govern. The OML Original Loan Agreement provides for a second ranking mortgage, and the OML

3 Loan Agreement provides for a third ranking mortgage, each of which is evidenced on title immediately prior to the OML Sale Transaction.

92. Although the OML Hybrid Loan would not rank *pari passu* with the third mortgage under this approach, as contemplated in the OML Hybrid Loan Agreement, this approach would be consistent with the lack of postponement or interlender agreement among the OML Original Investors, the OML 3 Investors and/or the OML Hybrid Investors and the lack of documentation registered on title evidencing any *pari passu* third ranking mortgage treatment. As the OML Hybrid Loan was registered subsequent in time to the OML Original Loan and the OML 3 Loan, the OML Hybrid Mortgage ranked in fourth priority on title immediately prior to the OML Sale Transaction.
93. The Priorities Approach also provides a simple distribution methodology that is based strictly on title registrations. Given the complexities and inconsistencies contained in the documentation attempting to override such registrations, the Priorities Approach provides that title registrations would govern, notwithstanding anything to the contrary contained in any of the loan documentation.
94. The following table reflects the recoveries on the OML Loans based on the Priorities Approach⁶:

	OML Original	OML 3	OML Hybrid	Total
Principal outstanding (A)	2,977,200	6,379,500	3,094,200	12,450,900
Allocation of Residual Proceeds (B)	1,570,968	-	-	1,570,968
Shortfall on Principal (A-B)	1,406,232	6,379,500	3,094,200	10,879,932
Recovery on principal (B/A)	52.8%	0%	0%	12.6%

95. As outlined in the table above, the Residual Proceeds would be insufficient to repay the amounts owing to the OML Original Investors in full under the Priorities Approach. Accordingly, there would be no recoveries available for distribution to the OML 3 Investors or the OML Hybrid Investors under this approach.

⁶ This table reflects no distribution to either the Former OML Original Investors or any Fortress related assignee of such Investors, for the reasons described later in this Report.

Pari Passu Approach

96. The Pari Passu Approach would provide for a *pari passu* distribution across all OML Loans. The *pari passu* calculation would be based on the total principal outstanding under each OML Loan.
97. It is the Trustee's view that the Pari Passu Approach provides an equitable distribution of the Residual Proceeds given the poor state of BDMC's records, the various inconsistencies contained in the loan documentation, and the lack of sufficient communication to OML Investors regarding the priorities of their loans.
98. The Pari Passu Approach is also consistent with the *pari passu* provisions of the OML Original Loan Amending Agreement and the OML 3 Loan Amending Agreement. As noted above, the OML Original Investors and the applicable OML 3 Investors were not provided notice that the Proposed Fortress/Fernbrook Transaction had failed to close, and, as a result, to the best of the Trustee's knowledge, such Investors do not have any reason to believe that the OML Original Loan Amending Agreements and OML 3 Loan Amending Agreements they had entered into may cease to be in force. It is also likely that such Investors do not have a clear understanding of the applicable borrower entity under their respective loans (especially given that the OML 3 Loan Agreement was originally entered into by FCF OML 2013 Inc.). Accordingly, the Trustee is of the view that the OML Original Investors and many of the OML 3 Investors have sufficient reason to believe that the *pari passu* provisions contained in their Loan Amending Agreements would govern the priorities among the OML Loans.
99. The Pari Passu Approach is also consistent with the documentation surrounding the OML Hybrid Loan, which provide for some level of *pari passu* treatment (although, as set out above, it is not clear to which other OML Loan it was to rank rateably). This provides a fair and equitable result for the OML Hybrid Investors, who signed the loan documentation on the expectation that it would rank *pari passu* with at least one of the other OML Loans.
100. The following table reflects the recoveries on the OML Loans, based on the Pari Passu Approach⁷:

⁷ This table reflects no distribution to either the Former OML Original Investors or any Fortress related assignee of such Investors, for the reasons described later in this Report.

	OML Original	OML 3	OML Hybrid	Total
Principal outstanding (A)	2,977,200	6,379,500	3,094,200	12,450,900
Allocation of Residual Proceeds (B)	375,642	804,921	390,405	1,570,968
Shortfall on Principal (A-B)	2,601,558	5,574,579	2,703,795	10,879,932
Recovery on principal (B/A)	12.6%	12.6%	12.6%	12.6%

101. As outlined in the table above, the Pari Passu Approach would provide for recoveries of 12.6% to all of the OML Original Investors. This approach provides some level of recovery to the OML 3 Investors and the OML Hybrid Investors, who would not receive anything under the Priorities Approach.

Recommendation

102. For the reasons described herein, the Trustee is of the view that, in the circumstances, the Pari Passu Approach is the most fair, reasonable and equitable approach for distribution of the Residual Proceeds to the OML Investors.
103. The OML Investors in each of the three OML Loans were innocent parties who appear not to have been provided with clear, consistent or sufficient information at the time of entering into their loan arrangements with respect to the OML Project, or during the currency of their loans, and were not provided with sufficient updates regarding ownership of the OML Project and the potential implications to the priorities of their respective mortgages. For these reasons, the Trustee believes that it is fair and equitable for the OML Investors to share the Residual Proceeds ratably.
104. Accordingly, the Trustee seeks to make a distribution of 85% of the Residual Proceeds received from the OML Sale Transaction, which funds constitute Realized Property, to the OML Investors in accordance with the Pari Passu Approach described above and with the terms of the Realized Property Order (as amended).

IMPACT OF FORMER OML ORIGINAL INVESTOR MINUTES OF SETTLEMENT

105. Based on BDMC's books and records and information provided by representatives of Fortress, the Trustee understands that, on January 12, 2016, 16 out of 74 of the OML Original Investors (the "**Former OML Original Investors**") entered into the Former OML Original Investor Minutes of Settlement with Fortress and OML Inc. The Trustee has been

given a copy of the Former OML Original Investor Minutes of Settlement by representatives of Fortress with no usage restrictions. However, out of an abundance of caution and as a result of certain terms set out therein, the Trustee has included the Former OML Original Investor Minutes of Settlement as **Confidential Appendix “1”** to this Report and has not included certain financial information contained therein in the following paragraphs.

106. The Former OML Original Investor Minutes of Settlement provided for a resolution of all issues and disputes among the parties thereto in exchange for settlement payments by OML Inc. to the Former OML Original Investors. The Former OML Original Minutes of Settlement also purported to provide a mechanism for a future assignment of the syndicated mortgage debt then owing to the Former OML Original Investors to an entity directed by OML Inc. upon payment in full of the settlement amount, and provided for a release to be given by the Former OML Original Investors in favour of 204 Ontario, OML Inc., Centro Mortgage Inc. (now BDMC), Fortress and Olympia. The Trustee notes that the settlement payment was for an amount less than the principal balance invested by the Former OML Original Investors.
107. Accordingly, the Former OML Original Investor Minutes of Settlement provided for a payment by the borrower of the OML Project to obtain the rights of the Former OML Original Investors. The Trustee has been informed by representatives of Fortress that the syndicated mortgage debt in respect of the Former OML Original Investors was ultimately assigned by OML Inc. to Fortress Orchard 2014 Inc. (“**Fortress Orchard**”) in 2017 (“**Assignment**”), approximately 2 years after the Former OML Original Investor Minutes of Settlement were executed.
108. Based on discussions with Fortress, the Trustee understands that: (i) Fortress Orchard is a Fortress related entity and has the same ownership structure as OML Inc., the borrower of the OML Project, and (ii) there was a verbal understanding between Fortress Orchard and OML Inc. that, for the purposes of the Assignment, Fortress Orchard was acting as a trustee to the beneficial owner, OML Inc., which is the entity that paid the settlement payment.

109. The Trustee also notes that it has not seen any evidence of payment made by Fortress Orchard to OML Inc. and as such, there is no evidence of consideration being provided by Fortress Orchard in connection with any assignment transaction.
110. As a result, the Trustee is of the view that given the Former OML Original Minutes of Settlement, the purported Assignment is, in effect, a redemption and cancellation of such syndicated mortgage debt by the borrower under the OML Original Loan Agreement. This view is consistent with Fortress' own characterization whereby Fortress Orchard was acting as trustee for OML Inc. Accordingly, the Trustee intends to treat the principal amount of the OML Original Loans in respect of the Former OML Original Investors as having been cancelled and does not intend to make a distribution to Fortress Orchard or any Fortress related entity in respect of such OML Original Loans; instead the proceeds of realization will be distributed among the remaining OML Investors.
111. In addition to the analysis above, the Trustee is of the view that a distribution to the remaining OML Investors excluding the Fortress related entity is the most equitable treatment in the circumstances. First, since the payment to the Former OML Original Investors was made by the borrower of the OML Project, a further repayment to the purported assignees of the borrower in respect of the same loaned amount would result in such loaned amount being, in effect, paid twice and to the detriment of all the other OML Investors.
112. Secondly, the OML Project failed, and as a result, the OML Investors are receiving only a nominal recovery on their loans to the borrower (approximately 12.6% if the Court approves a distribution on a *pari passu* basis). If a distribution is to be made to a Fortress related entity, the non-Fortress OML Investors' recovery would be reduced to 11.8%.
113. Thirdly, and as detailed in previous Reports, significant portions of the sums advanced by Investors on real estate development projects associated with Fortress were generally used to pay various fees and charges in connection with the loans. The fees and charges that were paid typically represented an aggregate amount of approximately 35% of the principal advanced by Investors under the applicable syndicated mortgage loan. A portion of these fees (approximately 50%) would typically be paid to brokers or to BDMC (or its predecessors) in its capacity as broker and/or administrator. The remaining 50% would typically be paid to Fortress or another Fortress related entity.

114. Based on BDMC's records, approximately 20% (approximately \$755,000) of the OML Original Loan (\$3.8 million) was paid as follows:
- (a) Approximately \$60,000 to an agent of Fortress as consultant fees and \$191,000 to Fortress for interest and repatriation;
 - (b) Approximately \$206,000 as referral fees to the Fortress related brokers;
 - (c) Approximately \$113,000 (representing 3%) as a broker fee to Centro Mortgage Inc. (now BDMC) in its capacity as mortgage broker (i.e., not as mortgage administrator), 90% of which was then paid to Paza Service Corp., an entity owned by one of the principals of Fortress, Vince Petrozza;
 - (d) Approximately \$21,000 as lender fees payable to certain of the OML Original Investors;
 - (e) Approximately \$31,000 to Sanjay Pahuja in respect of administration fees; and
 - (f) Approximately \$133,000 to Sanjay Pahuja to be held in trust (no further purpose is noted in BDMC's records).
115. Based on BDMC's records, the remaining 80% (approximately \$3 million) was paid for the benefit of OML Inc.
116. The Trustee understands that the difference between the 20% and the 35% noted in paragraph 113 (or \$568,000) would likely have been paid by OML Inc. directly to Fortress, although this has not been verified by the Trustee.
117. Based on BDMC's records, 35% (approximately \$2.2 million) of the OML 3 Loan (\$6.4 million) was paid as follows:
- (a) Approximately \$1.3 million to an agent of Fortress as consultant fees;
 - (b) Approximately \$706,000 as referral fees to the Fortress related brokers;
 - (c) Approximately \$191,000 (representing 3%) as a broker fee to BDMC in its capacity as mortgage broker (i.e., not as mortgage administrator), 90% of which was then paid to Paza Service Corp., an entity owned by one of the principals of Fortress, Vince Petrozza; and

- (d) Approximately \$64,000 to Sorrenti in respect of administration fees.
118. Based on BDMC's records, the remaining 65% (approximately \$2.4 million) was paid for the benefit of FCF OML 2013 Inc.
119. Lastly, based on BDMC's records, 35% (approximately \$1.1 million) of the OML Hybrid Loan (\$3.1 million) was paid as follows:
- (a) Approximately \$349,000 to an agent of Fortress as consultant fees;
 - (b) Approximately \$594,000 as referral fees to the Fortress related brokers;
 - (c) Approximately \$93,000 (representing 3%) as a broker fee to BDMC in its capacity as mortgage broker (i.e., not as mortgage administrator), 90% of which was then paid to Paza Service Corp., an entity owned by one of the principals of Fortress, Vince Petrozza;
 - (d) Approximately \$30,000 in legal fees; and
 - (e) Approximately \$17,000 to BDMC in respect of administration fees.
120. Based on BDMC's records, the remaining 65% (approximately \$2 million) was paid for the benefit of OML Inc.
121. Accordingly, based on BDMC's records, in aggregate a total of at least approximately \$1.9 million was paid to Fortress directly or to an agent of Fortress as development consulting fees from the principal amount of the OML Loans.
122. Finally, as noted above, the Trustee understands that Fortress Orchard is holding the assigned amounts as trustee for the beneficial owner, OML Inc. As a result, any distributions to Fortress Orchard in respect of the assigned amounts would ultimately be given to OML Inc., the borrower and owner of the OML Project. Given that the Trustee understands that certain OML Investors were granted a general security interest in the assets of OML Inc., any amounts received by OML Inc. would be subject to such OML Investors' security and would be returnable to BDMC, on behalf of such OML Investors.
123. For these reasons, the Trustee is of the view that a distribution to Fortress Orchard (or any Fortress related entity) in respect of the debt that was purportedly assigned to it

pursuant to the Assignment is not warranted in the circumstances. The recovery calculations described in the tables above reflect the recoveries to only the remaining OML Investors.

CONCLUSION AND RECOMMENDATION

124. For the reasons described above, the Trustee recommends that the primary relief sought in the motion for the proposed OML Distribution Order be granted by the Court.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 2nd day of October, 2020.

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.,
SOLELY IN ITS CAPACITY AS
COURT-APPOINTED TRUSTEE OF
BUILDING & DEVELOPMENT MORTGAGES CANADA INC.,
AND NOT IN ITS PERSONAL OR ANY OTHER CAPACITY**

Appendix 1:
Appointment Order dated April 20, 2018

Court File No. CV-18-596204-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

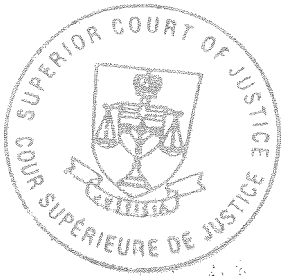
THE HONOURABLE MR.) FRIDAY, THE 20TH DAY
JUSTICE HAINEY) OF APRIL, 2018

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -



BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006, c.
29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

APPOINTMENT ORDER

THIS APPLICATION, made by The Superintendent of Financial Services (the "**Superintendent**"), for an Order, *inter alia*, pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended (the "**MBLAA**"), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**"), appointing FAAN Mortgage Administrators Inc. ("**FAAN Mortgage**") as trustee (in such capacity, the "**Trustee**"), without security, of all of the assets, undertakings and properties of Building & Development Mortgages Canada Inc. (the "**Respondent**"), was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the affidavit of Brendan Forbes sworn April 19, 2018 and the exhibits thereto (the "**Supporting Affidavit**") and the consent of FAAN Mortgage to act as the Trustee,

and on hearing the submissions of counsel for the Superintendent, counsel for FAAN Mortgage and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of Miranda Spence sworn April 19, 2018, filed;

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 37 of the MBLAA and section 101 of the CJA, FAAN Mortgage is hereby appointed Trustee, without security, of all of the assets, undertakings and properties of the Respondent, including, without limitation, all of the assets in the possession or under the control of the Respondent, its counsel, agents and/or assignees but held on behalf of any other party, including, but not limited to, lenders under any syndicate mortgage ("**Investors**"), brokers, or borrowers, in each case whether or not such property is held in trust or is required to be held in trust (collectively, the "**Property**"), which Property, for greater certainty, includes any and all real property charges in favour of the Respondent (the "**Real Property Charges**"), including, without limitation, any and all monetary and non-monetary entitlements in respect to the assets and values thereunder, the period of which appointment shall run from 12:01 a.m. on the date hereof until such date that all assets under all syndicated mortgage loans have been realized and all Property has been distributed to those entitled to it.

TRUSTEE'S POWERS

3. **THIS COURT ORDERS** that the Trustee 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 Trustee is hereby expressly empowered and authorized to do any of the following where the Trustee 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, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the holding of mortgage security in

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trust on behalf of Investors, the administering of the mortgages, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Respondent, including, without limitation, 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 Respondent;
- (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 Trustee'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 Respondent or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Respondent and to exercise all remedies of the Respondent in collecting such monies, including, without limitation, to enforce any security held by the Respondent, including, without limitation, such security held on behalf of Investors;
- (g) to settle, extend or compromise any indebtedness owing to the Respondent;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Trustee's name or in the name and on behalf of the Respondent for any purpose pursuant to this Order, including, without limitation, any documents in connection with any registration, discharge, partial discharge, transfer, assignment or similar dealings in respect of any mortgage ("**Land Title Document**") and, for greater certainty, the applicable land registry office, registrar or other official under the *Land Registration Reform Act* (Ontario), the *Land Titles Act* (Alberta), or any other comparable legislation in any other jurisdiction be and is hereby directed, upon being presented with a certified

true copy of this Order and such Land Title Document, to register, discharge, partially discharge, transfer or otherwise deal with such mortgage in accordance with such Land Title Document without any obligation to inquire into the propriety of the execution or effect of such Land Title Document;

- (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 Respondent, the Property or the Trustee, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Trustee in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in 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) with the approval of this Court, to restructure the Property in a manner that the Trustee considers reasonable, including, without limitation, the conversion, in whole or in part, of the Property or any part or parts thereof, out of the ordinary course of business, into an alternative or different interest in the capital structure of the Property or any part or parts thereof, including, without limitation, an ownership interest therein;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Trustee deems appropriate on all matters relating to the Property and the

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Trustee's mandate, and to share information, subject to such terms as to confidentiality as the Trustee deems advisable;

- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Trustee, in the name of the Respondent;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Respondent, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Respondent;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Respondent 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 Trustee 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 Respondent, without interference from any other Person and without regard to any arrangement in existence as of the date hereof between the Respondent and Investors as to how and when such actions or steps are to be taken. For greater certainty, the Trustee shall be and is empowered to take such actions or steps without seeking instructions from Investors where the Trustee determines, in its sole discretion, that it is necessary and appropriate to do so (having regard for the interests of Investors), and in all other cases, the Trustee is specifically authorized to continue to comply with the existing arrangements, including any deemed consent provisions contained therein.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE TRUSTEE

4. **THIS COURT ORDERS** that: (i) the Respondent; (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; (iii) all other individuals, firms, corporations,

governmental bodies or agencies, or other entities having notice of this Order, including, without limitation, Tsunami Technology Group Inc., Fortress Real Developments Inc. ("FRDI"), all of its direct or indirect affiliates, and any entity under common control with FRDI (collectively with FRDI, the "Fortress Entities"), any entity that is a joint venture among a Fortress Entity and another entity, and each director, officer, employee and agent of any Fortress Entity (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Trustee of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Trustee, and shall deliver all such Property to the Trustee upon the Trustee's request.

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or CDCM

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5. **THIS COURT ORDERS** that, pursuant to and without limiting the generality of paragraph 4 of this Order, all Persons shall, unless otherwise instructed by the Trustee: (i) deliver to the Trustee (or, in the case of RRSP or other registered funds administered by Olympia Trust Company ("OTC") or Computershare Trust Company of Canada ("Computershare"), not release to any Person without further Order of this Court) any and all monies held in trust that are related to the Respondent or its business (collectively, the "Trust Funds"), which Trust Funds, for greater certainty, include any and all monies in any OTC or Computershare account that are purported to be held in trust for the Investors in or beneficiaries under any of the Real Property Charges, including, without limitation, all monies held by way of interest reserves to satisfy interest payments to such Investors or beneficiaries, which Trust Funds are to be held or used by the Trustee in accordance with the terms of this Order and any further Order of this Court; and (ii) upon the Trustee's request, provide an accounting of all funds received from or on behalf of the Respondent or its associated businesses.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Trustee of the existence of any books, emails, user accounts, 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 Respondent, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information, including copies of any previously performed electronic back ups (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Trustee or permit the Trustee to make, retain and take away copies thereof and grant to the Trustee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or

provided to the Trustee due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Trustee for the purpose of allowing the Trustee 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 Trustee in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Trustee. Further, for the purposes of this paragraph, all Persons shall provide the Trustee with all such assistance in gaining immediate access to the information in the Records as the Trustee may in its discretion require including providing the Trustee with instructions on the use of any computer or other system and providing the Trustee with any and all access codes, account names and account numbers that may be required to gain access to the information. Paragraphs 6 and 7 of this Order do not apply to any materials obtained by the Royal Canadian Mounted Police pursuant to any warrant issued under the *Criminal Code*, R.S.C. 1985, c. C-46.

8. **THIS COURT ORDERS** that the Trustee shall provide each of the relevant landlords with notice of the Trustee'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 Trustee'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 Trustee, or by further Order of this Court upon application by the Trustee on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE TRUSTEE

9. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Trustee except with the written consent of the Trustee or with leave of this Court.

NO PROCEEDINGS AGAINST THE RESPONDENT OR THE PROPERTY

10. **THIS COURT ORDERS** that, with the exception of the Suspension and Penalty Orders (as such term is defined in the Supporting Affidavit): (i) no Proceeding against or in respect of any of the Respondent, the Property or the Superintendent (in the last case, with respect to any matters arising from the Respondent or the Property) shall be commenced or continued except with the written consent of the Trustee or with leave of this Court; and (ii) any and all Proceedings currently under way against or in respect of any of the Respondent or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that, with the exception of the Suspension and Penalty Orders, all rights and remedies against the Respondent, the Trustee, or affecting the Property (including, without limitation, pursuant to any arrangement in existence as of the date hereof between the Respondent and Investors as to how and when the actions or steps contemplated by paragraph 3 of this Order are to be taken), are hereby stayed and suspended except with the written consent of the Trustee or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), and further provided that nothing in this paragraph shall: (i) empower the Trustee or the Respondent to carry on any business which the Respondent is not lawfully entitled to carry on; (ii) exempt the Trustee or the Respondent 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; (iv) prevent the registration of a claim for lien; or (v) prevent the filing and service of a statement of claim solely to permit the perfection of a lien, provided that no further proceedings on such statement of claim shall be permitted other than pursuant to paragraph 10.

NO INTERFERENCE WITH THE TRUSTEE

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Respondent, without written consent of the Trustee or leave of this Court, including, for greater certainty, any licenses granted to the Respondent to act as an administrator of or lender under or administer syndicated mortgage loans under the MBLAA, *The Mortgage Brokers Act* (Manitoba), *The Mortgage Brokerages and Mortgage*

Administrators Act (Saskatchewan), the *Real Estate Act* (Alberta), the *Mortgage Brokers Act* (British Columbia) or any other comparable legislation in any other jurisdiction where the Respondent is currently licensed.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Respondent, or statutory or regulatory mandates for the supply of goods and/or services, including, without limitation, all computer software, communication and other data services (including, for greater certainty, all goods and/or services provided by Tsunami Technology Group Inc. in respect of the Respondent), centralized banking services, payroll services, insurance, transportation services, utility or other services to the Respondent 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 Trustee, and that the Trustee shall be entitled to the continued use of the Respondent'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 Trustee in accordance with normal payment practices of the Respondent or such other practices as may be agreed upon by the supplier or service provider and the Trustee, or as may be ordered by this Court.

TRUSTEE TO HOLD FUNDS

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Trustee 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 accounts controlled by the Trustee or, if the Trustee determines it is advisable, new accounts to be opened by the Trustee (the "**Post Trusteeship Accounts**") and the monies standing to the credit of such Post Trusteeship Accounts from time to time, net of any disbursements provided for herein, shall be held by the Trustee to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

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

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* and any other applicable privacy legislation, the Trustee 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 Trustee, 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 Respondent, and shall return all other personal information to the Trustee, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. **THIS COURT ORDERS** that nothing herein contained shall require the Trustee 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 Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Trustee shall not, as a result of this Order or anything done in pursuance of the Trustee’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 TRUSTEE’S LIABILITY

18. **THIS COURT ORDERS** that the Trustee 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 subsections 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 Trustee by section 14.06 of the BIA or by any other applicable legislation.

TRUSTEE’S ACCOUNTS

19. **THIS COURT ORDERS** that the Trustee and counsel to the Trustee 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, which fees and disbursements shall be added to the indebtedness secured by the Real Property Charges and that the Trustee and counsel to the Trustee shall be entitled to and are hereby granted a charge (the “**Trustee’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 Trustee’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 subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

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

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Trustee 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 Trustee or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE APPOINTMENT

22. **THIS COURT ORDERS** that the Trustee be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Trustee 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 "**Trustee'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 Trustee's Charge and the charges as set out in subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

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

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

25. **THIS COURT ORDERS** that the monies from time to time borrowed by the Trustee pursuant to this Order or any further order of this Court and any and all Trustee'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 Trustee's Certificates.

SERVICE AND NOTICE

26. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in these proceedings, 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/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "Rules"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.faanmortgageadmin.com.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Trustee 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 Respondent's creditors or other interested parties at their respective addresses as last shown on the records of the Respondent and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

28. **THIS COURT ORDERS** that the Trustee 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 Trustee from acting as a trustee in bankruptcy of the Respondent.

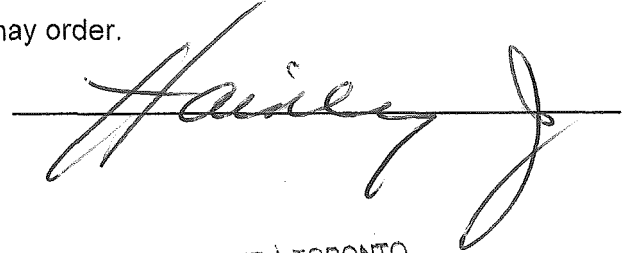
30. **THIS COURT ORDERS** that Confidential Exhibits (as defined in the Supporting Affidavit) be and are hereby sealed until further Order of this Court.

31. **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 Trustee 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 Trustee, as an officer of

this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

32. **THIS COURT ORDERS** that the Trustee 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 Trustee 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.

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, or such shorter period of time as the Court may permit, to the Trustee 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.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

APR 20 2018

PER / PAR:



SCHEDULE "A"
TRUSTEE CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that FAAN Mortgage Administrators Inc., the Trustee (in such capacity, the "**Trustee**") of all of the assets, undertakings and properties of Building & Development Mortgages Canada Inc. (the "**Respondent**"), including, without limitation, all of the assets in possession or under the control of the Respondent, its counsel, agents and/or assignees but held on behalf of any other party, including, but not limited to, lenders under any syndicate mortgage ("**Investors**"), brokers, or borrowers, in each case whether or not such property is held in trust or is required to be held in trust (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 20th day of April, 2018 (the "**Order**") made in an application having Court file number CV-18-596204-00CL, has received as such Trustee from the holder of this certificate (the "**Lender**") the principal sum of \$<*>, being part of the total principal sum of \$<*> which the Trustee 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 Royal Bank of Canada 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 Trustee pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), 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 Trustee 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 Trustee

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 Trustee to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Trustee 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 _____, 2018.

FAAN MORTGAGE ADMINISTRATORS INC.,
solely in its capacity as Trustee of the Property (as defined in the Order), and not in its personal capacity

Per: _____
Name:
Title:

Applicant

Respondent

Court File No. CV-18-596204-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

APPOINTMENT ORDER

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Fax: (416) 863-1515

Email: mspence@airdberlis.com

Lawyers for The Superintendent of Financial Services

Appendix 2:
Realized Property Order dated October 30, 2018

Court File No. CV-18-596204-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) TUESDAY, THE 30th DAY
JUSTICE HAINEY) OF OCTOBER, 2018

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent



**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,
c. 29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

REALIZED PROPERTY ORDER

THIS MOTION, made by FAAN Mortgage Administrators Inc. (“**FAAN Mortgage**”), in its capacity as Court-appointed trustee (in such capacity, the “**Trustee**”), of all of the assets, undertakings and properties of Building & Development Mortgages Canada Inc. (the “**Respondent**”) pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended (the “**MBLAA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, for an Order, *inter alia*, (i) requiring the Trustee to distribute certain Realized Property, as more fully set out herein; and (ii) authorizing the Trustee to utilize certain Realized Property to fund the Required Trustee Activities (as defined herein), was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the Second Report of the Trustee dated October 23, 2018 (the “**Second Report**”), and on hearing the submissions of counsel for the Trustee, Chaitons LLP, in its capacity as Representative Counsel, counsel for The Superintendent of Financial Services, and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of Jacob Schmidt sworn October 24, 2018, filed;

SERVICE

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

DEFINITIONS

2. **THIS COURT ORDERS** that any capitalized terms used but not defined herein shall have the meanings given in the Order of the Court in respect of the Respondent dated June 26, 2018 (the “**Interim Stabilization Order**”) or in the Second Report.

REALIZED PROPERTY

3. **THIS COURT ORDERS** that the Trustee shall:

- (a) distribute a further amount equal to 20% of the Realized Property obtained with respect to the Victoria Medical SML Loans *pro rata* to the Investors entitled to such funds, such that, when combined with the distribution made pursuant to the Interim Stabilization Order, 70% of such funds shall have been distributed on a *pro rata* basis; and
- (b) distribute 70% of all other Realized Property obtained *pro rata* to the Investors entitled to such funds, whether received before or after the date of this Order.

4. **THIS COURT ORDERS** that the Trustee is hereby authorized to use all or any portion of the retained Realized Property to aid the Trustee in complying with the Appointment Order and in carrying out its mandate, as the Trustee, in its sole discretion, considers necessary or desirable

for the administration of the estate, including those matters set out in paragraph 17 of the Interim Stabilization Order (collectively, the “**Required Trustee Activities**”).

5. **THIS COURT ORDERS** that the Trustee shall report to the Court by no later than April 30, 2019 regarding the Required Trustee Activities undertaken following the date of this Order.

GENERAL

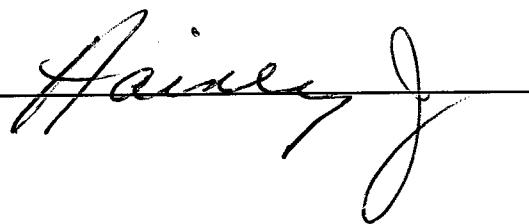
6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Trustee and its agents in carrying out the terms of this Order. All courts, tribunals,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

7. **THIS COURT ORDERS** that the Trustee 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 Trustee 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.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

OCT 30 2018

PER / PAR: 



THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Applicant

Respondent

Court File No. CV-18-596204-00CL

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

Proceedings commenced at Toronto

REALIZED PROPERTY ORDER

OSLER, HOSKIN & HARCOURT LLP
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Toronto, ON M5X 1B8

Michael De Lellis (LSUC# 48038U)
Jeremy Dacks (LSUC# 41851R)
Patrick Riesterer (LSUC# 60258G)

Tel: (416) 362-2111
Fax: (416) 862-6666

Lawyers for FAAN Mortgage Administrators Inc., in its
capacity as Court-appointed Trustee

Appendix 3:
Harlowe Settlement Approval Order dated December 20, 2018

Court File No.: CV-18-596204-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	THURSDAY, THE 20 TH
)	
JUSTICE HAINEY)	DAY OF DECEMBER, 2018

BETWEEN:



THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
*MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,
c. 29* and SECTION 101 OF THE *COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43***

HARLOWE SETTLEMENT APPROVAL ORDER

THIS MOTION, made by FAAN Mortgage Administrators Inc. (“**FAAN Mortgage**”), in its capacity as Court-appointed trustee (in such capacity, the “**Trustee**”), of all of the assets, undertakings and properties of Building & Development Mortgages Canada Inc. (the “**Respondent**”) pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended (the “**MBLAA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, for an Order, *inter alia*, (i) approving and

ratifying the Settlement Agreement dated as of November 6, 2018 (the “**Harlowe Settlement Agreement**”) among The Harlowe Inc. (“**Harlowe**”), the Trustee and Olympia Trust Company (“**OTC**”); (ii) ordering Harlowe to pay \$15,562,896.38 to the Trustee pursuant to the Harlowe Settlement Agreement; (iii) ordering Harlowe, the Trustee and OTC to comply with the Harlowe Settlement Agreement; and (iv) authorizing the Trustee to, upon the delivery of the Trustee’s Certificate (as defined below), make a further distribution of Realized Property to Investors, was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the Fourth Report of the Trustee dated December 13, 2018 (the “**Fourth Report**”), and on hearing the submissions of counsel for the Trustee, Chaitons LLP, in its capacity as Representative Counsel, counsel to Harlowe and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of Justine Erickson sworn December 14, 2018, filed;

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Fourth Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meanings given to them in the Fourth Report and the Harlowe Settlement Agreement.

APPROVAL OF THE HARLOWE SETTLEMENT AGREEMENT

3. **THIS COURT ORDERS** that (i) the Harlowe Settlement Agreement be and is hereby approved in its entirety, with such minor amendments as the Trustee and the other parties to the Harlowe Settlement Agreement may agree upon to permit the completion of the transaction contemplated thereby; (ii) Harlowe is hereby directed to pay \$15,562,896.38 forthwith to the Trustee in accordance with the terms of the Harlowe Settlement Agreement (such funds the “**Harlowe Realized Property**”); and (iii) the execution of the Harlowe Settlement Agreement by the Trustee and OTC is hereby ratified and approved, and the Trustee and OTC are hereby

authorized and directed to comply with all of their obligations under the Harlowe Settlement Agreement.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Trustee's certificate to Harlowe substantially in the form attached as Schedule "A" hereto (the "**Trustee's Certificate**"), all of Harlowe's obligations to Building & Development Mortgages Canada Inc. ("**BDMC**"), OTC, and the individual lenders (the "**Harlowe Individual Lenders**") under the Loan Agreement dated as of June 10, 2013 between BDMC and Harlowe (the "**Loan Agreement**"), the Security and the Loan Documents (each as defined in the Loan Agreement) (collectively, the "**Harlowe Loan Obligations**") and all security interests granted to BDMC, OTC or the Harlowe Individual Lenders in and to the assets of Harlowe to secure the Harlowe Loan Obligations and related registrations on title (the "**Loan Encumbrances**") are hereby released, extinguished, expunged, discharged and deleted and that none of the Trustee, BDMC, OTC or any Harlowe Individual Lender shall have any claim against Harlowe in respect of the Harlowe Loan Obligations or the Loan Encumbrances; provided, however, that Harlowe shall not be released from any obligations under the Harlowe Settlement Agreement.

5. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Trustee's Certificate, the Harlowe Realized Property is and shall be deemed to be "Realized Property" as defined in the Order of this Court dated June 26, 2018 (the "**Interim Stabilization Order**") and that all of the Harlowe Individual Lenders' rights and claims under the Loan Agreement, the Security and the Loan Documents shall attach to the Harlowe Realized Property and shall have the same nature and priority as they had prior to the consummation of the Harlowe Settlement Agreement, including pursuant to the Appointment Order and the Interim Stabilization Order.

6. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Registry Division of Toronto (#66) of an Application for Vesting Order in the form prescribed by the applicable Land Registry Office and attaching a copy of this Order and the executed Trustee's Certificate, the Land Registrar is hereby directed to delete and expunge from title to the real property identified in Schedule "B" hereto (the "**Real Property**") all of the Loan Encumbrances listed in Schedule "C" hereto.

7. **THIS COURT ORDERS** that upon the delivery of the Trustee's Certificate, the release agreement in the form attached as Schedule "D" hereto ("**Release Agreement**") to be given to the Trustee, BDMC, OTC, and each Harlowe Individual Lender who loaned funds through BDMC or OTC to Harlowe pursuant to the Loan Agreement and all related Loan Documents, each of their respective officers, directors, agents, employees, and each of their respective successors and assigns (collectively, the "**Releasees**") by Harlowe on behalf of itself, its affiliates, and their respective shareholders, agents, directors, officers, employees, and each of their respective successors and assigns (collectively, the "**Releasers**") shall be binding and effective on the Releasers in favour of the Releasees.

8. **THIS COURT ORDERS AND DIRECTS** the Trustee to file with the Court a copy of the Trustee's Certificate, as soon as practicable after delivery thereof.

REALIZED PROPERTY

9. **THIS COURT ORDERS** that upon the delivery of the Trustee's Certificate, the Trustee shall make a further distribution to Investors in an amount equal to 5% of the Realized Property held on or received after the date of the Appointment Order, including the Realized Property obtained with respect to the Victoria Medical SML Loans, *pro rata* to the Investors entitled to such funds, such that, when combined with the distributions made pursuant to the Interim Stabilization Order, the Order of this Court dated October 30, 2018 ("**Realized Property Order**") and the Order of this Court dated November 28, 2018, 85% of such funds shall have been distributed on a *pro rata* basis to the Investors entitled to such funds.

10. **THIS COURT ORDERS** that upon the delivery of the Trustee's Certificate, paragraph 3(b) of the Realized Property Order is hereby further amended to provide that the Trustee shall distribute 85% of all other Realized Property obtained, including the Harlowe Realized Property, *pro rata* to the Investors entitled to such funds, whether received before or after the date of this Order.

Schedule “A” – Form of Trustee’s Certificate

Court File No.: CV-18-596204-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
*MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,
c. 29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43***

TRUSTEE’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Hailey of the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) dated April 20, 2018, FAAN Mortgage Administrators Inc. was appointed as the trustee (the “**Trustee**”) of the undertaking, property and assets of Building & Development Mortgages Canada Inc. (“**BDMC**”).

B. Pursuant to an Order of the Court dated [DATE] (the “**Harlowe Settlement Approval Order**”), the Court approved and ratified the Settlement Agreement made as of November 6, 2018 (the “**Harlowe Settlement Agreement**”) among The Harlowe Inc. (“**Harlowe**”), the Trustee and Olympia Trust Company (“**OTC**”) and ordered that all of Harlowe’s obligations to BDMC, OTC, and the individual lenders (“**Harlowe Individual Lenders**”) under the Loan

Agreement, the Security and the Loan Documents (each as defined in the Loan Agreement) (collectively, the “**Harlowe Loan Obligations**”) and all security interests granted to BDMC, OTC or the Harlowe Individual Lenders in and to the assets of Harlowe to secure the Harlowe Loan Obligations (the “**Loan Encumbrances**”) are hereby released, extinguished, expunged and discharged and that none of the Trustee, BDMC, OTC or any Harlowe Individual Lender shall have any claim against Harlowe in respect of the Harlowe Loan Obligations or the Loan Encumbrances; provided, however, that Harlowe shall not be released from any obligations under the Harlowe Settlement Agreement; and that the release of the Harlowe Loan Obligations and the Loan Encumbrances is to be effective upon the delivery by the Trustee to Harlowe of a certificate confirming (i) the payment of \$15,562,896.38 to the Trustee by Harlowe; (ii) that the conditions precedent to the Harlowe Settlement Agreement as set out in section 9 of the Harlowe Settlement Agreement have been satisfied or waived by the Trustee; and (iii) the settlement has been completed to the satisfaction of the Trustee.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Harlowe Settlement Approval Order.

THE TRUSTEE CERTIFIES the following:

1. Harlowe has paid and the Trustee has received \$15,562,896.38 pursuant to the Harlowe Settlement Agreement;
2. Harlowe has provided the Release Agreement to the Releasees;
3. Harlowe has certified that all of the representations and warranties contained in this Harlowe Settlement Agreement continue to be true as of the Effective Date;
4. Harlowe continues to be, in the reasonable opinion of the Trustee, in compliance with all of the terms of the Harlowe Settlement Agreement;
5. The other conditions set out in the Harlowe Settlement Agreement have been satisfied or waived by the Trustee; and
6. The settlement has been completed to the satisfaction of the Trustee.

This Certificate was delivered by the Trustee at _____ [TIME] on _____ [DATE].

**FAAN Mortgage Administrators Inc., solely
in its capacity as Court-appointed Trustee of
the undertaking, property and assets of
Building & Development Mortgages Canada
Inc., and in no other capacity**

Per: _____

Name:

Title:

Schedule "B" – Real Property

PIN 21239-0519 (LT)

PART OF LOTS 21 TO 26 PLAN D111, PARTS 1, 3, 4, 5, 6, 7 AND 8 PLAN 66R29958; SUBJECT TO AN EASEMENT AS IN AT3640549; SUBJECT TO AN EASEMENT IN FAVOUR OF LOT 8 PLAN D111 AS IN AT4127651; SUBJECT TO AN EASEMENT OVER PART 3 PLAN 66R29958 IN FAVOUR OF PART OF LOTS 21 TO 26 PLAN D111, PART 2 PLAN 66R29958 AS IN AT4939549; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 21 TO 26 PLAN D111, PART 2 PLAN 66R29958 AS IN AT4939549

Schedule “C” – Loan Encumbrances

Registration No.	Date	Type of Instrument
AT3428381	October 10, 2013	Charge
AT3428575	October 10, 2013	Transfer of Charge
AT3436925	October 24, 2013	Transfer of Charge
AT3439420	October 28, 2013	Transfer of Charge
AT3485881	December 20, 2013	Transfer of Charge
AT3497057	January 13, 2014	Transfer of Charge
AT3530200	February 28, 2014	Notice of Amending Agreement
AT3530201	February 28, 2014	Transfer of Charge
AT3537271	March 13, 2014	Transfer of Charge
AT3561924	April 22, 2014	Transfer of Charge
AT3624957	July 4, 2014	Notice of Amending Agreement
AT3671510	August 26, 2014	Transfer of Charge
AT3706643	October 3, 2014	Transfer of Charge
AT3728529	October 31, 2014	Transfer of Charge
AT3738320	November 12, 2014	Transfer of Charge
AT3749625	November 26, 2014	Transfer of Charge
AT3763762	December 11, 2014	Transfer of Charge
AT3783153	January 9, 2015	Transfer of Charge
AT3811062	February 13, 2015	Notice of Amending Agreement
AT3812523	February 18, 2015	Transfer of Charge
AT3945778	July 14, 2015	Notice of Amending Agreement
AT3945995	July 14, 2015	Transfer of Charge
AT3974731	August 12, 2105	Transfer of Charge
AT4014833	September 21, 2015	Notice of Amending Agreement
AT4020009	September 28, 2015	Transfer of Charge
AT4095416	December 15, 2015	Transfer of Charge
AT4127132	January 26, 2016	Postponement
AT4138805	February 5, 2016	Postponement
AT4166503	March 14, 2016	Transfer of Charge
AT4197452	April 20, 2016	Transfer of Charge
AT4224419	May 24, 2016	Transfer of Charge
AT4233310	June 1, 2016	Transfer of Charge
AT4271518	July 7, 2016	Transfer of Charge
AT4282089	July 18, 2016	Transfer of Charge
AT4483560	February 9, 2017	Transfer of Charge
AT4486694	February 14, 2017	Transfer of Charge

Schedule “D” – Release Agreement

[Date]

TO: FAAN Mortgage Administrators Inc. (the “Trustee”)

AND TO: Olympia Trust Company (“OTC”)

Re: Release granted in connection with repayment and settlement of the Obligations pursuant to Harlowe Settlement Agreement

Dear Sirs/Mesdames

Reference is made to the Loan Agreement dated as of June 10, 2013 (the “**Loan Agreement**”) between The Harlowe Inc. (“**Harlowe**”) and Building & Development Mortgages Canada Inc. (“**BDMC**”) and the related Security and Loan Documents. All capitalized terms used in this agreement (the “**Release Agreement**”) shall, unless otherwise defined herein, have the same meanings given to them in the Loan Agreement or the Settlement Agreement dated as of November 6, 2018 among Harlowe, the Trustee and OTC (the “**Settlement Agreement**”).

1. Harlowe hereby certifies that all of the representations and warranties contained in the Settlement Agreement are true and accurate as of the date hereof and that it is in compliance with all covenants, terms and provisions of the Settlement Agreement.
2. Harlowe has paid the Trustee \$15,562,896.38 pursuant to the Settlement Agreement and waives any right of set-off or any other defence.
3. In consideration of the acceptance of \$15,562,896.38 in full and final satisfaction of Obligations payable to BDMC by Harlowe under the Loan Agreement in excess of \$20,779,460 and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Harlowe (on behalf of itself, its affiliates, and their respective shareholders, agents, directors, officers, employees, and each of their respective successors and assigns) (collectively, the “**Releasors**”) hereby releases, discharges and acquits the Trustee, BDMC, OTC, and each lender or investor who loaned funds through BDMC or OTC to Harlowe pursuant to the Loan Agreement and all related Loan Documents, each of their respective officers, directors, agents, employees, and each of their respective successors and assigns (collectively, the “**Releasees**”) from any and all claims, demands, rights, liabilities, and causes of action, whether in law or in equity, whether known or unknown, that any Releasor, at any time had or has, or that they or their respective successors or assigns hereafter have or may have against the Releasees directly or indirectly arising out of or in any way related to the Loan Agreement, the Loan Documents, the proceedings initiated by the Order of the Ontario Superior Court of Justice (Commercial List) dated April 20, 2018, or any transactions hereunder or thereunder.

This Release Agreement shall be effective immediately upon the delivery of the Trustee’s Certificate and may be relied upon by any of the Releasees, whether or not such Releasee is a party to this Release Agreement or the Settlement Agreement.

This Release Agreement may be executed in any number of counterparts and by the different parties hereto in separate counterparts, and may be executed and delivered by facsimile or .pdf file transmitted by email, and all such counterparts, .pdf files and facsimiles when so executed and delivered shall be deemed to be an original and all of which when taken together shall constitute but one and the same Release Agreement.

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

Yours truly,

THE HARLOWE INC.

By:

Name:

Title:

Accepted and agreed to by:

FAAN MORTGAGE

ADMINISTRATORS INC., solely in its capacity as Court-appointed Trustee of Building & Development Mortgages Canada Inc. and in no other capacity

By:

Name:

Title:

OLYMPIA TRUST COMPANY

By:

Name:

Title:

THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -

**BUILDING & DEVELOPMENT MORTGAGES CANADA
INC.**

Applicant

Respondent

Court File No. CV-18-596204-00CL

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

Proceedings commenced at Toronto

HARLOWE SETTLEMENT APPROVAL ORDER

OSLER, HOSKIN & HARCOURT LLP
P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Michael De Lellis (LSUC# 48038U)
Jeremy Dacks (LSUC# 41851R)
Patrick Riesterer (LSUC# 60258G)

Tel: (416) 362-2111
Fax: (416) 862-6666

Lawyers for FAAN Mortgage Administrators Inc.,
in its capacity as Court-appointed Trustee

Appendix 4:
Trustee Notices to Investors



August 15, 2018

Dear Lender:

Re: Syndicated Mortgage Loan made to FCF Old Market Lane 2013 Inc. also known as Old Market Lane Inc. ("Borrower") in respect of properties located at 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON ("Old Market Lane Project")

On April 20, 2018, FAAN Mortgage Administrators Inc. ("**Trustee**") was appointed as trustee over Building & Development Mortgages Canada Inc. under a court order issued pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006* as amended, and section 101 of the *Courts of Justice Act*, as amended. A notice regarding the Trustee's appointment was previously provided.

We are writing to you in our capacity as Trustee regarding the Old Market Lane Project.

Notice of Sale Under Mortgage

On July 7, 2018, JYR Real Capital Mortgage Investment Corporation ("**JYR**"), acting as one of the Borrower's priority lenders delivered a Notice of Sale Under Mortgage ("**Notice of Sale**"). The amounts owing by the Borrower to JYR are in priority to amounts owed to syndicated mortgage lenders. JYR has indicated that events of default under its mortgage have occurred and unless the full amount of the outstanding debt totaling \$694,778 (including interest and fees to the date of the notice) is paid on or before August 29, 2018, JYR intends to sell the property that is the subject of the Old Market Lane Project ("**Property**"). A copy of the Notice of Sale is attached to this notice.

The Borrower has advised that Firm Capital, being the first ranking priority lender to the Old Market Lane Project in the amount of \$3.4 million, has not taken any action to date, including responding to the Notice of Sale. The Borrower further advised it is continuing to service the Firm Capital loan.

Should a sale of the Property be completed and the proceeds of such sale be insufficient to pay all amounts owing by the Borrower to the priority lenders on the Old Market Lane Project, there is a risk that you may not recover the sums that you advanced to the Borrower.



Borrower Update

Canadian Development Capital & Mortgage Services Inc. (“**CDCM**”), the Borrower’s representative, has advised that the Borrower is exploring its options for the site that is the subject of the Old Market Lane Project. The Trustee has been advised by CDCM that an update on the status of the Borrower’s intentions will be provided on or before August 29, 2018.

Should you have any further questions at this time, our contact information is below (if you are contacting us by email, please use the subject line **Old Market Lane**).

Email: **Info@FAANMortgageAdmin.com**
Local Telephone Number: **416-606-3338**
Toll-Free Telephone Number: **1-833-495-3338**

Yours very truly,

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.
IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF
BUILDING & DEVELOPMENT MORTGAGES CANADA INC.
AND IN NO OTHER CAPACITY**



LEVY | ZAVET PC

VIA REGISTERED MAIL

July 19, 2018

**BUILDING & DEVELOPMENT MORTGAGES
CANADA INC.**

25 Brodie Drive, Unit 8
Richmond Hill, Ontario
L4B 3K7

Michael Suria

Tel: 416-777-2244 ext. 760

Fax: 416-477-2847

Email: msuria@levyzavet.com

Dear Sir/Madam:

**RE: Our Client: JYR Real Capital Mortgage Investment Corporation
Instrument No.: YR2516898
177 Woodbridge Avenue, Vaughan
185 Woodbridge Avenue, Vaughan
197 Woodbridge Avenue, Vaughan**

We are the lawyers for JYR Real Capital Mortgage Investment Corporation with respect to the abovementioned matter.

Enclosed please find the notice of sale under charge served pursuant to the *Rules of Civil Procedure*.

Yours truly,

for Michael Suria
MS/hb

Encl.

NOTICE OF SALE UNDER CHARGE

**TO: ALL THOSE PERSONS LISTED ON SCHEDULE "A" ATTACHED HERETO
AND FORMING PART OF THIS NOTICE**

TAKE NOTICE that default has been made in payment of the monies due under a certain charge registered August 2, 2016 in the Land Registry office for the Land Titles Division of York (No. 65) as Instrument No: YR2516898, as amended,

BETWEEN

JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION

MORTGAGEE

and

OLD MARKET LANE INC.

MORTGAGOR

On the security of those lands and premises set out in Schedule "B".

AND we hereby give you notice that the amount now due on the mortgage for principal money, interest, taxes, insurance premiums, common expenses, prior mortgage arrears, and costs, respectively, is \$694,778.73, made up as follows:

Principal as of June 30, 2017	\$550,000.00
Interest from June 30, 2017 to July 19, 2018	\$113,837.10
Three months prepayment interest	\$24,750.00
Default proceeding fee	\$2,500.00
Discharge statement fee	\$250.00
Legal fees to prepare and register discharge	\$450.00
Electronic registration fee	\$75.63
Legal fees and disbursements with respect to enforcement	\$2,500.00
HST on legal fees	\$416.00
Total	\$694,778.73

E & OE

such amounts for costs being up to and including the service of this notice only, and thereafter such further costs and disbursements will be charged as may be proper, together with interest at the rate of 18 percent per annum calculated monthly from July 19, 2018 to the date of payment.

AND UNLESS said sums are paid on or before August 29, 2018 we shall sell the properties covered by the said charge under the provisions contained in it.

THIS NOTICE is given to you as you appear to have an interest in the charged property and may be entitled to redeem the same.

DATED: July 19, 2018

JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION

Mortgagee, by their solicitors

Levy Zavet PC

Barristers and Solicitors

201-315 Eglinton Avenue West

Toronto, Ontario

M5N 1A1

PER: 

Michael Suria

(LSUC No.: 54859R)

SCHEDULE "A"

TO: OLD MARKET LANE INC.
25 Brodie Drive, Unit 1
Richmond Hill, Ontario
L4B 3K7

AND TO: OCCUPANTS
177 Woodbridge Avenue
Vaughan, Ontario
L4L 2S9

AND TO: OCCUPANTS
185 Woodbridge Avenue
Vaughan, Ontario
L4L 2S9

AND TO: OCCUPANTS
197 Woodbridge Avenue
Vaughan, Ontario
L4L 2S9

AND TO: COLE ENGINEERING GROUP LTD.
70 Valleywood Dr.
Markham, ON
L3R 4T5

AND TO: COLE ENGINEERING GROUP LTD.
c/o Keyser Mason Ball, LLP
4 Robert Speck Pkwy #1600
Mississauga, Ontario
L4Z 1S1

AND TO: BUILDING & DEVELOPMENT MORTGAGES CANADA INC.
25 Brodie Drive, Unit 8
Richmond Hill, Ontario
L4B 3K7

AND TO: FAAN MORTGAGE ADMINISTRATORS INC.
20 Adelaide Street East, Suite 920
Toronto, Ontario
M5C 2T6

AND TO: FAAN MORTGAGE ADMINISTRATORS INC.
c/o Osler, Hoskin & Harcourt LLP

100 King Street West
1 First Canadian Place Suite 6200
P.O. Box 50
Toronto, Ontario
M5X1B8

AND TO: OLYMPIA TRUST COMPANY
2200, 125-9 Avenue SE
Calgary, Alberta
T2G 0P6

AND TO: FORTRESS REAL DEVELOPMENTS INC.
25 Brodie Drive, Unit 1
Richmond Hill, Ontario
L4B 3K7

AND TO: FORTRESS REAL CAPITAL INC.
25 Brodie Drive, Unit 1
Richmond Hill, Ontario
L4B 3K7

SCHEDULE "B"**177 WOODBRIDGE AVENUE, VAUGHAN**

PIN: 03299-0102 (LT)

Description: PT W1/2 LT 7 CON 7 VAUGHAN AS IN R543783; CITY OF VAUHGAN

Municipal Address: 177 WOODBRIDGE AVENUE
VAUGHAN

185 WOODBRIDGE AVENUE, VAUGHAN

PIN: 03299-0101 (LT)

Description: PT W1/2 LT 7 CON 7 VAUGHAN AS IN WB5781; CITY OF VAUHGAN

Municipal Address: 185 WOODBRIDGE AVENUE
VAUGHAN

197 WOODBRIDGE AVENUE, VAUGHAN

PIN: 03299-0100 (LT)

Description: PT W1/2 LT 7 CON 7 VAUGHAN PT 1 65R11983; CITY OF VAUHGAN

Municipal Address: 197 WOODBRIDGE AVENUE
VAUGHAN



August 16, 2018

Dear Lender:

Re: Syndicated Mortgage Loan made to FCF Old Market Lane 2013 Inc. also known as Old Market Lane Inc. (“Borrower”) pursuant to a loan agreement dated September 4, 2013 and subject to a Loan Amending Agreement dated August 5, 2014 (“Original Loan” and “Amending Agreement”, collectively, the “Loan”) regarding the properties located at 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON (“Old Market Lane Project”)

On April 20, 2018, FAAN Mortgage Administrators Inc. (“**Trustee**”) was appointed as trustee over Building & Development Mortgages Canada Inc. under a court order issued pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006* as amended, and section 101 of the *Courts of Justice Act*, as amended. A notice regarding the Trustee’s appointment was previously provided.

We are writing to you in our capacity as Trustee regarding the Old Market Lane Project.

Notice of Sale Under Mortgage

On July 7, 2018, JYR Real Capital Mortgage Investment Corporation (“**JYR**”), acting as one of the Borrower’s priority lenders delivered a Notice of Sale Under Mortgage (“**Notice of Sale**”). The amounts owing by the Borrower to JYR are in priority to amounts owed to syndicated mortgage lenders under the Loan. JYR has indicated that events of default under its mortgage have occurred and unless the full amount of the outstanding debt totaling \$694,778 (including interest and fees to the date of the notice) is paid on or before August 29, 2018, JYR intends to sell the property that is the subject of the Old Market Lane Project (“**Property**”). A copy of the Notice of Sale is attached to this notice.

The Borrower has advised that Firm Capital, being the first ranking priority lender to the Old Market Lane Project in the amount of \$3.4 million, has not taken any action to date, including responding to the Notice of Sale. The Borrower further advised it is continuing to service the Firm Capital loan.

Should a sale of the Property be completed and the proceeds of such sale be insufficient to pay all amounts owing by the Borrower to the priority lenders on the Old Market Lane Project, there is a risk that you may not recover the sums that you advanced to the Borrower.



Borrower Update

Canadian Development Capital & Mortgage Services Inc. (“**CDCM**”), the Borrower’s representative, has advised that the Borrower is exploring its options for the site that is the subject of the Old Market Lane Project. The Trustee has been advised by CDCM that an update on the status of the Borrower’s intentions will be provided on or before August 29, 2018.

Extension of Term

The Loan has an upcoming maturity date of October 4, 2018. As you are aware, the Loan contain provisions allowing the term to be extended by 12 months. Please see attached letter from the Borrower, engaging the 12 month extension pursuant to Section 4 of the Loan Agreement. Accordingly, the revised maturity date is October 4, 2019. Interest will continue to accrue at 8% annually.

We will keep you informed of the developments related to these matters.

Should you have any further questions at this time, our contact information is below (if you are contacting us by email, please use the subject line **Old Market Lane**).

Email: **Info@FAANMortgageAdmin.com**
Local Telephone Number: **416-606-3338**
Toll-Free Telephone Number: **1-833-495-3338**

Yours very truly,

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.
IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF
BUILDING & DEVELOPMENT MORTGAGES CANADA INC.
AND IN NO OTHER CAPACITY**


LEVY | ZAVET PC

VIA REGISTERED MAIL

July 19, 2018

**BUILDING & DEVELOPMENT MORTGAGES
CANADA INC.**

25 Brodie Drive, Unit 8
Richmond Hill, Ontario
L4B 3K7

Michael Suria

Tel: 416-777-2244 ext. 760

Fax: 416-477-2847

Email: msuria@levyzavet.com

Dear Sir/Madam:

**RE: Our Client: JYR Real Capital Mortgage Investment Corporation
Instrument No.: YR2516898
177 Woodbridge Avenue, Vaughan
185 Woodbridge Avenue, Vaughan
197 Woodbridge Avenue, Vaughan**

We are the lawyers for JYR Real Capital Mortgage Investment Corporation with respect to the abovementioned matter.

Enclosed please find the notice of sale under charge served pursuant to the *Rules of Civil Procedure*.

Yours truly,

for Michael Suria
MS/hb

Encl.

NOTICE OF SALE UNDER CHARGE

**TO: ALL THOSE PERSONS LISTED ON SCHEDULE "A" ATTACHED HERETO
AND FORMING PART OF THIS NOTICE**

TAKE NOTICE that default has been made in payment of the monies due under a certain charge registered August 2, 2016 in the Land Registry office for the Land Titles Division of York (No. 65) as Instrument No: YR2516898, as amended,

BETWEEN

JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION

MORTGAGEE

and

OLD MARKET LANE INC.

MORTGAGOR

On the security of those lands and premises set out in Schedule "B".

AND we hereby give you notice that the amount now due on the mortgage for principal money, interest, taxes, insurance premiums, common expenses, prior mortgage arrears, and costs, respectively, is **\$694,778.73**, made up as follows:

Principal as of June 30, 2017	\$550,000.00
Interest from June 30, 2017 to July 19, 2018	\$113,837.10
Three months prepayment interest	\$24,750.00
Default proceeding fee	\$2,500.00
Discharge statement fee	\$250.00
Legal fees to prepare and register discharge	\$450.00
Electronic registration fee	\$75.63
Legal fees and disbursements with respect to enforcement	\$2,500.00
HST on legal fees	\$416.00
Total	\$694,778.73

E & OE

such amounts for costs being up to and including the service of this notice only, and thereafter such further costs and disbursements will be charged as may be proper, together with interest at the rate of 18 percent per annum calculated monthly from July 19, 2018 to the date of payment.

AND UNLESS said sums are paid on or before **August 29, 2018** we shall sell the properties covered by the said charge under the provisions contained in it.

THIS NOTICE is given to you as you appear to have an interest in the charged property and may be entitled to redeem the same.

DATED: July 19, 2018

JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION

Mortgagee, by their solicitors

Levy Zavet PC

Barristers and Solicitors

201-315 Eglinton Avenue West

Toronto, Ontario

M5N 1A1

PER: 

Michael Suria

(LSUC No.: 54859R)

SCHEDULE "A"

TO: OLD MARKET LANE INC.
25 Brodie Drive, Unit 1
Richmond Hill, Ontario
L4B 3K7

AND TO: OCCUPANTS
177 Woodbridge Avenue
Vaughan, Ontario
L4L 2S9

AND TO: OCCUPANTS
185 Woodbridge Avenue
Vaughan, Ontario
L4L 2S9

AND TO: OCCUPANTS
197 Woodbridge Avenue
Vaughan, Ontario
L4L 2S9

AND TO: COLE ENGINEERING GROUP LTD.
70 Valleywood Dr.
Markham, ON
L3R 4T5

AND TO: COLE ENGINEERING GROUP LTD.
c/o Keyser Mason Ball, LLP
4 Robert Speck Pkwy #1600
Mississauga, Ontario
L4Z 1S1

AND TO: BUILDING & DEVELOPMENT MORTGAGES CANADA INC.
25 Brodie Drive, Unit 8
Richmond Hill, Ontario
L4B 3K7

AND TO: FAAN MORTGAGE ADMINISTRATORS INC.
20 Adelaide Street East, Suite 920
Toronto, Ontario
M5C 2T6

AND TO: FAAN MORTGAGE ADMINISTRATORS INC.
c/o Osler, Hoskin & Harcourt LLP

100 King Street West
1 First Canadian Place Suite 6200
P.O. Box 50
Toronto, Ontario
M5X1B8

AND TO: OLYMPIA TRUST COMPANY
2200, 125-9 Avenue SE
Calgary, Alberta
T2G 0P6

AND TO: FORTRESS REAL DEVELOPMENTS INC.
25 Brodie Drive, Unit 1
Richmond Hill, Ontario
L4B 3K7

AND TO: FORTRESS REAL CAPITAL INC.
25 Brodie Drive, Unit 1
Richmond Hill, Ontario
L4B 3K7

SCHEDULE "B"**177 WOODBRIDGE AVENUE, VAUGHAN**

PIN: 03299-0102 (LT)

Description: PT W1/2 LT 7 CON 7 VAUGHAN AS IN R543783; CITY OF VAUGHAN

Municipal Address: 177 WOODBRIDGE AVENUE
VAUGHAN

185 WOODBRIDGE AVENUE, VAUGHAN

PIN: 03299-0101 (LT)

Description: PT W1/2 LT 7 CON 7 VAUGHAN AS IN WB5781; CITY OF VAUGHAN

Municipal Address: 185 WOODBRIDGE AVENUE
VAUGHAN

197 WOODBRIDGE AVENUE, VAUGHAN

PIN: 03299-0100 (LT)

Description: PT W1/2 LT 7 CON 7 VAUGHAN PT 1 65R11983; CITY OF VAUGHAN

Municipal Address: 197 WOODBRIDGE AVENUE
VAUGHAN

OLD MARKET LANE INC.

July 19, 2018

Building & Development Mortgages Canada Inc.
8-25 Brodie Drive
Richmond Hill, ON
L4B 3K7

Olympia Trust Company
2200, 125-9th Ave. SE
Calgary, Alberta
T2P 0P6

RE: Extension of existing loan for the Old Market Lane 3rd charge

To whom it may concern;

Pursuant to Section 4.0 of the Loan Agreement, we hereby exercise our option to extend the maturity date on the above noted project by 12 months to October 4, 2019. Interest will continue to accrue until project maturity. All other terms and conditions shall remain the same.

Sincerely,

A handwritten signature in black ink, appearing to read 'V. Petrozza', with a long horizontal stroke extending to the right.

Vince Petrozza
Vice President
Old Market Lane Inc.

1-25 Brodie Drive
Richmond Hill, ON L4B 3K7



October 15, 2018

Dear Lender:

Re: Syndicated Mortgage Loan made to FCF Old Market Lane 2013 Inc. also known as Old Market Lane Inc. ("Borrower") in respect of properties located at 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON ("Old Market Lane Project" or "Properties")

As you are aware, on April 20, 2018, FAAN Mortgage Administrators Inc. ("**Trustee**") was appointed as trustee over Building & Development Mortgages Canada Inc. under a court order issued pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006* as amended, and section 101 of the *Courts of Justice Act*, as amended.

We are writing to you in our capacity as Trustee regarding the Old Market Lane Project and further to our notices advising of a notice of sale issued by JYR Real Capital Mortgage Investment Corporation ("**JYR**") and the Notice of Intention to Enforce Security issued by Firm Capital Mortgage Fund Inc. ("**Firm**") acting as the Borrower's priority lenders.

On October 11, 2018, Firm issued a Notice of Sale Under Mortgage. Firm advised in its notice that the Borrower is in default under their mortgage and unless the full amount of the outstanding debt totaling \$3,503,995 (including interest and fees as at October 10, 2018) is paid on or before November 15, 2018, Firm would be in a position to sell the property that is the subject of the Old Market Lane Project. A copy of Firm's Notice of Sale is attached to this notice.

The Trustee has been advised by the Borrower that it is continuing to seek a transaction for the sale of the Properties, which may allow Lenders to continue to maintain their mortgages on the Properties.

Should a sale of the Properties be completed and the proceeds of such sale be insufficient to pay all amounts owing by the Borrower to the priority lenders, including Firm and JYR, on the Old Market Lane Project, there is a risk that you may not recover the sums that you advanced to the Borrower.

Should you have any further questions at this time, our contact information is below (if you are contacting us by email, please use the subject line **Old Market Lane**).

Email:	Info@FAANMortgageAdmin.com
Local Telephone Number:	416-606-3338
Toll-Free Telephone Number:	1-833-495-3338

Yours very truly,

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.
IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF
BUILDING & DEVELOPMENT MORTGAGES CANADA INC.
AND IN NO OTHER CAPACITY**

NOTICE OF SALE UNDER MORTGAGE

- TO: Old Market Lane Inc.
25 Brodie Drive, Unit 1
Richmond Hill, Ontario L4B 3K7
- AND TO: Old Market Land Inc.
197 Woodbridge Avenue
Vaughan, Ontario L4L 2S9
- AND TO: Old Market Land Inc.
185 Woodbridge Avenue
Vaughan, Ontario L4L 2S9
- AND TO: Old Market Land Inc.
177 Woodbridge Avenue
Vaughan, Ontario L4L 2S9
- AND TO: Fortress Real Developments Inc.
25 Brodie Drive, Suite 1
Richmond Hill, Ontario L4B 3K7
- AND TO: Fortress Marketlane 2011 Inc.
25 Brodie Drive, Suite 1
Richmond Hill, Ontario L4B 3K7
- AND TO: Paza Service Corp.
25 Brodie Drive, Suite 1
Richmond Hill, Ontario L4B 3K7
- AND TO: Sanjay Kumar Pahuja
488 Huron Street
Toronto, Ontario, M5R 2R3
- AND TO: Centro Mortgage Inc.
25A Brodie Drive, Unit 1
Richmond Hill, Ontario, L4B3K7
- AND TO: Olympia Trust Company
125 9th Avenue SE, Suite 2200
Calgary, Alberta, T2G 0P6
- AND TO: JYR Real Capital Mortgage Investment
Corporation
7100 Woodbine Avenue, Suite 112
Markham, Ontario, L3R 5J2
- AND TO: Building & Development Mortgages Canada
Inc.
25A Brodie Drive, Unit 1
Richmond Hill, Ontario, L4B 3K7
- AND TO: Olympia Trust Company
125 9th Avenue SE, Suite 2200
Calgary, Alberta, T2G 0P6
- AND TO: Building & Development Mortgages Canada
Inc.
25A Brodie Drive, Unit 1
Richmond Hill, Ontario, L4B 3K7
- AND TO: Olympia Trust Company

125 9th Avenue SE, Suite 2200
Calgary, Alberta, T2G 0P6

AND TO: Cole Engineering Group Ltd.
c/o Keyser Mason Ball, LLP
1600-4 Robert Speck Parkway
Mississauga, Ontario L4Z 1S1
File No.: 14526-22 (Cole Engineering)
(YR2712675 and YR2731028)

AND TO: The Corporation of the City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario, L6A 1T1
(YR2882046)

AND TO: Those parties set out in Schedule "A"
annexed hereto

TAKE NOTICE that default has been made in payment of the moneys due under a certain mortgage signed March 21, 2014, made between

OLD MARKET LANE INC.

as Mortgagor,

- and -

FIRM CAPITAL MORTGAGE FUND INC.

as Mortgagee,

upon the following property namely:

PIN No. 03299-0100 (LT)

PT W1/2 LT 7 CON 7 VAUGHAN PT 1 65R11983; CITY OF VAUGHAN
York Region Land Titles Office (No. 65)

Municipal Address: 197 Woodbridge Avenue, Vaughan

PIN No. 03299-0101 (LT)

PT W1/2 LT 7 CON 7 VAUGHAN AS IN WB5781; CITY OF VAUGHAN
York Region Land Titles Office (No. 65)

Municipal Address: 185 Woodbridge Avenue, Vaughan

PIN No. 03299-0102 (LT)

PT W1/2 LT 7 CON 7 VAUGHAN AS IN R543783; CITY OF VAUGHAN
York Region Land Titles Office (No. 65)

Municipal Address: 177 Woodbridge Avenue, Vaughan

which mortgage was registered on March 21, 2014, in the York Region Land Registry Office (No. 65) as No. YR2107734 and which mortgage was renewed from time to time with last renewal date of September 17, 2018.

AND I hereby give you notice that the amount now due on the mortgage for principal money, interest, outstanding renewal fee, renewal fee, NSF/missed payment fee, statement administration fee, default administration fee, notice of sale fee, tax credit balance and costs respectively, are as follows:

For principal	\$3,400,000.00
For interest to October 10, 2018	\$60,682.91
For outstanding renewal fee of mortgagee (July 2018)	\$34,000.00
For renewal fee of mortgagee (October 2018)	\$3,400.00
For NSF/missed payment fee of mortgagee	\$500.00
For statement administration fee of mortgagee	\$300.00
For default administration fee of mortgagee	\$750.00
For notice of sale fee of mortgagee	\$750.00
For property tax credit balance	-\$2,998.12
For legal fees for issuing Notice of Intention to Enforce Security	\$850.00
For legal fees, disbursements and costs in connection with the service of this notice only (and thereafter such further legal fees, disbursements and costs will be charged as may be incurred)	\$5,000.00
For HST on costs	\$760.50
	\$3,503,995.29

(such amount for costs being up to and including the service of this Notice only, and thereafter such further costs and disbursements will be charged as may be proper), together with interest at the greater of 12.00% per annum or The Toronto-Dominion Bank Prime Rate plus 5.00% per annum, on the principal and interest hereinbefore mentioned, from the 10th day of October, 2018, to the date of payment.

AND unless the said sums are paid on or before the 15th day of November, 2018, 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 10th day of October, 2018.

FIRM CAPITAL MORTGAGE FUND INC.
by its solicitors
MEYER, WASSENAAR & BANACH, LLP

Per: 
Joseph Fried

Meyer, Wassenaar & Banach, llp HST Registration # R 121596506

SCHEDULE "A"

Beneficial Owners of Centro Mortgage Inc.'s interest in Charge No. YR1763318 (PIN 03299-0100 LT)

Sanjay Kumar Pahuja
Francisco Arcilla
Francisco Arcilla
Donna Wheeler
Garry Wheeler
James Seeley
Cheryl Scoffield
William Getz
Ana Rodrigues
Florio Rodrigues
Marta Andrade
Elisabeth Manson
Janet Breen
Armando Forlingiero
Frank Portugal
Alfonso Izzo
Sanda Weiler
Renato Riva
Michelle Moerth
Anand Mahabir
Francine Mahabir
Terry Baker
Andrea Baker
(Charge YR1763318)

**c/o Sanjay Kumar Pahuja
488 Huron Street
Toronto, Ontario, M5R 2R3**

**c/o Centro Mortgage Inc.
25A Brodie Drive, Unit 1
Richmond Hill, Ontario, L4B 3K7**

Beneficial Owner of Olympia Trust Company's interest in Charge No. YR1763318 (PIN 03299-0100 LT)

RRSP No. 87841
RRSP No. 88023
RRSP No. 88024
RRSP No. 88101
RRSP No. 88576
RRSP No. 88754
RRSP No. 88577
RRSP No. 88453
RRSP No. 88765
RRSP No. 88980
RRSP No. 88449
RRSP No. 88454
RRSP No. 88309
RRSP No. 88105
RRSP No. 19302
RRSP No. 88019
RRSP No. 89068
RRSP No. 88696

RRSP No. 89416
RRSP No. 89415
RRSP No. 89563
RRSP No. 89300
RRSP No. 89417
RRSP No. 89423
RRSP No. 89682
RRSP No. 90087
RRSP No. 20666
RRSP No. 88019
RRSP No. 90340
RRSP No. 90564
RRSP No. 90561
RRSP No. 90814
RRSP No. 91129
RRSP No. 70280
RRSP No. 91155
(Charge YR1763318)

RRSP No. 92108
RRSP No. 91676
RRSP No. 92183
RRSP No. 92185
RRSP No. 91422
RRSP No. 92579
RRSP No. 92213
RRSP No. 91425
RRSP No. 92237
RRSP No. 88488
(Transfer of Charge YR1774640)

RRSP No. 92410
RRSP No. 90687
RRSP No. 92734
RRSP No. 90965
RRSP No. 97698
(Transfer of Charge YR1833283)

RRSP No. 90110
RRSP No. 110409
RRSP No. 110053
RRSP No. 113742
(Transfer of Charge YR2015768)

David Bennett, RRSP Plan No. 100456
(Transfer of Charge YR2447947)

Blake Vermilyea, RRSP Plan No. 105680
(Transfer of Charge YR2448632)

c/o Olympia Trust Company
125 9th Avenue SE, Suite 2200
Calgary, Alberta, T2G 0P9

Beneficial Owners of Sanjay Kumar Pahuja's interest in Charge No. YR1763336 (PIN 03299-0101)

Francisco Arcilla
 Francisco Arcilla
 Donna Wheeler
 Garry Wheeler
 James Seeley
 Cheryl Scoffield
 Wiliam Getz
 Ana Rodrigues
 Floriao Rodrigues
 Marta Andrade
 Elisabeth Manson
 Janet Breen
 Armando Forlingiero
 Frank Portugal
 Alfonso Izzo
 Sanda Weiler
 Renato Riva
 Michelle Moerth
 Martha Veenendaal
 Anand Mahabir
 Francine Mahabir
 Terry Baker
 Andrea Baker
 (Charge No. YR1763336)

c/o Sanjay Kumar Pahuja
488 Huron Street
Toronto, Ontario, M5R 2R3

Beneficial Owner of Olympia Trust Company's interest in Charge No. YR1763336 (PIN 03299-0101)

Plan No. 87841
 Plan No. 88023
 Plan No. 88024
 Plan No. 88101
 Plan No. 88576
 Plan No. 88754
 Plan No. 88577
 Plan No. 88453
 Plan No. 88765
 Plan No. 88980
 Plan No. 88449
 Plan No. 88454
 Plan No. 88309
 Plan No. 88105
 Plan No. 19302
 Plan No. 88019
 Plan No. 89068
 Plan No. 88696
 Plan No. 89416
 Plan No. 89415
 Plan No. 89563
 Plan No. 89300
 Plan No. 89417
 Plan No. 89423
 Plan No. 89682
 Plan No. 90087

Notice of Sale - Page 7

Plan No. 20666

Plan No. 88019

Plan No. 90340

Plan No. 90564

Plan No. 90561

Plan No. 90814

Plan No. 91129

Plan No. 70280

Plan No. 91155

(Transfer of Charge No. YR1763336)

RRSP No. 92108

RRSP No. 91676

RRSP No. 92183

RRSP No. 92185

RRSP No. 91422

RRSP No. 92579

RRSP No. 92213

RRSP No. 91425

RRSP No. 92237

RRSP No. 88488

(Transfer of Charge YR1774640)

RRSP No. 92410

RRSP No. 90687

RRSP No. 92734

RRSP No. 90965

RRSP No. 97698

(Transfer of Charge YR1833283)

RRSP No. 90110

RRSP No. 110409

RRSP No. 110053

RRSP No. 113742

(Transfer of Charge YR2015768)

**c/o Olympia Trust Company
125 9th Avenue SE, Suite 2200
Calgary, Alberta, T2G 0P6**

Beneficial Owners of Sanjay Kumar Pahuja's interest in Charge No. YR1763326 (PIN 03299-0102 LT)

Francisco Arcilla
 Francisco Arcilla
 Donna Wheeler
 Garry Wheeler
 James Seeley
 Cheryl Scoffield
 Wiliam Getz
 Ana Rodrigues
 Floriao Rodrigues
 Marta Andrade
 Elisabeth Manson
 Janet Breen
 Armando Forlingiero
 Frank Portugal
 Alfonso Izzo
 Sanda Weiler
 Renato Riva
 Michelle Moerth
 Martha Veenendaal
 Anand Mahabir
 Francine Mahabir
 Terry Baker
 Andrea Baker
 (Charge No. YR1763326)

c/o Sanjay Kumar Pahuja
488 Huron Street
Toronto, Ontario, M5R 2R3

Beneficial Owner of Olympia Trust Company's interest in Charge No. YR1763326 (PIN 03299-0102 LT)

Plan No. 87841
 Plan No. 88023
 Plan No. 88024
 Plan No. 88101
 Plan No. 88576
 Plan No. 88754
 Plan No. 88577
 Plan No. 88453
 Plan No. 88765
 Plan No. 88980
 Plan No. 88449
 Plan No. 88454
 Plan No. 88309
 Plan No. 88105
 Plan No. 19302
 Plan No. 88019
 Plan No. 89068
 Plan No. 88696
 Plan No. 89416
 Plan No. 89415
 Plan No. 89563
 Plan No. 89300
 Plan No. 89417
 Plan No. 89423
 Plan No. 89682
 Plan No. 90087

Notice of Sale - Page 9

Plan No. 20666

Plan No. 88019

Plan No. 90340

Plan No. 90564

Plan No. 90561

Plan No. 90814

Plan No. 91129

Plan No. 70280

Plan No. 91155

(Transfer of Charge No. YR1763326)

RRSP No. 92108

RRSP No. 91676

RRSP No. 92183

RRSP No. 92185

RRSP No. 91422

RRSP No. 92579

RRSP No. 92213

RRSP No. 91425

RRSP No. 92237

RRSP No. 88488

(Transfer of Charge YR1774640)

RRSP No. 92410

RRSP No. 90687

RRSP No. 92734

RRSP No. 90965

RRSP No. 97698

(Transfer of Charge YR1833283)

RRSP No. 90110

RRSP No. 110409

RRSP No. 110053

RRSP No. 113742

(Transfer of Charge YR2015768)

**c/o Olympia Trust Company
125 9th Avenue SE, Suite 2200
Calgary, Alberta, T2G 0P6**

**Beneficial Owners of Building & Development Mortgages Canada Inc.'s interest in Charge
No. YR2083558**

Silvio Do Amaral Marques
Luis Carlos Correia Raposo
Amenia Resendes De Amaral Raposo
2368376 Ontario Inc.
Zepure Belushi
Carlos J. Araujo
Cidalia M. Araujo
Medical Health Pharmacies
Saloman Peralta
(Transfer of Charge No. YR2084099)

Jose Pacheco Espinola
Roseline Datt
Alfredo Macieira De Castro
Luisa Martins De Castro
Victoria Bresnahan
Luis Garcia
1872880 Ontario Inc.
Tatiana Andreevskaja
Jose Pacheco
Eduarda Pacheco
Anibal Filipe Carias
Maria Da Gloria Carias
Parimalakanthi Moodliar
Michael Robert Lee
Barbara May Lee
Maria Teresa Gondek
Fernando Moura
Herminia Moura
Toan Kim Lam
Richard Balon
Bimla Woodwall
Simmi Amita Woodwall
Fernanda Maria Costa Da Silva Almeida
Manuel Augusto Constantino Almeida
Hong Chiem
Sidney Randall Livermore
Carol Ann Livermore
Sean R. Metcalfe
Catherine Docherty
Jinhua Xu
(Transfer of Charge No. YR2084108)

Sylco Investments Ltd.
Nancy Carreiro
Roger Rajan
Roger Rajan
Jose Cristiano Carreiro
Maria Alice Carreiro
Fernando Silvestri
(Transfer of Charge No. YR2095324)

Candoo Security Products Inc.
Anna Maria Henriques
Baizhou Situ
Candida Domingos
Anthony Lefrancois
Sabrina Principato-Belli
Ermanno William Belli

(Transfer of Charge No. YR2193468)

Caravello Holdings Inc.
(Transfer of Charge No. YR2205958)

Patricia Hoyte
WFM Corporate Services Inc, In Trust for W0008-PR1407-M
(Transfer of Charge No. YR2220495)

Guido Loseto
Chetan Chhabildas Doshi
(Transfer of Charge No. YR2253389)

Maria Emilia Reis
Perpetua Baia Nascimento
(Transfer of Charge No. YR2280461)

Antonio Francisco Mendes
Mary Arminda Mendes
Danuta Ruczynska
Tadeusz Ruczynski
Iolanda Rilli
Gere Risi
Lucie Risi
Samantha Maurice
Ryan Maurice
José Augusto Costa
Xin Ping Xie
Lachmini Seenanan
Zaid Medhat
Jean Cheung
Franky Man Ching Tse
Mei Yee Kong
Andrian Janes
Stanley Jay Tracey
(Transfer of Charge No. YR2287204)

2338259 Ontario Inc.
Kevin Leonard Richard
Karen E. Jessop
2317584 Ontario Inc.
(Transfer of Charge No. YR2295575)

Silla Holdings Inc.
(Transfer of Charge No. YR2330977)

Sung-Hyun Lee
(Transfer of Charge No. YR2398688)

Jin-Ho Kim
Soon-Wha Kim
Ick Soo Lim
(Transfer of Charge No. YR2411840)

Alessia Mattiace
Balinder Jeet Kaur
(Transfer of Charge No. YR2452198)

Samantha Hui
(Transfer of Charge No. YR2466528)

Wilma J. Lamers

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Yanshan Tracy Feng
(*Transfer of Charge No. YR2480707*)

Janet MacMillan
(*Transfer of Charge No. YR2620715*)

c/o Sorrenti Law Professional Corporation
3300 Highway #7, Suite 310
Vaughan, Ontario L4K 4M3

And

c/o Building & Development Mortgages Canada Inc.
25A Brodie Drive, Unit 1
Richmond Hill, Ontario L4B 3K7

Beneficial Owners of Olympia Trust Company's interest in Charge No. YR2083558

Colleen Adams, Plan No. 84474
(*Transfer of Charge No. YR2084099*)

Kevin John Byworth, Plan No. 112942
Casy Balsamo, Plan No. 113851
Jacques J. Boisvert, Plan No. 117056
Fazela Yacoobali, Plan No. 116927
Angelina Mastroianni, Plan No. 114345
Geralda Soares Falcao, Plan No. 117149
Ravi Shailesh Dindayal, Plan No. 111884
Kirnbir Takhar Sharma, Plan No. 112854
Christine Anne Gaddye, Plan No. 117331
Casy Balsamo, Plan No. 113385
Ana Liza Dematera, Plan No. 117507
Ishaq M. Shaik, Plan No. 116922
Gulabrai Veljibhai Modha, Plan No. 117612
Philip Matthews, Plan No. 117278
Gulabrai Veljibhai Modha, Plan No. 117208
Maria Elena Moscato, Plan No. 118037
Christine Periard-Dabros, Plan No. 84909
Jongseok Kim, Plan No. 117984
Robert Paul Edwards, Plan No. 117826
Dorothy Graham, Plan No. 116598
Giacomo Marandola, Plan No. 117275
Tessie Balsamo, Plan No. 113386
Eduarda Matias, Plan No. 92448
(*Transfer of Charge No. YR2084108*)

Stuart Carne, Plan No. 117945
Igor Nikolaenko, Plan No. 118410
Daniel Lalonde, Plan No. 118127
Wei Yan Tian, Plan No. 118227
Edward Fredrick Eder, Plan No. 119127
Nancy Carreiro, Plan No. 119157
David Wood, Plan No. 119124
(*Transfer of Charge No. YR2095324*)

Urania Andrade Silveira, Plan No. 118048
Robert Paul Edwards, Plan No. 122670
Tasneen Noushaba Syed, Plan No. 122730
Daryl Smith, Plan No. 92645
Pedro R. Gadea, Plan No. 122608
(*Transfer of Charge No. YR2141232*)

Joseph A. Farah, Plan No. 127196
(*Transfer of Charge No. YR2193468*)

Grace Pluchino, Plan No. 128414
Helen Verkuyl-Boyko, Plan No. 129057
(*Transfer of Charge No. YR2231039*)

Rui Alexandre, Plan No. 129996
Trevor Wolski, Plan No. 130281
(*Transfer of Charge No. YR2253389*)

Ernesto Goncalves, Plan No. 116016
Santino Caravello, Plan No. 130836
(*Transfer of Charge No. YR2280461*)

Vikas Chhabra, Plan No. 133105
Geetanjali Missar, Plan No. 133106
Kenneth M. Janes, Plan No. 133809
(*Transfer of Charge No. YR2287204*)

Lam Kwong Woo, Plan No. 133837
Mohammad Saeed Atighi, Plan No. 133772
Agnes Siu, Plan No. 133768
Tony Zupo, Plan No. 133584
Tak Ling Ada Kwok, Plan No. 133881
(*Transfer of Charge No. YR2295575*)

Raissa Wai-Sum Chan, Plan No. 133928
Sandrine Isabelle Vatinel, Plan No. 133775
Sevil Tanrikulu, Plan No. 133531
Reshawn Devendra, Plan No. 115483
(*Transfer of Charge No. YR2330977*)

Jennifer Bowden, Plan No. 137246
(*Transfer of Charge No. YR2382497*)

Jennifer Maracle Westgate, Plan No. 139632
(*Transfer of Charge No. YR2411840*)

Gurbax Kaur Mahil, Plan No. 143344
Maureen C. Bondar, Plan No. 140387
Satwant Singh Mahil, Plan No. 143346
Jawad Rathore, Plan No. 92577
(*Transfer of Charge No. YR2452198*)

Pasquale Fazzino, Plan No. 145588
(*Transfer of Charge No. YR2466528*)

Mira Wroblewska, Plan No. 136477
(*Transfer of Charge No. YR2480707*)

Christine Marie Chan, Plan No. 145972
(*Transfer of Charge No. YR2512725*)

**c/o Olympia Trust Company
125 9th Avenue SE, Suite 2200
Calgary, Alberta T2G 0P6**

Beneficial Owners of Building & Development Mortgages Canada Inc.'s interest in Charge No. YR25780-49

Ilan Tabori
 Eduardo Cavaco
 Mercedes Trindade
 Hermano Pereira
 Maria Pereira
 Margarida Lopes Pimentel
 Jose Dionisio Carvalho
 Armindo Fernandes
 Idalina Fernandes
 Carlos Manuel Almeida
 Maria Alcina Almeida
 Danny Bacic
 Dipika Patel
 Donatella Bigonzi
 Manuel Francisco Costa
 Mardiros Gerard
 Seta Panossian
 Maria Do Carmo Rita
 Gil Do Melo Rita
 Qing Yan Li
 Joao Miguel Ribeiro
 Sushant Sharma
 Carlos Alberto Amaral
 Maria Zelia Amaral
 9147721 Canada Inc. (per: Mohan Kale)
 Danny Bacic
 Eni Di Marco
(Transfer of Charge YR26970-47)

c/o Building & Development Mortgages Canada Inc.
25 Brodie Drive, Unit 8
Richmond Hill, Ontario, L4B 3K7

Beneficial Owner of Olympia Trust Company's interest in Charge No. YR25780-49

Manjapra Parameswaran, Plan No. 146886
 Vito Aiello, Plan No. 147946
 Carlo Ricci, Plan No. 110096
 Paul Sentner, Plan No. 104246
 Andrew P. Aprile, Plan No. 141413
 Carlos Pinto, Plan No. 138948
 Cristina C.G. Aprile, Plan No. 141319
 Donald Little, Plan No. 145502
 Hai Ying, Plan No. 146515
 Kenneth Neill, Plan No. 107874
 Mary De Angelis, Plan No. 139612
 Michael A. Aprile, Plan No. 141412
 Urvashiben H. Mehta, Plan No. 138178
 Zelia Alda Pinto, Plan No. 149840
 Mary Ellen McIntyre, Plan No. 173984
 Shaffick Mohamed, Plan No. 173989
 Aseem Sharma, Plan No. 173551
 Maria Fuda, Plan No. 173814
 Mirna Chedid, Plan No. 173263
 Nimisha J. Shah, Plan No. 174220
 Subas Godkhindi, Plan No. 174056
 Sulana Perelman, Plan No. 173638

Yuxiang Lin, Plan No. 147951
Hatty Moon, Plan No. 173819
Marilyn Santos, Plan No. 174790
Chien Fen Wang, Plan No. 174906
Jeanne D. Balaban, Plan No. 142290
Christopher King, Plan No. 173815
Navin Anthony, Plan No. 175496
(*Transfer of Charge No. YR26970-47*)

**c/o Olympia Trust Company
125 9th Avenue SE, Suite 2200
Calgary, Alberta, T2G 0P6**

Municipal Address is: 177, 185 & 197 Woodbridge Avenue, Vaughan, Ontario

Please direct any enquiries to:

Joseph Fried, Barrister and Solicitor
Meyer, Wassenaar & Banach, LLP
Barristers & Solicitors
5001 Yonge Street
Suite 301
North York, Ontario
M2N 6P6
Email: jfried@mwb.ca



January 31, 2019

Dear Lender:

Re: Syndicated Mortgage Loan made to FCF Old Market Lane 2013 Inc. also known as Old Market Lane Inc. (“Borrower”) in respect of properties located at 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON (“Old Market Lane Project” or “Properties”)

As you are aware, on April 20, 2018, FAAN Mortgage Administrators Inc. (“**Trustee**”) was appointed as trustee over Building & Development Mortgages Canada Inc. (“**BDMC**”) under a court order issued pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006* as amended, and section 101 of the *Courts of Justice Act*, as amended.

We are writing to you in our capacity as Trustee regarding the Old Market Lane Project.

The purpose of this notice is to advise of a subordination and postponement agreement executed by the Trustee related to the Old Market Lane Project.

As you are aware, both Firm Capital Mortgage Fund Inc. (“**Firm**”) and JYR Real Capital Mortgage Investment Corporation (“**JYR**”) acting as the Borrower’s priority lenders had each commenced enforcement proceedings. Both Firm and JYR had advised that unless the full amount of the outstanding debt totaling \$3.5 million and \$695,000, respectively, was paid each would be in a position to commence a process to sell the Properties that are the subject of the Old Market Lane Project.

The Borrower arranged new financing for the Old Market Lane Project and at the request of the Borrower and pursuant to the terms of the syndicated mortgage loans made to the Borrower, on December 21, 2018 the Trustee executed an agreement to subordinate and postpone to a priority loan in the amount of \$5.25 million. The loan was advanced for, among other things, repayment of the outstanding debt owed to both Firm and JYR, to fund an interest reserve for the replacement lender and to pay certain professional fees associated with the transaction.

In addition to the postponement, on or about December 21, 2018, the Trustee also executed a transfer of charge, which transferred one of the charges related to the original syndicated mortgage loans advanced to the Old Market Lane Project, from Pahuja Law (the previous administrator) to BDMC (the current administrator). The transfer of charge was a requirement to complete the new financing outlined above.

The Borrower has provided the Trustee with details regarding a potential transaction for the sale of the Properties that would allow the Old Market Lane syndicated mortgage lenders to maintain their mortgages on the Properties. The Trustee is in the process of completing its review of the proposed transaction.



Should you have any further questions at this time, our contact information is below (if you are contacting us by email, please use the subject line **Old Market Lane**).

Email: **Info@FAANMortgageAdmin.com**
Local Telephone Number: **416-606-3338**
Toll-Free Telephone Number: **1-833-495-3338**

Yours very truly,

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.
IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF
BUILDING & DEVELOPMENT MORTGAGES CANADA INC.
AND IN NO OTHER CAPACITY**



October 8, 2019

Dear Lender:

Re: Syndicated Mortgage Loans made to FCF Old Market Lane 2013 Inc. also known as Old Market Lane Inc. (“Borrower”) in respect of properties located at 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON (“Old Market Lane Project” or “Properties”)

As you are aware, on April 20, 2018, FAAN Mortgage Administrators Inc. (“**Trustee**”) was appointed as trustee over Building & Development Mortgages Canada Inc. (“**BDMC**”) under a court order issued pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006* as amended, and section 101 of the *Courts of Justice Act*, as amended. A notice regarding the Trustee’s appointed was previously provided.

We are writing to you in our capacity as Trustee and further to our seventh report to court dated May 10, 2019 (“**Seventh Report**”) regarding enforcement steps taken against the Properties.

In the Seventh Report the Trustee advised that it had been involved in discussions with the Borrower and a potential purchaser with respect to a proposed sale transaction for the Old Market Lane Project. Ultimately, the sale did not materialize.

On June 30, 2019 the interest reserve for the Mel Eisen first priority mortgage on the Properties (“**Mel Eisen Indebtedness**”), was exhausted. The Trustee was advised by the Borrower that Mel Eisen was not interested in extending any further funds to replenish the interest reserve. As a result, the Mel Eisen Indebtedness was in default. On August 23, 2019 the Trustee received a notice advising that Mel Eisen sold his mortgage to 5019203 Ontario Ltd. (“**509 Ontario**”).

On September 25, 2019, 509 Ontario issued a Notice of Sale Under Mortgage (“**Notice of Sale**”). 509 Ontario has taken the position that the Borrower is in default under its mortgage and unless the full amount of the outstanding debt totaling \$5,624,270 (including interest and fees as at the 1st day of October, 2019) is paid on or before November 15, 2019, 509 Ontario will be in a position to list the Properties for sale. A copy of the Notice of Sale is attached.

Should there be a sale of the Properties and the proceeds of such sale be insufficient to pay all amounts owing by the Borrower in priority to the BDMC indebtedness, there is a risk that you may not recover the sums that you advanced to the Borrower.



We will keep you informed of developments related to these matters.

Should you have any further questions at this time, our contact information is below (if you are contacting us by email, please use the subject line **Old Market Lane**).

Email: Info@FAANMortgageAdmin.com

Toll-Free Telephone Number: **1-833-495-3338**

Yours very truly,

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.
SOLELY IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF
BUILDING & DEVELOPMENT MORTGAGES CANADA INC.
AND IN NO OTHER CAPACITY**

**MURRAY MALTZ PROFESSIONAL CORPORATION
MURRAY N. MALTZ
BARRISTER AND SOLICITOR
933 MOUNT PLEASANT ROAD
TORONTO ONTARIO M4P 2L7
TEL: 416-398-6900 FAX: 416-398-6845
EMAIL: lawmaltz@on.aibn.com**

October 1, 2019

DELIVERED BY REGISTERED MAIL

Old Market Lane Inc.
177 Woodbridge Avenue
Woodbridge, Ontario
L4L 2S9

Old Market Lane Inc.
185 Woodbridge Avenue
Woodbridge, Ontario
L4L 2S9

Old Market Lane Inc.
197 Woodbridge Avenue
Woodbridge, Ontario
L4L 2S9

Old Market Lane Inc.
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7

Vince Petrozza
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7

Spouse of Vince Petrozza
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7

Jawad Rathore
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7

Spouse of Jawad Rathore
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7

FAAN Mortgage Administrators Inc.
20 Adelaide Street East
Suite 920
Toronto, Ontario
M5C 2T6

Building & Development Mortgages Canada Inc.
20 Adelaide Street East
Suite 920
Toronto, Ontario
M5C 2T6

Olympia Trust Company
125 9th Avenue SE
Suite 2200
Calgary, Alberta
T2G 0P6

Sorrenti Law Professional Corporation
3300 Highway #7
Suite 310
Vaughan, Ontario
L4K 4M3

The Corporation of the City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

Dear Messrs. and Mmes.,

RE: Notice of Sale Under Mortgage
177 Woodbridge Avenue, 185 Woodbridge Avenue and 197 Woodbridge Avenue,
Woodbridge Ontario

Find enclosed Notice of Sale Under Mortgage on the above noted addresses.

Yours truly,

Murray N. Maltz

MNM/sb

Encl.

NOTICE OF SALE UNDER MORTGAGE

FO: See Schedule "A" attached.

TAKE NOTICE that default has been made in payment of the money due under a certain mortgage dated the 27th of December 2018, made between:

- (i) Old Market Lane Inc., as Chargor, and Jawad Rathore and Vince Petrozza, as Guarantors, and Melvyn Eisen, as Chargee, on those lands and premises registered in the Land Registry Office for the Land Titles Division of York No. 65, as legally described as PT W1/2 LT 7 CON 7 Vaughan as in R543783; City of Vaughan, and PT W1/2 LT 7 CON 7 Vaughan as in WB5781; City of Vaughan, and PT W1/2 LT 7 CON 7 Vaughan PT 1 65R11983; City of Vaughan, which mortgage was registered on the 27th day of December 2018, in the said Registry Office York No. 65, as Instrument No. YR2914269.
- (ii) Melvyn Eisen, as Chargee, then transferred the mortgage registered as Instrument No. YR2914269 on the 9th of August 2019 to 5019203 Ontario Ltd., as Chargee, on those lands and premises registered in the Land Registry Office for the Land Titles Division of York No. 65 as legally described as PT W1/2 LT 7 CON 7 Vaughan as in R543783; City of Vaughan, and PT W1/2 LT 7 CON 7 Vaughan as in WB5781; City of Vaughan, and PT W1/2 LT 7 CON 7 Vaughan PT 1 65R11983; City of Vaughan, which transfer of charge was registered on the 9th day of August 2019, in the said Registry Office York No. 65, as Instrument No. YR2993995.

AND I hereby give you notice that the amount now due on the mortgage for principal money, interest and costs, respectively, are as follows:

Principal Balance as at October 1, 2019	\$5,310,000.00
Interest @ 10% from July 1, 2019 to October 1, 2019	\$ 177,000.00
Three Months Interest Fee	\$ 132,750.00
Legal Costs (up to and including service of this Notice only, and thereafter such further costs and disbursements will be charged as may be proper)	\$ 4,000.00
HST thereon (13.0%)	\$ 520.00
	\$5,624,270.00
PER DIEM: \$1,475.00	

AND UNLESS the said sums are paid on or before **November 15, 2019**, 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 at Toronto this 25th day of September 2019.

5019203 Ontario Ltd.

Per: 

Marty Usher

SCHEDULE "A"

1. Old Market Lane Inc.
177 Woodbridge Avenue
Woodbridge, Ontario
L4L 2S9
2. Old Market Lane Inc.
185 Woodbridge Avenue
Woodbridge, Ontario
L4L 2S9
3. Old Market Lane Inc.
197 Woodbridge Avenue
Woodbridge, Ontario
L4L 2S9
4. Old Market Lane Inc.
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7
5. Vince Petrozza
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7
6. Spouse of Vince Petrozza
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7
7. Jawad Rathore
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7
8. Spouse of Jawad Rathore
25 Brodie Drive
Unit 1
Richmond Hill, Ontario
L4B 3K7
9. FAAN Mortgage Administrators Inc.
20 Adelaide Street East
Suite 920
Toronto, Ontario
M5C 2T6
10. Building & Development Mortgages Canada Inc.
20 Adelaide Street East
Suite 920
Toronto, Ontario
M5C 2T6

11. Olympia Trust Company
125 9th Avenue SE
Suite 2200
Calgary, Alberta
T2G 0P6
12. Sorrenti Law Professional Corporation
3300 Highway #7
Suite 310
Vaughan, Ontario
L4K 4M3
13. The Corporation of the City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1



March 19, 2020

Dear Lender:

Re: Syndicated Mortgage Loans made to FCF Old Market Lane 2013 Inc. also known as Old Market Lane Inc. (“Borrower”) in respect of properties located at 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON (“Properties”)

As you are aware, on April 20, 2018, FAAN Mortgage Administrators Inc. was appointed as trustee (in such capacity, the “**Trustee**”) over the assets, property and undertakings of Building & Development Mortgages Canada Inc. (“**BDMC**”) pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (“**Court**”) issued under section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, as amended, and section 101 of the *Courts of Justice Act*, as amended. By order of the Court dated June 26, 2018, Chaitons LLP was appointed as representative counsel to persons who made loans through BDMC (“**Representative Counsel**”).

We are writing to you in our capacity as Trustee and further to our notice dated October 8, 2019 (“**Notice**”) regarding the sale of the Properties. Prior to the Notice, the Trustee distributed notices relating to the Properties on July 18, 2018, August 16, 2018, September 27, 2018, October 15, 2018, and January 31, 2019.

Overview of the Old Market Lane Syndicated Mortgage Loans

The Borrower is indebted to BDMC in the principal amount of \$13,262,200 pursuant to three separate loan facilities: the Original Loan Agreement dated May 1, 2011 (“**Original SMLs**”), the Old Market Lane 3 Loan Agreement dated October 4, 2013 (“**OML 3 SMLs**”) and the Hybrid Loan Agreement dated April 16, 2016 (“**Hybrid SMLs**”). All three loans are registered on title to the Properties. The Original SMLs, the OML 3 SMLs and the Hybrid SMLs are collectively referred to as the “**OML SMLs**” and the aggregate amount of debt owing to the OML SMLs is referred to as the “**BDMC Debt**”.

Details related to each of the loans are provided in the table below:

	Original¹	OML 3²	Hybrid³	Total
Principal balance (A)	3,788,500	6,379,500	3,094,200	13,262,200
Accrued interest (as at January 16,2020) (B)	819,158	1,292,912	466,779	2,578,849
Total owing (A+B)	\$4,607,658	\$7,672,412	\$3,560,979	\$15,841,049
Paid interest	\$1,631,809	\$1,377,895	\$247,536	\$3,257,240

¹ Last interest payment to Original SMLs was on May 4, 2017.

² Last interest payment to OML 3 SMLs was on July 4, 2017.

³ Hybrid SMLs received one year of upfront interest upon closing and interest accrued thereafter.



Sale Transaction

As was advised in the Notice, on September 25, 2019, 5019203 Ontario Ltd. ("**5019 Ontario**"), who holds a first priority charge registered on title to the Properties, issued a Notice of Sale Under Mortgage ("**Notice of Sale**"). 5019 Ontario took the position that the Borrower was in default under its mortgage and unless the full amount of the outstanding debt totaling \$5,624,270 (including interest and fees as at October 1, 2019) was paid on or before November 15, 2019, 5019 Ontario would be in a position to list the Properties for sale. The 5019 Ontario indebtedness is the only known indebtedness registered on title to the Properties in priority to the BDMC Debt. Subsequent to the issuance of the Notice of Sale, the Trustee contacted counsel to 5019 Ontario ("**5019 Counsel**") to request details of its planned realization process, including, among other things, the marketing plan and expected timeline.

In late October, 2019, the Trustee, in its capacity as the administrator of the subsequent mortgages registered on title to the Properties, was approached by a representative of 2735447 Ontario Inc. ("**Purchaser**") who expressed interest in purchasing the Properties. The Trustee advised the Purchaser that the Properties were subject to a Notice of Sale proceeding and that it understood 5019 Ontario would be proceeding to list the Properties for sale in the near term. Following discussions between the Purchaser and the Trustee, the Purchaser provided the Trustee with a copy of a Letter of Intent, which set out the business terms upon which the Purchaser was prepared to enter into a purchase and sale agreement for the Properties with 5019 Ontario ("**LOI**"). The LOI included, among other things, a purchase price of \$7.5 million ("**Purchase Price**"), an amount in excess of the value in the "as-is" appraisal previously commissioned by the Trustee.

Upon receipt of the LOI, the Trustee contacted 5019 Counsel to advise of the Purchaser's interest in purchasing the Properties and of the Purchase Price. The Trustee was advised by 5019 Counsel that the Purchase Price was significantly higher than the two appraisals recently commissioned by 5019 Ontario as part of the enforcement proceedings.

The Purchaser proceeded to engage in discussions with 5019 Counsel directly and ultimately provided 5019 Ontario with a formal agreement of purchase and sale reflecting the Purchase Price of \$7.5 million ("**APS**"). Following its review of the APS, 5019 Counsel determined that, in exchange for a release from all parties, including the Trustee and Representative Counsel, it would forego listing the Properties for sale with a real estate agent and would accept the APS. The releases provided 5019 Ontario with, among other things, a release from all obligations arising from the sale of the Properties.

Acceptance of the APS by 5019 Ontario resulted in significant savings to the benefit of the OML SMLs, including, among other things: (a) real estate commissions; and (b) interest on 5019 Ontario's mortgage which would have continued to accrue over the duration of a sale process at a per diem rate of \$1,483.36. Both the commissions and any incremental interest would have been payable in priority to any repayment to the OML SMLs.

In late December, 2019, 5019 Ontario accepted the Offer and executed the APS. The sale transaction closed on January 16, 2020.



Proceeds from the transaction were distributed as follows:

- i. approximately \$5.7 million to 5019 Ontario, as first mortgagee;
- ii. approximately \$74,000 to the City of Vaughan for property tax and water arrears; and
- iii. remaining proceeds, net of legal fees, of approximately \$1.57 million (“**Residual Proceeds**”) to the Trustee, on behalf of the OML SMLs, as the subsequent ranking mortgagees on the Properties. The Residual Proceeds include \$57,500 that the Trustee was able to negotiate with 5019 Counsel and that would have otherwise been payable to 5019 Ontario, as first mortgagee.

Distributions and Next Steps

The Trustee, its legal counsel, and Representative Counsel have been reviewing the documentation available in connection with the BDMC Debt. Given, among other things, the complexities of the documentation governing each of the three loan facilities, the Trustee intends to return to Court as soon as practicable to review the issues and seek approval of the distribution of the Residual Proceeds as among the OML SMLs. The Trustee will provide the OML SMLs with further information in due course, including notice of when the distribution motion will be heard by the Court.

The quantum of the distribution to the OML SMLs will be reduced by an administrative holdback of 15% to be retained by the Trustee in accordance with Court orders issued in these proceedings.

Should you have any further questions at this time, our contact information is shown below (if you contact us, please reference **Old Market Lane**).

Email: Info@FAANMortgageAdmin.com
 Toll-Free Telephone Number: **1-833-495-3338**

Should you wish to contact Representative Counsel, its contact information is shown below (if you contact Representative Counsel, please reference **Old Market Lane**).

Email: BDMC@chaitons.com
 Toll-Free Telephone Number: **1-888-203-0509**

Yours very truly,

Faan Mortgage Administrators Inc.

**FAAN MORTGAGE ADMINISTRATORS INC.
 SOLELY IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF
 BUILDING & DEVELOPMENT MORTGAGES CANADA INC.
 AND IN NO OTHER CAPACITY**

Appendix 5:
Sample OML Original Loan Agreement (anonymized)

LOAN AGREEMENT

THIS AGREEMENT made as of the 21st day of July, 2011.

BETWEEN:

[REDACTED]
A Corporation in the Province of Ontario
(hereinafter referred to as the "Lender")

- and -

2041254 Ontario Ltd., In Trust for Old Market Lane Inc.
(hereinafter referred to as the "Borrower")

WHEREAS the Lender has agreed to lend the Borrower the amount of [REDACTED] (the "Loan") in connection with the development of residences, to be situated on property legally described as Vaughan and P/T W1/2 Lt 7 Con. Vaughan as in R543783; Vaughan, (the "Property");

AND WHEREAS the Borrower agrees to pay to the Lender interest on the Loan at the rate of Eight Percent per annum (8.00%) during the term of this Agreement;

AND WHEREAS the Borrower has agreed to provide a mortgage to the Lender as security for repayment of the loan, the properties being described at Schedule "A" hereto;

AND WHEREAS the Lender and the Borrower (collectively the "Parties" and individually a "Party") wish to evidence their agreement as to the loan (hereinafter referred to as the "Agreement" or the "Loan Agreement");

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the covenants, agreements, warranties and in consideration of the mutual premises set out herein and the payment of TEN (\$10.00) DOLLARS by each of the parties to the other (the receipt and sufficiency of which is hereby acknowledged by each of the parties), they hereby respectively covenant and agree as follows:

ARTICLE 1.00 - RECITALS

1.01 The recitals above are true and accurate in all respects.

ARTICLE 2.00 - CURRENCY

2.01 All dollar amounts referred to in this Agreement and schedules annexed hereto are in Canadian funds and all sums of money required to be paid or advanced hereunder shall be paid or advanced in lawful money of Canada.

ARTICLE 3.00 - SCHEDULES

3.01 The following are the schedules attached to and incorporated in this Agreement by reference and deemed to be a part thereof: Schedule "A" – Legal Description of the Property

ARTICLE 4.00 - AGREEMENT TO LEND

4.01 The Lender agrees to provide a loan to the Borrower for the amount of the Loan. The advance amount is subject to a Lender's fee of Some Dollars (\$1.00), which shall be deducted from the Loan and remitted to the Lender. The Borrower acknowledges itself indebted in the amount of the Loan and promises to pay to the Lender the loan pursuant to the terms and conditions hereinafter provided.

4.02 The Loan shall bear interest at a rate per annum of 8% calculated ANNUALLY, not in advance, from the date of advancement until May 4th, 2014 (extended date May 4th 2015) (the "Due Date"). The Borrower shall remit interest payments to the Lender quarter-annually in accordance with a pre-determined schedule, the initial payment shall be pro rata based on the date of the investment to the date of the first scheduled payment: August 4th, 2011.

ARTICLE 5.00 - SECURITY

5.01 As security for the Loan,

A. the Borrower shall give to the Lender:

A second charge on the lands described in Schedule "A" attached hereto; the Lender acknowledges that the charge registered against title to the Property shall be in the amount of Seven Hundred and Eighty Five Thousand Dollars (\$785,000.00) (the "Total Amount") shall be in the name of Sanjay Pahuja, Trustee as mortgagee (the "Mortgage") although there may transfers of portions of the mortgage as may be required from time to time. The Lender herein waives all rights to notice of any and all such transfers and the registration of instruments on title to the Property.

The Lender and the Borrower acknowledge that the said second charge/mortgage registered against title to the Lands pursuant to the Loan Agreement shall initially be for the sum of Seven Hundred and Eighty Five Thousand DOLLARS \$785,000.00 and will over the term of the development increase to a face value not to exceed \$3,500,000.00.

The Charge/Mortgage, as amended from time to time, shall be registered in the name of "Sanjay Pahuja" as trustee for all non-registered investors, and in the name of the Bank of Nova Scotia Trust Company, Olympia Trust or B2B Trust for all registered investors. The interests of all registered and non-registered investors shall rank *pari-passu* as between Sanjay Pahuja, The Bank of Nova Scotia Trust Company, Olympia Trust and B2B Trust.

The Parties each acknowledge that the registered amount of the Charge/Mortgage may be amended from time to time in accordance with the terms of this Loan Agreement, and the Parties further hereby acknowledge, consent and direct that any actions which may from time to time be required to amend of the Charge/Mortgage in accordance with the foregoing terms are hereby permitted and authorized.

The parties each acknowledge and agree that at any point during the term of the investment a portion of the mortgage can be paid in advance and discharged prior to completion of the term by construction financing.

5.02 Reasonable legal fees and disbursements of the Lender shall be paid by the Borrower and may be deducted from the Total Amount as it is being provided to the Borrower.

ARTICLE 6.00 – COVENANTS, REPRESENTATIONS AND WARRANTIES

The Borrower hereby represents and warrants to the Lender the following (which shall survive the execution and delivery of this Agreement), the truth and accuracy of which are a continuing condition of the continued advances of the Loan by the Lender to the Borrower:

- (a) The Borrower has been duly incorporated and is validly subsisting as a corporation under the Business Corporations Act (Ontario), is duly qualified to carry on its business in each jurisdiction in which it carries on business, has the power and authority to enter into and perform its obligations under this Agreement, the Charge/Mortgage and all instruments and agreements delivered pursuant hereto and thereto, is the registered owner of the Property, is legally entitled to carry on its business as currently conducted or as currently contemplated, and has obtained all material licenses, permits and approvals from all governments, governmental commissions, boards and other agencies of jurisdictions in which it carries on (or contemplates carrying on) business which are required in respect connection with the development of the Property. The Borrower or its solicitor has delivered to the Lender, or its solicitor, copies of the constating documents of the Borrower and the Lender's solicitor has obtained a legal opinion from the Borrower's solicitor that the Borrower is authorized to enter into this Loan Agreement.
- (b) The execution, delivery and performance of this Loan Agreement, the Charge/Mortgage and every instrument or agreement delivered or to be delivered pursuant hereto and thereto has been duly authorized by all requisite action on the part of the Borrower; and this Agreement and all instruments and agreements delivered or to be delivered pursuant hereto and thereto have been, or will be, duly

executed and delivered by the Borrower, and this Loan Agreement, the Charge/Mortgage, and each agreement and instrument delivered or to be delivered pursuant hereto and thereto constitutes, or when delivered will constitute, a valid and binding obligation of the Borrower enforceable in accordance with its terms, subject to the application of bankruptcy, insolvency and similar laws affecting the enforcement of creditors' rights generally and the fact that the right to obtain judicial orders requiring specific performance or other equitable remedies is in the discretion of the court.

- (c) There are no actions, suits or proceedings pending or to the best of the Borrower's knowledge threatened against or affecting the Borrower at law or in equity or before or by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, or before any arbitrator of any kind which, if determined adversely, would result in any adverse change in the Borrower's business, operations, the Property, assets or condition, financial or otherwise, or in the Borrower's ability to perform its obligations under this Agreement, the Charge/Mortgage or any agreement or instrument delivered or to be delivered pursuant hereto or thereto; and the Borrower is not in default with respect to any judgment, order, writ, injunction, decree, award, rule or regulation of any court, arbitrator or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which default(s), either separately or in the aggregate, would result in any such adverse change.
- (d) The Borrower is not subject to any judgment, order, writ, injunction, decree or award or any rule or regulation having restricted application to the Borrower, which, in the opinion of the Lender acting reasonably, adversely affects, or in the future is likely to adversely affect, the Property, the Borrower, the Borrower's business, operations, or financial assets.
- (e) The Borrower is not in default beyond any period of grace in payment of any amount under any guarantee, bond, debenture, note or other instrument evidencing any indebtedness or under the terms of any instrument pursuant to which any of the foregoing has been issued or made and delivered.
- (f) The Borrower acknowledges that Sanjay Pahuja is listed as a the Chargee/Mortgagee of the Charge/Mortgage, in his capacity as trustee only, and that Sanjay Pahuja does not maintain any interest whatsoever in the Property or the Development, nor is Sanjay Pahuja advancing any funds towards the Loan. Sanjay Pahuja is listed as Chargee/Mortgagee for the sake of expediency and efficiency only.
- (g) The Borrower shall indemnify and hold harmless the Lender and Sanjay Pahuja from and against all losses, claims, damages, liabilities, and expenses, joint or several, to which any such person or entity may become subject arising out of or in connection with this Loan Agreement, the use of proceeds, or any related transaction or any claim, litigation, investigation or proceeding, relating to any of the foregoing, regardless of whether the Lender and/or Sanjay Pahuja is a party thereto, and to reimburse any and all of the Lender and/or Sanjay Pahuja forthwith upon demand for any reasonable, legal or other expenses incurred in connection with investigating or defending any of the foregoing.
- (h) The Borrower has not withheld from the Lender or from the general public, information which adversely affects, or so far as it can now reasonably foresee, will adversely affect the Property or the Borrower's assets, liabilities, affairs, business, operations or conditions, financial or otherwise, or its ability to perform its obligations under this Loan Agreement, the Charge/Mortgage or any agreements or instruments delivered pursuant hereto or thereto.
- (i) The Borrower acknowledges that its execution and delivery of this Loan Agreement, the Charge/Mortgage or any agreements or instruments delivered pursuant hereto or thereto (hereinafter the "Loan Documents") and the consummation of the transactions herein contemplated, does not and will not conflict with, and does not and will not result in any breach of, any of the provisions of the constituting documents of the Borrower or of any agreements or instruments to which the Borrower is a party or by which the Property or any of the Borrower's property and assets are bound.
- (j) The Borrower has good and marketable title to the Property and its assets free from all mortgages, security interests, liens, pledges, charges, encumbrances, title retention agreements, options or adverse claims, other than Permitted Encumbrances as identified in Schedule "C" – Permitted Encumbrances attached hereto.

- (k) The Borrower has filed or caused to be filed, in a timely manner all tax returns, reports and declarations, which are required to be filed by it. All information in such tax returns, reports and declarations is complete and accurate in all material respects. The Borrower has paid or caused to be paid all taxes due and payable or claimed due and payable in any assessment received by it, except taxes the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to the Borrower and with respect to which adequate reserves have been set aside on its books. Adequate provision has been made for the payment of all accrued and unpaid federal, provincial, local, foreign and other taxes whether or not yet due and payable and whether or not disputed.
- (l) The Borrower is not in default in any material respect under, or in violation in any material respect of any of the terms of, any agreement, contract, instrument, lease or other commitment to which it is a party or by which it or any of its assets are bound and the Borrower is in compliance in all material respects with all applicable provisions of laws, rules, regulations, licenses, permit, approvals and orders of any foreign, federal, provincial, or local governmental authority.
- (m) The Borrower is now in compliance with all environmental laws and regulations in respect of the Property and the Borrower undertakes to take all necessary action to obtain any and all environmental permits and/or regulatory approvals necessary for the Borrower to develop the Property in accordance with the laws and regulations of the province of Ontario and the appropriate local municipality.
- (n) The Borrower has not caused or permitted and is not legally responsible for, nor does it have knowledge of, any release, discharge or disposal of any hazardous material on, from, to or under the Property or any other property or asset of the Borrower.
- (o) The Borrower shall notify the Lender immediately if the Borrower in the event of a default in the payment of any indebtedness for borrowed money, pursuant to the Loan Documents, or pursuant to any other loan agreement to which the Borrower is a party, whether such indebtedness now exists or shall hereafter be created. The Borrower shall also notify the Lender immediately in the event of an event of default under any mortgage, indenture or instrument to which the Borrower is a Party.
- (p) The Borrower has not received any written notice of nor does the Borrower have any knowledge of any claims, actions, charges, suits, permit revocations, remedial Orders or other current or pending proceedings ("Environmental Claims") relating to any breach of any applicable environmental laws or regulations involving the Property.
- (q) All representations and warranties of the Borrower contained in this Loan Agreement or in any Loan Documents referenced herein shall survive the execution and delivery of this Loan Agreement and shall be deemed to have been made again to the Lender on the date of each advance pursuant to the Loan and shall be conclusively presumed to have been relied on by the Lender regardless of any investigation made or information possessed by the Lender. The representations and warranties set forth herein shall be cumulative and in addition to any other representations or warranties which the Borrower shall now or hereafter give, or cause to be given, to the Lender.
- (r) The Borrower further acknowledges and agrees that the terms of this Loan Agreement shall override the terms of any previous loan agreements to which the Borrower and the Lender may be or may have been Parties.
- (s) The Borrower acknowledges that each Lender named as a Party to this Loan Agreement shall deliver an executed copy of this Loan Agreement to the Borrower. The Borrower acknowledges that each of said Lenders may have executed a loan agreement that has been amended to accommodate that particular Lender. The Borrower agrees to abide by the specific terms of each of said loan agreements.

6.01 The Lender and Borrower mutually Acknowledge, Represent and Covenant as follows:

- (a) Any amounts advanced by the Lender to the Borrower pursuant to this Loan Agreement may occur in tranches ("Installments"):
 - i. the initial face value of the Loan will be an initial Instalment of \$785,000.00;
 - ii. the face value will increase over the duration of the term to \$3,500,000.00, these increases will be supported by additional security

against the properties described as 185 & 197 Woodbridge Ave, Woodbridge ON and increased valuation of the project.

- iii. prior to the release of any funds by the solicitor for the Lender to the solicitor for the Borrower, each Party hereby irrevocably acknowledges and directs that their respective solicitors are authorized to and shall cause to be registered any such instruments on title to the Lands which in the sole discretion of the solicitor for the Lender may be required as evidence of any sums advanced to the Borrower on the security of the Charge/Mortgage. The Lender hereby waives any requirement to be notified of the registration of any subsequent Instalments under the Charge/Mortgage.
- iv. The charge in which the lender has an interest in pursuant to the loan agreement shall initially be solely secured on the property described in schedule "A", the charge shall become a blanket mortgage secured against additional property, these properties are described as 185 & 197 Woodbridge Ave, Woodbridge, ON. By signing this loan agreement you hereby acknowledge and direct the trustee representing your investment to allow the amendment to the charge with out future direction from yourself, the lender.

(b) The Charge/Mortgage in which the Lender has an interest pursuant to this Loan Agreement is a second ranking charge against title to the Lands. The Parties further acknowledge that the Borrower will obtain construction financing for the Development of the Property which constitutes a first ranking charge ("First Charge") against title to the Lands. THE LENDER HEREBY UNDERSTANDS, CONSENTS AND AGREES THAT THIS FIRST CHARGE SHALL PERIODICALLY INCREASE OVER THE TERM OF THIS SECOND CHARGE/MORTGAGE. THE LENDER HEREBY AGREES THAT ITS INTERESTS SHALL BE POSTPONE and STAND STILL TO ANY INCREASE IN THE FIRST CHARGE (which may potentially be advanced in multiple stages by multiple lenders, and secured via multiple registrations), TO A MAXIMUM OF \$24,000,000.00 BASED ON COST CONSULTANT REPORTS but that there shall be no other postponements or encumbrances which affect the position or security afforded by the second Charge/Mortgage contemplated herein. It is possible with achievement of higher density (up to 165,000 sq.ft) construction costs will go up with revenue; in this instance, a construction postponement of up to a maximum of 40,000,000 made be required also based on cost consultant reports.

ARTICLE 7.00 - DEFAULT

On the happening of any of the following events of default the Lender may, at their option, require the unpaid balance of the Loan or the Total Amount, as the case may be, together with all interest accrued to become immediately due and payable:

- (a) in the event that the Borrower fails to make the payments in the amounts and at the times specified in this Agreement;
- (b) in the event that the Borrower should breach any agreement entered into between the Lender and the Borrower;
- (c) in the event that the Borrower should become bankrupt or insolvent or should the Borrower be subject to the provisions of the *Bankruptcy Act* or any other Act for the benefit of creditors, or should the Borrower go into liquidation either voluntarily or under an order of a court of competent jurisdiction or make a general assignment for the benefit of creditors or otherwise acknowledge its insolvency;
- (d) in the event that the Lender in good faith believes that the prospect of payment or performance by the Borrower of the obligations under this Agreement is impaired or that any collateral provided to the Lender as security for payment of any obligations of the Borrower to the Lender is in danger of being impaired, lost, damaged or confiscated.

On the happening of an event of default the Lender shall have the right without any further demand or notice whatsoever to exact payments of all amounts whatsoever then outstanding and owing or to become owing by the Borrower, or any one of them, to the Lender under any other agreement made between the Lender and the Borrower.

ARTICLE 8.00 - GENERAL

8.01 This Agreement shall continue in force until the Borrower has no indebtedness or liability to the Lender hereunder.

8.02 The terms of this Agreement shall bind and extend to and enure to the benefit of the parties hereto and their respective heirs, administrators, executors, legal personal representatives, successors and assigns.

8.03 The failure of any of the parties to insist upon a strict performance of any of the terms or provisions of this Agreement or to exercise any option, right or remedy herein contained, shall not be construed as a waiver or as a relinquishment for the future of such a term, provision, option, right or remedy, but the same shall continue or remain in full force and effect. No waiver by any of the parties of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.

8.04 This Agreement shall be governed by the laws of the Province of Ontario.

8.05 Time shall be of the essence hereof.

8.06 This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements and understandings between the parties in writing hereto.

8.07 Any supplement, modification or amendment of any term, provision or condition of this Agreement shall not be binding or enforceable unless executed by the parties in writing hereto.

8.08 Headings as used in this Agreement are solely for purposes of convenience and reference only and shall not be applied to explain, modify, limit or amplify the meaning, construction or interpretation of any of the provisions of this Agreement.

8.09 If any provision of this Agreement is determined to be invalid or unenforceable by an arbitrator or a court of competent jurisdiction from which no further appeal lies or is taken, that provision shall be deemed to be severed herefrom, and the remaining provisions of this Agreement shall not be affected thereby and shall remain valid and enforceable.

8.10 This Loan Agreement may be executed by the parties herein in counterpart (which counterparts may be delivered by telecopier with the original forwarded immediately thereafter) each of which once executed and delivered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, which shall be sufficiently evidenced by any such counterparts.

8.11 If any article, section or any portion of any section of this Agreement is determined to be unenforceable or invalid for any reason whatsoever, that unenforceability or invalidity shall not affect the enforceability or validity of the remaining portions of this Agreement and such unenforceable or invalid article, section or portion thereof shall be severed from the remainder of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written on the first page hereof.




Lender:

Borrower: 2041254 Ontario Ltd., In Trust for Old Market Lane Inc.

Signing Officer: Joe Iradi

"I have the authority to bind the corporation"

SCHEDULE "A" – LEGAL DESCRIPTION OF THE PROPERTY

Municipal Address: 177 Woodbridge Ave, Woodbridge, ON

Legal Description: Vaughan and P/T W1/2 LT 7 Con Vaughan as in R543783;

Schedule "B" – Schedule of Interest Payments

Interest payments shall be calculated at a annual interest rate of 8%, paid quarter –annually in trust to Sanjay Pahuja, The Bank of Nova Scotia Trust Company, Olympia Trust or B2B Trust Commencing August 4th, 2011. All funds advanced after May 4th 2011 will receive a initial payment pro rated up to and including August 4th, 2011 based on days invested.

Schedule "C" – Permitted Encumbrances

The borrower has a 1st ranking mortgage with a face values of \$1,000,000.00 via a private lender.

SCHEDULE "D"- "Deferred lender fee"

- 1) In addition to any amount owed by the Borrower to the Lender pursuant to the terms of the Loan Agreement, the Borrower shall also pay the Lender a Deferred Lender Fee in an amount equal to 12 per cent of the total amount loaned to the Borrower by the Lender, if, and only if:
 - a) the Borrower acquires all requisite authorizations and consents from all applicable governmental authorities with jurisdiction over the subject lands; AND
 - b) the project to which the within Loan Agreement relates, realizes a net profit in accordance with the pro-forma financial statements, a copy of which was provided to the Lender.(the "Pro-Forma").
- 2) Any Deferred Lender Fee paid by the Borrower to the Lender shall be measured by the actual net profit of the project as compared to the Pro-Forma.

In other words, in the event the project achieved a net profit greater or less than the projected net profit contained in the Pro-Forma, the Lender's deferred Lender Fee shall be adjusted accordingly.

Example: an investment of \$100,000 containing a 12% Deferred Lender Fee based on a Pro Forma of \$10M net profit would earn a \$12,000 Deferred Lender Fee;
 In the event the actual net profit of the project is \$11M, \$1M greater than the net profit contained in the Pro-Forma, the 10% increased net profit would result in a Deferred Lender Fee of \$13,200
 Conversely, if the actual net profit of the project is \$9M, \$1M less than the net profit contained in the Pro-Forma, the 10% decreased net profit would result in a Deferred Lender Fee of \$10,800

- 3) The Deferred Lender Fee, if applicable, shall be paid to the Lender on or before the later of:
 - a) the day that is thirty (30) days subsequent to the registered due date of the mortgage, and
 - b) the day that is thirty (30) days subsequent to the completion of the project.
- 4) The 12% deferred lender fee is for the original and considered term of 36 months maturing May 4th 2014.

Should the project require additional time beyond 36 months (for accommodation of, not limited to; Additional zoning work density intensification requests or construction timelines), an

additional 12 months is permissible; this increases the total term to 48 months. In the event the additional 12 month option is exercised, the borrower will provide consideration in the form of an increased lender fee from the original 12% to 20%

5) The Deferred Lender fee represents a consideration to the lender for their participation in the original syndicate funding. Should the original amount be repaid prior to the completion of the original mortgage term, the lender's interest in the deferred lender fee will be maintained and still paid out accordingly as prescribed in part 3 of this schedule. This includes but is not limited to, a refinance of the property, a mezzanine loan or injection of additional equity by the developer.

Appendix 6:
OML Original Mortgage

PIN 03299-0100 (LT)

Instrument No. YR1763318 registered December 12, 2011 in favour of Sanjay Kumar Pahuja, as Trustee and Olympia Trust Company, as Trustee to secure the original principal amount of \$4,000,000.

PIN 03299-0101 (LT)

Instrument No. YR1763336 registered December 12, 2011 in favour of Sanjay Kumar Pahuja, as Trustee and Olympia Trust Company, as Trustee to secure the original principal amount of \$4,000,000.

PIN 03299-0102 (LT)

Instrument No. YR1763326 registered December 12, 2011 in favour of Sanjay Kumar Pahuja, as Trustee and Olympia Trust Company, as Trustee to secure the original principal amount of \$4,000,000.

Properties

PIN 03299 – 0100 LT *Interest/Estate* Fee Simple
Description PT W1/2 LT 7 CON 7 VAUGHAN PT 1 65R11983 ; VAUGHAN ;
Address 197 WOODBRIDGE AVENUE
 WOODBRIDGE

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 IERADI, JOSEPH
Address for Service 197 Woodbridge Avenue
 Woodbridge, Ontario
 L4L 2S9

I am at least 18 years of age.

The property is not ordinarily occupied by me and my spouse, who is not separated from me, as our family residence.

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

Chargee(s) *Capacity* *Share*

Name PAHUJA, SANJAY KUMAR *Capacity* Trustee
Address for Service 488 Huron Street
 Toronto, Ontario
 M5R 2R3

Name OLYMPIA TRUST COMPANY *Capacity* Trustee
Address for Service 2200 125 – 9th Avenue SE
 Calgary, Alberta
 T2G 0P6

Statements

Schedule: See Schedules

Provisions

Principal \$4,000,000.00 *Currency* CDN
Calculation Period Monthly
Balance Due Date 2014/05/04
Interest Rate 8.0%
Payments
Interest Adjustment Date 2011 05 04
Payment Date Quarterly
First Payment Date 2011 08 04
Last Payment Date 2014 05 04
Standard Charge Terms 200433
Insurance Amount full insurable value
Guarantor

Additional Provisions

See Schedules

Signed By

Sanjay Kumar Pahuja 133 Lowther Ave. acting for Chargor Signed 2011 12 22
 Toronto (s)
 M5R 1E4

Tel 4169203030
 Fax 4169203033

Signed By

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

Submitted By

PAHUJA LAW 133 Lowther Ave. 2011 12 22

Toronto
M5R 1E4

Tel 4169203030

Fax 4169203033

Fees/Taxes/Payment

Statutory Registration Fee \$60.00

Total Paid \$60.00

File Number

Chargor Client File Number : 11056

Chargee Client File Number : 11056

Properties

PIN 03299 – 0102 LT *Interest/Estate* Fee Simple
Description PT W1/2 LT 7 CON 7 VAUGHAN AS IN R543783 ; VAUGHAN
Address 177 WOODBRIDGE AVENUE
 VAUGHAN

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 2041254 ONTARIO LIMITED
Address for Service 197 Woodbridge Avenue
 Woodbridge, Ontario
 L4L 2S9

I, Joseph Ieradi, have the authority to bind the corporation.
 This document is not authorized under Power of Attorney by this party.

Chargee(s)

<i>Chargee(s)</i>	<i>Capacity</i>	<i>Share</i>
<i>Name</i> PAHUJA, SANJAY KUMAR	Trustee	
<i>Address for Service</i> 488 Huron Street Toronto, Ontario M5R 2R3		
<i>Name</i> OLYMPIA TRUST COMPANY	Trustee	
<i>Address for Service</i> 2200 125 – 9th Avenue SE Calgary, Alberta T2G 0P6		

Statements

Schedule: See Schedules

Provisions

Principal \$4,000,000.00 *Currency* CDN
Calculation Period Monthly
Balance Due Date 2014/05/04
Interest Rate 8.0%
Payments
Interest Adjustment Date 2011 05 04
Payment Date Quarterly
First Payment Date 2011 08 04
Last Payment Date 2014 05 04
Standard Charge Terms 200433
Insurance Amount full insurable value
Guarantor

Additional Provisions

See Schedules

Signed By

Sanjay Kumar Pahuja 133 Lowther Ave. acting for Chargor Signed 2011 12 22
 Toronto (s)
 M5R 1E4

Tel 4169203030
 Fax 4169203033

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

Submitted By

PAHUJA LAW

133 Lowther Ave.
Toronto
M5R 1E4

2011 12 22

Tel 4169203030

Fax 4169203033

Fees/Taxes/Payment

Statutory Registration Fee \$60.00

Total Paid \$60.00

File Number

Chargor Client File Number : 11056

Chargee Client File Number : 11056

Properties

PIN 03299 – 0101 LT *Interest/Estate* Fee Simple
Description PT W1/2 LT 7 CON 7 VAUGHAN AS IN WB5781 ; VAUGHAN
Address 185 WOODBRIDGE AVENUE
 VAUGHAN

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 CUNDARI, FRANK
Address for Service 185 Woodbridge Avenue
 Woodbridge, Ontario
 L4L 2S9

I am at least 18 years of age.

I am not a spouse

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

Chargee(s) *Capacity* *Share*

Name PAHUJA, SANJAY KUMAR Trustee
Address for Service 488 Huron Street
 Toronto, Ontario
 M5R 2R3

Name OLYMPIA TRUST COMPANY Trustee
Address for Service 2200 125 – 9th Avenue SE
 Calgary, Alberta
 T2G 0P6

Statements

Schedule: See Schedules

Provisions

Principal \$4,000,000.00 *Currency* CDN
Calculation Period Monthly
Balance Due Date 2014/05/04
Interest Rate 8.0%
Payments
Interest Adjustment Date 2011 05 04
Payment Date Quarterly
First Payment Date 2011 08 04
Last Payment Date 2014 05 04
Standard Charge Terms 200433
Insurance Amount full insurable value
Guarantor

Additional Provisions

See Schedules

Signed By

Sanjay Kumar Pahuja 133 Lowther Ave. acting for Chargor Signed 2011 12 22
Toronto (s)
M5R 1E4

Tel 4169203030
 Fax 4169203033

Signed By

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

Submitted By

PAHUJA LAW	133 Lowther Ave.	2011 12 22
	Toronto	
	M5R 1E4	
Tel 4169203030		
Fax 4169203033		

Fees/Taxes/Payment

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

File Number

Chargor Client File Number :	11056
Chargee Client File Number :	11056

Appendix 7:**OML Original Amending Documents and Agency Agreement (anonymized)**

robapp\2907722.6

**LOAN AMENDING AGREEMENT
(Re: Second Syndicated Mortgage Loan)**

THIS AGREEMENT made as of the [REDACTED] day of [REDACTED], 2014, [REDACTED]

B E T W E E N:

[REDACTED]
(the "Lender")

- and -

OLD MARKET LANE INC.

(the "Interim Borrower")

- and -

FORTRESS MARKET LANE INC.

("Fortress")

- and -

FCF OLD MARKET LANE 2013 INC.

("FCF")

- and -

CENTRO MORTGAGE INC.

("Centro")

WHEREAS the Lender and 2041254 Ontario Ltd., In Trust for Old Market Lane Inc., (the "Original Borrower") entered into a Loan Agreement made as of the 1st day of May, 2011 (the "Loan Agreement");

AND WHEREAS the Interim Borrower was the beneficial owner of the properties mortgaged pursuant to the Loan Agreement (the "Properties") and the Original Borrower was acting as Trustee on behalf of the Interim Borrower;

AND WHEREAS the Interim Borrower has taken registered title to the Properties;

AND WHEREAS the Interim Borrower has entered into Agreements of Purchase and Sale with Fernbrook Homes (Woodbridge) Limited ("Fernbrook") and the Interim Borrower dated October 10, 2014 pursuant to which a 25% and a 75% undivided beneficial interest in the Properties shall be transferred to Fernbrook and Fortress respectively ("Proposed Transfers").

- 2 -

AND WHEREAS pursuant to a Co-Tenancy Agreement dated August 29, 2014 between Fernbrook and Fortress ("**Co-Tenancy Agreement**"), it was agreed that in order to complete the development of the Properties and raise additional financing for same, the charge granted pursuant to the Loan Agreement in favour of Sanjay Pahuja, and Olympia Trust Company, registered on December 22, 2011 as Instrument No. YR1763326, Instrument No. YR1763336 and Instrument No. YR1763318 (the "**Lender Charge**") and repayment of the Loan pursuant to the Loan Agreement, are to be made subject to the provisions of Sections 3.3 and 4.2 of the Co-Tenancy Agreement (the "**Co-Tenancy Provisions**"), which are included in the acknowledgement to be signed by the Lender and attached hereto as Schedule "A";

AND WHEREAS FCF Old Market Lane 2013 Inc. ("**Final Borrower**") has been incorporated and will take title to the Property on behalf of Fernbrook and Fortress, as trustee on their behalfs, pursuant to the terms of the consent to Co-Tenancy Agreement and will assume the obligations of the Borrower pursuant to the terms hereof upon closing of the Purchase Agreement;

AND WHEREAS the Interim Borrower and the Lender have agreed to amend the terms of the Loan Agreement in order to permit the completion of the sale transaction to Fernbrook and Fortress and in order to comply with the provisions of the Co-Tenancy Agreement between them as aforesaid;

AND WHEREAS Centro is going to take over administration of the Loan Agreement and all related Security, including being a nominee mortgagee of the Lender Charge;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the covenants, agreements and warranties contained herein and the sum of Ten (\$10.00) Dollars now paid by the Lender to the Borrower, the parties agree as follows:

1. The recitals above are true and accurate in all respects;
2. All capitalized terms which have not been defined herein, shall have the meanings set forth in the Loan Agreement.
3. The terms of the Loan Agreement remain in full force and effect and unamended, save and except as set out herein.
4. The Lender hereby consents to the Proposed Transfers. In consideration of same, the Final Borrower hereby agrees to assume all the obligations of the Original Borrower and Interim Borrower under the Loan Agreement, as amended, upon the registration of the Proposed Transfers and execute any documentation required by Centro.
5. The Due Date defined in Section 4.02 of the Loan Agreement is hereby amended and extended until October 4, 2018 (extension date October 4, 2019).
6. Notwithstanding anything contained in the Loan Agreement, it is acknowledged and agreed that the payment of interest pursuant to the terms of the Loan Agreement and repayment of the Loan, including interest, shall be made strictly in accordance with Sections 3.3 and 4.2 of the Co-Tenancy Agreement (see Exhibit 1). The parties acknowledge that the term "**Existing Mortgages**" as referred to in the Co-Tenancy Agreement is meant to reference the Lender Charge and the additional syndicated mortgage financing in favour of Derek Sorrenti, In Trust, in the amount of \$5,700,000.00 registered as Instrument No. YR2083558 dated January 14, 2014 (the "**Sorrenti Charge**").
7. The Lender acknowledges that notwithstanding the order of registration or advance of monies pursuant to the Lender Charge and the Sorrenti Charge, all lenders and investors under the said

- 3 -

Existing Mortgages and any future syndicated loans ("**Future Loans**") raised and secured by charges ("**Future Charges**") in favour of Derek Sorrenti, Centro, or RRSP Trustees or other parties, as may be necessary for completion of the Project, excluding the holders of the First Charge shall rank *pari passu* in regards to any recoveries or distributions on their respective loans. For all intents and purposes, the Existing Mortgages and Future Charges shall rank *pari passu* with each other and the Future Loans, if any, and there shall be no priority with regards to distribution of payments, as and when received, to the investors holding interests in either of the Existing Mortgages or the Future Loans.

The Lender further acknowledges that recovery of the balance of the Loan after distributions on account of Existing Mortgages, shall be paid from distributions of Cash Surplus to be made to Fortress under the Co-Tenancy Agreement.

8. Fortress has entered into this Agreement strictly to confirm its covenants and obligation to repay from any distributions of any Cash Surplus to be paid under the Co-Tenancy Agreement.
9. The Lender further acknowledges that pursuant to Sections 3.3 and 4.2 of the Co-Tenancy Agreement (see Exhibit 1), after distributions of Cash Flow are made in accordance with the provisions of Section 4.2 of the Co-Tenancy Agreement, to the extent there remain any monies owing under the Lender Charge, same shall be written off and a discharge of any remaining Properties charged under the Lender Charge shall be provided without any further payment.
10. The Lender further acknowledges and agrees that the Trustees holding title to the Lender Charge shall be permitted to execute all documentation, postponements, partial discharges, consents, etc., as may be required pursuant to the provisions of Sections 3.3 and 4.2 of the Co-Tenancy Agreement (see Exhibit 1), on their behalves and they shall be bound by same.
11. Section 6.01(b) of the Loan Agreement shall be amended such that the maximum amount of the First Charge may be increased to One Hundred Million Dollars (\$100,000,000.00) or such other amount as approved by Centro Mortgage Inc. ("**Centro**").
12. The Lender further acknowledges that in the event its interest in the Lender Charge and related security under the Loan Agreement is being held in trust by Sanjay Pahuja, it hereby consents and directs Sanjay Pahuja (or Centro) to transfer such interest to Centro as a new trustee on its behalf and Sanjay Pahuja shall be fully released from any liabilities under the provisions of the Loan Agreement and the Lender Charge.
13. The Lender also agrees to enter into the standard form of mortgage participation and servicing agreement of Centro which will govern the management of the Loan by Centro on behalf of the Lender and other lenders holding an interest in the Lender Charge pursuant to the terms thereof and the terms of the Loan Agreement, as amended, pursuant to the terms hereof.

The Lender hereby consents and authorizes Centro to execute all documentation required to be provided by the Lender or the holders of the Existing Mortgages pursuant to the terms of the co-tenancy provisions and such other documentation as Fernbrook and Fortress may reasonably require to complete the closing of the Proposed Transfers and the obligations of the parties under the Co-Tenancy Agreement.

14. The Lender shall also execute the acknowledgement attached hereto as Schedule "A".

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written on the first page hereof.

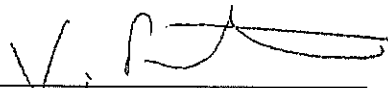
[Redacted signature area]

Name: [Redacted]
Title: [Redacted]

Name:
Title:

I/We have authority to bind the corporation.

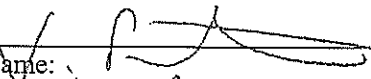
OLD MARKET LANE INC.


Name: *Vince Repozza*
Title:

Name:
Title:

I/We have authority to bind the corporation.

FORTRESS MARKET LANE INC.


Name: *Vince Repozza*
Title:

Name:
Title:

I/We have authority to bind the corporation.

CENTRO MORTGAGE INC.


Name: *Nadina Galati-Perrante*
Title:

Name:
Title:

I/We have authority to bind the corporation.

SCHEDULE "A"

ACKNOWLEDGEMENT OF
CO-TENANCY PROVISIONS

TO: FCF Old Market Lane 2013 Inc. ("Trustee"), Fortress Market Lane 2011 Inc. ("Fortress") and Fernbrook Homes (Woodbridge) Limited ("Fernbrook")

RE: Charge Registered against the Property 177 Woodbridge Avenue, Vaughan, Ontario registered as Instrument No. YR1763326 on the 22nd day of December, 2011

Charge Registered against the Property 185 Woodbridge Avenue, Vaughan, Ontario registered as Instrument No. YR1763336 registered the 22nd day of December, 2011

Charge Registered against the Properties 197 Woodbridge Avenue, Vaughan, Ontario registered as Instrument No. YR1763318 registered the 22nd day of December, 2011

AND RE: Co-Tenancy Agreement between Fernbrook, Fortress and the Trustee

The undersigned is a Lender pursuant to a Loan Agreement dated the [REDACTED] day of [REDACTED], pursuant to which monies were advanced and secured under the Lender Charge. Reference is made to Sections 3.3 and 4.2 of the Co-Tenancy Agreement, the provisions of which are annexed hereto as Exhibit 1. The undersigned hereby confirms that in order to induce Fortress and Fernbrook to enter into and require title to the Properties and to cause the Trustee to assume the obligations of the borrower under the terms of the Loan Agreement, the undersigned hereby consents to and agrees to be bound by the Co-Tenancy Provisions.

DATED at [REDACTED] this [REDACTED] day of [REDACTED], 2015.

Witness:

[REDACTED]

[REDACTED]

EXHIBIT 1**Co-Tenancy Provisions – Sections 3.3 and 4.2****3.3 Acknowledgments re Related Party Mortgages and Further Charges**

- (a) On the Date of Closing with respect to the Existing Mortgages (except the First Mortgage) and prior to the registration of any Further Charge, the holders of such mortgages shall acknowledge, both at the date of registration of any such mortgage or mortgages, as well as and when required by the Construction Lender and any insurance company providing security for purchaser deposits that:
 - (i) the Priority of Distributions set out in Section 4.2 and the provisions of Section 12.3(a)(i) herein shall supersede any priority entitlement or recovery pursuant to the registration of the applicable charges;
 - (ii) they shall provide all postponements, standstill agreements, partial discharges and all other documents required by the Construction Lender and any insurance company providing security for purchaser deposits;
 - (iii) in the event of a transfer of any such mortgage or mortgages, they shall require the transferee to execute all documents as required herein;
 - (iv) all interest payments during the terms of such mortgages shall be either capitalized or funded by the holders of such mortgages and there shall be no default under such mortgages for non-payment of same during the terms thereof. The Co-Tenancy shall have the right to approve the length of the term and any options to extend the terms under such mortgages such that it shall be sufficient to meet the construction, marketing and sale schedules of the Project. In the event the Project is completed and sales revenues are insufficient to repay all such mortgages in accordance with the waterfall of payments set forth in the Priority of Distributions herein, partial discharges shall be provided to the Nominee in order to complete sales of units in the Project, whether or not full or partial payment will be made under such mortgages;
 - (v) the holders of all such mortgage shall also acknowledge that notwithstanding the priority registration of their mortgages, provided the Project is completed by the Nominee, the holders of such mortgages shall only be entitled to repayment of their mortgages in accordance with the Priority of Distributions and Section 12.3(a)(i) as set forth herein; and
 - (vi) all such lenders shall acknowledge that their security and indebtedness shall be strictly non-recourse as against Cityzen, Dominus Construction (2005) Corporation and their successors and assigns.

- 2 -

4.2 Priority of Distributions

The cash surplus ("**Cash Surplus**") of the Co-Tenancy arising from the receipt of any Project revenue (save for approved reserves for warranty claims, deposit insurer security, unpaid Project Costs or other reserves approved by the Co-Tenancy) shall be distributed to the Members, as and when funds become available for distribution, in the priority and manner as follows (the "**Priority of Distributions**"), no distribution being made in any category set forth below unless and until the preceding category has been satisfied in full, unless the Members otherwise agree in writing:

- (a) firstly, to the Construction Lender for the repayment of the Construction Loan;
- (b) secondly, unpaid Project Costs including the construction and development management fees herein set out (such amounts not funded by the Construction Lender) including any Excess Loans;
- (c) thirdly, any unpaid fees owing under the Project Management Agreement;
- (d) fourthly, to repay Cityzen Excess Loan(s) (if any) plus default interest;
- (e) fifthly, to Fortress or third party lenders comprising the Existing Mortgages or Further Charges up to an amount of \$6,500,000.00 including interest on account of the Maximum Land Mortgages Amount;
- (f) sixthly, to repay Related Party Mortgages or equity advances by Fortress with respect to approved Project Costs (only principal amounts and no interest or fees or Priority Advance Distributions or Incremental Environmental Costs);
- (g) seventhly, the balance, if any, to the extent such balance represents the net profits (as determined by the Project accountants using GAAP) of the Co-Tenancy but exclusive of any fees, or interest on such fees or Priority Advance Distributions paid as a result of Fortress arranging any of the Existing Mortgages or Further Charges, to the extent the total owing for same is greater than \$6,500,000.00 (the "**Actual Profit**"), shall, be distributed as follows:

With respect to the amount of Actual Profit that is less than up to the Approved Profit Target:

Fortress: 75%

Cityzen: 25%

With respect to the amount of Actual Profit that exceeds the Approved Profit Target:

Fortress: 60%

Cityzen: 40%

- 3 -

For clarity, all loan fees charged by Fortress or related parties as well as any interest costs or Priority Advance Distribution included in or on the Existing Charges and the Further Charges or any Incremental Environmental Costs, as well as the Land Transfer Tax paid as a result of the purchase price exceeding \$6,500,000.00, if any, shall be paid by Fortress and shall not be charged to the Project or constitute a Project Cost;

Notwithstanding the foregoing, 25% or 40% of the Total Incremental Environmental Costs funded by the Construction Lender, if any and as the case may be, should be deducted from the Actual Profit payable to Fortress and paid to Cityzen.

OML original
+ Redo

Investment Authority – Form 9D

To: Centro Mortgage Inc.
Mortgage Administrator
 8-25 Brodie Drive
 Richmond Hill, Ontario L4B 3K7
Attention: Ildina Galati

I, [REDACTED], hereby instruct you to act on my behalf, on my mortgage investment of \$[REDACTED] the details, conditions and disclosures of which are set below.

Details about the investment:

1) Name and Address of the Borrower: FCF Old Market Lane 2013 Inc.
 1-25 Brodie Drive
 Richmond Hill, ON L4B 3K7

2) Municipal Address and Legal Woodbridge, ON 177, 185, 197 Woodbridge Ave,

P/T W1/2 LT 7 Con. Vaughan as in R543783; Vaughan

Description of real property (ies)
 Against which my investment will
 Be secured:

3) Type of property: **Residential home construction.**

4) Principal amount of mortgage or charge: **\$4,000,000.00** – (increasing to a Maximum of **\$19,000,000.00**). See Paragraph 21.

5) Amount of loan to be advanced: \$ [REDACTED]

6) Rank of mortgage or charge: **Second Ranking Charge/Mortgage (The ranking of the mortgage can change at any time over the duration of the term) – subject to paragraph 22, below.**

7) Encumbrances: **A First ranking Charge/Mortgage will be registered in priority of this mortgage investment.**

Balance 1st mortgage \$3,400,000.00 to the first mortgagees.

Please refer to paragraph 22, below for details on future postponements to construction financing and development agreements.

8) My investment of \$ [REDACTED] represents [REDACTED] % of the total loan to the borrower.

9) I am satisfied that the approximate and current market value of the property against which my investment has been secured is **\$14,200,000.00**. The means taken to determine said value was a Letter of Opinion authored by Kevin

Ferguson & Jeff Cheong of Legacy Global Mercantile Partners Ltd. dated June 1st, 2015.

- 10) Including my investment and mortgage amount of \$ [REDACTED] the percentage of the value of the property including this mortgage and all prior ranking charges is currently: [REDACTED] %.
- 11) 3 years, 4 months (“**Renewal Term**”), commencing on June 1st, 2015, and ending on the final day of such period (the “**Maturity Date**”). At the Borrower’s option (to be exercised in writing not less than three (3) months prior to the Maturity Date), the Borrower may extend the Maturity Date for twelve (12) additional months (the “**Extension**”). **THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.**
- 12) The due date of the loan is **October 4th, 2018 (extension date October 4, 2019).** **THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.**
- 13) The loan is amortized over **0 years**- the mortgage is an interest only mortgage.
- 14) The interest rate is **8.00%** calculated annually, not in advance.
- 15) Particulars of amounts and due dates (monthly, quarterly, etc.) of payments of interest only: Payments made **QUARTERLY**, in the amount of **\$1,000.00** payments continuing on **August 4th, 2015**, the initial payment being pro rata from the date of advance up to the date of the predetermined initial payment.
- 16) Particulars and amounts of any bonus or holdback or any other special terms:
- See above for interest details; AND
- 17) Project Completion – Deferred Lender Fee: as outlined in the original Loan Agreement.
- 18) The mortgage is to be registered in the name of: “**Centro Mortgage Inc.**” (the “**TRUSTEE**”) FOR [REDACTED]
- 19) After completion of the mortgage transaction, a collection or administration fee of per instalment is payable by the borrower: *N/A*

20) If the mortgage is held in trust, the dates on which payments are made by the trustee to me are: **QUARTERLY** continuing on **August 4th, 2015**. Interest payments cannot be disbursed to the Lender by the Trustee until funds are received by the Trustee/Administrator from the Borrower (on behalf of non-registered investors), or by the Trustee trust company from the Borrower (on behalf of registered investors.)

21) I understand that the mortgage shall be initially registered indicating a face value of **\$4,000,000.00** and that from time to time the loan amount will increase upon the completion of certain development and construction milestones on the Property by the Borrower. It is anticipated that the loan amount shall be amended during the term of the loan to a **MAXIMUM OF \$19,000,000.00**

22) I understand the Charge/Mortgage in which I have an interest is currently a **SECOND** ranking Charge/Mortgage converting to a second ranking Charge/Mortgage against the Property and the position of the mortgage can change over the duration of the term.

I understand that a first ranking Charge/Mortgage against the Property in favour of the first mortgagee in the principal amount of \$3,400,000.00 and the second mortgagee will postpone its position to construction financing.

I understand that during the course of this investment the Borrower anticipates obtaining additional construction financing for the Property which is expected to take priority to the first Charge/Mortgage, changing its position to a second Charge/Mortgage.

I hereby understand, consent and agree that other charges/mortgages and/or development agreements may be registered in priority to the first/second charge/mortgage against the property during the term of my investment in the first/second charge/mortgage.

I hereby confirm that I understand and agree that the second charge/mortgage in which I have invested shall be required to postpone and standstill to prior charges/mortgages to a maximum of \$100,000,000, plus a 10% contingency if required, in priority financing. I understand that priority financing is expected to periodically increase over the term of the second charge/mortgage and that such postponements shall be permitted and shall occur on the basis of cost consultant reports prepared on behalf of the borrower.

I understand that additional priority financing may be required if there is a shortfall pursuant to the terms of the charge/mortgage in which I am investing. In the event of a shortfall in the funding of this charge/mortgage I understand and agree that other charges/mortgages may be registered against the property to fund and secure any such shortfall.

I understand that the trustees of this charge/mortgage may requested to execute such documents as may be required to permit the registration of certain agreements for the purpose of facilitating the planned development of the property, examples of such

agreements include, but are not limited to: site plans, development plans, planning act requirements, mezzanine financing, insurance on deposits, or condominium registration documents.

I hereby confirm that I am aware of and understand that I have provided the trustee of my charge/mortgage with my irrevocable consent to execute any required documents as a condition of my participation in this charge/mortgage.

I hereby re-confirm my consent and agreement to postpone and standstill to any required financing or development agreements, and to partially discharge my charge/mortgage, without payment, with respect to any lands secured by the charge/mortgage which may be required for public or quasi-public purposes.

I understand and agree to provide partial discharges of this security for sales of all condominium units or the office/retail/parking components, without charge, provided the proceeds of the sale are used to pay off the First-Ranking and Second-Ranking Construction Loan Security and/or trade creditors.

I understand that save and except as outlined herein, there shall be no other postponements or encumbrances which affect the position or security afforded by the current second charge/mortgage.

I agree to provide partial discharges of the Loan Documents in respect of all Project lot/unit sales to third parties and in respect of all Project office/retail/parking component sales to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the First-Ranking Construction Loan Security and then to pay down other Project trade creditors

*


Initials

23) Particulars of disbursements made for legal, brokerage or other fees or commissions in connection with the placement of the loan, including the names of recipients and amounts paid by the borrower, are:

Admin/Legal Fees: \$100.00 per client per year's in the term plus HST (plus registration fees) plus HST (paid by Borrower)

Branch Broker Fee: \$500.00 payable to FMP (JL)

1. *(Instructions: Clauses (a) and (b) below refer to information which each investor may require from the lawyer. If you require the information referred to in a clause, initial the clause.)*

The information which I require from you as my administrator before the administrator for the trustee completes the transaction and makes the advance is as follows:

- (a) If my investment will be in a position other than a first mortgage or charge, details, including amounts, of all existing encumbrances outstanding:

1st Ranking Mortgage Charge registered with the first mortgagee with a face value of \$3,400,000.00. This mortgage is up to date and in good standing; subject to future postponements as per paragraph 21, above.

- (b) If the mortgage or charge is a syndicated mortgage, and is prospectus exempt:

We have acknowledged and accept that you as my administrator express no opinion as to the necessity for a validity of a prospectus.

2. *(Instructions: Each investor to complete and initial clause (a) and, if clause (a) is answered in the affirmative, to complete (if necessary) and initial clause (b) and to initial clause (c).)*

- (a) I instruct you to obtain a current and independent appraisal of the subject property and provide it to me before you complete this mortgage transaction. **No.**

* 

Initials

- (b) The appraisal is to be paid by me or. **Not Applicable**

- (c) I have been advised and accept that you as my administrator do not express an opinion as to the validity of the appraisal/valuation/letter of opinion.

* 

Initials

Disclosure:

1. I acknowledge being advised by you as the Lender's Independent Legal Advice (ILA), or as an independent lawyer to the transaction, that to the best of our knowledge the Independent Legal Advice Solicitor does not have any direct or indirect interest in the Borrower. *(Specify yes or no and indicate the date on which the lawyer advised you that he or she has no direct or indirect in the borrower or borrowers.)*

No independent legal advice has a direct or indirect interest in the Borrower.



* Investor to insert current date here

(If the lawyer has an interest in the borrower or borrowers, he or she is unable to act for you on this loan (Rule 2.06 of the Rules of Professional Conduct).)

WARNINGS:

1. You are cautioned that the responsibility for assessing the financial merits of the mortgage investment rests with YOU the investor or investors at all times. The above-named lawyer's responsibility is limited to ensuring the mortgage is legally registered on title in accordance with the investor's or investors' instructions. The lawyer is not permitted to personally guarantee the obligations of the Borrower or Borrowers nor the suitability of the Property as security for the mortgage investment.

2. Any loss you may suffer on this mortgage investment will not be insured under the lawyer's professional liability policy if the lawyer has acted as a mortgage broker or has helped to arrange it.*)

Investor's Signature: *

[REDACTED]

[REDACTED]

I hereby acknowledge receipt of a copy of this form prior to the advance of funds to or on behalf of the Borrower. I further acknowledge having read and understood the above warnings.

[REDACTED]

Signature

Name:

[REDACTED]

PARTICIPATION AND SERVICING AGREEMENT

THIS AGREEMENT made as of the 1st day of June, 2015

B E T W E E N:

[REDACTED]
(hereinafter called "Investor")

OF THE FIRST PART

- and -

Centro Mortgage Inc., in Trust
(Mortgage Administrator & Solicitor)

(hereinafter called "Centro")

OF THE SECOND PART

WHEREAS:

1. Pursuant to the Loan Agreement, Centro has agreed to provide the Borrower various loan facilities Nineteen Million (\$19,000,000.00) Dollars (the "Loan") for the purposes of financing the development and the construction of residential homes on the Lands, to be secured by the Security Documents;
2. Investor has agreed to participate in the Loan to the extent of \$ [REDACTED] upon the terms and subject to the conditions of the Lender Acknowledgement & Consent dated June 1st, 2015 (the "LAC"); and
3. Investor has agreed that Centro will administer the Investment on behalf of Investor in accordance with the terms and subject to the conditions of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT, in consideration of these presents and the covenants and agreements herein contained, the parties agree as follows:

ARTICLE 1.00 - INTERPRETATION

1.1 Defined Terms

The following words and phrases shall have the meanings attributed thereto when used in this Agreement:

"Borrower" means FCF Old Market Lane 2013 Inc.

"Force Majeure" shall mean any event or series of events beyond the control of the Borrower such as strikes, walkouts, labour troubles, inability to procure materials or services or construction financing, power failures, restrictive governmental laws or regulations or the orders or directions of any administrative board, governmental department, officer or other authority, riots, insurrections, war, sabotage, rebellion or acts of God, material changes or delays in market conditions affecting sales or closings, delays in obtaining governmental approvals, permits, rezoning or similar regulatory requirements, none of which is the fault of the Borrower.

"Investment" means the investment in the Loan of the Investor as set out in the LAC and the 2nd recital hereof;

"Lands" means those lands more particularly described and charged pursuant to the Security Documents including without limitation all buildings, fixtures and improvements now or hereafter situate thereon and all easements, rights-of-way and other similar rights appurtenant to or used in connection therewith;

“Loan” means the financing of the Project by Centro to the Borrower to assist in the construction, on the Lands, in the maximum principal amount of Fourteen Million Dollars (\$14,000,000.00) Dollars on the terms and subject to the conditions set out in the Loan Agreement and includes without limitation all Principal, Interest, interest on overdue Interest, fees, expenses, charges and such other amounts owing by the Borrower from time to time to Centro pursuant to the Loan Agreement or any of the Security Documents in respect of Loan;

“Loan Agreement” means the Loan Agreement between Centro and the Borrower in respect of the Loan;

“Mortgaged Property” means:

- (a) the Lands;
- (b) all rights, privileges, advantages and benefits whatsoever arising pursuant to all agreements regarding the development of, and the construction of improvements on, the Lands;
- (c) all personal property presently or in the future owned or acquired by or on behalf of the Borrower and all proceeds and renewals thereof, accretions thereto and substitutions therefore which are used in connection with the Lands;
- (d) all other personal property of the Borrower securing the Facilities; and

“Participants” means Centro and the Investor and other investors acquiring interests in the Loan and "Participant" means any one of them;

“Person” means any individual, company, corporation, partnership, firm, trust, sole proprietorship, government, government agency, authority or entity however designated or constituted;

“Principal” means the principal amount of the Loan and all Interest, interest on overdue Interest, fees, expenses, charges and other amount owing by the Borrower to Centro from time to time which may be added thereto or become part thereof pursuant to the Loan Agreement or the Security Documents;

“Project” means the property located at 177, 185, & 197 Woodbridge Avenue Woodbridge, Ontario (Future Security on any adjacent lands to the current of future parcels);

“Proportionate Share” means the proportionate share of each of the Participants in the Loan as stipulated in each LAC entered into with each Participant;

“Security Documents” means:

- (a) all mortgages, charges, security agreements, instruments and documents executed and delivered by the Borrower to Centro as security for the Facilities, from time to time, whether direct, indirect, primary or collateral, including without limitation any guarantees, charges, assignments and any other type of security agreement;
- (b) all policies of insurance relating to the Mortgaged Property as required under the Loan Agreement or under the Security Documents; and
- (c) all instruments and documents supplemental or ancillary to any of the foregoing.

Unless specifically defined herein, all capitalized terms shall have the meanings ascribed to them in the Loan Agreement.

- 1.2 **Applicable Law** This Agreement shall be interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

- 1.3 **Headings, etc.** 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 hereof.
- 1.4 **Singular, Plural and Gender** Words importing the singular include the plural thereof and vice versa and words importing gender include the masculine, feminine and neuter genders.

ARTICLE 2.00 - LOAN ORIGATION AND PARTICIPATION

- 2.1 **Entering into of Loan** Centro shall be exclusively responsible for the implementation of the Loan in accordance with the provisions of the Loan Agreement and to obtain and administer the Security Documents and the processing of the Loan in accordance with the provisions of the Loan Agreement. In connection therewith, it shall perform and attend to all matters and things necessary to administer and service the Loan in accordance with normal lending practice and with the same degree of care and skill as a prudent lending institution would exercise for its own account including, without limitation, the following:
- (a) acquire, assemble, record and process all the necessary information, data, applications and other forms and reports in connection with the Loan;
 - (b) retain solicitors to perform and carry out all instructions and requirements necessary to complete the Loan including, without limitation, the requisite title searches, the preparation, execution and delivery of the Security Documents and the registration and filing of the Security Documents or notices thereof as may be required to ensure the priority of the Security Documents subject only to such encumbrances and other qualifications permitted by the Loan Agreement;
 - (c) ensure that the Borrower has made satisfactory arrangements for insurance as may be required by the Loan Agreement;
 - (d) make the Advances in accordance with normal mortgage practice out of funds to be provided by the Participants, the provisions of the Loan Agreement, the LAC and the Construction Lien Act.
- 2.2 **Endorsement of Security Documents** All Security Documents shall be taken by Centro in its name and such other trustees appointed by a Participant from time to time and shall hold the Investment as agent for the Participants according to their Proportionate Shares and upon and subject to the terms of this Agreement.

ARTICLE 3.00- SERVICING OF INVESTMENT

- 3.1 **Servicing Duties** Centro shall hold, administer and service the Loan for the Investor and other Participants in accordance with normal lending practice and with the same degree of care and skill as a prudent lending institution would exercise for its own account and shall perform, without limiting the generality of the foregoing, the following duties:
- (a) make reasonable efforts to collect all payments due under the Loan, including without limitation, all Principal, Interest and interest on overdue Interest, taxes (if applicable), and any other monies or payments required by the Loan Agreement or the Security Documents;
 - (b) perform all necessary services with respect to the settlement of any loss under insurance policies in the event of damage to or destruction of the Mortgaged Property;
 - (c) settle with the Borrower and any expropriating authority the amount and disposition of any compensation payable in connection with any expropriation of any part of or any interest in the Mortgaged Property;
 - (d) pay out of payments of Interest or other monies received for the borrower

by Centro:

- (i) when necessary, insurance premiums, taxes and any other amounts which Centro is authorized to pay on behalf of the Borrower under any of the Security Documents;
 - (ii) the reasonable fees and expenses of any experts retained by Centro pursuant to section 3.2;
 - (iii) any other reasonable expenses necessary to protect or preserve the Mortgaged Property approved by Investor; and
- (e) remit to Investor forthwith upon receipt, or as soon as is reasonably possible thereafter, the applicable pro rata portions of all payments on account of Principal received by Centro (except to the extent any amount thereof has been solely funded by Centro), together with a statement indicating the amount of each payment of Principal;
 - (f) remit to Investor on or before the 5th Business Day of every third month all payments of its Proportionate Share of Interest out of the Interest received by Centro from the Borrower during the previous month, less any payments authorized by paragraph 3.1(e), together with a statement indicating the amount of each payment received and the deductions therefrom. It is the intention of Centro that payments of Interest will be due on the fifteenth day of each month except as otherwise provided by the Loan Agreement and the Security Documents. If payments of Interest are received by Centro on any other day, the balances of such payments shall be remitted to Investor on or before the 5th Business Day following receipt of the payment;
 - (g) maintain proper records and accounts showing all receipts and disbursements in respect of the Investment and permit Investor, its auditors and agents, on reasonable notice to Centro, to examine such records and accounts from time to time and provide such copies thereof as Investor may reasonably require at its expense relating to the Loan;
 - (h) generally attend to the performance of such other things as a prudent lending institution would normally perform if the Loan was for its own account exclusively as per the Loan Agreement and the LAC including, inter alia, sign all postponements, standstill, subordination and partial discharges. For any of the Security Documents as per the LAC and the Loan Agreement, or generally, as may arise from time to time in order to protect the interest of the Investor in the Loan;
 - (i) in the event that Centro, in its sole discretion, acting as approved Lender and administrator, determines that the Borrower, as a result of an act of *Force Majeure*, will not be able to complete the Project so as to repay the Loan on or before the maturity date on the Loan under the Loan Agreement (as it may be extended under the terms thereof), it shall have the authority to extend the term of the Loan for such period of time, not exceeding 24 months so as to permit the Borrower to complete the Project and its sales, and thereby repay the Loan. Centro shall have the right to do so on one or more occasions but for a period of time not exceeding 24 months as aforesaid, without the consent of the investor;
 - (j) give such notices to the Borrower and other Persons as Centro may consider necessary;
 - (k) take all reasonable steps to enforce performance of the obligations of the Borrower under the Loan or the Security Documents or to protect or preserve the Mortgaged Property;
 - (l) if Centro considers it necessary to accelerate repayment of the Loan and realize upon the Mortgaged Property including, inter alia, the appointment

of a receiver, the exercise of powers of distress, the institution of foreclosure or power of sale proceedings and/or any other legal or equitable remedy. Centro shall not be required to consult with Investor prior to determining what action Centro should take to enforce its rights and exercise its remedies under the Security Documents or otherwise. Centro shall not be required to take any action (or refrain from taking any action) that would result in Centro being in default of any covenant, term, provision or condition of this Agreement, the Loan Agreement or the Security Documents or any obligation imposed on it by law including, without limitation, the obligation to act in a reasonable manner and in accordance with normal lending practice and with the same degree of care and skill as a prudent lending institution would exercise for its own account; and

- (m) to fulfill all obligations of the Investor under the Loan and any Loan arrangements including the LAC relating to the execution of all necessary postponements, discharges, standstill agreements and other documentation consistent with the foregoing.

- 3.2 **Experts** To assist in administering the Investment and carrying out its duties hereunder, Centro may retain at the expense of the Borrower, or failing same, the Participants to be shared based on their respective Proportionate Shares, such solicitors, notaries, counsel, auditors, appraisers and other experts as Centro may, acting reasonably.
- 3.3 **No Warranties or Representations** Centro has given no warranty or representation with respect to the Investment and shall not be responsible for the observance or performance of any of the obligations of the Borrower or the Covenantors pursuant to the Loan Agreement or the Security Documents. Investor acknowledges that it has made its own decision to participate in the Investment without any inducement from or reliance upon Centro with respect to the financial condition of the Borrower or the Covenantors or the sufficiency of the Mortgaged Property or the Security Documents.
- 3.4 **Duty of Care** Centro shall not be liable for any error of judgment or any action taken or omitted to be taken by it under or in connection with this Agreement if it acts upon or relies on any advice received from any expert retained by Centro pursuant to section 3.2 or otherwise acts in good faith.
- 3.5 **Consent of Investor** Saver as set out herein, Centro shall not, without the prior written consent of Investor, acting reasonably, agree to any renewal or any material amendment, modification or waiver of any of the terms of the Loan Agreement, the Security Documents or any agreement or document relating thereto, nor consent to any action or failure to act by the Borrower or any other party, or exercise any rights that Centro may have in respect thereof or any rights pursuant to Section 3.1(h) hereof.


Initials

If Centro should request Investor's written consent to any of the action described in this paragraph and shall not receive Investor's consent or denial thereof in writing within ten (10) Business Days of the making of such request, Investor shall be deemed to have given its consent.

- 3.6 **Indemnity** Investor shall indemnify and hold harmless Centro from its pro rata share of all claims, costs, losses, expenses and damages of every nature and kind with respect to the performance of Centro's obligations in this Agreement, the Loan Agreement and the Security Documents, as same relates to the Loan save and except any such claim, cost, loss, expense or damage which results from:
- (a) the failure of Centro to act as a prudent lending institution as required by Sections 2.1 and 3.1;
- (b) Centro's failure to comply with its obligations under this Agreement; or

- (c) Centro's negligence, fraud or any illegal act.

The obligations of Investor under this section shall survive the termination of this Agreement.

- 3.7 **Interest Accrual** Investor acknowledges that the Loan includes funds raised for an interest reserve to pay out regular Investor interest payments.

In the event that such interest reserve is not fully funded to cover all interest payments to the Participants, interest payments may be delayed, reduced or be unpaid until maturity of the Loan. In such event, all such interest would continue to accrue and be recoverable as and when the interest reserves are replenished or the Loan matures and is fully repaid, assuming successful completion of the Project and full repayment of the Loan at that time.

There is a four year interest reserve, raised annually.

Should the Borrower choose to exercise the 12 month term extension, interest will continue to accrue at Eight Percent (8.00%) per annum (calculated annually, not in advance) and the final year of accrued interest will be paid in full with all other accrued interest at the time of the "extended" maturity.

ARTICLE 4.00- GENERAL

- 4.1 **Meetings** Subject to any other provisions to this Agreement, either party may at any time on three (3) Business Days notice call a meeting with the other party to consider any matter related to this Agreement and, if requested by Centro, to obtain the consent of Investor to any action proposed to be taken by Centro.

- 4.2 **Notices** All notices, consents, approvals or communications required or permitted hereunder shall be in writing and shall be delivered by courier or sent by facsimile transmission and, if intended for Centro, addressed as follows:

Centro Mortgage Inc.
8-25 Brodie Drive
Richmond Hill, ON
Attention: Ildina Galati
Fax No.

and, if intended for Investor, addressed as follows:

Attention:
Fax No.

Any such notice, consent, approval or communication delivered or sent as aforesaid shall be deemed to be received on the Business Day next following the day it is delivered or sent. Any party may change its address for the foregoing purposes within the Province of Ontario by giving the other party notice of such change of address as hereinbefore provided.

- 4.3 **Termination** Subject as hereafter provided, this Agreement shall remain in force until the earlier of the Loan having been paid in full and the Security Documents have been discharged or the Mortgaged Property has been realized and the proceeds of realization have been disbursed among the Participants in accordance with this Agreement. The indemnity provided in section 3.6 shall survive termination indefinitely.
- 4.4 **Effective Date of this Agreement** This Agreement shall not be effective until the date on which it is executed and delivered by Centro and Investor.
- 4.5 **Relationship** Neither the execution of this Agreement, nor the sharing of the Investment nor any agreement to share in profits or losses arising as a result of the Investment is intended to be nor shall it be construed to be the formation of a partnership or a joint venture among the Participants.

- 4.6 **Publications or Registration of Interest** Investor shall not register this Agreement or notice thereof in any manner on the title to the Lands or with respect to any of the other Mortgaged Property.
- 4.7 **Dealings with Borrower**
- (a) Investor shall not contact or deal either directly or indirectly with the Borrower or the Covenantors or any other Person with respect to the servicing of the Investment or the enforcement of the Security without the consent of Centro. Investor shall also not enter into any other agreement or take any other security with respect to this Agreement, the Investment or its Proportionate Share without the consent of Centro.
- (b) Investor shall not exercise any right of set-off, counter claim or any other claim it may have against the Borrower with respect to Contributory Advances or Contributory Payments to be made by it pursuant to this Agreement.
- 4.8 **Legal Capacity** Each Participant warrants and represents to the others that it has the legal capacity to enter into this Agreement and the Investment pursuant to its constating documents and any applicable legislation and that this Agreement constitutes a valid and binding obligation of such Participant enforceable in accordance with its terms.
- 4.9 **Entire Agreement** This Agreement constitutes the entire agreement between the Participants with respect to the Investment and supersedes all prior proposals and agreements, whether oral or written, with respect to the Investment.
- 4.10 **Amendment** No term or provision of this Agreement may be amended, waived, discharged or terminated without the unanimous written consent of all of the parties.
- 4.11 **Binding, etc.** This Agreement shall enure to the benefit of and be binding upon the parties and their successors and permitted assigns.
- 4.12 **No Waiver** The failure of any party to insist upon the strict adherence to or performance of any of the covenants contained herein shall not be considered as a waiver of such covenant by that party. A waiver of any provision in this Agreement must be in writing and signed by the waiving party.
- 4.13 **Counterparts** This document may be executed in counterparts, each of which shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and notwithstanding the date of execution shall be deemed to be dated the date hereof.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date first hereinabove written.

Per: _____
 Name:
 Title:

Per: _____
 Name:
 Title:

Centro Mortgage Inc./in Trust

Per: _____
 Name: Ildina Galati
 Title:

Per: _____
Name:
Title:
I/We have authority to bind the Corporation

AGENCY AGREEMENT

This agency agreement (the "**Agreement**") is made effective as of the day of , 2015
(the "**Effective Date**")

Between:

**Each of the persons that has executed an accession to this
agreement in the form attached hereto as Schedule "A"**

(collectively, the "**Investors**")

OF THE FIRST PART

- and -

**CENTRO MORTGAGE INC., a corporation incorporated under the
laws of Ontario
(the "Agent")**

OF THE SECOND PART

RECITALS:

A. The Investors each loaned funds (the "**Loan**") to **Old Market Lane Inc.** (the "**Borrower**") pursuant to a loan agreement (collectively, the "**Loan Agreement**") between the applicable trustee (the "**Applicable Trustee**"), in trust for such Investor, and the Borrower, dated the date set out opposite the Investor's name in Exhibit "1" to the accession agreement executed by such Investor.

B. Pursuant to the Loan Agreement, the Borrower granted the Investors a charge/mortgage (the "**Existing Mortgage**") of the property described on Schedule "B" hereto (the "**Property**") and the Investors interests in the Existing Mortgage are held in trust for and on behalf of the Investors by the Applicable Trustee.

C. Each Investor wishes to appoint the Agent to act as agent for the Investor to facilitate the management of the Investor's interests in the Loan and the Property including under the Loan Agreement, the Existing Mortgage, and all such other documents, instruments and security relating thereto (collectively the "**Investor Documents**").

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants and agreements between the parties to this Agreement and other good and valuable consideration and the sum of TWO (\$2.00) DOLLARS now paid by each party to the other (the receipt and sufficiency of which is hereby acknowledged), the parties hereby agree as follows:

1. Appointment of Agent

Each Investor hereby irrevocably appoints and authorizes Centro Mortgage Inc. to act as Agent on behalf of the Investor, with the ability to, inter alia, exercise all rights and powers of the Investor under the Investor Documents. Without limitation, each Investor expressly authorizes the Agent to grant or to instruct the Applicable Trustee to grant the Accounting Release for and behalf of the Investor.

2. Limitations

- (a) The Agent shall not be required to take any action which (i) exposes it to personal liability; (ii) is contrary to this Agreement, the Investor Documents or any applicable Law, rule, regulation, judgment or order; (iii) would require it to become registered to do

- business in any jurisdiction; (iv) would subject it to taxation; or (v) which it determines in its sole discretion is not a reasonable action to be taken.
- (b) The Agent has no duties or obligations other than as set out in this Agreement and there shall not be construed against the Agent any implied duties (including fiduciary duties), obligations or covenants. The Agent may execute or perform, and may delegate the execution and performance of, any of its powers, rights, discretions and duties under this Agreement through or to any persons designated by it. References in this Agreement to the Agent shall include references to any such persons.
- (c) The Agent is not obliged to (i) take or refrain from taking any action or exercise or refrain from exercising any right or discretion under the Investor Documents; or (ii) incur or subject itself to any cost in connection with the Investor Documents, unless it is first specifically indemnified or furnished with security by the Investors.

3. No Liability

Neither the Agent nor its directors, officers, Agents or employees shall be liable to any Investor for any action taken or omitted to be taken by it or them in connection with this Agreement and/or the Investor Documents. Without limiting the generality of the foregoing, the Agent (i) may consult with legal counsel, independent accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in accordance with their advice; (ii) makes no warranty or representation to any Investor and shall not be responsible to any Investor for the form, substance, accuracy or completeness of any Investor Document, or any other documents or information made available to the Investors; (iv) has no duty to inspect the property or assets (including books and records) of Borrower or any other person; (v) has no duty to ascertain or inquire as to the existence of a default or an event of default or the observance of any of the terms or conditions of the Investor Documents; (vi) is not responsible to any Investor for the execution, enforceability, genuineness, sufficiency or value of any of the Investor Documents; and (vii) shall incur no liability by acting upon any notice, certificate or other instrument believed by it to be genuine and signed or sent by the proper person.

4. Instructions

If the Agent shall request instructions from the Investors with respect to any act or action (including the failure to act) in connection with this Agreement or the other Investor Documents, the Agent shall be entitled to refrain from such act or taking such action unless and until the Agent shall have received written instructions from the Investors, as applicable, and the Agent shall not incur liability to any person by reason of so refraining. Without limiting the foregoing, no Investor shall have any right of action whatsoever against the Agent as a result of the Agent acting or refraining from acting under this Agreement and the other Investor Documents in accordance with the instructions of the Investors.

5. Relationship amongst Investors

- (a) No Investor may take any independent legal action to enforce any obligation of the Borrower under the Investor Documents. Each Investor hereby acknowledges that, to the extent permitted by applicable law, the Investor Documents and the remedies provided thereunder to the Investors are for the benefit of the Investors collectively and acting together and not severally, and further acknowledges that each Investor's rights hereunder and under the Investment Documents are to be exercised collectively, not severally, by the Agent upon the decision of the Investors. Accordingly, notwithstanding any of the provisions contained herein or in the Investor Documents, each of the Investors hereby covenants and agrees that it shall not be entitled to take any action under the Investor Documents, including any declaration of default under the Investor Documents, but that any such action shall be taken only by the Agent with the prior written agreement of the Investors, provided that, notwithstanding the foregoing, in the absence of instructions from the Investors and where in the sole opinion of the Agent the

exigencies of the situation warrant such action, the Agent may without notice to or consent of the Investors take such action on behalf of the Investors as it deems appropriate or desirable in the interest of the Investors. Each Investor hereby further covenants and agrees that upon any such written consent being given by the other Investors, it shall co-operate fully with the Agent to the extent requested by the Agent, and each Investor further covenants and agrees that all proceeds from the realization of or under the Investor Documents, to the extent permitted by applicable law, are held for the benefit of all of the Investors and shall be shared among the Investors rateably. Each Investor covenants and agrees to do all acts and things and to make, execute and deliver all agreements and other instruments, so as to fully carry out the intent and purpose of this Section and each Investor hereby covenants and agrees that it shall not seek, take, accept or receive any security for any of the obligations and liabilities of the Borrower under the Investor Documents, or any other document, instrument, writing or agreement ancillary thereto, other than such security as is provided under the Investor Documents, and that it shall not enter into any agreement with any of the parties hereto or thereto relating in any manner whatsoever to any of the Investor Documents, unless all of the Investors shall at the same time obtain the benefit of any such security or agreement, as the case may be.

- (b) If any Investor obtains any payment (whether voluntary, involuntary or through the exercise of any right of set off or realization) on account of amounts owing to it pursuant to the Existing Mortgage in excess of its rateable share of payments obtained by all the Investors, the Investor shall account to and pay over the amount of the excess rateably to the other Investors.

6. Indemnification

Each Investor shall indemnify and save the Agent harmless (to the extent not reimbursed by Borrower) rateably (according to the amount of its investment) from any claim or loss suffered by, imposed upon or asserted against the Agent as a result of, or arising out of, this Agreement and/or the Investor Documents or any action taken or omitted by the Agent under this Agreement and/or the Investor Documents. The provisions contained in this Section 6 related to the indemnification of the Agent by the Investors, shall survive and continue in full force and effect, until liability of the Agent arising out of the transactions contemplated by this Agreement and the Investor Documents has been extinguished by operation of law.

7. Successor Agent

The Agent may resign at any time by giving written notice to the Investors such resignation to be effective upon the appointment of a successor Agent. Upon delivering notice of resignation to the Investors, the Agent has the right to appoint a successor Agent, on behalf of the Investors. If no successor Agent is appointed or has accepted the appointment within thirty days after the retiring Agent's notice of resignation, then the Investors may appoint a successor Agent. Upon the acceptance of any such appointment by a successor Agent, the successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent and the retiring Agent shall be discharged from its duties and obligations under this Agreement. After any retiring Agent's resignation the provisions of this Agreement shall enure to its benefit as to any actions taken or omitted to be taken by it while it was Agent.

8. Term

This Agreement terminates on the earliest of:

- (a) written approval by the Agent and Investors; or

- (b) resignation of the Agent pursuant to section 7, where a successor Agent has not been appointed.

Termination of this Agreement will not affect or prejudice any rights or obligations that have accrued or arisen under this Agreement prior to the time of termination and these rights and obligations will survive the termination of this Agreement.

9. Further Assurances

Each of the parties to this Agreement shall, at any time or from time to time after the date hereof, at the request of the other party hereto, execute and deliver, or cause to be executed and delivered, such additional instruments, notices, releases, certificates, powers of attorney, assurances and other documents and take such further actions as may be required in order to effectively complete the assignment and assumption contemplated hereby.

10. Expenses

The Agent shall pay all costs and expenses incurred in acting as Agent for the Investors under the Investor Documents and this Agreement.

11. Assignment and Enurement

This Agreement enures to the benefit of and binds the parties hereto and their respective successors and permitted assigns

12. Counterparts and Electronic Transmission

This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument. A party's electronic transmission of a copy of this Agreement duly executed by that party shall constitute effective delivery by that party of an executed copy of this Agreement to the party receiving the transmission. A party that has delivered this Agreement by electronic transmission shall forthwith deliver an originally executed copy to the other party.

13. Governing Law

This Agreement is governed by, and is to be construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.

14. Headings

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

15. Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered personally or transmitted by e-mail, with a read receipt, addressed in the case of the Investors to the address set out opposite each Investors name in Exhibit "1" to the Accession Agreement executed by such Investor hereto and in the case of the Agent, as follows:

Centro Mortgages Inc.
1-A, 25 Brodie Drive
Richmond Hill, Ontario

L4B 3K7, Canada
Attention: Vincent Petrozza, COO
E-mail: vpetrozza@centromortgage.ca

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 e-mail before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by e-mail 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.

~ signature pages follow ~

IN WITNESS WHEREOF the parties hereto have executed this Agreement with effect as of the date first written above.

CENTRO MORTGAGE INC.

Per: 

Name:

Title:

Taina Gulati - Terank

I/We have authority to bind the Corporation

Schedule "A"
Form of Accession Agreement

ACCESSION AGREEMENT

To: Centro Mortgages Inc. (the "**Agent**")

Re: Agency Agreement appointing the Agent to act as Agent for the Investors under the Loan Agreement (the "**Agency Agreement**")

THIS INSTRUMENT of accession forms part of an Agency Agreement made as of the [] day of [], 201[], among the Agent and the signatories thereto, which agreement permits execution by counterpart;

The undersigned Investor (the "**Acceding Investor**") hereby acknowledges having received a copy of the Agency Agreement and having read the Agency Agreement in its entirety;

All of the capitalized terms used herein have the meanings ascribed to them in the Agency Agreement;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby agrees that:

1. all of the provisions of the Agency Agreement shall be binding upon the Acceding Investor as if an original signatory to such Agency Agreement and such provisions shall enure to the benefit of and be binding upon the Acceding Investor's personal representatives, successors and permitted assigns; and
2. the Acceding Investor represents and warrants that he, she or it provided the Loan to the Borrower pursuant to a loan agreement between the trustee set out in Exhibit "1" hereto, in trust for such Acceding Investor, and the Borrower, dated the date set out in Exhibit "1" hereto.

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

(Signature page follows)

DATED as of the [redacted] day of [redacted], 20[redacted].

[redacted]
Name: _____

Exhibit "1"

Investor name	Trustee	Amount of Loan	Date of Loan Agreement	Mailing Address	E-mail
[REDACTED]	Sanjay Pahuja, in Trust	\$ [REDACTED]	May 1, 2011	[REDACTED]	N/A

Appendix 8:
OML 3 Loan Agreement and Sample Form 9D (anonymized)



LOAN AGREEMENT

THIS AGREEMENT made as of the 4th day of September, 2013,

BETWEEN:

Sorrenti Law Professional Corporation, in trust, as lender

- and -

FCF Old Market Lane 2013 Inc. as borrower

WHEREAS the Lender agreed to advance the Loan to the Borrower;

AND WHEREAS the Loan will be secured by a Third-ranking mortgage against the Property;

AND WHEREAS the balance of the terms of the Loan are set out in this Agreement;

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Defined Terms**

Unless expressly stated otherwise, the following capitalized terms shall have the meanings indicated:

- (a) “**Agreement**” means this agreement and all amendments thereof;
- (b) “**Borrower**” means FCF Old Market Lane 2013 Inc. and its successors and permitted assigns;
- (c) “**Business Day**” means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario;
- (d) “**Conditions Precedent**” shall have the meaning attributed thereto in Section 11 hereof;
- (e) “**default**” means an event or condition, the occurrence of which would, with the lapse of time or the giving of notice, or both, become an Event of Default;
- (f) “**Event of Default**” shall have the meaning attributed thereto in Section 15 hereof;
- (g) “**First-Ranking Construction Loan Security**” means one or more secured Project construction loans, in favour of arm’s-length lender(s), in an aggregate principal amount not to exceed \$50,000,000.00 ranking *pari passu* or with stated

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priority between them (in the case of multiple loans), with usual cost-to-complete advances and related security/documentation;

- (h) **“Hazardous Substances”** means all contaminants, pollutants, substances and 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 and/or materials are or shall become prohibited, controlled or regulated pursuant to environmental laws and shall include “contaminants”, “dangerous substances”, “hazardous materials”, “hazardous substances”, “hazardous wastes”, “industrial wastes”, “liquid wastes”, “pollutants” and “toxic substances”, all as defined in, referred to and/or contemplated in environmental laws, but exclude all cleaning and related products used in the usual operation and maintenance of property;
- (i) **“Lender”** means Sorrenti Law Professional Corporation, in trust, for and on behalf of certain persons/entities, and their respective successors and assigns;
- (j) **“Loan”** shall have the meaning attributed thereto in Section 3 hereof;
- (k) **“Loan Documents”** means this Agreement, the Security, all other documentation delivered in connection with the Loan and all amendments thereof;
- (l) **“Maturity Date”** shall have the meaning attributed thereto in Section 4 hereof;
- (m) **“Notice”** shall have the meaning attributed thereto in Subsection 17(b) hereof;
- (n) **“Permitted Encumbrances”** means the First-Ranking Construction Loan Security and such non-financial encumbrances as shall be reasonable for a development such as the Project (including, without limitation, encumbrances pertaining to condominium deposits, easements, rights-of-way, subdivision agreements, site plan control agreements, development agreements, cost-sharing agreements, encroachment agreements, zoning/use laws, utility licences, utility easements, Crown patent reservations and restrictive covenants);
- (o) **“Project”** means the development to be constructed on the Property, comprised of the lands located at 177, 185 & 197 Woodbridge Ave., Woodbridge, Ontario;
- (p) **“Project Budget”** means the Project budget attached hereto as Schedule “B”;
- (q) **“Project Cost Consultant”** means an arm’s-length cost consultant approved by the Lender, acting reasonably;
- (r) **“Property”** means the lands municipally and legally described in Schedule “A” attached hereto, together with all personal, intellectual and other property and all contracts relating thereto or associated therewith;
- (s) **“Security”** shall have the meaning attributed thereto in Section 10 hereof;

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(t) “**substantial completion**” shall have the meaning attributed thereto pursuant to the *Construction Lien Act* (Ontario); and

(u) “**Term**” shall have the meaning attributed thereto in Section 4 hereof.

2. **Schedules**

The following are the schedules attached to and forming part of this Agreement:

(a) Schedule “A” - Municipal and Legal Description of the Property

(b) Schedule “B” - Project Budget

3. **Loan**

Non-revolving loan in an amount up to and including the sum of \$14,000,000.00 (the “**Loan**”), to provide for the Borrower’s soft costs to be incurred prior to the construction financing of the Project.

4. **Term**

3 years (“**Term**”), commencing on October 4th, 2013 (Or sooner) and ending on the final day of such period (the “**Maturity Date**”). At the Borrower’s option (to be exercised in writing not less than three (3) months prior to the Maturity Date), the Borrower may extend the Maturity Date for 12 additional months.

5. **Interest Rate**

Eight Percent (8%) per annum.

6. **Interest Payment**

Calculated and payable Monthly not in advance, with the first payment thereof to be made on January 4th, 2014.

7. **Method of Payment of Monthly Interest Payment**

The Borrower shall subscribe to the “pre-authorized payment” system to allow quarterly instalments to be withdrawn automatically.

8. **Prepayment/Repayment of Principal**

The Borrower may prepay the Loan in whole or in part, upon two (2) Business Days’ prior written notice to the Lender.

The outstanding Loan principal together with accrued interest and all other amounts due and owing, if any, pursuant to the Loan Documents shall become wholly due and payable the Maturity Date.

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9. **Project Completion Fee/Deferred Lender Fee**

In addition to the above and not later than thirty (30) days following substantial completion of the Project, the Borrower shall pay to the Lender a Project completion fee/deferred lender fee (“**Deferred Lender Fee**”) as set forth below and which fees shall be secured under the Security:

- a) in the event that the Project Profit is less than \$6,000,000.00 there will be no Deferred Lender Fee;
- b) in the event that the Project Profit exceeds \$ 6,000,000.01 and is less than \$8,000,000.00 the Deferred Lender Fee would be equal to 6% of the Loan principal;
- c) in the event that the Project Profit is greater than \$8,000,000.01 the Deferred Lender Fee shall be equal to 12% of the Loan principal.

Project Profit shall be determined in accordance with GAAP upon completion of the Project and 95% residential sales having been completed with a projection on the value of the remaining 5%, but shall exclude all fees payable to Fortress pursuant to the Development Agreement. The Lender’s Security shall remain in full force and effect until the project completion fee is paid in full.

10. **Security**

The security for the Loan (as amended, hereinafter the “**Security**”) shall be as follows, subject only to the Permitted Encumbrances:

- (a) Property mortgage executed by the Borrower in a principal amount equal to \$14,000,000.00 of the Loan, which mortgage shall remain registered until the date which is the later of the date of payment of the final amount owing to the Lender pursuant to this Agreement and the date which is sixty (60) days following substantial completion of the Project;
- (b) if the Property beneficial owner is not the Borrower, then a direction, acknowledgement and security agreement executed by the beneficial owner, Borrower and Lender, including confirmation of a Third-ranking charge of the beneficial owner’s interest in the Property and a direction by the beneficial owner to the Borrower to execute the Loan Documents to which the Borrower is a party, such direction to be duly acknowledged by the Borrower;
- (c) a general security agreement executed by the Borrower charging the personal property and undertaking of the Borrower, present and future, used in connection with the Property including, without limitation, all accounts, equipment, goods, inventory, chattel paper, documents of title, intangibles, securities and proceeds therefrom;

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- (d) an indemnity from the Borrower indemnifying the Lender from and against all losses, demands, claims, liabilities, costs, actions, penalties, obligations and expenses imposed upon the Lender and arising in connection with the Lender being a lender hereunder in respect of the Property and all assets relating thereto, save and except in respect of matters arising and caused by the gross negligence of the Lender during any period in which the Lender shall be in exclusive possession of the Property and/or arising and caused after a completed foreclosure proceeding or sale proceeding pursuant to the Security and/or caused by the gross negligence of the Lender; such indemnity shall survive the full payment and discharge of the Loan; and
- (e) such further and/or other security relating to the Property as the Lender shall reasonably require.

11. **Deliveries to Lender**

The Borrower shall deliver, within five (5) Business Days following execution of this Agreement, a copy of each of the following:

- (a) the Property parcel pages, existing registered encumbrances and existing surveys thereof;
- (b) the appraisal and professional reports described in Section 12 hereof;
- (c) the financial statements and Project Budget described in Section 12 hereof;
- (d) the off-title search results and corporate/personalty search results described in Section 12 hereof;
- (e) evidence of reasonable Property and construction insurance coverage;
- (f) all material Project contracts;
- (g) all Project plans and specifications and all periodic Project development reports issued to date;
- (h) all architectural and engineering documents together with the draft plan, zoning analysis, traffic study, sanitary study, water study, storm-water study, utility study and road study; and
- (i) all other information and/or documentation in respect of the Project, the Property and/or the Borrower as the Lender may request, acting reasonably.

12. **Conditions Precedent to Advance**

Each advance pursuant to the Loan shall be conditional upon the Lender's receipt of the following (the "**Conditions Precedent**"), which Conditions Precedent are inserted for the sole benefit of the Lender and may be waived by the Lender, in whole or in part:

- (a) the Security, duly registered and perfected (as the case may be) together with all other documentation relating to the Loan, the Property, the Project and the Borrower required by the Lender, acting reasonably;
- (b) an opinion from Borrower's counsel confirming the Borrower's good, valid and marketable title to the Property, subject only to Permitted Encumbrances, specified off-title search results, specified corporate/personalty search results and specified third party consent requirements (or alternatively, for some or all of the said opinion, title insurance from a title insurance company approved by the Lender, acting reasonably);
- (c) an opinion from Borrower's counsel confirming the subsistence, power and authority of the Borrower, the due authorization, execution, delivery and enforceability (subject to customary assumptions and qualifications) of the Loan Documents and such other matters as the Lender shall reasonably require;
- (d) a mortgage statement from a Permitted Encumbrance mortgagee confirming that the relevant mortgage loan is in good standing;
- (e) certificate from the Borrower certifying no Event of Default or default, the truth of all representations and warranties, the satisfaction of all conditions and compliance with all covenants set out in the Loan Documents;
- (f) an appraisal indicating completed Project value of not less than \$12,000,000.00;
- (g) satisfactory environmental report, geotechnical report, mechanical engineering report, structural engineering report and zoning report, prepared by the appropriate professionals (with reliance letters in favour of the Lender);
- (h) confirmation that realty taxes have been paid to the relevant date;
- (i) satisfactory financial statements in respect of the Borrower and a satisfactory summary of Borrower share ownership;
- (j) satisfactory Project Budget, duly approved by the Project Cost Consultant and the Lender;
- (k) satisfactory insurance coverage for the Project, duly approved by the Lender's insurance consultant (if any) and the Lender;
- (l) all relevant consents pursuant to the Loan Documents; and

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- (m) certificate from the Borrower certifying that there have been no material changes affecting the Property and/or the Borrower since the later of the date of execution of this Agreement and the immediately prior advance hereunder.

13. **Representations and Warranties**

The Borrower represents and warrants as follows:

- (a) the Borrower is duly constituted and validly subsisting under the laws of the Province of Ontario, has all necessary power and authority to own its properties and assets and to carry on its business as now conducted and is duly licensed or registered or otherwise qualified in all jurisdictions wherein the nature of its assets or the business transacted by it makes such licensing, registration or qualification necessary;
- (b) the Borrower has full power and capacity to enter into, deliver and perform its obligations under the Loan Documents to which it is a party and all other instruments contemplated hereunder to which it is a party;
- (c) the execution and delivery and performance by the Borrower of the Loan Documents to which it is a party and all obligations contained herein and therein, and all other instruments contemplated hereunder to which it is a party and the consummation of the transactions contemplated hereby and thereby:
 - (i) have been duly authorized by all necessary action;
 - (ii) do not and will not conflict with, result in any breach or violation of, or constitute a default under any such party's constating documents or by-laws, or any applicable laws or judgment presently in effect and applicable to it, or of any material Project agreement to which any such party is bound;
 - (iii) do not (except for the Security) result in or require the creation of any security interest or encumbrance upon or with respect to which the Borrower is bound; and
 - (iv) do not require the consent or approval (other than those consents or approvals already obtained and copies of which have been delivered to the Lender and other than those consents which, if not obtained, would not adversely affect any material component of the Security, the value of the Property or the operation of the business of the Borrower at the Property) of, or registration or filing with (except as contemplated herein), any other person, including any public authority;
- (d) the Borrower has provided to the Lender accurate and complete copies of all material Project agreements;

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- (e) each Loan Document and all other instruments contemplated hereunder are, or when executed and delivered to the Lender will be, legal, valid and binding obligations enforceable against the Borrower in accordance with their respective terms, subject to the limitations with respect to enforcement imposed under law in connection with bankruptcy, insolvency, liquidation, reorganization and other laws affecting the enforcement of creditors' rights generally and subject to the availability of equitable remedies which are only available in the discretion of the court from which they are sought;
- (f) the Security granted by the Borrower constitutes an assignment, a fixed and specific mortgage and charge, a floating charge and security on its undertaking, property and assets purported to be assigned, mortgaged, charged or subjected to the Security thereby and ranks in priority to all other security interests upon such undertaking, property and assets other than Permitted Encumbrances;
- (g) subject to any limitations stated therein, all financial statements which were furnished to the Lender hereunder, fairly present the financial condition of the relevant party as at the date thereof, and no material adverse change has occurred since the date of such delivery;
- (h) no event has occurred and is continuing, and no circumstance exists which has not been waived, which:
 - (i) constitutes a default or Event of Default; or
 - (ii) constitutes a default or event of default under any Permitted Encumbrance which may materially adversely affect the value of the Property or impair the validity or enforceability of the Security;
- (i) the Borrower is not in violation of any terms of its constating documents or, in any material respect, of any applicable law (including, without limitation, all building, zoning, planning, development, construction, construction lien, environmental and occupation laws);
- (j) the Borrower owns all intellectual property used and/or to be used in connection with the Project, free from all encumbrances;
- (k) the Borrower is solvent and will not become insolvent after giving effect to the transactions contemplated in this Agreement;
- (l)
 - (i) each material Project agreement is in full force and effect and has not been modified or supplemented;
 - (ii) the Borrower is not in default under any material Project agreement, and to the knowledge of the Borrower, no other party to any such material Project agreement is in default of any material obligation thereunder; and in each such case, no event has occurred which, with the giving of notice or the lapse of time, or both, would constitute such a default; and

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- (iii) no notice or other written or oral communication has been provided by or to the Borrower to or from any party under any material Project agreement which alleges that, as of the date hereof, either a default exists or with the passage of time will exist under the provisions of such material Project agreement;
- (m) the Property has full and free legally enforceable access to and from public highways, which access is sufficient for the purposes of the normal operation of the Property and the Borrower has no knowledge of any fact or condition that would result in the interruption or termination of such access;
- (n) all public utilities required for the normal operation of the Property connect into the Property through adjoining public highways or if they pass through adjoining private land, do so in accordance with valid registered easements and are sufficient for the operation of the Property;
- (o) no legal action or other proceeding has been instituted or, to the best of its knowledge after making diligent enquiry, threatened against the Borrower; the Borrower has not received notice of any work orders, deficiency notices or notices of violation pertaining to the Property;
- (p) the Property complies with all laws regarding environmental matters; the Property has never been used as a land fill site or to store Hazardous Substances either above or below ground, in storage tanks or otherwise; no Hazardous Substances have been released into the environment or deposited, discharged, placed or disposed of at, on or near the Property; and there are no outstanding directions, writs, injunctions, orders or judgments issued pursuant to environmental laws in respect of the Property;
- (q) the Borrower has good, valid and marketable title to the Property, free from all encumbrances except the Permitted Encumbrances; and
- (r) the Borrower has filed or caused to be filed in a timely manner all tax returns, reports and declarations required to be filed under law; all information in such tax returns, reports and declarations is complete and accurate in all material respects; the Borrower has paid all taxes due and payable.

14. **Covenants**

The Borrower covenants and agrees as follows:

- (a) to defend its right, title and interest in the Property for the benefit of the Lender against all claims and demands whatsoever of all persons/entities, other than holders of Permitted Encumbrances;
- (b) not to create or suffer to exist any encumbrance of any nature (whether prior to, *pari passu* with or subordinate to the Security) upon the Property or any part thereof other than Permitted Encumbrances;

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- (c) to preserve, repair and keep in good order, condition and repair or cause to be preserved, repaired and kept in good order, condition and repair the Property and all appurtenances thereto and all properties and assets used in connection with the Property, to the standard of a prudent owner of similar property, and the Borrower shall carry on and conduct, or cause to be carried on and conducted, the operation of the Property in a prudent manner so as to preserve and protect the Property; the Borrower shall keep the Property in good condition and order, or shall cause the Property to be put and kept in good condition and order, and shall promptly make, or cause to be made, all needed repairs and replacements thereto, including such repairs and replacements to implement the recommendations which a prudent owner of a property similar to the Property would deem appropriate or necessary from time to time; the Borrower shall at any and all reasonable times, upon the prior written request of the Lender, permit the Lender to inspect the Property or any part thereof during normal business hours;
- (d) to carry on or cause to be carried on and conduct or cause to be conducted the operation of the Property in a prudent manner so as not to materially impair the value of the Property or the use of the Property for the purpose for which it is held;
- (e) to duly and punctually pay, or cause to be paid, to the Lender the principal of and interest accrued on the Loan, any premium of the Loan and all other amounts owing in respect of the Loan on the dates, at the places, in the monies, and in the manner mentioned herein and in the Loan, in strict conformity therewith, and shall faithfully observe and perform all the conditions, covenants and requirements of all Loan Documents;
- (f) to pay or cause to be paid, on or before the due date thereof, all taxes, rates, levies, duties and assessments, general and special, ordinary and extraordinary, of every nature and kind whatsoever, including local improvement taxes which shall be levied, assessed or imposed upon the Property or any part thereof, or upon the Borrower or any other person on account thereof, and shall from time to time as the same are paid, at the written request of the Lender produce for inspection by the Lender, satisfactory evidence that all such taxes have been paid when due (together with such further supporting information or documentation reasonably required by the Lender);
- (g) the Borrower shall register or file or cause to be registered or filed the Security (or a notice or financing statement in respect hereof) without delay at every public office of record in the Province of Ontario and in any other jurisdiction where the Borrower is "located" for the purposes of perfecting a security interest pursuant to the *Personal Property Security Act* (Ontario), in each case, where the registration or filing thereof is, in the opinion of the Lender, required to preserve, perfect and/or protect the security hereby or thereby created; and the Borrower shall renew or cause to be renewed any such registrations or filings as may be necessary from time to time to so preserve, perfect and/or protect the security hereby or thereby created;

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- (h) the Borrower shall fully and effectively maintain and keep the Security or cause the Security to be maintained and kept as valid and effective security at all times while the Loan is outstanding and shall not permit or suffer the registration of any lien whatsoever, whether of workmen, builders, contractors, engineers, architects or suppliers of material, upon or in respect of any of the Property, which would rank subsequent to, *pari passu* with or prior to the security of the Security other than Permitted Encumbrances;
- (i) the Borrower shall cooperate fully with the Lender with respect to any proceedings before any court, board or other public authority which may in any way materially and adversely affect the rights of the Lender hereunder or any rights obtained by it under any of the Loan Documents and, in connection therewith, shall keep the Lender fully advised of the status of all such proceedings and shall allow the Lender and its counsel at its election to attend meetings in respect of such proceedings; the Borrower shall cooperate with the Lender in obtaining for the Lender the benefits of any insurance proceeds lawfully or equitably payable in connection with the Property to the extent that the Lender is entitled to the same under the terms of the Loan Documents, and the Lender shall be reimbursed for any actual out-of-pocket expenses incurred in connection therewith (including, without limitation, legal fees and disbursements, and the payment by the Borrower of the expense of an appraisal on behalf of the Lender in case of a fire or other casualty affecting the Property or any part thereof) out of such insurance proceeds;
- (j) the Borrower shall cause the Property to be used only for multi-residential and retail purposes and parking and for no other purpose, and the Borrower will do, observe and perform or cause to be done, observed and performed, in all material respects, all of its obligations and all matters and things necessary or expedient to be done, observed or performed under or by virtue of all applicable laws;
- (k) the Borrower shall do, observe and perform, or cause to be done, observed and performed, in all material respects, all of the obligations and things necessary or expedient to be done, observed or performed by the Borrower under or by virtue of all Permitted Encumbrances and material Project agreements; for greater certainty, this covenant regarding Permitted Encumbrances applies to all prior-ranking financial encumbrances which are Permitted Encumbrances;
- (l) if the Borrower shall fail to perform any covenant on its part contained in this Agreement the Lender may, after giving concurrent notice to the Borrower, itself perform (but shall not be obliged to perform), any of such covenants provided no payment or expenditure of funds is required in connection therewith, or, if a default has occurred, and if any such covenant requires the payment or expenditure of money, it may make such payment or expenditure with its own funds, or with money borrowed by or advanced to it for such purpose; all sums so expended or advanced shall be payable by the Borrower together with interest thereon which shall accrue, until paid, at the interest rate applicable to the Loan from the date of such expenditure or advance until repayment but no such

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performance or payment shall be deemed to relieve the Borrower from any default hereunder;

- (m) the Borrower shall encumber or cause to be encumbered in favour of the Lender, as part of the Security, all additional improvements, licenses, easements and rights of way which, in any way or manner, it shall hereafter acquire in connection with the Property, and the Borrower shall make or cause to be made all requisite registrations required by this Agreement with respect thereto; any and all times the Borrower will do, execute, acknowledge and deliver or will cause to be done, executed, acknowledged and delivered all and every such further acts, deeds and assurances in law as the Lender shall reasonably require, for the purpose of giving the Lender a valid encumbrance of the nature herein specified upon all such property (subject only to Permitted Encumbrances) for the better encumbering unto the Lender all and singular the lands and premises, and property encumbered under the Security, or intended so to be or which the Borrower may hereafter become bound to encumber or cause to be encumbered in favour of the Lender;
- (n) so long as the Loan or any portion thereof remains outstanding the Borrower shall not cancel or materially amend any material Property agreements without the Lender's consent;
- (o) the Borrower shall give prompt notice to the Lender upon the occurrence of any default or any Event of Default or any event, circumstance or matter which may reasonably be expected to have a material adverse effect on the financial condition of the Borrower and/or the Property; the Borrower shall not create, assume, incur or suffer to exist any security interest in or upon any of its undertakings, properties, rights or assets secured by the Security except for Permitted Encumbrances;
- (p) upon two (2) Business Days' prior written notice or at any time in an emergency as reasonably determined by the Lender, the Borrower shall permit the Lender to have reasonable access at all reasonable times and from time to time, to the Property and to all related records (including records pertaining to the Borrower), and shall permit the Lender, acting reasonably, to make copies of and abstracts from such records;
- (q) the Borrower shall give to the Lender prompt written notice of any material adverse change in the condition of the business, financial or otherwise, of the Borrower;
- (r) the Borrower shall give to the Lender prompt written notice of all actions, suits, litigation or other proceeding commenced or threatened against the Borrower and/or in respect of the Property;
- (s) the Borrower shall obtain and maintain during the Term the following Property insurance coverage:

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- (i) fire insurance with extended coverage for all other risks and perils in, representing an amount equal to 100% of the gross replacement cost of all buildings and landlord improvements located on the Property, without deduction for foundations or footings; the proceeds payable under such policy shall be payable to the Lender as mortgage creditor, pursuant to a standard mortgage clause approved by the Insurance Bureau of Canada;
 - (ii) broad form boiler insurance with coverage on all electrical equipment, mechanical equipment and pressure vessels; such policy shall contain a standard mortgage clause approved by the Canadian Boiler and Machinery Underwriters Association, or an equivalent clause, with proceeds payable thereunder to the Lender as mortgage creditor;
 - (iii) general liability insurance covering damages in an amount of not less than \$5,000,000.00 per occurrence;
 - (iv) environmental liability and remediation insurance covering damages in an amount of not less than \$5,000,000.00 per occurrence; such coverage shall include third party pollution liability claims and first party on-site remediation expenses; and
 - (v) such other insurance as shall be requested by the Lender, acting reasonably;
- (t) the Borrower shall deliver to the Lender, within one hundred and twenty (120) days following the Borrower's fiscal year, unaudited financial statements in respect of the Property and unaudited financial statements in respect of the Borrower, prepared internally by a qualified person in accordance with generally accepted accounting principles, consistent with prior years, and shall include all appropriate documents, explanatory notes and additional information; in addition to the above financial statements, the Borrower covenants to provide to the Lender, from time to time, upon request, any further financial information then still undisclosed and reasonably required, pertaining to the Property and/or the Borrower; the Lender reserves the right to disclose to third parties any financial information concerning the Property and/or the Borrower, provided that such third parties shall be limited to potential assignees of part or all of the Loan, the Lender's auditors, the Lender's solicitors, the Lender's bankers, the Lender's other advisors and persons to whom such information is ordinarily disclosed in a mortgage securitization or mortgage syndication;
- (u) the Borrower covenants to develop and construct and/or cause the development and construction of the Property in accordance with the delivered plans and specifications using only new materials and not Hazardous Substances, without defect in construction, installation and/or materials;
- (v) the Borrower covenants not to materially amend the delivered plans and specifications or fail to construct in accordance with the delivered plans and

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specifications without the Lender's prior written consent, which consent shall not be unreasonably withheld;

- (w) the Borrower shall pay, regardless of whether any part of the Loan shall be advanced, all reasonable third party costs, fees and expenses incurred by the Lender in connection with the transaction hereunder including, without limitation:
 - (i) all costs incurred in connection with a survey, an appraisal, an engineering review, an architectural review, an environmental review, other professional consultant review, a credit review, a lease review and an insurance review;
 - (ii) all legal fees and disbursements of the Lender's solicitors; and
 - (iii) all registration, recording and filing fees and transfer and mortgage taxes; and
- (x) the Borrower shall not sell, transfer, lease, license or otherwise convey an interest in the Property or any part thereof, save and except as contemplated for the staging and completion of the Project or to an entity approved by the Lender, in its sole, absolute and unfettered discretion.

15. **Events of Default**

Events of Default ("**Events of Default**") shall be as follows:

- (a) if the Borrower fails to pay interest, principal or other amount owing hereunder on a due date during the Term; or
- (b) if the Borrower fails to pay all principal on the Maturity Date; or
- (c) if the Borrower fails to pay, or cause to be paid, taxes, rates, levies, duties, public utility charges and assessments, general and special, ordinary and extraordinary, of any nature or kind whatsoever, including local improvement taxes, which shall be levied, assessed or imposed upon the Property or any part thereof, or upon the Borrower, on account thereof and any such default shall continue either for a period of five (5) Business Days after written notice to the Borrower from the Lender or for such shorter period as would, if continued, render the Property, or any part thereof, liable to forfeiture or sale; or
- (d) if the Borrower creates, permits or suffers to exist, any encumbrance against the Property or any part thereof, other than Permitted Encumbrances and, in the case of encumbrances which have not been created by the Borrower, the same continue to exist for a period of ten (10) days after written notice thereof has been given to the Borrower by the Lender or for such shorter period as would, if continued, render the Property or any part thereof, liable to forfeiture or sale; or
- (e) if any representation or warranty in any of the Loan Documents or any financial statements delivered pursuant thereto, is (or, at the time it was given or repeated,

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- was) false or erroneous and such false or erroneous condition shall continue for a period of ten (10) days following the Borrower's receipt of written notice thereof from the Lender; or
- (f) if the Borrower shall fail to comply with any covenant/agreement in any of the Loan Documents and such non-compliance shall continue for a period of ten (10) days following the Borrower's receipt of written notice thereof from the Lender; or
 - (g) if any material provision in the Loan Documents shall for any reason cease to be valid, binding and enforceable in accordance with its terms or the Borrower shall so assert in writing; or any security interest created under any of the Loan Documents shall cease to be a valid and perfected security interest having the priority in any of the collateral purported to be covered thereby; or
 - (h) if the Borrower does, or fails to do, anything which would entitle an insurer to cancel or not renew a policy of insurance on the Property required hereunder which is not rectified within fifteen (15) days following the Borrower becoming aware of such entitlement to cancel or not renew, and in any event not later than ten (10) days prior to the termination or expiry of such policy, or if any policy of insurance is cancelled, expires or terminates and is not replaced in accordance with the requirements of this Agreement; or
 - (i) if all or part of the Property is expropriated; or
 - (j) if one or more final judgments for the payment of money (which is not covered by insurance) shall be rendered against the Borrower; or
 - (k) if any writ, attachment, execution, enforcement, sequestration, extent, distress or any other similar process shall become enforceable against the Borrower, or if a distress or any analogous process is levied against any properties or assets of the Borrower; or
 - (l) if the Borrower shall suspend or cease or threaten to suspend or cease its business; or
 - (m) if the Borrower shall breach any law which results in a notice or control order or cancellation of any license or certificate or approval that results in any material disruption of the business at the Property or that could reasonably be expected to have a material adverse effect on the Security, the repayment of the Loan, the Lender's rights under the Loan Documents, the Property or the business operations, prospect or condition of the Borrower (financial or otherwise); or
 - (n) if any environmental order is issued by any public authority against the Property and such environmental order has not been satisfied or discharged within the shorter of time allowed for in such environmental order and within thirty (30) days after the date such environmental order was received by the Borrower; or

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- (o) if the Borrower shall admit its inability to pay its debts generally as they become due or otherwise acknowledges its insolvency or if an order shall be made or an effective resolution passed for the winding up of such entity or if such entity shall make an assignment for the benefit of its creditors or if a receiver or a liquidator or a trustee in bankruptcy of such entity shall be appointed or if such entity shall make a proposal to its creditors under a bankruptcy act including, without limitation, the *Companies' Creditors Arrangement Act* (Canada); or
- (p) if any proceeding is instituted for the winding up of the Borrower or a petition in bankruptcy be presented against such entity under a bankruptcy act and if in either case such proceeding or petition shall not have been dismissed or withdrawn within twenty (20) days of the commencement of the proceeding or petition; or
- (q) if ownership control of the Borrower shall be transferred without the Lender's approval, which approval may be withheld in the Lender's sole, absolute and unfettered discretion.

16. **Postponement and Subordination & Partial Discharges**

The Lender covenants and agrees as follows:

- (a) to postpone and subordinate the Loan Documents in favour of First-Ranking Construction Loan Security and to enter into such standstill agreements as shall be reasonable in the circumstances;
- (b) to postpone and subordinate the Loan Documents in favour of each non-financial encumbrance which is reasonable for a development such as the Project and which individually does not materially adversely affect the market value of the Property (including, without limitation, encumbrances pertaining to condominium deposits, roads, sidewalks, easements, rights-of-way, subdivision agreements, site plan control agreements, development agreements, cost-sharing agreements, encroachment agreements, zoning/use laws, utility licences, utility easements, Crown patent reservations and restrictive covenants);
- (c) to discharge the Loan Documents in respect of any part of the Property which is not material to the Project and/or the market value of the Property or which is required by any governmental authority, without requirement for payment or prepayment of any part of the Loan;
- (d) to provide partial discharges of the Loan Documents in respect of all Project condominium unit sales to third parties and in respect of all Project office/retail/parking component sales to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the First-Ranking Construction Loan Security and then to pay down other Project trade creditors; and
- (e) to enter into a non-disturbance agreement, upon request, with any Project office/retail/parking component tenant; such non-disturbance agreement shall

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provide for the tenant's postponement and subordination of its lease in favour of the Loan Documents and the tenant's agreement to attorn to the Lender and its successors and assigns upon an Event of Default.

17. **General**

- (a) If the Borrower shall be comprised of more than one person/entity, then such persons/entities shall be jointly and severally liable for all of the obligations of the Borrower pursuant to this Agreement.
- (b) All notices, directions, service, correspondence and communications ("**Notice**") between the parties hereunder shall be in writing and delivered, sent by prepaid registered mail or electronically communicated by telecopier; delivered Notices shall be deemed to have been delivered on the day of delivery, if delivered at or before 5:00 p.m. (Toronto time) on a Business Day, or on the next Business Day if delivered after that time; Notices sent by prepaid registered mail shall be deemed to have been received on the third (3rd) Business Day following the date of mailing (notwithstanding the date of actual receipt and the fact that it may not have then been received), except in the event of interruption of postal service during which period Notices shall not be mailed; Notices electronically communicated by telecopier shall be deemed to have been delivered on the day of communication with confirmation of transmission, if communicated at or before 5:00 p.m. (Toronto time), or on the next Business Day if communicated after that time; any party may provide Notice of a change of its address and/or telefax number, provided that the Notice is communicated in accordance with this Subsection 17(b).
- (c) The Borrower shall not assign its rights and obligations pursuant to this Agreement, in whole or in part, without the Lender's prior written consent, which consent may be withheld in the Lender's sole, absolute and unfettered discretion.
- (d) The Lender shall be entitled to assign all or part of its right, title and interest pursuant to this Agreement to one or more assignees, by way of simple assignment, syndication, securitization and/or other method of assignment.
- (e) All Loan Documents shall be governed by and interpreted in accordance with the laws in effect within the Province of Ontario.
- (f) The terms and conditions contained in this Agreement are inserted for the exclusive benefit of the Lender and may be waived, in whole or in part, by the Lender at any time or times. In the event of inconsistency or conflict between the provisions of this Agreement and the provisions of the Security, this Agreement shall prevail to the extent of such inconsistency or conflict.
- (g) This Agreement and the Loan Documents constitute the entire agreement between the parties hereto pertaining to the subject-matter hereof and supersede all prior agreements, negotiations, understandings and discussions, whether written or oral.

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- (h) If any obligation contained in this Agreement or any other Loan Document or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement or such Loan Document and the application of such obligation to persons or circumstances other than those to whom/which it is held invalid or unenforceable, shall not be affected thereby and each obligation contained in this Agreement and each other Loan Document shall be separately valid and enforceable to the fullest extent permitted by law.
- (i) All amendments of this Agreement and any other Loan Document shall be in writing.
- (j) Time shall be of the essence of this Agreement and each other Loan Document.
- (k) This Agreement and each other Loan Document shall enure to the benefit of and be binding upon the successors and permitted assigns of the Borrower and the successors and assigns of the Lender.
- (l) Words importing the singular number only shall include the plural, and vice versa, and words importing the masculine gender shall include the feminine gender and words importing persons shall include firms and corporations, and vice versa. Similarly, all references to any party or parties herein shall be read with such changes in number as the context or reference may require. References to any statute herein includes such statute as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.
- (m) In the event that any day on which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the first Business Day thereafter.
- (n) Any legal action or proceeding with respect to this Agreement shall be brought in the courts of the Province of Ontario and such courts shall have exclusive jurisdiction to deal with all matters relating to the interpretation of, or enforcement of rights under all Loan Documents and each of the parties hereto hereby irrevocably attorns to the jurisdiction of such courts.
- (o) Unless specifically otherwise provided herein, all references to dollar amounts herein or other money amounts herein are expressed in terms of lawful money of Canada.
- (p) The Borrower shall, at all times during the Term and for a period of two (2) years thereafter, maintain as confidential this Agreement and all related matters, except as required under law and except as disclosed to advisors and/or employees (who shall be bound by the same obligation).
- (q) The failure of any party hereto to insist upon the strict performance of any provision of this Agreement or to exercise any right or remedy contained herein, shall not be construed as a waiver or relinquishment of such

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provision/right/remedy, which provision/right/remedy shall remain in full force and effect.

- (r) This Agreement may be executed in counterparts.
- (s) If the Borrower shall sell, transfer, lease, license or otherwise convey an interest in the Property or any part thereof in contravention of Subsection 14(x) hereof, or if the Borrower shall mortgage or otherwise encumber an interest in the Property or any part thereof in contravention of this Agreement, then the Lender may, in its sole, absolute and unfettered discretion, demand immediate repayment of the Loan principal in full together with all accrued interest and all other amounts due hereunder.
- (t) Notwithstanding any other provision hereof, in the event that, for any reason whatsoever, less than the principal amount of \$69,000,000.00 set out in Subsection 1(g) hereof is arranged for ultimate advance to the Borrower, then the Lender may, in its sole, absolute and unfettered discretion, agree to arrange a financing of the shortfall through an additional loan from a third party lender or agree to finance the shortfall itself by way of additional loan. Such additional loan shall rank in priority to the Loan and the Loan Documents and rank behind the First-Ranking Construction Loan Security, and the parties agree to execute and deliver all reasonable documentation to reflect such priority/ranking. Such additional loan shall provide for usual cost-to-complete advances and be secured by all usual security/documentation.

Sorrenti Law Professional Corporation In Trust for
the Lender **[Lender]**

Per: _____

Name:

Title:

Per: _____

Name:


Title:

We have the authority to bind the Corporation.

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FCF Old Market Lane 2013 Inc. [Borrower]

Per: _____
Name:
Title:

Per:  _____
Name: Vince Petrozza
Title:

We have the authority to bind the Corporation.

SCHEDULE "A" TO LOAN AGREEMENT**MUNICIPAL AND LEGAL DESCRIPTION OF THE PROPERTY**

PINS: 03299-0102, 03299-0100, 03299-010

Municipal Address: 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON

Legal Description: P/T W1/2 LT 7 Con. Vaughan as in R543783; Vaughan

SCHEDULE "B" TO LOAN AGREEMENT

PROJECT BUDGET

Investment Authority – Form 9D

To: **Sorrenti Law Professional Corp.**
Mortgage Administrator/Solicitor
 3300 Highway #7, Suite 310
 Vaughn, Ontario, L4K 4M3
Attention: Derek Sorrenti
 416 619 5453 EXT 400

I, [REDACTED] hereby instruct you to act on my behalf, on my mortgage investment of \$ [REDACTED] the details, conditions and disclosures of which are set below.

A. Details about the investment:

1. Name and Address of the Borrower: FCF Old Market Lane 2013 Inc.
2. Municipal Address and Legal Description of real property (ies) Against which my investment will Be Secured:

177, 185, 197 Woodbridge Ave,
 Woodbridge, ON
**P/T W1/2 LT 7 Con. Vaughan as in
 R543783; Vaughan**
3. Type of property: **Residential construction development.**
4. Principal amount of mortgage or charge: **\$3,000,000.00–** (increasing to a Maximum of \$14,000,000.00) See Paragraph 20.
5. Amount of loan to be advanced: **\$10,000.00.**
6. Rank of mortgage or charge: **Third ranking Charge/Mortgage (The ranking of the mortgage can change at any time over the duration of the term) – subject to paragraph 21, below.**
7. Encumbrances: **First ranking Charges/Mortgages will be registered in priority of this mortgage investment.**

1st mortgages will be registered with a face value of \$3,300,000.00 (First Charge Mortgages: 177 Woodbridge Avenue \$1,300,000.00 – 1406819 Ontario Ltd, 185 Woodbridge avenue \$1,168,644.83 –BMO, 197 Woodbridge Avenue,\$768,933.91-BMO)

2nd mortgage will be registered with a face value of \$4,000,000.00 – This mortgage will merge with the 3rd mortgage charge increasing over the duration of the term to a maximum of \$14,000,000.00.

Please refer to paragraph 21, below for details on future postponements to construction financing and development agreements.

8. My investment of \$ [REDACTED] represents [REDACTED] % of the total loan to the borrower.
9. I am satisfied that the approximate and current market value of the property against which my investment has been secured is **\$12,000,000.00**. The means taken to determine said value was a Letter of Opinion authored by Legacy Global Mercantile Partners Ltd. Dated May 24, 2013.
10. Including my investment and mortgage amount of **\$10,000.00**, the percentage of the value of the property including this mortgage and all prior ranking charges is currently: [REDACTED] %.
11. 3 years (“Term”), commencing on October 4, 2013, and ending on the final day of such period (the “Maturity Date”). At the Borrower’s option (to be exercised in writing not less than three (3) months prior to the Maturity Date), the Borrower may extend the Maturity Date for up to twelve (12) additional months. THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.
12. The due date of the loan is October 4th 2016. (Extension date October 4th, 2017) THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.
13. The loan is amortized over **0 years**- the mortgage is an interest only mortgage.
14. The interest rate is **8.00%** calculated annually, not in advance.
15. Particulars of amounts and due dates (monthly, quarterly, etc.) of payments of interest only: Payments made Quarterly, in the amount of **\$200.00**, payments commencing on **January 4th, 2014** the initial payment being pro rata from the date of advance up to the date of the predetermined initial payment.
16. Particulars and amounts of any bonus or holdback or any other special terms:
 - a) See above for interest details; AND
17. In addition to the above and not later than thirty (30) days following substantial completion of the Project, the Borrower shall pay to the Lender a Project completion fee/deferred lender fee (“**Deferred Lender Fee**”) as set forth below and which fees shall be secured under the Security:
 - a) in the event that the Project Profit is less than \$6,000,000.00 there will be no Deferred Lender Fee;

- b) in the event that the Project Profit exceeds \$ 6,000,000.01 and is less than \$8,000,000.00 the Deferred Lender Fee would be equal to 6% of the Loan principal;
- c) in the event that the Project Profit is greater than \$8,000,000.01 the Deferred Lender Fee shall be equal to 12% of the Loan principal.

Project Profit shall be determined in accordance with GAAP upon completion of the Project and 95% residential sales having been completed with a projection on the value of the remaining 5%, but shall exclude all fees payable to Fortress pursuant to the Development Agreement. The Lender's Security shall remain in full force and effect until the project completion fee is paid in full.

18. The mortgage is to be registered in the name of: "**Sorrenti Law Professional Corporation**" (the "**TRUSTEE**") FOR "**[REDACTED]**"
19. After completion of the mortgage transaction, a collection or administration fee of per instalment is payable by the borrower: N/A
20. If the mortgage is held in trust, the dates on which payments are made by the trustee to me are: **Quarterly**, commencing on **January 4th, 2014**. Interest payments cannot be disbursed to the Lender by the Trustee until funds are received by the Trustee/Administrator from the Borrower (on behalf of non-registered investors), or by the Trustee trust company from the Borrower (on behalf of registered investors.)
21. I understand that the mortgage shall be initially registered indicating a face value of \$3,000,000.00 and that from time to time the loan amount will increase upon the completion of certain development and construction milestones on the Property by the Borrower. It is anticipated that the loan amount shall be amended during the term of the loan to a **MAXIMUM OF \$14,000,000.00**.
22. I understand the Charge/Mortgage in which I have an interest is currently a **Third** ranking Charge/Mortgage against the Property and the position of the mortgage can change over the duration of the term.

I understand that a first and Second ranking Charge/Mortgage against the Property in favour of the first & second mortgagees, Registered with a Face Value of \$3,300,000.00 and \$4,000,000.00, the new third ranking mortgage will postpone its position to these and construction financing.

I understand that during the course of this investment the Borrower anticipates obtaining additional construction financing for the Property which is expected to take priority to the first Charge/Mortgage, changing the position of this Charge/Mortgage.

I hereby understand, consent and agree that other charges/mortgages and/or development agreements may be registered in priority to the third charge/mortgage against the property during the term of my investment in the third charge/mortgage.

I hereby confirm that I understand and agree that the third charge/mortgage in which I have invested shall be required to postpone and standstill to prior charges/mortgages to a maximum of \$50,000,000.00, plus a 10% contingency if required, in priority financing. I understand that priority financing is expected to periodically increase over the term of the second charge/mortgage and that such postponements shall be permitted and shall occur on the basis of cost consultant reports prepared on behalf of the borrower.

I understand that additional priority financing may be required if there is a shortfall pursuant to the terms of the charge/mortgage in which I am investing. In the event of a shortfall in the funding of this charge/mortgage I understand and agree that other charges/mortgages may be registered against the property to fund and secure any such shortfall.

I understand that the trustees of this charge/mortgage may requested to execute such documents as may be required to permit the registration of certain agreements for the purpose of facilitating the planned development of the property, examples of such agreements include, but are not limited to: site plans, development plans, planning act requirements, mezzanine financing, insurance on deposits, or condominium registration documents.

I hereby confirm that I am aware of and understand that I have provided the trustee of my charge/mortgage with my irrevocable consent to execute any required documents as a condition of my participation in this charge/mortgage.

I hereby re-confirm my consent and agreement to postpone and standstill to any required financing or development agreements, and to partially discharge my charge/mortgage, without payment, with respect to any lands secured by the charge/mortgage which may be required for public or quasi-public purposes.

I understand and agree to provide partial discharges of this security for sales of all condominium units or the office/retail/parking components, without charge, provided the proceeds of the sale are used to pay off the First-Ranking and Second-Ranking Construction Loan Security and/or trade creditors.

I understand that save and except as outlined herein, there shall be no other postponements or encumbrances which affect the position or security afforded by the current Second charge/mortgage.

I agree to provide partial discharges of the Loan Documents in respect of all Project lot/unit sales to third parties and in respect of all Project office/retail/parking component sales to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the First-Ranking Construction Loan Security and then to pay down other Project trade credit

*


Initials

23. Particulars of disbursements made for legal, brokerage or other fees or commissions in connection with the placement of the loan, including the names of recipients and amounts paid by the borrower, are:

Admin/Legal Fees: \$100.00 per client per year's in the term plus HST (plus registration fees) plus HST (paid by Borrower)

Mortgage Broker Fee: \$3% payable to Centro Mortgage Inc.

Sales Commission: \$400 payable to CTMI (FMP-KERMAN)

Referral Fee: \$600 payable to CTMI (QFS-JOHN MORAN)

1. *(Instructions: Clauses (a) and (b) below refer to information which each investor may require from the lawyer. If you require the information referred to in a clause, initial the clause.)*

The information which I require from you as my administrator before the administrator for the trustee completes the transaction and makes the advance is as follows:

- (a) If my investment will be in a position other than a first mortgage or charge, details, including amounts, of all existing encumbrances outstanding:

1st Ranking Mortgage Charge registered with the first mortgagees with a face values totaling \$3,300,000.00. ((First Charge Mortgages: 177 Woodbridge Avenue \$1,300,000.00-1406819 Ontario Ltd, 185 Woodbridge avenue \$1,168,644.83 -BMO, 197 Woodbridge Avenue,\$768,933.91- BMO)

2nd Ranking Mortgage Charge registered with the first mortgagees with a face values totaling \$4,000,000.00. **This mortgage will merge with the 3rd mortgage charge increasing over the duration of the term to a maximum of \$14,000,000.00**

This mortgage is up to date and in good standing; subject to future postponements as per paragraph 21, above.

- (b) If the mortgage or charge is a syndicated mortgage, and is prospectus exempt:

We have acknowledged and accept that you as my administrator express no opinion as to the necessity for a validity of a prospectus.

2. *(Instructions: Each investor to complete and initial clause (a) and, if clause (a) is answered in the affirmative, to complete (if necessary) and initial clause (b) and to initial clause (c).)*

- (a) I instruct you to obtain a current and independent appraisal of the subject property and provide it to me before you complete this mortgage transaction. N

* 
Initials

- (b) The appraisal is to be paid by me or. **Not Applicable**

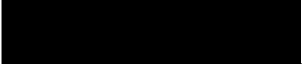
(c) I have been advised and accept that you as my administrator do not express an opinion as to the validity of the appraisal/valuation/letter of opinion.

* 
Initials

Disclosure:

1. I acknowledge being advised by you as the Lender's Independent Legal Advice (ILA), or as an independent lawyer to the transaction, that to the best of our knowledge the Independent Legal Advice Solicitor does not have any direct or indirect interest in the Borrower. *(Specify yes or no and indicate the date on which the lawyer advised you that he or she has no direct or indirect in the borrower or borrowers.)*

No independent legal advice has a direct or indirect interest in the Borrower.



* Investor to insert current date here

(If the lawyer has an interest in the borrower or borrowers, he or she is unable to act for you on this loan (Rule 2.06 of the Rules of Professional Conduct).


WARNINGS:



1. You are cautioned that the responsibility for assessing the financial merits of the mortgage investment rests with YOU the investor or investors at all times. The above-named lawyer's responsibility is limited to ensuring the mortgage is legally registered on title in accordance with the investor's or investors' instructions. The lawyer is not permitted to personally guarantee the obligations of the Borrower or Borrowers nor the suitability of the Property as security for the mortgage investment.

2. Any loss you may suffer on this mortgage investment will not be insured under the lawyer's professional liability policy if the lawyer has acted as a mortgage broker or has helped to arrange it.*)

Investor's Signature: *  _____

I hereby acknowledge receipt of a copy of this form prior to the advance of funds to or on behalf of the Borrower. I further acknowledge having read and understood the above warnings.



Signature
Name: 
Address: 

I, _____, did witness
WITNESS NAME

_____ on the _____ day of _____
INVESTOR NAME (day) (month)

201_____ in the Town/City of _____, in the Province of _____
(town/city) (province)

sign the document entitled "Investment Authority – Form 9D".

Signature/Seal of Notary Public/Commissioner
Date: _____
Name: _____
Address: _____

Phone: _____
Fax: _____
Email: _____

Appendix 9:
OML 3 Mortgage

Instrument No. YR2083558 registered January 14, 2014 in favour of Sorrenti Law Professional Corporation to secure the original principal amount of \$3,000,000.

PIN 03299-0100 (LT)

PIN 03299-0101 (LT)

PIN 03299-0102 (LT)

Properties

<i>PIN</i>	03299 – 0100 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT W1/2 LT 7 CON 7 VAUGHAN PT 1 65R11983 ; VAUGHAN ;		
<i>Address</i>	197 WOODBRIDGE AVENUE VAUGHAN		
<i>PIN</i>	03299 – 0101 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT W1/2 LT 7 CON 7 VAUGHAN AS IN WB5781 ; VAUGHAN		
<i>Address</i>	185 WOODBRIDGE AVENUE VAUGHAN		
<i>PIN</i>	03299 – 0102 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT W1/2 LT 7 CON 7 VAUGHAN AS IN R543783 ; VAUGHAN		
<i>Address</i>	177 WOODBRIDGE AVENUE VAUGHAN		

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.

<i>Name</i>	OLD MARKET LANE INC
<i>Address for Service</i>	25 Brodie Drive, Unit 1 Richmond Hill, ON L4B 3K7

I, Vince Petrozza, have the authority to bind the corporation.

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

Chargee(s)*Capacity**Share*

<i>Name</i>	SORRENTI LAW PROFESSIONAL CORPORATION
<i>Address for Service</i>	3300 Highway #7, Suite 310 Vaughan, Ontario L4K 4M3

Statements

Schedule: Sorrenti Law Professional Corporation holds this Charge in Trust

Provisions

<i>Principal</i>	\$3,000,000.00	<i>Currency</i>	CDN
<i>Calculation Period</i>	Annually, not in advance		
<i>Balance Due Date</i>	2016/10/04		
<i>Interest Rate</i>	8.0%		
<i>Payments</i>	\$60,000.00		
<i>Interest Adjustment Date</i>	2013 10 04		
<i>Payment Date</i>	interest only payments, quarterly on the 4th day of every 3rd month		
<i>First Payment Date</i>	2014 01 04		
<i>Last Payment Date</i>	2016 10 04		
<i>Standard Charge Terms</i>	200033		
<i>Insurance Amount</i>	full insurable value		
<i>Guarantor</i>			

Additional Provisions

See Schedules

Signed By

Derek Francesco Sorrenti 3300 Highway 7 , Suite 310 acting for Chargor Signed 2014 01 14
Vaughan (s)
L4K 4M3

Tel 905-264-6414

Fax 905-264-6413

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

Submitted By

Sorrenti Law Professional Corporation 3300 Highway 7 , Suite 310 2014 01 14
Vaughan
L4K 4M3

Tel 905-264-6414

Fax 905-264-6413

Fees/Taxes/Payment

Statutory Registration Fee \$60.00

Total Paid \$60.00

File Number

Chargor Client File Number : 130107-1

Chargee Client File Number : 130107-1

Appendix 10:
OML 3 Amending Documents (anonymized)

robapp\2940250.3

LOAN AMENDING AGREEMENT'
(Re: Third Syndicated Mortgage Loan)

THIS AGREEMENT made as of the [REDACTED] day of [REDACTED] 014.

B E T W E E N:

SORRENTI LAW PROFESSIONAL CORPORATION, IN TRUST

(the "Lender")

- and -

OLD MARKET LANE INC.

(the "Original Borrower")

- and -

FORTRESS MARKET LANE INC.

("Fortress")

- and -

FCF OLD MARKET LANE 2013 INC.

("FCF")

WHEREAS the Lender and the Original Borrower entered into a Loan Agreement made as of the 4th day of September, 2013 (the "**Loan Agreement**");

AND WHEREAS the Borrower has entered into Agreements of Purchase and Sale with Fernbrook Homes (Woodbridge) Limited ("**Fernbrook**") and Old Market Lane Inc. ("**Fortress**") dated October 10, 2014 pursuant to which a 25% and a 75% undivided beneficial interest in the Properties shall be transferred to Fernbrook and Fortress respectively ("**Proposed Transfers**").

AND WHEREAS pursuant to a Co-Tenancy Agreement dated August 29, 2014 between Fernbrook and Fortress ("**Co-Tenancy Agreement**"), it was agreed that in order to complete the development of the Properties and raise additional financing for same, the charge granted pursuant to the Loan Agreement in favour of Sorrenti Law Professional Corporation in the amount of \$3,000,000.00 registered as Instrument No. YR2083558 dated January 14, 2014 (the "**Lender Charge**") and repayment of the Loan pursuant to the Loan Agreement, are to be made subject to the provisions of Sections 3.3 and 4.2 of the Co-Tenancy Agreement (the "**Co-Tenancy Provisions**"), attached hereto as Exhibit "1";

AND WHEREAS FCF Old Market Lane 2013 Inc. ("**FCF**") has been incorporated and will take title to the Property on behalf of Fernbrook and Fortress, as trustee on their behalves, pursuant to the terms of the consent to Co-Tenancy Agreement and will assume the obligations of the Borrower pursuant to the terms hereof upon closing of the Purchase Agreement;

- 2 -

AND WHEREAS the Original Borrower and the Lender have agreed to amend the terms of the Loan Agreement in order to permit the completion of the sale transaction to Fernbrook and Fortress and in order to comply with the provisions of the Co-Tenancy Agreement between them as aforesaid;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the covenants, agreements and warranties contained herein and the sum of Ten (\$10.00) Dollars now paid by the Lender to the Borrower, the parties agree as follows:

1. The recitals above are true and accurate in all respects;
2. All capitalized terms which have not been defined herein, shall have the meanings set forth in the Loan Agreement.
3. The terms of the Loan Agreement remain in full force and effect and unamended, save and except as set out herein.
4. The Lender hereby consents to the Proposed Transfers. In consideration of same, FCF hereby agrees to assume all the obligations of the Borrower under the Loan Agreement, as amended, upon the registration of the Proposed Transfers and execute any documentation required by the Lender.
5. The Due Date defined in Section 4 of the Loan Agreement is hereby amended and extended until October 4, 2018 (October 4, 2019).
6. Notwithstanding anything contained in the Loan Agreement, it is acknowledged and agreed that the payment of interest pursuant to the terms of the Loan Agreement and repayment of the Loan, including interest, shall be made strictly in accordance with Sections 3.3 and 4.2 of the Co-Tenancy Agreement (see Exhibit 1). The parties acknowledge that the term "**Existing Mortgages**" as referred to in the Co-Tenancy Agreement is meant to reference the Lender Charge and the additional syndicated second mortgage financing in favour of Sanjay Pahuja, and Olympia Trust Company, registered on December 22, 2011 as Instrument No. YR1763326, Instrument No. YR1763336 and Instrument No. YR1763318 (the "**First Syndicated Charge**").
7. The Lender acknowledges that notwithstanding the order of registration or advance of monies pursuant to the Lender Charge and the First Syndicated Charge, all lenders and investors under the said Existing Mortgages and any future syndicated loans ("**Future Loans**") raised and secured by charges ("**Future Charges**") in favour of Derek Sorrenti, Centro, or RRSP Trustees or other parties, as may be necessary for completion of the Project, excluding the holders of the First-Ranking Construction Loan Security shall rank *pari passu* in regards to any recoveries or distributions on their respective loans. For all intents and purposes, the Existing Mortgages and the Future Charges shall rank *pari passu* with each other and the Future Loans, if any, and there shall be no priority with regards to distribution of payments, as and when received, to the investors holding interests in either of the Existing Mortgages or the Future Loans.

The Lender further acknowledges that recovery of the balance of the Loan after distributions on account of Existing Mortgages and Future Loans, shall be paid from distributions of Cash Surplus to be made to Fortress under the Co-Tenancy Agreement.
8. Fortress has entered into this Agreement strictly to confirm its covenants and obligation to repay from any distributions of any Cash Surplus to be paid under Section the Co-Tenancy Agreement as described in Section 7 herein, any monies owing under the Existing Mortgages or owing for Future Loans.

- 9. The Lender further acknowledges that pursuant to Sections 3.3 and 4.2 of the Co-Tenancy Agreement (see Exhibit 1), after distributions of Cash Flow are made in accordance with the provisions of Section 4.2 of the Co-Tenancy Agreement, to the extent there remain any monies owing under the Lender Charge, same shall be written off and a discharge of any remaining property charged under the Lender Charge shall be provided without any further payment.
- 10. The Lender further acknowledges and agrees to execute all documentation, postponements, partial discharges, consents, etc., as may be required pursuant to the provisions of Sections 3.3 and 4.2 of the Co-Tenancy Agreement (see Exhibit 1), or as otherwise required by Fortress and Fernbrook to complete the closing of the Proposed Transfers .
- 11. Section 1(g) of the Loan Agreement shall be amended such that the maximum amount of the First-Ranking Construction Security may be increased to One Hundred Million Dollars (\$100,000,000.00).

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written on the first page hereof.

[Redacted signature block]

Name:
Title:

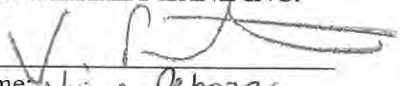
[Redacted signature]

Name:
Title:

[Redacted signature]

I/We have authority to bind the corporation.

OLD MARKET LANE INC.

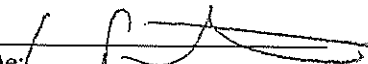

Name: Vince Petozza
Title: COO

Name:
Title:

I/We have authority to bind the corporation.

- 4 -

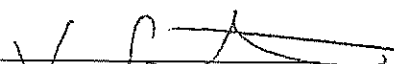
FORTRESS MARKET LANE INC.

Name: 
Title: *Vince Rizzo*

Name:
Title:

I/We have authority to bind the corporation.

FCF OLD MARKET LANE 2013 INC.

Name: 
Title: *Vince Rizzo*

Name:
Title:

I/We have authority to bind the corporation.

EXHIBIT 1**Co-Tenancy Provisions – Sections 3.3 and 4.2****3.3 Acknowledgments re Related Party Mortgages and Further Charges**

- (a) On the Date of Closing with respect to the Existing Mortgages (except the First Mortgage) and prior to the registration of any Further Charge, the holders of such mortgages shall acknowledge, both at the date of registration of any such mortgage or mortgages, as well as and when required by the Construction Lender and any insurance company providing security for purchaser deposits that:
- (i) the Priority of Distributions set out in Section 4.2 and the provisions of Section 12.3(a)(i) herein shall supersede any priority entitlement or recovery pursuant to the registration of the applicable charges;
 - (ii) they shall provide all postponements, standstill agreements, partial discharges and all other documents required by the Construction Lender and any insurance company providing security for purchaser deposits;
 - (iii) in the event of a transfer of any such mortgage or mortgages, they shall require the transferee to execute all documents as required herein;
 - (iv) all interest payments during the terms of such mortgages shall be either capitalized or funded by the holders of such mortgages and there shall be no default under such mortgages for non-payment of same during the terms thereof. The Co-Tenancy shall have the right to approve the length of the term and any options to extend the terms under such mortgages such that it shall be sufficient to meet the construction, marketing and sale schedules of the Project. In the event the Project is completed and sales revenues are insufficient to repay all such mortgages in accordance with the waterfall of payments set forth in the Priority of Distributions herein, partial discharges shall be provided to the Nominee in order to complete sales of units in the Project, whether or not full or partial payment will be made under such mortgages;
 - (v) the holders of all such mortgage shall also acknowledge that notwithstanding the priority registration of their mortgages, provided the Project is completed by the Nominee, the holders of such mortgages shall only be entitled to repayment of their mortgages in accordance with the Priority of Distributions and Section 12.3(a)(i) as set forth herein; and
 - (vi) all such lenders shall acknowledge that their security and indebtedness shall be strictly non-recourse as against Cityzen, Dominus Construction (2005) Corporation and their successors and assigns.

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4.2 Priority of Distributions

The cash surplus ("**Cash Surplus**") of the Co-Tenancy arising from the receipt of any Project revenue (save for approved reserves for warranty claims, deposit insurer security, unpaid Project Costs or other reserves approved by the Co-Tenancy) shall be distributed to the Members, as and when funds become available for distribution, in the priority and manner as follows (the "**Priority of Distributions**"), no distribution being made in any category set forth below unless and until the preceding category has been satisfied in full, unless the Members otherwise agree in writing:

- (a) firstly, to the Construction Lender for the repayment of the Construction Loan;
- (b) secondly, unpaid Project Costs including the construction and development management fees herein set out (such amounts not funded by the Construction Lender) including any Excess Loans;
- (c) thirdly, any unpaid fees owing under the Project Management Agreement;
- (d) fourthly, to repay Cityzen Excess Loan(s) (if any) plus default interest;
- (e) fifthly, to Fortress or third party lenders comprising the Existing Mortgages or Further Charges up to an amount of \$6,500,000.00 including interest on account of the Maximum Land Mortgages Amount;
- (f) sixthly, to repay Related Party Mortgages or equity advances by Fortress with respect to approved Project Costs (only principal amounts and no interest or fees or Priority Advance Distributions or Incremental Environmental Costs);
- (g) seventhly, the balance, if any, to the extent such balance represents the net profits (as determined by the Project accountants using GAAP) of the Co-Tenancy but exclusive of any fees, or interest on such fees or Priority Advance Distributions paid as a result of Fortress arranging any of the Existing Mortgages or Further Charges, to the extent the total owing for same is greater than \$6,500,000.00 (the "**Actual Profit**"), shall, be distributed as follows:

With respect to the amount of Actual Profit that is less than up to the Approved Profit Target:

Fortress: 75%

Cityzen: 25%

With respect to the amount of Actual Profit that exceeds the Approved Profit Target:

Fortress: 60%

Cityzen: 40%

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For clarity, all loan fees charged by Fortress or related parties as well as any interest costs or Priority Advance Distribution included in or on the Existing Charges and the Further Charges or any Incremental Environmental Costs, as well as the Land Transfer Tax paid as a result of the purchase price exceeding \$6,500,000.00, if any, shall be paid by Fortress and shall not be charged to the Project or constitute a Project Cost;

Notwithstanding the foregoing, 25% or 40% of the Total Incremental Environmental Costs funded by the Construction Lender, if any and as the case may be, should be deducted from the Actual Profit payable to Fortress and paid to Citizen.

Investment Authority – Form 9D

To: **Sorrenti Law Professional Corp.**
Mortgage Administrator/Solicitor
 3300 Highway #7, Suite 310
 Vaughn, Ontario, L4K 4M3
Attention: Derek Sorrenti
 416 619 5453 EXT 400

I, [REDACTED] hereby instruct you to act on my behalf, on my mortgage investment of \$ [REDACTED] the details, conditions and disclosures of which are set below.

A. Details about the investment:

1. Name and Address of the Borrower: FCF Old Market Lane 2013 Inc.
1-25 Brodie Drive
Richmond Hill, Ontario L4B 3K7
2. Municipal Address and Legal Description of real property (ies) Against which my investment will Be Secured: 177, 185, 197 Woodbridge Ave,
Woodbridge, ON
P/T W1/2 LT 7 Con. Vaughan as in R543783; Vaughan
3. Type of property: **Residential construction development.**
4. Principal amount of mortgage or charge: **\$5,700,000.00–** (increasing to a Maximum of \$19,000,000.00) See Paragraph 20.
5. Amount of loan to be advanced: \$ [REDACTED]
6. Rank of mortgage or charge: **Third ranking Charge/Mortgage (The ranking of the mortgage can change at any time over the duration of the term) – subject to paragraph 21, below.**
7. Encumbrances: **First ranking Charges/Mortgages will be registered in priority of this mortgage investment.**
1st mortgages \$3,400,000.00 Firm Capital

2nd mortgage will be registered with a face value of \$4,000,000.00
Please refer to paragraph 21, below for details on future postponements to construction financing and development agreements.
8. My investment of \$ [REDACTED] represents [REDACTED] % of the total loan to the borrower.

9. I am satisfied that the approximate and current market value of the property against which my investment has been secured is **\$14,200,000.00**. The means taken to determine said value was a Letter of Opinion authored by Legacy Global Mercantile Partners Ltd. Dated June 1st, 2015.
10. Including my investment and mortgage amount of \$ [REDACTED] the percentage of the value of the property including this mortgage and all prior ranking charges is currently: [REDACTED] %.
11. 5 years ("Term"), commenced on October 4, 2013, at the Borrower's option (to be exercised in writing not less than three (3) months prior to the Maturity Date), the Borrower may extend the Maturity Date for twelve (12) additional months (the "**Extension**"), and ending on the final day of such period (the "Maturity Date"). **THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.**
12. The due date of the loan is October 4th 2018 (October 4, 2019). **THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.**
13. The loan is amortized over **0 years**- the mortgage is an interest only mortgage.
14. The interest rate is **8.00%** calculated annually, not in advance.
15. Particulars of amounts and due dates (monthly, quarterly, etc.) of payments of interest only: Payments made **Quarterly**, in the amount of **\$1,200.00** payments continuing on **July 4th, 2015** the initial payment being pro rata from the date of advance up to the date of the predetermined initial payment.
16. Particulars and amounts of any bonus or holdback or any other special terms:
 - a) See above for interest details; AND
17. In addition to the above and not later than thirty (30) days following substantial completion of the Project, the Borrower shall pay to the Lender a Project completion fee/deferred lender fee ("**Deferred Lender Fee**") as set forth below and which fees shall be secured under the Security: **As outlined in the original Loan Agreement.**
18. The mortgage is to be registered in the name of: "**Sorrenti Law Professional Corporation**" (the "**TRUSTEE**") FOR "[REDACTED]"
19. After completion of the mortgage transaction, a collection or administration fee of per instalment is payable by the borrower: N/A

20. If the mortgage is held in trust, the dates on which payments are made by the trustee to me are: **Quarterly**, continuing on **July 4th, 2014**. Interest payments cannot be disbursed to the Lender by the Trustee until funds are received by the Trustee/Administrator from the Borrower (on behalf of non-registered investors), or by the Trustee trust company from the Borrower (on behalf of registered investors.)
21. I understand that the mortgage shall be initially registered indicating a face value of \$5,700,000.00 and that from time to time the loan amount will increase upon the completion of certain development and construction milestones on the Property by the Borrower. It is anticipated that the loan amount shall be amended during the term of the loan to a **MAXIMUM OF \$19,000,000.00**.
22. I understand the Charge/Mortgage in which I have an interest is currently a **Third** ranking Charge/Mortgage against the Property and the position of the mortgage can change over the duration of the term.

I understand that a first and Second ranking Charge/Mortgage against the Property in favour of the first & second mortgagees, registered with a face value of \$3,400,000.00 and \$4,000,000.00, the new third ranking mortgage will postpone its position to these and construction financing.

I understand that during the course of this investment the Borrower anticipates obtaining additional construction financing for the Property which is expected to take priority to the first Charge/Mortgage, changing the position of this Charge/Mortgage.

I hereby understand, consent and agree that other charges/mortgages and/or development agreements may be registered in priority to the third charge/mortgage against the property during the term of my investment in the third charge/mortgage.

I hereby confirm that I understand and agree that the third charge/mortgage in which I have invested shall be required to postpone and standstill to prior charges/mortgages to a maximum of \$100,000,000.00, plus a 10% contingency if required, in priority financing. I understand that priority financing is expected to periodically increase over the term of the second charge/mortgage and that such postponements shall be permitted and shall occur on the basis of cost consultant reports prepared on behalf of the borrower.

I understand that additional priority financing may be required if there is a shortfall pursuant to the terms of the charge/mortgage in which I am investing. In the event of a shortfall in the funding of this charge/mortgage I understand and agree that other charges/mortgages may be registered against the property to fund and secure any such shortfall.

I understand that the trustees of this charge/mortgage may requested to execute such documents as may be required to permit the registration of certain agreements for the purpose of facilitating the planned development of the property, examples of such agreements include, but are not limited to: site plans, development plans, planning act requirements, mezzanine financing, insurance on deposits, or condominium registration documents.

I hereby confirm that I am aware of and understand that I have provided the trustee of my charge/mortgage with my irrevocable consent to execute any required documents as a condition of my participation in this charge/mortgage.

I hereby re-confirm my consent and agreement to postpone and standstill to any required financing or development agreements, and to partially discharge my charge/mortgage, without payment, with respect to any lands secured by the charge/mortgage which may be required for public or quasi-public purposes.

I understand and agree to provide partial discharges of this security for sales of all condominium units or the office/retail/parking components, without charge, provided the proceeds of the sale are used to pay off the First-Ranking and Second-Ranking Construction Loan Security and/or trade creditors.

I understand that save and except as outlined herein, there shall be no other postponements or encumbrances which affect the position or security afforded by the current Third charge/mortgage.

I agree to provide partial discharges of the Loan Documents in respect of all Project lot/unit sales to third parties and in respect of all Project office/retail/parking component sales to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the First-Ranking Construction Loan Security and then to pay down other Project trade creditors

* 
initials

23. Particulars of disbursements made for legal, brokerage or other fees or commissions in connection with the placement of the loan, including the names of recipients and amounts paid by the borrower, are:

Admin/Legal Fees: \$100.00 per client per year's in the term plus HST (plus registration fees) plus HST (paid by Borrower)

All other fees were paid in accordance with the original loan agreement.

1. *(Instructions: Clauses (a) and (b) below refer to information which each investor may require from the lawyer. If you require the information referred to in a clause, initial the clause.)*

The information which I require from you as my administrator before the administrator for the trustee completes the transaction and makes the advance is as follows:

- (a) If my investment will be in a position other than a first mortgage or charge, details, including amounts, of all existing encumbrances outstanding:

1st Ranking Mortgage Charge registered with the first mortgagees with a face values totaling \$3,400,000.00 Firm Capital

2nd Ranking Mortgage Charge registered with the first mortgagees with a face values totaling \$4,000,000.00. **This mortgage may merge with the 3rd mortgage charge increasing over the duration of the term to a maximum of \$19,000,000.00**

This mortgage is up to date and in good standing; subject to future postponements as per paragraph 21, above.

(b) If the mortgage or charge is a syndicated mortgage, and is prospectus exempt:

We have acknowledged and accept that you as my administrator express no opinion as to the necessity for a validity of a prospectus.

2. (Instructions: Each investor to complete and initial clause (a) and, if clause (a) is answered in the affirmative, to complete (if necessary) and initial clause (b) and to initial clause (c).)

(a) I instruct you to obtain a current and independent appraisal of the subject property and provide it to me before you complete this mortgage transaction. **No.**

* [Redacted]
Initials

(b) The appraisal is to be paid by me or. **Not Applicable**

(c) I have been advised and accept that you as my administrator do not express an opinion as to the validity of the appraisal/valuation/letter of opinion.

* [Redacted]
Initials

Disclosure:

1. I acknowledge being advised by you as the Lender's Independent Legal Advice (ILA), or as an independent lawyer to the transaction, that to the best of our knowledge the Independent Legal Advice Solicitor does not have any direct or indirect interest in the Borrower. (Specify yes or no and indicate the date on which the lawyer advised you that he or she has no direct or indirect in the borrower or borrowers.)

No independent legal advice has a direct or indirect interest in the Borrower.

[Redacted signature area]


* Investor to insert current date here

(If the lawyer has an interest in the borrower or borrowers, he or she is unable to act for you on this loan (Rule 2.06 of the Rules of Professional Conduct).


WARNINGS:

1. You are cautioned that the responsibility for assessing the financial merits of the mortgage investment rests with YOU the investor or investors at all times. The above-named lawyer's responsibility is limited to ensuring the mortgage is legally registered on title in accordance with the investor's or investors' instructions. The lawyer is not permitted to personally guarantee the obligations of the Borrower or Borrowers nor the suitability of the Property as security for the mortgage investment.

2. Any loss you may suffer on this mortgage investment will not be insured under the lawyer's professional liability policy if the lawyer has acted as a mortgage broker or has helped to arrange it.*)

Investor's Signature: * 

I hereby acknowledge receipt of a copy of this form prior to the advance of funds to or on behalf of the Borrower. I further acknowledge having read and understood the above warnings.


Signature

Name: 

PARTICIPATION AND SERVICING AGREEMENT

THIS AGREEMENT made as of the 1st day of June, 2015

B E T W E E N:

[REDACTED]
(hereinafter called "Investor")

OF THE FIRST PART

- and -

**Sorrenti Law Professional Corporation
(Mortgage Administration & Solicitor)**

(hereinafter called "Sorrenti")

OF THE SECOND PART

WHEREAS:

1. pursuant to the Loan Agreement, Sorrenti has agreed to provide the Borrower various loan facilities totalling Nineteen Million (\$19,000,000.00) Dollars (the "Loan") for the purposes of refinancing existing debt, and financing the development and the construction of residential homes on the Lands, to be secured by the Security Documents;
2. Investor has agreed to participate in the Loan to the extent of \$ [REDACTED] upon the terms and subject to the conditions of the Lender Acknowledgement & Consent dated June 1st, 2015 (the "LAC"); and
3. Investor has agreed that Sorrenti will administer the Investment on behalf of Investor in accordance with the terms and subject to the conditions of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT, in consideration of these presents and the covenants and agreements herein contained, the parties agree as follows:

ARTICLE 1.00 - INTERPRETATION

1.1 Defined Terms

The following words and phrases shall have the meanings attributed thereto when used in this Agreement:

"Borrower" means FCF Old Market Lane 2013 Inc.

"Force Majeure" shall mean any event or series of events beyond the control of the Borrower such as strikes, walkouts, labour troubles, inability to procure materials or services or construction financing, power failures, restrictive governmental laws or regulations or the orders or directions of any administrative board, governmental department, officer or other authority, riots, insurrections, war, sabotage, rebellion or acts of God, material changes or delays in market conditions affecting sales or closings, delays in obtaining governmental approvals, permits, rezoning or similar regulatory requirements, none of which is the fault of the Borrower.

"Investment" means the investment in the Loan of the Investor as set out in the LAC and the 3rd recital (converting to a 2nd recital upon the merge of the 2nd & 3rd mortgages) hereof;

"Lands" means those lands more particularly described and charged pursuant to the Security Documents including without limitation all buildings, fixtures and improvements now or hereafter situate thereon and all easements, rights-of-way and other

similar rights appurtenant to or used in connection therewith;

“Loan” means the financing of the Project by Sorrenti to the Borrower to assist in the construction, on the Lands, in the maximum principal amount of Nineteen Million (\$19,000,000.00) Dollars on the terms and subject to the conditions set out in the Loan Agreement and includes without limitation all Principal, Interest, interest on overdue Interest, fees, expenses, charges and such other amounts owing by the Borrower from time to time to Sorrenti pursuant to the Loan Agreement or any of the Security Documents in respect of Loan;

“Loan Agreement” means the Loan Amending Agreement between Sorrenti and the Borrower in respect of the Loan;

“Mortgaged Property” means:

- (a) the Lands;
- (b) all rights, privileges, advantages and benefits whatsoever arising pursuant to all agreements regarding the development of, and the construction of improvements on, the Lands;
- (c) all personal property presently or in the future owned or acquired by or on behalf of the Borrower and all proceeds and renewals thereof, accretions thereto and substitutions therefore which are used in connection with the Lands;
- (d) all other personal property of the Borrower securing the Facilities; and

“Participants” means Sorrenti and the Investor and other investors acquiring interests in the Loan and "Participant" means any one of them;

“Person” means any individual, company, corporation, partnership, firm, trust, sole proprietorship, government, government agency, authority or entity however designated or constituted;

“Principal” means the principal amount of the Loan and all Interest, interest on overdue Interest, fees, expenses, charges and other amount owing by the Borrower to Sorrenti from time to time which may be added thereto or become part thereof pursuant to the Loan Agreement or the Security Documents;

“Project” means the property located at 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON

“Proportionate Share” means the proportionate share of each of the Participants in the Loan as stipulated in each LAC entered into with each Participant;

“Security Documents” means:

- (a) all mortgages, charges, security agreements, instruments and documents executed and delivered by the Borrower to Sorrenti as security for the Facilities, from time to time, whether direct, indirect, primary or collateral, including without limitation any guarantees, charges, assignments and any other type of security agreement;
- (b) all policies of insurance relating to the Mortgaged Property as required under the Loan Agreement or under the Security Documents; and
- (c) all instruments and documents supplemental or ancillary to any of the foregoing.

Unless specifically defined herein, all capitalized terms shall have the meanings ascribed to them in the Loan Agreement.

1.2 **Applicable Law** This Agreement shall be interpreted in accordance with the laws of

the Province of Ontario and the laws of Canada applicable therein.

- 1.3 **Headings, etc.** 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 hereof.
- 1.4 **Singular, Plural and Gender** Words importing the singular include the plural thereof and vice versa and words importing gender include the masculine, feminine and neuter genders.

ARTICLE 2.00 - LOAN ORIGATION AND PARTICIPATION

- 2.1 **Entering into of Loan** Sorrenti shall be exclusively responsible for the implementation of the Loan in accordance with the provisions of the Loan Agreement and to obtain and administer the Security Documents and the processing of the Loan in accordance with the provisions of the Loan Agreement. In connection therewith, it shall perform and attend to all matters and things necessary to administer and service the Loan in accordance with normal lending practice and with the same degree of care and skill as a prudent lending institution would exercise for its own account including, without limitation, the following:
- (a) acquire, assemble, record and process all the necessary information, data, applications and other forms and reports in connection with the Loan;
 - (b) retain solicitors to perform and carry out all instructions and requirements necessary to complete the Loan including, without limitation, the requisite title searches, the preparation, execution and delivery of the Security Documents and the registration and filing of the Security Documents or notices thereof as may be required to ensure the priority of the Security Documents subject only to such encumbrances and other qualifications permitted by the Loan Agreement;
 - (c) ensure that the Borrower has made satisfactory arrangements for insurance as may be required by the Loan Agreement;
 - (d) make the Advances in accordance with normal mortgage practice out of funds to be provided by the Participants, the provisions of the Loan Agreement, the LAC and the Construction Lien Act.
- 2.2 **Endorsement of Security Documents** All Security Documents shall be taken by Sorrenti in its name and such other trustees appointed by a Participant from time to time and shall hold the Investment as agent for the Participants according to their Proportionate Shares and upon and subject to the terms of this Agreement.

ARTICLE 3.00- SERVICING OF INVESTMENT

- 3.1 **Servicing Duties** Sorrenti shall hold, administer and service the Loan for the Investor and other Participants in accordance with normal lending practice and with the same degree of care and skill as a prudent lending institution would exercise for its own account and shall perform, without limiting the generality of the foregoing, the following duties:
- (a) make reasonable efforts to collect all payments due under the Loan, including without limitation, all Principal, Interest and interest on overdue Interest, taxes (if applicable), and any other monies or payments required by the Loan Agreement or the Security Documents;
 - (b) perform all necessary services with respect to the settlement of any loss under insurance policies in the event of damage to or destruction of the Mortgaged Property;
 - (c) settle with the Borrower and any expropriating authority the amount and disposition of any compensation payable in connection with any expropriation of any part of or any interest in the Mortgaged Property;

- (d) pay out of payments of Interest or other monies received for the borrower by Sorrenti:
 - (i) when necessary, insurance premiums, taxes and any other amounts which Sorrenti is authorized to pay on behalf of the Borrower under any of the Security Documents;
 - (ii) the reasonable fees and expenses of any experts retained by Sorrenti pursuant to section 3.2;
 - (iii) any other reasonable expenses necessary to protect or preserve the Mortgaged Property approved by Investor; and
- (e) remit to Investor forthwith upon receipt, or as soon as is reasonably possible thereafter, the applicable pro rata portions of all payments on account of Principal received by Sorrenti (except to the extent any amount thereof has been solely funded by Sorrenti), together with a statement indicating the amount of each payment of Principal;
- (f) remit to Investor on or before the 4th Business Day of each third month all payments of its Proportionate Share of Interest out of the Interest received by Sorrenti from the Borrower during the previous third month, less any payments authorized by paragraph 3.1(e), together with a statement indicating the amount of each payment received and the deductions therefrom. It is the intention of Sorrenti that payments of Interest will be due on the fourth day of each third month except as otherwise provided by the Loan Agreement and the Security Documents. If payments of Interest are received by Sorrenti on any other day, the balances of such payments shall be remitted to Investor on or before the 4th Business Day following receipt of the payment;
- (g) maintain proper records and accounts showing all receipts and disbursements in respect of the Investment and permit Investor, its auditors and agents, on reasonable notice to Sorrenti, to examine such records and accounts from time to time and provide such copies thereof as Investor may reasonably require at its expense relating to the Loan;
- (h) generally attend to the performance of such other things as a prudent lending institution would normally perform if the Loan was for its own account exclusively as per the Loan Agreement and the LAC including, inter alia, sign all postponements, standstill, subordination and partial discharges for any of the Security Documents as per the LAC and the Loan Agreement, or generally, as may arise from time to time in order to protect the interest of the Investor in the Loan;
- (i) in the event that Sorrenti, in its sole discretion, acting as approved Lender and administrator, determines that the Borrower, as a result of an act of *Force Majeure*, will not be able to complete the Project so as to repay the Loan on or before the maturity date on the Loan under the Loan Agreement (as it may be extended under the terms thereof), it shall have the authority to extend the term of the Loan for such period of time, not exceeding 24 months so as to permit the Borrower to complete the Project and its sales, and thereby repay the Loan. Sorrenti shall have the right to do so on one or more occasions but for a period of time not exceeding 24 months as aforesaid, without the consent of the investor;
- (j) give such notices to the Borrower and other Persons as Sorrenti may consider necessary;
- (k) take all reasonable steps to enforce performance of the obligations of the Borrower under the Loan or the Security Documents or to protect or preserve the Mortgaged Property;
- (l) if Sorrenti considers it necessary to accelerate repayment of the Loan and

realize upon the Mortgaged Property including, inter alia, the appointment of a receiver, the exercise of powers of distress, the institution of foreclosure or power of sale proceedings and/or any other legal or equitable remedy. Sorrenti shall not be required to consult with Investor prior to determining what action Sorrenti should take to enforce its rights and exercise its remedies under the Security Documents or otherwise. Sorrenti shall not be required to take any action (or refrain from taking any action) that would result in Sorrenti being in default of any covenant, term, provision or condition of this Agreement, the Loan Agreement or the Security Documents or any obligation imposed on it by law including, without limitation, the obligation to act in a reasonable manner and in accordance with normal lending practice and with the same degree of care and skill as a prudent lending institution would exercise for its own account; and

- (m) to fulfill all obligations of the Investor under the Loan and any Loan arrangements including the LAC relating to the execution of all necessary postponements, discharges, standstill agreements and other documentation consistent with the foregoing.
- 3.2 **Experts** To assist in administering the Investment and carrying out its duties hereunder, Sorrenti may retain at the expense of the Borrower, or failing same, the Participants to be shared based on their respective Proportionate Shares, such solicitors, notaries, counsel, auditors, appraisers and other experts as Sorrenti may, acting reasonably.
- 3.3 **No Warranties or Representations** Sorrenti has given no warranty or representation with respect to the Investment and shall not be responsible for the observance or performance of any of the obligations of the Borrower or the Covenantors pursuant to the Loan Agreement or the Security Documents. Investor acknowledges that it has made its own decision to participate in the Investment without any inducement from or reliance upon Sorrenti with respect to the financial condition of the Borrower or the Covenantors or the sufficiency of the Mortgaged Property or the Security Documents.
- 3.4 **Duty of Care** Sorrenti shall not be liable for any error of judgment or any action taken or omitted to be taken by it under or in connection with this Agreement if it acts upon or relies on any advice received from any expert retained by Sorrenti pursuant to section 3.2 or otherwise acts in good faith.
- 3.5 **Consent of Investor** Saver as set out herein, Sorrenti shall not, without the prior written consent of Investor, acting reasonably, agree to any renewal or any material amendment, modification or waiver of any of the terms of the Loan Agreement, the Security Documents or any agreement or document relating thereto, nor consent to any action or failure to act by the Borrower or any other party, or exercise any rights that Sorrenti may have in respect thereof or any rights pursuant to Section 3.1(h) hereof.


Initials

If Sorrenti should request Investor's written consent to any of the action described in this paragraph and shall not receive Investor's consent or denial thereof in writing within ten (10) Business Days of the making of such request, Investor shall be deemed to have given its consent.

- 3.6 **Indemnity** Investor shall indemnify and hold harmless Sorrenti from its pro rata share of all claims, costs, losses, expenses and damages of every nature and kind with respect to the performance of Sorrenti's obligations in this Agreement, the Loan Agreement and the Security Documents, as same relates to the Loan save and except any such claim, cost, loss, expense or damage which results from:
- (a) the failure of Sorrenti to act as a prudent lending institution as required by Sections 2.1 and 3.1;

- (b) Sorrenti's failure to comply with its obligations under this Agreement; or
- (c) Sorrenti's negligence, fraud or any illegal act.

The obligations of Investor under this section shall survive the termination of this Agreement.

- 3.7 **Interest Accrual** Investor acknowledges that the Loan includes funds raised for an interest reserve to pay out regular Investor interest payments. In the event that such interest reserve is not fully funded to cover all interest payments to the Participants, interest payments may be delayed, reduced or be unpaid until maturity of the Loan. In such event, all such interest would continue to accrue and be recoverable as and when the interest reserves are replenished or the Loan matures and is fully repaid, assuming successful completion of the Project and full repayment of the Loan at that time.

It is anticipated that such interest reserves will be fully funded for the term of the Loan provided Sorrenti has raised all required funds contemplated under the Loan.

ARTICLE 4.00- GENERAL

- 4.1 **Meetings** Subject to any other provisions to this Agreement, either party may at any time on three (3) Business Days notice call a meeting with the other party to consider any matter related to this Agreement and, if requested by Sorrenti, to obtain the consent of Investor to any action proposed to be taken by Sorrenti.
- 4.2 **Notices** All notices, consents, approvals or communications required or permitted hereunder shall be in writing and shall be delivered by courier or sent by facsimile transmission and, if intended for Sorrenti, addressed as follows:

Sorrenti Law Professional Corp.
3300 Highway #7
Suite 310
Vaughan, ON, L4K 4M3
Attention: Derek Sorrenti
Fax No. 416-619-5453

and, if intended for Investor, addressed as follows:

Attention:
Fax No.

Any such notice, consent, approval or communication delivered or sent as aforesaid shall be deemed to be received on the Business Day next following the day it is delivered or sent. Any party may change its address for the foregoing purposes within the Province of Ontario by giving the other party notice of such change of address as hereinbefore provided.

- 4.3 **Termination** Subject as hereafter provided, this Agreement shall remain in force until the earlier of the Loan having been paid in full and the Security Documents have been discharged or the Mortgaged Property has been realized and the proceeds of realization have been disbursed among the Participants in accordance with this Agreement. The indemnity provided in section 3.6 shall survive termination indefinitely.
- 4.4 **Effective Date of this Agreement** This Agreement shall not be effective until the date on which it is executed and delivered by Sorrenti and Investor.
- 4.5 **Relationship** Neither the execution of this Agreement, nor the sharing of the Investment nor any agreement to share in profits or losses arising as a result of the Investment is intended to be nor shall it be construed to be the formation of a partnership or a joint venture among the Participants.

Publications or Registration of Interest Investor shall not register this Agreement or notice thereof in any manner on the title to the Lands or with respect to any of the other Mortgaged Property.

4.6 **Dealings with Borrower**

- (a) Investor shall not contact or deal either directly or indirectly with the Borrower or the Covenantors or any other Person with respect to the servicing of the Investment or the enforcement of the Security without the consent of Sorrenti. Investor shall also not enter into any other agreement or take any other security with respect to this Agreement, the Investment or its Proportionate Share without the consent of Sorrenti.
- (b) Investor shall not exercise any right of set-off, counter claim or any other claim it may have against the Borrower with respect to Contributory Advances or Contributory Payments to be made by it pursuant to this Agreement.

4.7 **Legal Capacity** Each Participant warrants and represents to the others that it has the legal capacity to enter into this Agreement and the Investment pursuant to its constating documents and any applicable legislation and that this Agreement constitutes a valid and binding obligation of such Participant enforceable in accordance with its terms.

4.8 **Entire Agreement** This Agreement constitutes the entire agreement between the Participants with respect to the Investment and supersedes all prior proposals and agreements, whether oral or written, with respect to the Investment.



4.9 **Amendment** No term or provision of this Agreement may be amended, waived, discharged or terminated without the unanimous written consent of all of the parties.

4.10 **Binding, etc.** This Agreement shall enure to the benefit of and be binding upon the parties and their successors and permitted assigns.

4.11 **No Waiver** The failure of any party to insist upon the strict adherence to or performance of any of the covenants contained herein shall not be considered as a waiver of such covenant by that party. A waiver of any provision in this Agreement must be in writing and signed by the waiving party.

4.12 **Counterparts** This document may be executed in counterparts, each of which shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and notwithstanding the date of execution shall be deemed to be dated the date hereof.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date first hereinabove written.


 Per: 
 Name: 
 Title: 

Per: 
 Name: 
 Title: 

Sorrenti Law Professional Corporation

Per: _____
 Name: _____
 Title: _____

Per: 
 Name: Derek Sorrenti
 Title: _____

I/We have authority to bind the Corporation

Appendix 11:**OML 3 Loan Agreement and Sample Form 9D (later tranches) (anonymized)**

LOAN AGREEMENT

THIS AGREEMENT made as of the 4th day of September, 2013,

BETWEEN:

Sorrenti Law Professional Corporation, in trust, as lender

- and -

FCF Old Market Lane 2013 Inc., as borrower

WHEREAS the Lender agreed to advance the Loan to the Borrower;

AND WHEREAS the Loan will be secured by a Third-ranking mortgage against the Property;

AND WHEREAS the balance of the terms of the Loan are set out in this Agreement;

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Defined Terms**

Unless expressly stated otherwise, the following capitalized terms shall have the meanings indicated:

- (a) **“Agreement”** means this agreement and all amendments thereof;
- (b) **“Borrower”** means FCF Old Market Lane 2013 Inc. and its successors and permitted assigns;
- (c) **“Business Day”** means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario;
- (d) **“Conditions Precedent”** shall have the meaning attributed thereto in Section 11 hereof;
- (e) **“default”** means an event or condition, the occurrence of which would, with the lapse of time or the giving of notice, or both, become an Event of Default;
- (f) **“Event of Default”** shall have the meaning attributed thereto in Section 15 hereof;
- (g) **“First-Ranking Construction Loan Security”** means one or more secured Project construction loans, in favour of arm’s-length lender(s), in an aggregate principal amount not to exceed \$100,000,000.00 ranking *pari passu* or with stated

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priority between them (in the case of multiple loans), with usual cost-to-complete advances and related security/documentation;

- (h) **“Hazardous Substances”** means all contaminants, pollutants, substances and 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 and/or materials are or shall become prohibited, controlled or regulated pursuant to environmental laws and shall include “contaminants”, “dangerous substances”, “hazardous materials”, “hazardous substances”, “hazardous wastes”, “industrial wastes”, “liquid wastes”, “pollutants” and “toxic substances”, all as defined in, referred to and/or contemplated in environmental laws, but exclude all cleaning and related products used in the usual operation and maintenance of property;
- (i) **“Lender”** means Sorrenti Law Professional Corporation, in trust, for and on behalf of certain persons/entities, and their respective successors and assigns;
- (j) **“Loan”** shall have the meaning attributed thereto in Section 3 hereof;
- (k) **“Loan Documents”** means this Agreement, the Security, all other documentation delivered in connection with the Loan and all amendments thereof;
- (l) **“Maturity Date”** shall have the meaning attributed thereto in Section 4 hereof;
- (m) **“Notice”** shall have the meaning attributed thereto in Subsection 17(b) hereof;
- (n) **“Permitted Encumbrances”** means the First-Ranking Construction Loan Security and such non-financial encumbrances as shall be reasonable for a development such as the Project (including, without limitation, encumbrances pertaining to condominium deposits, easements, rights-of-way, subdivision agreements, site plan control agreements, development agreements, cost-sharing agreements, encroachment agreements, zoning/use laws, utility licences, utility easements, Crown patent reservations and restrictive covenants);
- (o) **“Project”** means the development to be constructed on the Property, comprised of the lands located at 177, 185 & 197 Woodbridge Ave., Woodbridge, Ontario;
- (p) **“Project Budget”** means the Project budget attached hereto as Schedule “B”;
- (q) **“Project Cost Consultant”** means an arm’s-length cost consultant approved by the Lender, acting reasonably;
- (r) **“Property”** means the lands municipally and legally described in Schedule “A” attached hereto, together with all personal, intellectual and other property and all contracts relating thereto or associated therewith;
- (s) **“Security”** shall have the meaning attributed thereto in Section 10 hereof;

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- (t) “**substantial completion**” shall have the meaning attributed thereto pursuant to the *Construction Lien Act* (Ontario); and
- (u) “**Term**” shall have the meaning attributed thereto in Section 4 hereof.

2. **Schedules**

The following are the schedules attached to and forming part of this Agreement:

- (a) Schedule “A” - Municipal and Legal Description of the Property
- (b) Schedule “B” - Project Budget
- (c) Schedule “C” – Co-Tenancy Provisions

3. **Loan**

Non-revolving loan in an amount up to and including the sum of \$19,000,000.00 (the “**Loan**”), to provide for the Borrower’s soft costs to be incurred prior to the construction financing of the Project.

4. **Term**

5 years (“**Term**”), commencing on October 4th, 2013 (Or sooner) and ending on the final day of such period (the “**Maturity Date**”). At the Borrower’s option (to be exercised in writing not less than three (3) months prior to the Maturity Date), the Borrower may extend the Maturity Date for 12 additional months.

5. **Interest Rate**

Eight Percent (8%) per annum.

6. **Interest Payment**

Calculated and payable Quarterly not in advance, with the first payment thereof to be made on January 4th, 2014.

Interest shall be payable quarterly, not in advance, both before and after default, the first payment thereof to be made from Interest Reserves advanced as part of the First Advance on the 4th day of the month next following the date of the First Advance of the Loan. All interest during the term of the Loan shall be paid from Interest Reserves raised by the Lender as part of the Loan, or failing same, it shall be accrued to the Maturity Date or upon an unremedied Event of Default.

7. **Method of Payment of Quarterly Interest Payment**

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The Borrower shall subscribe to the “pre-authorized payment” system to allow quarterly instalments to be withdrawn automatically.

8. **Prepayment/Repayment of Principal**

The Borrower may prepay the Loan in whole or in part, upon two (2) Business Days’ prior written notice to the Lender.

The outstanding Loan principal together with accrued interest and all other amounts due and owing, if any, pursuant to the Loan Documents shall become wholly due and payable the Maturity Date.

9. **Project Completion Fee/Deferred Lender Fee**

In addition to the above and not later than thirty (30) days following substantial completion of the Project, the Borrower shall pay to the Lender a Project completion fee/deferred lender fee (“**Deferred Lender Fee**”) as set forth below and which fees shall be secured under the Security:

- a) in the event that the Project Profit is less than \$6,000,000.00 there will be no Deferred Lender Fee;
- b) in the event that the Project Profit exceeds \$ 6,000,000.01 and is less than \$8,000,000.00 the Deferred Lender Fee would be equal to 3% of the Loan principal;
- c) in the event that the Project Profit is greater than \$8,000,000.01 the Deferred Lender Fee shall be equal to 6% of the Loan principal.

Project Profit shall be determined in accordance with GAAP upon completion of the Project and 95% residential sales having been completed with a projection on the value of the remaining 5%, but shall exclude all fees payable to Fortress pursuant to the Development Agreement. The Lender’s Security shall remain in full force and effect until the project completion fee is paid in full.

10. **Security**

The security for the Loan (as amended, hereinafter the “**Security**”) shall be as follows, subject only to the Permitted Encumbrances:

- (a) Property mortgage executed by the Borrower in a principal amount equal to \$19,000,000.00 of the Loan, which mortgage shall remain registered until the date which is the later of the date of payment of the final amount owing to the Lender pursuant to this Agreement and the date which is sixty (60) days following substantial completion of the Project;
- (b) if the Property beneficial owner is not the Borrower, then a direction, acknowledgement and security agreement executed by the beneficial owner,

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Borrower and Lender, including confirmation of a Third-ranking charge of the beneficial owner's interest in the Property and a direction by the beneficial owner to the Borrower to execute the Loan Documents to which the Borrower is a party, such direction to be duly acknowledged by the Borrower;

- (c) a general security agreement executed by the Borrower charging the personal property and undertaking of the Borrower, present and future, used in connection with the Property including, without limitation, all accounts, equipment, goods, inventory, chattel paper, documents of title, intangibles, securities and proceeds therefrom;
- (d) an indemnity from the Borrower indemnifying the Lender from and against all losses, demands, claims, liabilities, costs, actions, penalties, obligations and expenses imposed upon the Lender and arising in connection with the Lender being a lender hereunder in respect of the Property and all assets relating thereto, save and except in respect of matters arising and caused by the gross negligence of the Lender during any period in which the Lender shall be in exclusive possession of the Property and/or arising and caused after a completed foreclosure proceeding or sale proceeding pursuant to the Security and/or caused by the gross negligence of the Lender; such indemnity shall survive the full payment and discharge of the Loan; and
- (e) such further and/or other security relating to the Property as the Lender shall reasonably require.

11. **Deliveries to Lender**

The Borrower shall deliver, within five (5) Business Days following execution of this Agreement, a copy of each of the following:

- (a) the Property parcel pages, existing registered encumbrances and existing surveys thereof;
- (b) the appraisal and professional reports described in Section 12 hereof;
- (c) the financial statements and Project Budget described in Section 12 hereof;
- (d) the off-title search results and corporate/personalty search results described in Section 12 hereof;
- (e) evidence of reasonable Property and construction insurance coverage;
- (f) all material Project contracts;
- (g) all Project plans and specifications and all periodic Project development reports issued to date;

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- (h) all architectural and engineering documents together with the draft plan, zoning analysis, traffic study, sanitary study, water study, storm-water study, utility study and road study; and
- (i) all other information and/or documentation in respect of the Project, the Property and/or the Borrower as the Lender may request, acting reasonably.

12. **Conditions Precedent to Advance**

Each advance pursuant to the Loan shall be conditional upon the Lender's receipt of the following (the "**Conditions Precedent**"), which Conditions Precedent are inserted for the sole benefit of the Lender and may be waived by the Lender, in whole or in part:

- (a) the Security, duly registered and perfected (as the case may be) together with all other documentation relating to the Loan, the Property, the Project and the Borrower required by the Lender, acting reasonably;
- (b) an opinion from Borrower's counsel confirming the Borrower's good, valid and marketable title to the Property, subject only to Permitted Encumbrances, specified off-title search results, specified corporate/personalty search results and specified third party consent requirements (or alternatively, for some or all of the said opinion, title insurance from a title insurance company approved by the Lender, acting reasonably);
- (c) an opinion from Borrower's counsel confirming the subsistence, power and authority of the Borrower, the due authorization, execution, delivery and enforceability (subject to customary assumptions and qualifications) of the Loan Documents and such other matters as the Lender shall reasonably require;
- (d) a mortgage statement from a Permitted Encumbrance mortgagee confirming that the relevant mortgage loan is in good standing;
- (e) certificate from the Borrower certifying no Event of Default or default, the truth of all representations and warranties, the satisfaction of all conditions and compliance with all covenants set out in the Loan Documents;
- (f) an appraisal indicating completed Project value of not less than \$14,200,000.00;
- (g) satisfactory environmental report, geotechnical report, mechanical engineering report, structural engineering report and zoning report, prepared by the appropriate professionals (with reliance letters in favour of the Lender);
- (h) confirmation that realty taxes have been paid to the relevant date;
- (i) satisfactory financial statements in respect of the Borrower and a satisfactory summary of Borrower share ownership;
- (j) satisfactory Project Budget, duly approved by the Project Cost Consultant and the Lender;

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- (k) satisfactory insurance coverage for the Project, duly approved by the Lender's insurance consultant (if any) and the Lender;
- (l) all relevant consents pursuant to the Loan Documents; and
- (m) certificate from the Borrower certifying that there have been no material changes affecting the Property and/or the Borrower since the later of the date of execution of this Agreement and the immediately prior advance hereunder.

13. **Representations and Warranties**

The Borrower represents and warrants as follows:

- (a) the Borrower is duly constituted and validly subsisting under the laws of the Province of Ontario, has all necessary power and authority to own its properties and assets and to carry on its business as now conducted and is duly licensed or registered or otherwise qualified in all jurisdictions wherein the nature of its assets or the business transacted by it makes such licensing, registration or qualification necessary;
- (b) the Borrower has full power and capacity to enter into, deliver and perform its obligations under the Loan Documents to which it is a party and all other instruments contemplated hereunder to which it is a party;
- (c) the execution and delivery and performance by the Borrower of the Loan Documents to which it is a party and all obligations contained herein and therein, and all other instruments contemplated hereunder to which it is a party and the consummation of the transactions contemplated hereby and thereby:
 - (i) have been duly authorized by all necessary action;
 - (ii) do not and will not conflict with, result in any breach or violation of, or constitute a default under any such party's constituting documents or by-laws, or any applicable laws or judgment presently in effect and applicable to it, or of any material Project agreement to which any such party is bound;
 - (iii) do not (except for the Security) result in or require the creation of any security interest or encumbrance upon or with respect to which the Borrower is bound; and
 - (iv) do not require the consent or approval (other than those consents or approvals already obtained and copies of which have been delivered to the Lender and other than those consents which, if not obtained, would not adversely affect any material component of the Security, the value of the Property or the operation of the business of the Borrower at the Property) of, or registration or filing with (except as contemplated herein), any other person, including any public authority;

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- (d) the Borrower has provided to the Lender accurate and complete copies of all material Project agreements;
- (e) each Loan Document and all other instruments contemplated hereunder are, or when executed and delivered to the Lender will be, legal, valid and binding obligations enforceable against the Borrower in accordance with their respective terms, subject to the limitations with respect to enforcement imposed under law in connection with bankruptcy, insolvency, liquidation, reorganization and other laws affecting the enforcement of creditors' rights generally and subject to the availability of equitable remedies which are only available in the discretion of the court from which they are sought;
- (f) the Security granted by the Borrower constitutes an assignment, a fixed and specific mortgage and charge, a floating charge and security on its undertaking, property and assets purported to be assigned, mortgaged, charged or subjected to the Security thereby and ranks in priority to all other security interests upon such undertaking, property and assets other than Permitted Encumbrances;
- (g) subject to any limitations stated therein, all financial statements which were furnished to the Lender hereunder, fairly present the financial condition of the relevant party as at the date thereof, and no material adverse change has occurred since the date of such delivery;
- (h) no event has occurred and is continuing, and no circumstance exists which has not been waived, which:
 - (i) constitutes a default or Event of Default; or
 - (ii) constitutes a default or event of default under any Permitted Encumbrance which may materially adversely affect the value of the Property or impair the validity or enforceability of the Security;
- (i) the Borrower is not in violation of any terms of its constating documents or, in any material respect, of any applicable law (including, without limitation, all building, zoning, planning, development, construction, construction lien, environmental and occupation laws);
- (j) the Borrower owns all intellectual property used and/or to be used in connection with the Project, free from all encumbrances;
- (k) the Borrower is solvent and will not become insolvent after giving effect to the transactions contemplated in this Agreement;
- (l)
 - (i) each material Project agreement is in full force and effect and has not been modified or supplemented;
 - (ii) the Borrower is not in default under any material Project agreement, and to the knowledge of the Borrower, no other party to any such material

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Project agreement is in default of any material obligation thereunder; and in each such case, no event has occurred which, with the giving of notice or the lapse of time, or both, would constitute such a default; and

- (iii) no notice or other written or oral communication has been provided by or to the Borrower to or from any party under any material Project agreement which alleges that, as of the date hereof, either a default exists or with the passage of time will exist under the provisions of such material Project agreement;
- (m) the Property has full and free legally enforceable access to and from public highways, which access is sufficient for the purposes of the normal operation of the Property and the Borrower has no knowledge of any fact or condition that would result in the interruption or termination of such access;
- (n) all public utilities required for the normal operation of the Property connect into the Property through adjoining public highways or if they pass through adjoining private land, do so in accordance with valid registered easements and are sufficient for the operation of the Property;
- (o) no legal action or other proceeding has been instituted or, to the best of its knowledge after making diligent enquiry, threatened against the Borrower; the Borrower has not received notice of any work orders, deficiency notices or notices of violation pertaining to the Property;
- (p) the Property complies with all laws regarding environmental matters; the Property has never been used as a land fill site or to store Hazardous Substances either above or below ground, in storage tanks or otherwise; no Hazardous Substances have been released into the environment or deposited, discharged, placed or disposed of at, on or near the Property; and there are no outstanding directions, writs, injunctions, orders or judgments issued pursuant to environmental laws in respect of the Property;
- (q) the Borrower has good, valid and marketable title to the Property, free from all encumbrances except the Permitted Encumbrances; and
- (r) the Borrower has filed or caused to be filed in a timely manner all tax returns, reports and declarations required to be filed under law; all information in such tax returns, reports and declarations is complete and accurate in all material respects; the Borrower has paid all taxes due and payable.

14. **Covenants**

The Borrower covenants and agrees as follows:

- (a) to defend its right, title and interest in the Property for the benefit of the Lender against all claims and demands whatsoever of all persons/entities, other than holders of Permitted Encumbrances;

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- (b) not to create or suffer to exist any encumbrance of any nature (whether prior to, *pari passu* with or subordinate to the Security) upon the Property or any part thereof other than Permitted Encumbrances;
- (c) to preserve, repair and keep in good order, condition and repair or cause to be preserved, repaired and kept in good order, condition and repair the Property and all appurtenances thereto and all properties and assets used in connection with the Property, to the standard of a prudent owner of similar property, and the Borrower shall carry on and conduct, or cause to be carried on and conducted, the operation of the Property in a prudent manner so as to preserve and protect the Property; the Borrower shall keep the Property in good condition and order, or shall cause the Property to be put and kept in good condition and order, and shall promptly make, or cause to be made, all needed repairs and replacements thereto, including such repairs and replacements to implement the recommendations which a prudent owner of a property similar to the Property would deem appropriate or necessary from time to time; the Borrower shall at any and all reasonable times, upon the prior written request of the Lender, permit the Lender to inspect the Property or any part thereof during normal business hours;
- (d) to carry on or cause to be carried on and conduct or cause to be conducted the operation of the Property in a prudent manner so as not to materially impair the value of the Property or the use of the Property for the purpose for which it is held;
- (e) to duly and punctually pay, or cause to be paid, to the Lender the principal of and interest accrued on the Loan, any premium of the Loan and all other amounts owing in respect of the Loan on the dates, at the places, in the monies, and in the manner mentioned herein and in the Loan, in strict conformity therewith, and shall faithfully observe and perform all the conditions, covenants and requirements of all Loan Documents;
- (f) to pay or cause to be paid, on or before the due date thereof, all taxes, rates, levies, duties and assessments, general and special, ordinary and extraordinary, of every nature and kind whatsoever, including local improvement taxes which shall be levied, assessed or imposed upon the Property or any part thereof, or upon the Borrower or any other person on account thereof, and shall from time to time as the same are paid, at the written request of the Lender produce for inspection by the Lender, satisfactory evidence that all such taxes have been paid when due (together with such further supporting information or documentation reasonably required by the Lender);
- (g) the Borrower shall register or file or cause to be registered or filed the Security (or a notice or financing statement in respect hereof) without delay at every public office of record in the Province of Ontario and in any other jurisdiction where the Borrower is "located" for the purposes of perfecting a security interest pursuant to the *Personal Property Security Act* (Ontario), in each case, where the registration or filing thereof is, in the opinion of the Lender, required to preserve, perfect and/or protect the security hereby or thereby created; and the Borrower shall

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- renew or cause to be renewed any such registrations or filings as may be necessary from time to time to so preserve, perfect and/or protect the security hereby or thereby created;
- (h) the Borrower shall fully and effectively maintain and keep the Security or cause the Security to be maintained and kept as valid and effective security at all times while the Loan is outstanding and shall not permit or suffer the registration of any lien whatsoever, whether of workmen, builders, contractors, engineers, architects or suppliers of material, upon or in respect of any of the Property, which would rank subsequent to, *pari passu* with or prior to the security of the Security other than Permitted Encumbrances;
 - (i) the Borrower shall cooperate fully with the Lender with respect to any proceedings before any court, board or other public authority which may in any way materially and adversely affect the rights of the Lender hereunder or any rights obtained by it under any of the Loan Documents and, in connection therewith, shall keep the Lender fully advised of the status of all such proceedings and shall allow the Lender and its counsel at its election to attend meetings in respect of such proceedings; the Borrower shall cooperate with the Lender in obtaining for the Lender the benefits of any insurance proceeds lawfully or equitably payable in connection with the Property to the extent that the Lender is entitled to the same under the terms of the Loan Documents, and the Lender shall be reimbursed for any actual out-of-pocket expenses incurred in connection therewith (including, without limitation, legal fees and disbursements, and the payment by the Borrower of the expense of an appraisal on behalf of the Lender in case of a fire or other casualty affecting the Property or any part thereof) out of such insurance proceeds;
 - (j) the Borrower shall cause the Property to be used only for multi-residential and retail purposes and parking and for no other purpose, and the Borrower will do, observe and perform or cause to be done, observed and performed, in all material respects, all of its obligations and all matters and things necessary or expedient to be done, observed or performed under or by virtue of all applicable laws;
 - (k) the Borrower shall do, observe and perform, or cause to be done, observed and performed, in all material respects, all of the obligations and things necessary or expedient to be done, observed or performed by the Borrower under or by virtue of all Permitted Encumbrances and material Project agreements; for greater certainty, this covenant regarding Permitted Encumbrances applies to all prior-ranking financial encumbrances which are Permitted Encumbrances;
 - (l) if the Borrower shall fail to perform any covenant on its part contained in this Agreement the Lender may, after giving concurrent notice to the Borrower, itself perform (but shall not be obliged to perform), any of such covenants provided no payment or expenditure of funds is required in connection therewith, or, if a default has occurred, and if any such covenant requires the payment or expenditure of money, it may make such payment or expenditure with its own funds, or with money borrowed by or advanced to it for such purpose; all sums so

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expended or advanced shall be payable by the Borrower together with interest thereon which shall accrue, until paid, at the interest rate applicable to the Loan from the date of such expenditure or advance until repayment but no such performance or payment shall be deemed to relieve the Borrower from any default hereunder;

- (m) the Borrower shall encumber or cause to be encumbered in favour of the Lender, as part of the Security, all additional improvements, licenses, easements and rights of way which, in any way or manner, it shall hereafter acquire in connection with the Property, and the Borrower shall make or cause to be made all requisite registrations required by this Agreement with respect thereto; any and all times the Borrower will do, execute, acknowledge and deliver or will cause to be done, executed, acknowledged and delivered all and every such further acts, deeds and assurances in law as the Lender shall reasonably require, for the purpose of giving the Lender a valid encumbrance of the nature herein specified upon all such property (subject only to Permitted Encumbrances) for the better encumbering unto the Lender all and singular the lands and premises, and property encumbered under the Security, or intended so to be or which the Borrower may hereafter become bound to encumber or cause to be encumbered in favour of the Lender;
- (n) so long as the Loan or any portion thereof remains outstanding the Borrower shall not cancel or materially amend any material Property agreements without the Lender's consent;
- (o) the Borrower shall give prompt notice to the Lender upon the occurrence of any default or any Event of Default or any event, circumstance or matter which may reasonably be expected to have a material adverse effect on the financial condition of the Borrower and/or the Property; the Borrower shall not create, assume, incur or suffer to exist any security interest in or upon any of its undertakings, properties, rights or assets secured by the Security except for Permitted Encumbrances;
- (p) upon two (2) Business Days' prior written notice or at any time in an emergency as reasonably determined by the Lender, the Borrower shall permit the Lender to have reasonable access at all reasonable times and from time to time, to the Property and to all related records (including records pertaining to the Borrower), and shall permit the Lender, acting reasonably, to make copies of and abstracts from such records;
- (q) the Borrower shall give to the Lender prompt written notice of any material adverse change in the condition of the business, financial or otherwise, of the Borrower;
- (r) the Borrower shall give to the Lender prompt written notice of all actions, suits, litigation or other proceeding commenced or threatened against the Borrower and/or in respect of the Property;

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- (s) the Borrower shall obtain and maintain during the Term the following Property insurance coverage:
 - (i) fire insurance with extended coverage for all other risks and perils in, representing an amount equal to 100% of the gross replacement cost of all buildings and landlord improvements located on the Property, without deduction for foundations or footings; the proceeds payable under such policy shall be payable to the Lender as mortgage creditor, pursuant to a standard mortgage clause approved by the Insurance Bureau of Canada;
 - (ii) broad form boiler insurance with coverage on all electrical equipment, mechanical equipment and pressure vessels; such policy shall contain a standard mortgage clause approved by the Canadian Boiler and Machinery Underwriters Association, or an equivalent clause, with proceeds payable thereunder to the Lender as mortgage creditor;
 - (iii) general liability insurance covering damages in an amount of not less than \$5,000,000.00 per occurrence;
 - (iv) environmental liability and remediation insurance covering damages in an amount of not less than \$5,000,000.00 per occurrence; such coverage shall include third party pollution liability claims and first party on-site remediation expenses; and
 - (v) such other insurance as shall be requested by the Lender, acting reasonably;
- (t) the Borrower shall deliver to the Lender, within one hundred and twenty (120) days following the Borrower's fiscal year, unaudited financial statements in respect of the Property and unaudited financial statements in respect of the Borrower, prepared internally by a qualified person in accordance with generally accepted accounting principles, consistent with prior years, and shall include all appropriate documents, explanatory notes and additional information; in addition to the above financial statements, the Borrower covenants to provide to the Lender, from time to time, upon request, any further financial information then still undisclosed and reasonably required, pertaining to the Property and/or the Borrower; the Lender reserves the right to disclose to third parties any financial information concerning the Property and/or the Borrower, provided that such third parties shall be limited to potential assignees of part or all of the Loan, the Lender's auditors, the Lender's solicitors, the Lender's bankers, the Lender's other advisors and persons to whom such information is ordinarily disclosed in a mortgage securitization or mortgage syndication;
- (u) the Borrower covenants to develop and construct and/or cause the development and construction of the Property in accordance with the delivered plans and specifications using only new materials and not Hazardous Substances, without defect in construction, installation and/or materials;

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- (v) the Borrower covenants not to materially amend the delivered plans and specifications or fail to construct in accordance with the delivered plans and specifications without the Lender's prior written consent, which consent shall not be unreasonably withheld;
- (w) the Borrower shall pay, regardless of whether any part of the Loan shall be advanced, all reasonable third party costs, fees and expenses incurred by the Lender in connection with the transaction hereunder including, without limitation:
 - (i) all costs incurred in connection with a survey, an appraisal, an engineering review, an architectural review, an environmental review, other professional consultant review, a credit review, a lease review and an insurance review;
 - (ii) all legal fees and disbursements of the Lender's solicitors; and
 - (iii) all registration, recording and filing fees and transfer and mortgage taxes; and
- (x) the Borrower shall not sell, transfer, lease, license or otherwise convey an interest in the Property or any part thereof, save and except as contemplated for the staging and completion of the Project or to an entity approved by the Lender, in its sole, absolute and unfettered discretion.

15. **Events of Default**

Events of Default ("Events of Default") shall be as follows:

- (a) if the Borrower fails to pay interest, principal or other amount owing hereunder on a due date during the Term; or
- (b) if the Borrower fails to pay all principal on the Maturity Date; or
- (c) if the Borrower fails to pay, or cause to be paid, taxes, rates, levies, duties, public utility charges and assessments, general and special, ordinary and extraordinary, of any nature or kind whatsoever, including local improvement taxes, which shall be levied, assessed or imposed upon the Property or any part thereof, or upon the Borrower, on account thereof and any such default shall continue either for a period of five (5) Business Days after written notice to the Borrower from the Lender or for such shorter period as would, if continued, render the Property, or any part thereof, liable to forfeiture or sale; or
- (d) if the Borrower creates, permits or suffers to exist, any encumbrance against the Property or any part thereof, other than Permitted Encumbrances and, in the case of encumbrances which have not been created by the Borrower, the same continue to exist for a period of ten (10) days after written notice thereof has been given to the Borrower by the Lender or for such shorter period as would, if continued, render the Property or any part thereof, liable to forfeiture or sale; or

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- (e) if any representation or warranty in any of the Loan Documents or any financial statements delivered pursuant thereto, is (or, at the time it was given or repeated, was) false or erroneous and such false or erroneous condition shall continue for a period of ten (10) days following the Borrower's receipt of written notice thereof from the Lender; or
- (f) if the Borrower shall fail to comply with any covenant/agreement in any of the Loan Documents and such non-compliance shall continue for a period of ten (10) days following the Borrower's receipt of written notice thereof from the Lender; or
- (g) if any material provision in the Loan Documents shall for any reason cease to be valid, binding and enforceable in accordance with its terms or the Borrower shall so assert in writing; or any security interest created under any of the Loan Documents shall cease to be a valid and perfected security interest having the priority in any of the collateral purported to be covered thereby; or
- (h) if the Borrower does, or fails to do, anything which would entitle an insurer to cancel or not renew a policy of insurance on the Property required hereunder which is not rectified within fifteen (15) days following the Borrower becoming aware of such entitlement to cancel or not renew, and in any event not later than ten (10) days prior to the termination or expiry of such policy, or if any policy of insurance is cancelled, expires or terminates and is not replaced in accordance with the requirements of this Agreement; or
- (i) if all or part of the Property is expropriated; or
- (j) if one or more final judgments for the payment of money (which is not covered by insurance) shall be rendered against the Borrower; or
- (k) if any writ, attachment, execution, enforcement, sequestration, extent, distress or any other similar process shall become enforceable against the Borrower, or if a distress or any analogous process is levied against any properties or assets of the Borrower; or
- (l) if the Borrower shall suspend or cease or threaten to suspend or cease its business; or
- (m) if the Borrower shall breach any law which results in a notice or control order or cancellation of any license or certificate or approval that results in any material disruption of the business at the Property or that could reasonably be expected to have a material adverse effect on the Security, the repayment of the Loan, the Lender's rights under the Loan Documents, the Property or the business operations, prospect or condition of the Borrower (financial or otherwise); or
- (n) if any environmental order is issued by any public authority against the Property and such environmental order has not been satisfied or discharged within the

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shorter of time allowed for in such environmental order and within thirty (30) days after the date such environmental order was received by the Borrower; or

- (o) if the Borrower shall admit its inability to pay its debts generally as they become due or otherwise acknowledges its insolvency or if an order shall be made or an effective resolution passed for the winding up of such entity or if such entity shall make an assignment for the benefit of its creditors or if a receiver or a liquidator or a trustee in bankruptcy of such entity shall be appointed or if such entity shall make a proposal to its creditors under a bankruptcy act including, without limitation, the *Companies' Creditors Arrangement Act* (Canada); or
- (p) if any proceeding is instituted for the winding up of the Borrower or a petition in bankruptcy be presented against such entity under a bankruptcy act and if in either case such proceeding or petition shall not have been dismissed or withdrawn within twenty (20) days of the commencement of the proceeding or petition; or
- (q) if ownership control of the Borrower shall be transferred without the Lender's approval, which approval may be withheld in the Lender's sole, absolute and unfettered discretion.

16. **Postponement and Subordination & Partial Discharges**

The Lender covenants and agrees as follows:

- (a) to postpone and subordinate the Loan Documents in favour of First-Ranking Construction Loan Security and to enter into such standstill agreements as shall be reasonable in the circumstances;
- (b) to postpone and subordinate the Loan Documents in favour of each non-financial encumbrance which is reasonable for a development such as the Project and which individually does not materially adversely affect the market value of the Property (including, without limitation, encumbrances pertaining to condominium deposits, roads, sidewalks, easements, rights-of-way, subdivision agreements, site plan control agreements, development agreements, cost-sharing agreements, encroachment agreements, zoning/use laws, utility licences, utility easements, Crown patent reservations and restrictive covenants);
- (c) to discharge the Loan Documents in respect of any part of the Property which is not material to the Project and/or the market value of the Property or which is required by any governmental authority, without requirement for payment or prepayment of any part of the Loan;
- (d) to provide partial discharges of the Loan Documents in respect of all Project condominium unit sales to third parties and in respect of all Project office/retail/parking component sales to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the First-Ranking Construction Loan Security and then to pay down other Project trade creditors; and

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- (e) to enter into a non-disturbance agreement, upon request, with any Project office/retail/parking component tenant; such non-disturbance agreement shall provide for the tenant's postponement and subordination of its lease in favour of the Loan Documents and the tenant's agreement to attorn to the Lender and its successors and assigns upon an Event of Default.

17. **General**

- (a) If the Borrower shall be comprised of more than one person/entity, then such persons/entities shall be jointly and severally liable for all of the obligations of the Borrower pursuant to this Agreement.
- (b) All notices, directions, service, correspondence and communications ("Notice") between the parties hereunder shall be in writing and delivered, sent by prepaid registered mail or electronically communicated by telecopier; delivered Notices shall be deemed to have been delivered on the day of delivery, if delivered at or before 5:00 p.m. (Toronto time) on a Business Day, or on the next Business Day if delivered after that time; Notices sent by prepaid registered mail shall be deemed to have been received on the third (3rd) Business Day following the date of mailing (notwithstanding the date of actual receipt and the fact that it may not have then been received), except in the event of interruption of postal service during which period Notices shall not be mailed; Notices electronically communicated by telecopier shall be deemed to have been delivered on the day of communication with confirmation of transmission, if communicated at or before 5:00 p.m. (Toronto time), or on the next Business Day if communicated after that time; any party may provide Notice of a change of its address and/or telefax number, provided that the Notice is communicated in accordance with this Subsection 17(b).
- (c) The Borrower shall not assign its rights and obligations pursuant to this Agreement, in whole or in part, without the Lender's prior written consent, which consent may be withheld in the Lender's sole, absolute and unfettered discretion.
- (d) The Lender shall be entitled to assign all or part of its right, title and interest pursuant to this Agreement to one or more assignees, by way of simple assignment, syndication, securitization and/or other method of assignment.
- (e) All Loan Documents shall be governed by and interpreted in accordance with the laws in effect within the Province of Ontario.
- (f) The terms and conditions contained in this Agreement are inserted for the exclusive benefit of the Lender and may be waived, in whole or in part, by the Lender at any time or times. In the event of inconsistency or conflict between the provisions of this Agreement and the provisions of the Security, this Agreement shall prevail to the extent of such inconsistency or conflict.

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- (g) This Agreement and the Loan Documents constitute the entire agreement between the parties hereto pertaining to the subject-matter hereof and supersede all prior agreements, negotiations, understandings and discussions, whether written or oral.
- (h) If any obligation contained in this Agreement or any other Loan Document or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement or such Loan Document and the application of such obligation to persons or circumstances other than those to whom/which it is held invalid or unenforceable, shall not be affected thereby and each obligation contained in this Agreement and each other Loan Document shall be separately valid and enforceable to the fullest extent permitted by law.
- (i) All amendments of this Agreement and any other Loan Document shall be in writing.
- (j) Time shall be of the essence of this Agreement and each other Loan Document.
- (k) This Agreement and each other Loan Document shall enure to the benefit of and be binding upon the successors and permitted assigns of the Borrower and the successors and assigns of the Lender.
- (l) Words importing the singular number only shall include the plural, and vice versa, and words importing the masculine gender shall include the feminine gender and words importing persons shall include firms and corporations, and vice versa. Similarly, all references to any party or parties herein shall be read with such changes in number as the context or reference may require. References to any statute herein includes such statute as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.
- (m) In the event that any day on which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the first Business Day thereafter.
- (n) Any legal action or proceeding with respect to this Agreement shall be brought in the courts of the Province of Ontario and such courts shall have exclusive jurisdiction to deal with all matters relating to the interpretation of, or enforcement of rights under all Loan Documents and each of the parties hereto hereby irrevocably attorns to the jurisdiction of such courts.
- (o) Unless specifically otherwise provided herein, all references to dollar amounts herein or other money amounts herein are expressed in terms of lawful money of Canada.
- (p) The Borrower shall, at all times during the Term and for a period of two (2) years thereafter, maintain as confidential this Agreement and all related matters, except as required under law and except as disclosed to advisors and/or employees (who shall be bound by the same obligation).

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- (q) The failure of any party hereto to insist upon the strict performance of any provision of this Agreement or to exercise any right or remedy contained herein, shall not be construed as a waiver or relinquishment of such provision/right/remedy, which provision/right/remedy shall remain in full force and effect.
- (r) This Agreement may be executed in counterparts.
- (s) If the Borrower shall sell, transfer, lease, license or otherwise convey an interest in the Property or any part thereof in contravention of Subsection 14(x) hereof, or if the Borrower shall mortgage or otherwise encumber an interest in the Property or any part thereof in contravention of this Agreement, then the Lender may, in its sole, absolute and unfettered discretion, demand immediate repayment of the Loan principal in full together with all accrued interest and all other amounts due hereunder.
- (t) Notwithstanding any other provision hereof, in the event that, for any reason whatsoever, less than the principal amount of \$69,000,000.00 set out in Subsection 1(g) hereof is arranged for ultimate advance to the Borrower, then the Lender may, in its sole, absolute and unfettered discretion, agree to arrange a financing of the shortfall through an additional loan from a third party lender or agree to finance the shortfall itself by way of additional loan. Such additional loan shall rank in priority to the Loan and the Loan Documents and rank behind the First-Ranking Construction Loan Security, and the parties agree to execute and deliver all reasonable documentation to reflect such priority/ranking. Such additional loan shall provide for usual cost-to-complete advances and be secured by all usual security/documentation.

Sorrenti Law Professional Corporation In Trust for
the Lender **[Lender]**

Per: _____

Name:
Title:

Per: _____

Name:
Title:

We have the authority to bind the Corporation.

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FCF Old Market Lane 2013 Inc. [Borrower]

Per:

Name:

Title:

Per:



Name: Vince Petrozza

Title:

We have the authority to bind the Corporation.

SCHEDULE "A" TO LOAN AGREEMENT
MUNICIPAL AND LEGAL DESCRIPTION OF THE PROPERTY

PINS: 03299-0102, 03299-0100, 03299-010

Municipal Address: 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON

Legal Description: P/T W1/2 LT 7 Con. Vaughan as in R543783; Vaughan

SCHEDULE "B" TO LOAN AGREEMENT

PROJECT BUDGET

SCHEDULE "C" TO LOAN AGREEMENT**Co-Tenancy Provisions – Sections 3.3 and 4.2**

- 3.3 Acknowledgments re Related Party Mortgages and Further Charges
- (a) On the Date of Closing with respect to the Existing Mortgages (except the First Mortgage) and prior to the registration of any Further Charge, the holders of such mortgages shall acknowledge, both at the date of registration of any such mortgage or mortgages, as well as and when required by the Construction Lender and any insurance company providing security for purchaser deposits that:
- (i) the Priority of Distributions set out in Section 4.2 and the provisions of Section 12.3(a)(i) herein shall supersede any priority entitlement or recovery pursuant to the registration of the applicable charges;
 - (ii) they shall provide all postponements, standstill agreements, partial discharges and all other documents required by the Construction Lender and any insurance company providing security for purchaser deposits;
 - (iii) in the event of a transfer of any such mortgage or mortgages, they shall require the transferee to execute all documents as required herein;
 - (iv) all interest payments during the terms of such mortgages shall be either capitalized or funded by the holders of such mortgages and there shall be no default under such mortgages for non-payment of same during the terms thereof. The Co-Tenancy shall have the right to approve the length of the term and any options to extend the terms under such mortgages such that it shall be sufficient to meet the construction, marketing and sale schedules of the Project. In the event the Project is completed and sales revenues are insufficient to repay all such mortgages in accordance with the waterfall of payments set forth in the Priority of Distributions herein, partial discharges shall be provided to the Nominee in order to complete sales of units in the Project, whether or not full or partial payment will be made under such mortgages;
 - (v) the holders of all such mortgage shall also acknowledge that notwithstanding the priority registration of their mortgages, provided the Project is completed by the Nominee, the holders of such mortgages shall only be entitled to repayment of their mortgages in accordance with the Priority of Distributions and Section 12.3(a)(i) as set forth herein; and
 - (vi) all such lenders shall acknowledge that their security and indebtedness shall be strictly non-recourse as against Cityzen, Dominus Construction (2005) Corporation and their successors and assigns.

4.2 Priority of Distributions

The cash surplus ("**Cash Surplus**") of the Co-Tenancy arising from the receipt of any Project revenue (save for approved reserves for warranty claims, deposit insurer security, unpaid Project Costs or other reserves approved by the Co-Tenancy) shall be distributed to the Members, as and when funds become available for distribution, in the priority and manner as follows (the "**Priority of Distributions**"), no distribution being made in any category set forth below unless and until the preceding category has been satisfied in full, unless the Members otherwise agree in writing:

- (a) firstly, to the Construction Lender for the repayment of the Construction Loan;
- (b) secondly, unpaid Project Costs including the construction and development management fees herein set out (such amounts not funded by the Construction Lender) including any Excess Loans;
- (c) thirdly, any unpaid fees owing under the Project Management Agreement;
- (d) fourthly, to repay Cityzen Excess Loan(s) (if any) plus default interest;
- (e) fifthly, to Fortress or third party lenders comprising the Existing Mortgages or Further Charges up to an amount of \$6,500,000.00 including interest on account of the Maximum Land Mortgages Amount;
- (f) sixthly, to repay Related Party Mortgages or equity advances by Fortress with respect to approved Project Costs (only principal amounts and no interest or fees or Priority Advance Distributions or Incremental Environmental Costs);
- (g) seventhly, the balance, if any, to the extent such balance represents the net profits (as determined by the Project accountants using GAAP) of the Co-Tenancy but exclusive of any fees, or interest on such fees or Priority Advance Distributions paid as a result of Fortress arranging any of the Existing Mortgages or Further Charges, to the extent the total owing for same is greater than \$6,500,000.00 (the "**Actual Profit**"), shall, be distributed as follows:

With respect to the amount of Actual Profit that is less than up to the Approved Profit Target:

Fortress: 75%
Cityzen: 25%

With respect to the amount of Actual Profit that exceeds the Approved Profit Target:

Fortress: 60%
Cityzen: 40%

For clarity, all loan fees charged by Fortress or related parties as well as any interest costs or Priority Advance Distribution included in or on the Existing Charges and the Further Charges or any Incremental Environmental Costs, as well as the Land Transfer Tax paid as a result of the purchase price exceeding

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\$6,500,000.00, if any, shall be paid by Fortress and shall not be charged to the Project or constitute a Project Cost;

Notwithstanding the foregoing, 25% or 40% of the Total Incremental Environmental Costs funded by the Construction Lender, if any and as the case may be, should be deducted from the Actual Profit payable to Fortress and paid to Cityzen.

Investment Authority – Form 9D

To: **Sorrenti Law Professional Corp.**
Mortgage Administrator/Solicitor
 3300 Highway #7, Suite 310
 Vaughn, Ontario, L4K 4M3
Attention: Derek Sorrenti
 416 619 5453 EXT 400

I, [REDACTED] hereby instruct you to act on my behalf, on my mortgage investment of \$ [REDACTED] the details, conditions and disclosures of which are set below.

A. Details about the investment:

1. Name and Address of the Borrower: FCF Old Market Lane 2013 Inc.
1-25 Brodie Drive
Richmond Hill, Ontario L4B 3K7
2. Municipal Address and Legal Description of real property (ies)
Against which my investment will Be Secured: 177, 185, 197 Woodbridge Ave,
Woodbridge, ON
P/T W1/2 LT 7 Con. Vaughan as in R543783; Vaughan
3. Type of property: **Residential construction development.**
4. Principal amount of mortgage or charge: **\$7,700,000.00–** (increasing to a Maximum of \$19,000,000.00) See Paragraph 20.
5. Amount of loan to be advanced: \$ [REDACTED]
6. Rank of mortgage or charge: **Third ranking Charge/Mortgage (The ranking of the mortgage can change at any time over the duration of the term) – subject to paragraph 21, below.**
7. Encumbrances: **First ranking Charges/Mortgages will be registered in priority of this mortgage investment.**
1st mortgages \$3,400,000.00 Firm Capital

2nd Mortgage \$4,000,000.00 to Pahuja Law, In Trust to be assigned to BDMC
Please refer to paragraph 21, below for details on future postponements to construction financing and development agreements.
8. My investment of \$ [REDACTED] represents [REDACTED] % of the total loan to the borrower.

9. I am satisfied that the approximate and current market value of the property against which my investment has been secured is **\$17,400,000.00**. The means taken to determine said value was a Letter of Opinion authored by Legacy Global Mercantile Partners Ltd. Dated January 13, 2016.
10. Including my investment and mortgage amount of \$ [REDACTED] the percentage of the value of the property including this mortgage and all prior ranking charges is currently: [REDACTED] %.
11. 5 years ("Term"), commenced on October 4, 2013, and ending on the final day of such period (the "Maturity Date"). At the Borrower's option (to be exercised in writing not less than three (3) months prior to the Maturity Date), the Borrower may extend the Maturity Date for up to twelve (12) additional months. THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.
12. The due date of the loan is October 4th 2018. (Extension date October 4th, 2019) THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.
13. The loan is amortized over **0 years**- the mortgage is an interest only mortgage.
14. The interest rate is **8.00%** calculated annually, not in advance.
15. Particulars of amounts and due dates (monthly, quarterly, etc.) of payments of interest only: Payments made **Quarterly**, in the amount of **\$900.00**, payments commenced on **January 4th, 2014** the initial payment being pro rata from the date of advance up to the date of the predetermined initial payment.
16. Particulars and amounts of any bonus or holdback or any other special terms:
 - a) See above for interest details; AND
17. In addition to the above and not later than thirty (30) days following substantial completion of the Project, the Borrower shall pay to the Lender a Project completion fee/deferred lender fee ("**Deferred Lender Fee**") as set forth below and which fees shall be secured under the Security:
 - a) in the event that the Project Profit is less than \$6,000,000.00 there will be no Deferred Lender Fee;
 - b) in the event that the Project Profit exceeds \$ 6,000,000.01 and is less than \$8,000,000.00 the Deferred Lender Fee would be equal to 3% of the Loan principal;

- c) in the event that the Project Profit is greater than \$8,000,000.01 the Deferred Lender Fee shall be equal to 6% of the Loan principal.

Project Profit shall be determined in accordance with GAAP upon completion of the Project and 95% residential sales having been completed with a projection on the value of the remaining 5%, but shall exclude all fees payable to Fortress pursuant to the Development Agreement. The Lender's Security shall remain in full force and effect until the project completion fee is paid in full.

18. The mortgage is to be registered in the name of: **"Sorrenti Law Professional Corporation" (the "TRUSTEE") FOR [REDACTED]**
19. After completion of the mortgage transaction, a collection or administration fee of per instalment is payable by the borrower: N/A
20. If the mortgage is held in trust, the dates on which payments are made by the trustee to me are: **Quarterly**, commenced on **January 4th, 2014**. Interest payments cannot be disbursed to the Lender by the Trustee until funds are received by the Trustee/Administrator from the Borrower (on behalf of non-registered investors), or by the Trustee trust company from the Borrower (on behalf of registered investors.)
21. I understand, covenant and agree to the following postponement, standstill and subordination terms:
- a. to postpone and subordinate the loan documents in favour of first-ranking construction loan security and to enter into such standstill agreements as shall be reasonable in the circumstances;
 - b. to postpone and subordinate the loan documents in favour of each non-financial encumbrance, as well as any deposit insurer security, if applicable, which is reasonable for a development such as the project and which individually does not materially adversely affect the market value of the property (including, without limitation, encumbrances pertaining to roads, sidewalks, easements, rights-of-way, condominium agreements, site plan control agreements, development agreements, cost-sharing agreements, encroachment agreements, zoning/use laws, utility licences, utility easements, crown patent reservations and restrictive covenants);
 - c. to discharge the loan documents in respect of any part of the property which is not material to the project and/or the market value of the property or which is required by any governmental authority, without requirement for payment or prepayment of any part of the loan; and
 - d. if applicable, to provide partial discharges of the loan documents in respect of all project unit sales to third parties and in respect of all project sales to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the first-ranking construction loan security and then to pay down other project trade creditors.

22. I understand that the mortgage shall be initially registered indicating a face value of \$7,700,000.00 and that from time to time the loan amount will increase upon the completion of certain development and construction milestones on the Property by the Borrower. It is anticipated that the loan amount shall be amended during the term of the loan to a **MAXIMUM OF \$19,000,000.00**.
23. I understand the Charge/Mortgage in which I have an interest is currently a **Third** ranking Charge/Mortgage against the Property and the position of the mortgage can change over the duration of the term.

I understand that a first and Second ranking Charge/Mortgage against the Property in favour of the first & second mortgagees, registered with a face value of \$3,400,000.00 and \$4,000,000.00, the new third ranking mortgage will postpone its position to these and construction financing.

I understand that during the course of this investment the Borrower anticipates obtaining additional construction financing for the Property which is expected to take priority to the first Charge/Mortgage, changing the position of this Charge/Mortgage.

I hereby understand, consent and agree that other charges/mortgages and/or development agreements may be registered in priority to the third charge/mortgage against the property during the term of my investment in the third charge/mortgage.

I hereby confirm that I understand and agree that the third charge/mortgage in which I have invested shall be required to postpone and standstill to prior charges/mortgages to a maximum of \$100,000,000.00, plus a 10% contingency if required, in priority financing. I understand that priority financing is expected to periodically increase over the term of the second charge/mortgage and that such postponements shall be permitted and shall occur on the basis of cost consultant reports prepared on behalf of the borrower.

I understand that additional priority financing may be required if there is a shortfall pursuant to the terms of the charge/mortgage in which I am investing. In the event of a shortfall in the funding of this charge/mortgage I understand and agree that other charges/mortgages may be registered against the property to fund and secure any such shortfall.

I understand that the trustees of this charge/mortgage may requested to execute such documents as may be required to permit the registration of certain agreements for the purpose of facilitating the planned development of the property, examples of such agreements include, but are not limited to: site plans, development plans, planning act requirements, mezzanine financing, insurance on deposits, or condominium registration documents.

I hereby confirm that I am aware of and understand that I have provided the trustee of my charge/mortgage with my irrevocable consent to execute any required documents as a condition of my participation in this charge/mortgage.

I hereby re-confirm my consent and agreement to postpone and standstill to any required financing or development agreements, and to partially discharge my charge/mortgage, without payment, with respect to any lands secured by the charge/mortgage which may be required for public or quasi-public purposes.

I understand and agree to provide partial discharges of this security for sales of all condominium units or the office/retail/parking components, without charge, provided the proceeds of the sale are used to pay off the First-Ranking and Second-Ranking Construction Loan Security and/or trade creditors.

I understand that save and except as outlined herein, there shall be no other postponements or encumbrances which affect the position or security afforded by the current Third charge/mortgage.

I agree to provide partial discharges of the Loan Documents in respect of all Project lot/unit sales to third parties and in respect of all Project office/retail/parking component sales to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the First-Ranking Construction Loan Security and then to pay down other Project trade creditors

* 

 Initials

24. Particulars of disbursements made for legal, brokerage or other fees or commissions in connection with the placement of the loan, including the names of recipients and amounts paid by the borrower, are:

Estimate	Paid to	Purpose
\$1350.00	Building & Development Mortgages Canada Inc.	Co-Brokerage Fee - H/O
\$100.00	Sorrenti Law Professional Corporation	Administrator Fee – Per client/year
\$2812.50	BDMC (FMP)	Brokerage Fee
\$3150.00	BDMC (FMP-LLD)	Referral Fee
\$900.00	FMP Mortgage Investments Inc. (paid Via Building & Development Mortgages Canada Inc.)	Point of Sale expenses including, but not limited to, the following: maintenance of front office support for operations, staff, insurance, promotion, events, training, due diligence, pro forma reviews, reporting and compliance and legal
\$1237.50	FMP Mortgage Investments Inc. (paid Via Building & Development Mortgages Canada Inc.)	For the provision of back office functionality including, but not limited to, customer service operations, project reviews, compliance, dedicated project & market communications, client updates, events, ongoing training, continuing education, site visits, reviews of Deloitte Special Audited Procedure Reports.
\$10,000.00	Sorrenti Law Professional Corporation	Legal Fees (Project commencement)

1. *(Instructions: Clauses (a) and (b) below refer to information which each investor may require from the lawyer. If you require the information referred to in a clause, initial the clause.)*

The information which I require from you as my administrator before the administrator for the trustee completes the transaction and makes the advance is as follows:

- (a) If my investment will be in a position other than a first mortgage or charge, details, including amounts, of all existing encumbrances outstanding:

1st Ranking Mortgage Charge registered with the first mortgagees with a face values totaling \$3,400,000.00 Firm Capital
 2nd Ranking Mortgage Charge registered with the first mortgagees with a face values totaling \$4,000,000.00.
 This mortgage is up to date and in good standing; subject to future postponements as per paragraph 21, above.

- (b) If the mortgage or charge is a syndicated mortgage, and is prospectus exempt:

We have acknowledged and accept that you as my administrator express no opinion as to the necessity for a validity of a prospectus.

2. (Instructions: Each investor to complete and initial clause (a) and, if clause (a) is answered in the affirmative, to complete (if necessary) and initial clause (b) and to initial clause (c).)

- (a) I instruct you to obtain a current and independent appraisal of the subject property and provide it to me before you complete this mortgage transaction. **No.**

* 

Initials

- (b) The appraisal is to be paid by me or. **Not Applicable**

- (c) I have been advised and accept that you as my administrator do not express an opinion as to the validity of the appraisal/valuation/letter of opinion.

* 

Initials

Disclosure:

1. I acknowledge being advised by you as the Lender’s Independent Legal Advice (ILA), or as an independent lawyer to the transaction, that to the best of our knowledge the Independent Legal Advice Solicitor does not have any direct or indirect interest in the Borrower. (Specify yes or no and indicate the date on which the lawyer advised you that he or she has no direct or indirect in the borrower or borrowers.)

No independent legal advice has a direct or indirect interest in the Borrower.

 
 * Investor to insert current date here

(If the lawyer has an interest in the borrower or borrowers, he or she is unable to act for you on this loan (Rule 2.06 of the Rules of Professional Conduct).

WARNINGS:

1. You are cautioned that the responsibility for assessing the financial merits of the mortgage investment rests with YOU the investor or investors at all times. The above-named lawyer’s responsibility is limited to ensuring the mortgage is legally registered on title in accordance with the investor’s or investors’ instructions. The lawyer is not permitted to personally guarantee the obligations of the Borrower or Borrowers nor the suitability of the Property as security for the mortgage investment.

2. Any loss you may suffer on this mortgage investment will not be insured under the lawyer’s professional liability policy if the lawyer has acted as a mortgage broker or has helped to arrange it.*)

Investor’s Signature: * _____

[Redacted Signature]

I hereby acknowledge receipt of a copy of this form prior to the advance of funds to or on behalf of the Borrower. I further acknowledge having read and understood the above warnings.

Signature: _____
Name: _____
Address: _____

[Redacted Signature]

I, _____, did witness
WITNESS NAME

[Redacted Witness Name]

_____ on the _____ day of _____
INVESTOR NAME (day) (month)

20____ in the Town/City of _____, in the Province of _____
(town/city) (province)

sign the document entitled “Investment Authority – Form 9D”.

Signature/Seal of Notary Public/Commissioner

Phone: _____

Name:
Address:

Fax:
Email:

Appendix 12:
Sorrenti Transfer

Instrument No. YR2539744 registered September 8, 2016 being a Transfer of the OML 3 Charge to Building & Development Mortgages Canada Inc.

PIN 03299-0100 (LT)

PIN 03299-0101 (LT)

PIN 03299-0102 (LT)

Properties

PIN 03299 – 0100 LT
Description PT W1/2 LT 7 CON 7 VAUGHAN PT 1 65R11983; CITY OF VAUGHAN
Address 197 WOODBRIDGE AVENUE
 VAUGHAN

PIN 03299 – 0101 LT
Description PT W1/2 LT 7 CON 7 VAUGHAN AS IN WB5781; CITY OF VAUGHAN
Address 185 WOODBRIDGE AVENUE
 VAUGHAN

PIN 03299 – 0102 LT
Description PT W1/2 LT 7 CON 7 VAUGHAN AS IN R543783; CITY OF VAUGHAN
Address 177 WOODBRIDGE AVENUE
 VAUGHAN

Source Instruments

<i>Registration No.</i>	<i>Date</i>	<i>Type of Instrument</i>
YR2083558	2014 01 14	Charge/Mortgage

Transferor(s)

This transfer of charge affects all lands that the charge is against which are outstanding.

Name SORRENTI LAW PROFESSIONAL CORPORATION
Address for Service 3300 Highway 7, Suite 310
 Vaughan, Ontario
 L4K 4M3

I, Derek Sorrenti, have the authority to bind the corporation.
 This document is not authorized under Power of Attorney by this party.

Name OLYMPIA TRUST COMPANY
Address for Service 125 9th Avenue SE, Suite 2200
 Calgary, Alberta
 T2G 0P6

I, Anna Le, have the authority to bind the corporation.
 This document is not authorized under Power of Attorney by this party.

Transferee(s)

<i>Name</i>	<i>Capacity</i>	<i>Share</i>
BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	Trustee	69.27%
<i>Address for Service</i> 25A Brodie Drive, Unit 1 Richmond Hill, ON L4B 3K7		
OLYMPIA TRUST COMPANY	Trustee	30.73%
<i>Address for Service</i> 125 9th Avenue SE, Suite 2200 Calgary, Alberta T2G 0P6		

Statements

The chargee transfers the selected charge for 7,700,000.00

The chargee transfers all of the selected charge.

Schedule: Building & Development Mortgages Canada Inc. assumes all rights, responsibilities and obligations of Sorrenti Law Professional Corporation in connection with the Charge/Mortgage registered as Instrument Number YR2083558.

This document relates to registration no.(s)YR2466528, YR2083558, YR2084099, YR2084108, YR2095324, YR2141232, YR2173102, YR2193468, YR2083558, YR2205958, YR2220495, YR2469338, YR2330977, YR2382497, YR2398688, YR2411607, YR2411840, YR2452198, YR2466528, YR2480707, YR2512725

Appendix 13:**OML Hybrid Loan Agreement, OML Hybrid PASA and Form 9D (anonymized)**

LOAN AGREEMENT

THIS AGREEMENT made as of the 16th day of April, 2016.

B E T W E E N:

Building & Development Mortgages Canada Inc., in Trust, as Lender

(the "Lender"), as lender and Trustee

- and -

Old Market Lane Inc., or it's assignees

(the "Borrower"), as borrower

WHEREAS the Lender agreed to advance the Loan to the Borrower;

AND WHEREAS the Loan will be secured by a pari passu third-ranking mortgage against the Property. This ranking will change from time to time over the duration of the Term;

AND WHEREAS the balance of the terms of the Loan are set out in this Agreement;

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Defined Terms**

Unless expressly stated otherwise, the following capitalized terms shall have the meanings indicated:

- (a) **"Agreement"** means this agreement and all amendments thereof;
- (b) **"Borrower"** means Old Market Lane Inc. b(or it's assignees) and its successors and permitted assigns;
- (c) **"Business Day"** means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario;
- (d) **"Conditions Precedent"** shall have the meaning attributed thereto in Section 13 hereof;
- (e) **"Default"** means an event or condition, the occurrence of which would, with the lapse of time or the giving of notice, or both, become an Event of Default;
- (f) **"Events of Default"** shall have the meaning attributed thereto in Section 16 hereof;

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- (g) **“First-Ranking Construction Loan Security”** means one or more secured Project construction loans, in favour of arm’s-length Lender(s), in an aggregate principal amount not to exceed \$100,000,000.00 (plus a 10% contingency), ranking *pari passu* or with stated priority between them (in the case of multiple loans), with usual cost-to-complete advances and related security/documentation;
- (h) **“Force Majeure”** means any prevention, delay, stoppage or interruption in the Borrower’s performance of any obligation by reason of strike, lock-out, war or acts of military authority, rebellion or civil commotion, major disruption to financial markets, adverse economic conditions, a material equity request by the Project’s Construction Lender(s), fire or explosion, flood, wind, water, earthquake, act of God, or other casualty or by reason of being unable to obtain the material, goods, equipment, services, utility or labour required to enable it to fulfil such obligation or by reason of any Applicable Law or by reason of not being able to obtain permission or authority required thereby, or by reason of any other cause beyond its control or not wholly or mainly within its control, whether of the foregoing character or not, and not caused by its default or its act of commission or omission and not avoidable by the exercise of reasonable effort or foresight by it;
- (i) **“Hazardous Substances”** means all contaminants, pollutants, substances and 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 and/or materials are or shall become prohibited, controlled or regulated pursuant to environmental laws and shall include “contaminants”, “dangerous substances”, “hazardous materials”, “hazardous substances”, “hazardous wastes”, “industrial wastes”, “liquid wastes”, “pollutants” and “toxic substances”, all as defined in, referred to and/or contemplated in environmental laws, but exclude all cleaning and related products used in the usual operation and maintenance of property;
- (j) **“Lender”** means **Building & Development Mortgages Canada Inc., In Trust**, for and on behalf of certain persons/entities, and their respective successors and assigns;
- (k) **“Loan”** shall have the meaning attributed thereto in Section 3 hereof;
- (l) **“Loan Documents”** means this Agreement, the Security, all other documentation delivered in connection with the Loan and all amendments thereof;
- (m) **“LTV”** means a ratio equal to the total amount of the Loan outstanding at such time and all prior ranking charges and liens, including the First-Ranking Construction Loan Security, divided by the fair market value of the Project as determined from time to time by the Lender, acting reasonably;
- (n) **“Maturity Date”** shall have the meaning attributed thereto in Section 4 hereof;
- (o) **“Notice”** shall have the meaning attributed thereto in Subsection 16(b) hereof;

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- (p) **“Permitted Encumbrances”** means the First-Ranking Construction Loan Security and such financial and non-financial encumbrances as shall be reasonable for a development such as the Project (including, without limitation, encumbrances pertaining to purchaser’s deposits, required Bonds, easements, rights-of-way, subdivision agreements, site plan control agreements, development agreements, cost-sharing agreements, encroachment agreements, zoning/use laws, utility licences, utility easements, Crown patent reservations and restrictive covenants);
- (q) **“Project”** means the development to be constructed on the Property, comprised of 177, 185 & 197 Woodbridge Avenue, Woodbridge, Ontario.
- (r) **“Project Cost Consultant”** means an arm’s-length cost consultant approved by the Lender, acting reasonably;
- (s) **“Property”** means the lands municipally and legally described in Schedule “A” attached hereto, together with all personal, intellectual and other property and all contracts relating thereto or associated therewith;
- (t) **“Security”** shall have the meaning attributed thereto in Section 11 hereof;
- (u) **“Realized Profit”** shall mean the actual profit generated by the Project in respect of the development of the Property after substantial completion thereof and sale of all of the residential units and all other components of the Project, calculated in accordance with the same methodology utilized by the Project in the calculation of the Pro Forma Profit;
- (v) **“Term”** shall have the meaning attributed thereto in Section 4 hereof.

2. Schedules

The following are the schedules attached to and forming part of this Agreement:

- (a) Schedule “A” - Municipal and Legal Description of the Property
- (b) Schedule “B” – Project Budget/Proforma
- (c) Schedule “C” – Priority of Repayment/Waterfall

3. Loan

The loan to be provided by the Lender to the Borrower herein shall consist of a non-revolving loan in an amount up to and collectively with the Pari Passu 3rd mortgage, never exceeding \$19,000,000.00 (the “**Loan**”), to provide for the Borrower’s Project Equity, land costs, hard costs and soft costs to be incurred prior to the construction financing of the Project.

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4. **Term**

2.5 years, commencing on the date of advance of the Loan and ending on the final day of such period (the "Maturity Date"). At the Borrower's option (to be exercised in writing not less than three (3) months prior to the Maturity Date), the Borrower may extend the Maturity Date for twelve (12) additional months (the "1st Extension").

The first advance (the "First Advance") shall be made on or about the date which is the earlier of sixty (60) days following the execution of this Loan Agreement and fifteen (15) days following delivery of the Security and satisfaction of all Conditions Precedent and otherwise as per the funding schedule attached to the Development Agreement as Schedule "C".

5. **Funding Schedule:**

The Loan will be initially advanced with an LTV of 87% (based on a face value of \$1,600,000.00) and will increase and decrease over the duration of the term.

Future tranches: Advances will continue to be made into the Project in stages, collectively with the Pari Passu mortgage, never exceeding \$19,000,000.00, of advances (including interest capitalization) has been reached. Updated valuations/appraisals will be provided by the Borrower to the administrator over the duration of the term to substantiate increased property value and to ensure 100% LTV is not exceeded at any time.

6. **Interest Rate**

Interest on the Loan shall be paid upfront for the first year and shall accrue at the rate of eight percent (8%) per annum for the remainder of the term.

7. **Interest Payment**

Interest on the Loan shall be paid in advance for the first year, the initial payment being pro rata from the date of advance up to the one year anniversary of the original registered charge. Interest for the remainder of the term, calculated annually, not in advance, shall accrue and be payable at the maturity date.

Should the Borrower choose to exercise the 12 month term extension, interest will continue to accrue at Eight Percent (8%) per annum (calculated annually, not in advance) and the final year of accrued interest will be paid in full with all other accrued interest at the time of the "extended" maturity.

Method of Payment of Monthly Interest Payment

The Borrower shall subscribe to the "pre-authorized payment" system to allow monthly instalments to be withdrawn automatically. – N/A

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8. Prepayment/Repayment of Principal

The Borrower may prepay the Loan, in whole or in part, at any time or times without notice, bonus or penalty.

The outstanding Loan principal together with accrued interest and all other amounts due and owing, if any, pursuant to the Loan Documents shall become wholly due and payable on the earlier of the Maturity Date (Or Term Extension, if applicable) and the date of full disposition of the entire Project.

9. Security

The security for the Loan (the "Security") shall be as follows, registered in a priority position that is subject only to the Permitted Encumbrances:

- (a) Pari Passu Third-Ranking Property mortgage executed by the Borrower in a principal amount equal to a maximum of and collectively with the Pari Passu 3rd mortgage, never exceeding \$19,000,000.00, which mortgage shall remain registered until the date which is the later of the date of payment of the final amount owing to the Lender pursuant to this Agreement and the date which is sixty (60) days following full disposition of the entire Project;
- (b) if the Property beneficial owner is not the Borrower, then a direction, acknowledgement and security agreement executed by the beneficial owner, Borrower and Lender, including confirmation of a pari passu second-ranking charge of the beneficial owner's interest in the Property and a direction by the beneficial owner to the Borrower to execute the Loan Documents to which the Borrower is a party, such direction to be duly acknowledged by the Borrower;
- (c) a pari passu third-ranking general security agreement executed by the Borrower charging the personal property and undertaking of the Borrower, present and future, used in connection with the Property including, without limitation, all accounts, equipment, goods, inventory, chattel paper, documents of title, intangibles, securities and proceeds therefrom;
- (d) an indemnity from the Borrower indemnifying the Lender from and against all losses, demands, claims, liabilities, costs, actions, penalties, obligations and expenses imposed upon the Lender and arising in connection with the Lender being a Lender hereunder in respect of the Property and all assets relating thereto, save and except in respect of matters arising and caused by the gross negligence of the Lender during any period in which the Lender shall be in exclusive possession of the Property and/or arising and caused after a completed foreclosure proceeding or sale proceeding pursuant to the Security and/or caused by the gross negligence of the Lender; such indemnity shall survive the full payment and discharge of the Loan; and

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- (c) such further and/or other security relating to the Property as the Lender shall reasonably require, provided that no security, or notice thereof, shall be registered against title to the Property for such further and/or other security.

10. **Deliveries to Lender**

The Borrower shall deliver, within five (5) Business Days following execution of this Agreement, a copy of each of the following:

- (a) the Property parcel pages, existing registered encumbrances and existing surveys thereof; RECEIVED
- (b) the appraisal and professional reports described in Section 13 hereof; RECEIVED
- (c) the financial statements and Project Budget described in Section 13 hereof; RECEIVED
- (d) the off-title search results and corporate/personal search results described in Section 13 hereof; RECEIVED
- (e) evidence of reasonable Property insurance coverage (when available); RECEIVED
- (f) all material Project contracts (when available); RECEIVED
- (g) all Project plans and specifications and all periodic Project development reports issued to date; RECEIVED
- (h) all architectural and engineering documents together with the draft plan, zoning analysis, traffic study, sanitary study, water study, storm-water study, utility study and road study (all when available); and
- (i) all other information and/or documentation in respect of the Project, the Property and/or the Borrower as the Lender may request, acting reasonably.

11. **Conditions Precedent to Advance**

The initial advance pursuant to the Loan shall be conditional upon the Lender's receipt of the following (the "Conditions Precedent"), which Conditions Precedent are inserted for the sole benefit of the Lender and may be waived by the Lender, in whole or in part:

- (a) the Security, duly registered and perfected (as the case may be) together with all other documentation relating to the Loan, the Property, the Project and the Borrower required by the Lender, acting reasonably;
- (b) title insurance from a title insurance company approved by the Lender, acting reasonably;

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- (c) an opinion from the Borrower's counsel confirming the subsistence, power and authority of the Borrower, the due authorization, execution, delivery and enforceability (subject to customary assumptions and qualifications) of the Loan Documents and such other matters as the Lender shall reasonably require;
- (d) a mortgage statement from the holder of all Permitted Encumbrance(s) confirming that the relevant loan is in good standing; RECEIVED
- (e) a certificate from the Borrower certifying no Event of Default or default, the truth of all representations and warranties, the satisfaction of all conditions and compliance with all covenants set out in the Loan Documents;
- (f) an appraisal indicating a property land value with approvals in place of not less than \$17,400,000.00; RECEIVED
- (g) satisfactory environmental report, geotechnical report, mechanical engineering report, structural engineering report and zoning report (all when available), prepared by the appropriate professionals (with reliance letters in favour of the Lender);
- (h) confirmation that realty taxes that are due and payable have been paid to the relevant date; RECEIVED
- (i) satisfactory financial statements in respect of the Borrower and a satisfactory summary of Borrower share ownership;
- (j) satisfactory Project Budget, duly approved by the Project Cost Consultant (when available) and the Lender; RECEIVED
- (k) satisfactory insurance coverage for the Project, duly approved by the Lender's insurance consultant (if any) and the Lender; RECEIVED
- (l) all relevant consents pursuant to the Loan Documents; and
- (m) a certificate from the Borrower certifying that there have been no material changes affecting the Property and/or the Borrower since the later of the date of execution of this Agreement and the immediately prior advance hereunder.

12. Representations and Warranties

The Borrower represents and warrants as follows:

- (a) the Borrower is duly constituted and validly subsisting under the laws of the Province of Manitoba, has all necessary power and authority to own its properties and assets and to carry on its business as now conducted and is duly licensed or registered or otherwise qualified in all jurisdictions wherein the nature of its assets or the business transacted by it makes such licensing, registration or qualification necessary;

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- (b) the Borrower has full power and capacity to enter into, deliver and perform its obligations under the Loan Documents to which it is a party and all other instruments contemplated hereunder to which it is a party;
- (c) the execution and delivery and performance by the Borrower of the Loan Documents to which it is a party and all obligations contained herein and therein, and all other instruments contemplated hereunder to which it is a party and the consummation of the transactions contemplated hereby and thereby:
 - (i) have been duly authorized by all necessary action;
 - (ii) do not and will not conflict with, result in any breach or violation of, or constitute a default under any such party's constating documents or by-laws, or any applicable laws or judgment presently in effect and applicable to it, or of any material Project agreement to which any such party is bound;
 - (iii) do not (except for the Security) result in or require the creation of any security interest or encumbrance upon or with respect to which the Borrower is bound; and
 - (iv) do not require the consent or approval (other than those consents or approvals already obtained and copies of which have been delivered to the Lender and other than those consents which, if not obtained, would not adversely affect any material component of the Security, the value of the Property or the operation of the business of the Borrower at the Property) of, or registration or filing with (except as contemplated herein), any other person, including any public authority;
- (d) the Borrower has provided to the Lender accurate and complete copies of all material Project agreements;
- (e) each Loan Document and all other instruments contemplated hereunder are, or when executed and delivered to the Lender will be, legal, valid and binding obligations enforceable against the Borrower in accordance with their respective terms, subject to the limitations with respect to enforcement imposed under law in connection with bankruptcy, insolvency, liquidation, reorganization and other laws affecting the enforcement of creditors' rights generally and subject to the availability of equitable remedies which are only available in the discretion of the court from which they are sought;
- (f) the Security granted by the Borrower constitutes an assignment, a fixed and specific mortgage and charge, a floating charge and security on its undertaking, property and assets purported to be assigned, mortgaged, charged or subjected to the Security thereby and ranks in priority to all other security interests upon such undertaking, property and assets other than Permitted Encumbrances;

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- (g) subject to any limitations stated therein, all financial statements which were furnished to the Lender hereunder, fairly present the financial condition of the relevant party as at the date thereof, and no material adverse change has occurred since the date of such delivery;
- (h) no event has occurred and is continuing, and no circumstance exists which has not been waived, which:
 - (i) constitutes a default or Event of Default; or
 - (ii) constitutes a default or event of default under any Permitted Encumbrance which may materially adversely affect the value of the Property or impair the validity or enforceability of the Security;
- (i) the Borrower is not in violation of any terms of its constating documents or, in any material respect, of any applicable law (including, without limitation, all building, zoning, planning, development, construction, construction lien, environmental and occupation laws);
- (j) the Borrower owns all intellectual property used and/or to be used in connection with the Project, free from all encumbrances;
- (k) the Borrower is solvent and will not become insolvent after giving effect to the transactions contemplated in this Agreement;
- (l)
 - (i) each material Project agreement is in full force and effect and has not been modified or supplemented;
 - (ii) the Borrower is not in default under any material Project agreement, and to the knowledge of the Borrower, no other party to any such material Project agreement is in default of any material obligation thereunder; and in each such case, no event has occurred which, with the giving of notice or the lapse of time, or both, would constitute such a default; and
 - (iii) no notice or other written or oral communication has been provided by or to the Borrower to or from any party under any material Project agreement which alleges that, as of the date hereof, either a default exists or with the passage of time will exist under the provisions of such material Project agreement;
- (m) the Property has full and free legally enforceable access to and from public highways, which access is sufficient for the purposes of the normal operation of the Property and the Borrower has no knowledge of any fact or condition that would result in the interruption or termination of such access;
- (n) all public utilities required for the normal operation of the Property are or will be accessible to the Property through adjoining public highways or if they pass

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through adjoining private land, do so in accordance with valid registered easements and are sufficient for the operation of the Property;

- (o) no legal action or other proceeding has been instituted or, to the best of its knowledge after making diligent enquiry, threatened against the Borrower; the Borrower has not received notice of any work orders, deficiency notices or notices of violation pertaining to the Property;
- (p) to the best of its knowledge, the Property complies with all laws regarding environmental matters; save and except as already disclosed by the Borrower, the Property has never been used as a land fill site or to store Hazardous Substances either above or below ground, in storage tanks or otherwise; no Hazardous Substances have been released into the environment or deposited, discharged, placed or disposed of at, on or near the Property; and there are no outstanding directions, writs, injunctions, orders or judgments issued pursuant to environmental laws in respect of the Property;
- (q) the Borrower has good, valid and marketable title to the Property, free from all encumbrances except the Permitted Encumbrances; and
- (r) the Borrower has filed or caused to be filed in a timely manner all tax returns, reports and declarations required to be filed under law; all information in such tax returns, reports and declarations is complete and accurate in all material respects; the Borrower has paid all taxes due and payable.

13. **Covenants**

The Borrower covenants and agrees as follows:

- (a) to defend its right, title and interest in the Property for the benefit of the Lender against all claims and demands whatsoever of all persons/entities, other than holders of Permitted Encumbrances;
- (b) not to create or suffer to exist any encumbrance of any nature (whether prior to, *pari passu* with or subordinate to the Security) upon the Property or any part thereof other than Permitted Encumbrances;
- (c) to preserve, repair and keep in good order, condition and repair or cause to be preserved, repaired and kept in good order, condition and repair the Property and all appurtenances thereto and all properties and assets used in connection with the Property, to the standard of a prudent owner of similar property, and the Borrower shall carry on and conduct, or cause to be carried on and conducted, the operation of the Property in a prudent manner so as to preserve and protect the Property; the Borrower shall keep the Property in good condition and order, or shall cause the Property to be put and kept in good condition and order, and shall promptly make, or cause to be made, all needed repairs and replacements thereto, including such repairs and replacements to implement the recommendations which a prudent owner of a property similar to the Property would deem appropriate or necessary

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from time to time; the Borrower shall at any and all reasonable times, upon the prior written request of the Lender, permit the Lender to inspect the Property or any part thereof during normal business hours;

- (d) to carry on or cause to be carried on and conduct or cause to be conducted the operation of the Property in a prudent manner so as not to materially impair the value of the Property or the use of the Property for the purpose for which it is held;
- (e) to duly and punctually pay, or cause to be paid, to the Lender the principal of and interest accrued on the Loan, any premium of the Loan and all other amounts owing in respect of the Loan on the dates, at the places, in the monies, and in the manner mentioned herein and in the Loan, in strict conformity therewith, and shall faithfully observe and perform all the conditions, covenants and requirements of all Loan Documents;
- (f) to pay or cause to be paid, on or before the due date thereof, all taxes, rates, levies, duties and assessments, general and special, ordinary and extraordinary, of every nature and kind whatsoever, including local improvement taxes which shall be levied, assessed or imposed upon the Property or any part thereof, or upon the Borrower or any other person on account thereof, and shall from time to time as the same are paid, at the written request of the Lender produce for inspection by the Lender, satisfactory evidence that all such taxes have been paid when due (together with such further supporting information or documentation reasonably required by the Lender);
- (g) the Lender shall register or file or cause to be registered or filed the Security (or a notice or financing statement in respect hereof) without delay at every public office of record in the Province of Ontario and in any other jurisdiction where the Borrower is "located" for the purposes of perfecting a security interest pursuant to the *Personal Property Security Act* (Ontario), in each case, where the registration or filing thereof is, in the opinion of the Lender, required to preserve, perfect and/or protect the security hereby or thereby created; and the Borrower shall renew or cause to be renewed any such registrations or filings as may be necessary from time to time to so preserve, perfect and/or protect the security hereby or thereby created, provided that no registration, or notice thereof, shall be registered against title to the Property;
- (h) the Borrower shall fully and effectively maintain and keep the Security or cause the Security to be maintained and kept as valid and effective security at all times while the Loan is outstanding and shall not permit or suffer the registration of any lien whatsoever, whether of workmen, builders, contractors, engineers, architects or suppliers of material, upon or in respect of any of the Property, which would rank subsequent to, *pari passu* with or prior to the security of the Security other than Permitted Encumbrances;
- (i) the Borrower shall cooperate fully with the Lender with respect to any proceedings before any court, board or other public authority which may in any

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way materially and adversely affect the rights of the Lender hereunder or any rights obtained by it under any of the Loan Documents and, in connection therewith, shall keep the Lender fully advised of the status of all such proceedings and shall allow the Lender and its counsel at its election to attend meetings in respect of such proceedings; the Borrower shall cooperate with the Lender in obtaining for the Lender the benefits of any insurance proceeds lawfully or equitably payable in connection with the Property to the extent that the Lender is entitled to the same under the terms of the Loan Documents, and the Lender shall be reimbursed for any reasonable actual out-of-pocket expenses incurred in connection therewith (including, without limitation, legal fees and disbursements, and the payment by the Borrower of the expense of an appraisal on behalf of the Lender in case of a fire or other casualty affecting the Property or any part thereof) out of such insurance proceeds;

- (j) the Borrower shall cause the Property to be used only for retail/commercial and residential purposes and for no other purpose without the Lender's prior written consent, which consent shall not be unreasonably withheld, and the Borrower will do, observe and perform or cause to be done, observed and performed, in all material respects, all of its obligations and all matters and things necessary or expedient to be done, observed or performed under or by virtue of all applicable laws;
- (k) the Borrower shall do, observe and perform, or cause to be done, observed and performed, in all material respects, all of the obligations and things necessary or expedient to be done, observed or performed by the Borrower under or by virtue of all Permitted Encumbrances and material Project agreements; for greater certainty, this covenant regarding Permitted Encumbrances applies to all prior-ranking financial encumbrances which are Permitted Encumbrances;
- (l) if the Borrower shall fail to perform any covenant on its part contained in this Agreement and does not remedy such failure within the prescribed period of time following receipt of written notice from the Lender, the Lender may, after giving concurrent written notice to the Borrower, itself perform (but shall not be obliged to perform), any of such covenants provided no payment or expenditure of funds is required in connection therewith, or, if a default has occurred and is not remedied within the prescribed period of time following receipt of written notice from the Lender, and if any such covenant requires the payment or expenditure of money, the Lender may make such payment or expenditure with its own funds, or with money borrowed by or advanced to it for such purpose; all sums so expended or advanced shall be payable by the Borrower together with interest thereon which shall accrue, until paid, at the interest rate applicable to the Loan from the date of such expenditure or advance until repayment but no such performance or payment shall be deemed to relieve the Borrower from any default hereunder;
- (m) the Borrower shall, on a best efforts basis, encumber or cause to be encumbered in favour of the Lender, as part of the Security, all additional improvements, licenses, easements and rights of way which, in any way or manner, it shall hereafter acquire in connection with the Property, and the Borrower shall, on a

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best efforts basis, make or cause to be made all requisite registrations required by this Agreement with respect thereto; any and all times the Borrower will on a best efforts basis, do, execute, acknowledge and deliver or will cause to be done, executed, acknowledged and delivered all and every such further acts, deeds and assurances in law as the Lender shall reasonably require, for the purpose of giving the Lender a valid encumbrance of the nature herein specified upon all such property (subject only to Permitted Encumbrances) for the better encumbering unto the Lender all and singular the lands and premises, and property encumbered under the Security, or intended so to be or which the Borrower may hereafter become bound to encumber or cause to be encumbered in favour of the Lender;

- (n) so long as the Loan or any portion thereof remains outstanding the Borrower shall not cancel or materially amend any material Property agreements without the Lender's prior written consent, which consent shall not be unreasonably withheld;
- (o) the Borrower shall give prompt notice to the Lender upon the occurrence of any default or any Event of Default or any event, circumstance or matter which may reasonably be expected to have a material adverse effect on the financial condition of the Borrower and/or the Property; the Borrower shall not, without the Lender's prior written consent, create, assume, incur or suffer to exist any security interest in or upon any of its undertakings, properties, rights or assets secured by the Security except for Permitted Encumbrances;
- (p) upon two (2) Business Days' prior written notice or at any time in an emergency as reasonably determined by the Lender, the Borrower shall permit the Lender at the Lender's sole cost and expense, to have reasonable access at all reasonable times and from time to time, to the Property and to all related records (including records pertaining to the Borrower), and shall permit the Lender, acting reasonably, to make copies of and abstracts from such records;
- (q) the Borrower shall give to the Lender prompt written notice of any material adverse change in the condition of the business, financial or otherwise, of the Borrower;
- (r) the Borrower shall give to the Lender prompt written notice of all actions, suits, litigation or other proceeding commenced or threatened against the Borrower and/or in respect of the Property;
- (s) the Borrower shall obtain and maintain during the term the following Property insurance coverage:
 - (i) builder's all risk insurance for all of the houses and services to be installed in the Project in amounts and on terms acceptable to the Lender and its counsel, and its insurance consultants, if required by the Lender;

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- (ii) general liability insurance covering damages in the amount of not less than \$2,000,000.00 per occurrence and including the Lender as an additional named insured; and
 - (iii) such other insurance as shall be requested by the Lender, acting reasonably.
- (t) the Borrower shall deliver to the Lender, within one hundred and twenty (120) days following the Borrower's fiscal year, unaudited financial statements in respect of the Property and unaudited financial statements in respect of the Borrower, prepared internally by a qualified person in accordance with generally accepted accounting principles, consistent with prior years, and shall include all appropriate documents, explanatory notes and additional information; in addition to the above financial statements, the Borrower covenants to provide to the Lender, from time to time, upon request, any further financial information then still undisclosed and reasonably required, pertaining to the Property and/or the Borrower; the Lender reserves the right to disclose to third parties any financial information concerning the Property and/or the Borrower, provided that such third parties shall be limited to potential assignees of part or all of the Loan, the Lender's auditors, the Lender's solicitors, the Lender's bankers, the Lender's other advisors and persons to whom such information is ordinarily disclosed in a mortgage securitization or mortgage syndication;
- (u) the Borrower covenants to develop and construct and/or cause the development and construction of the Property in accordance with the delivered plans and specifications using only new materials and not Hazardous Substances, without defect in construction, installation and/or materials;
- (v) the Borrower covenants not to materially amend the delivered plans and specifications or fail to construct in accordance with the delivered plans and specifications without the Lender's prior written consent, which consent shall not be unreasonably withheld;
- (w) the Borrower shall pay, regardless of whether any part of the Loan shall be advanced, all reasonable third party costs, fees and expenses incurred by the Lender in connection with the transaction hereunder including, without limitation:
 - (i) all costs incurred in connection with a survey, an appraisal, an engineering review, an architectural review, an environmental review, other professional consultant review, a credit review, a lease review and an insurance review;
 - (ii) all legal fees and disbursements of the Lender's solicitors; and
 - (iii) all registration, recording and filing fees and transfer and mortgage taxes; and
- (x) the Borrower shall not sell, transfer, lease, license or otherwise convey an interest in the Property or any part thereof, save and except as contemplated for the

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staging and completion of the Project or to an entity approved by the Lender, in its sole, absolute and unfettered discretion.

14. **Events of Default**

Events of Default (“Events of Default”) shall be as follows:

- (a) if the Borrower fails to pay interest, principal or any other amount owing hereunder on a due date during the Term; or
- (b) if the Borrower fails to pay all principal on the Maturity Date; (or Term Extension if applicable); or
- (c) if the Borrower fails to pay when due, or cause to be paid when due, taxes, rates, levies, duties, public utility charges and assessments, general and special, ordinary and extraordinary, of any nature or kind whatsoever, including local improvement taxes, which shall be levied, assessed or imposed upon the Property or any part thereof, or upon the Borrower, on account thereof and any such default shall continue either for a period of five (5) Business Days after written notice to the Borrower from the Lender or for such shorter period as would, if continued, render the Property, or any part thereof, liable to forfeiture or sale; or
- (d) if the Borrower creates, permits or suffers to exist, any encumbrance against the Property or any part thereof, other than Permitted Encumbrances and, in the case of encumbrances which have not been created by the Borrower, the same continue to exist for a period of ten (10) days after written notice thereof has been given to the Borrower by the Lender or for such shorter period as would, if continued, render the Property or any part thereof, liable to forfeiture or sale; or
- (e) if any representation or warranty in any of the Loan Documents or any financial statements delivered pursuant thereto, is (or, at the time it was given or repeated, was) false or erroneous and such false or erroneous condition shall continue for a period of ten (10) days following the Borrower’s receipt of written notice thereof from the Lender; or
- (f) if the Borrower shall fail to comply with any covenant/agreement in any of the Loan Documents and such non-compliance shall continue for a period of ten (10) days following the Borrower’s receipt of written notice thereof from the Lender; or
- (g) if any material provision in the Loan Documents shall for any reason cease to be valid, binding and enforceable in accordance with its terms or the Borrower shall so assert in writing; or any security interest created under any of the Loan Documents shall cease to be a valid and perfected security interest having the priority in any of the collateral purported to be covered thereby; or
- (h) if the Borrower does, or fails to do, anything which would entitle an insurer to cancel or not renew a policy of insurance on the Property required hereunder

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which is not rectified within fifteen (15) days following the Borrower becoming aware of such entitlement to cancel or not renew, and in any event not later than ten (10) days prior to the termination or expiry of such policy, or if any policy of insurance is cancelled, expires or terminates and is not replaced in accordance with the requirements of this Agreement; or

- (i) if all or any material part of the Property is expropriated; or
- (j) if one or more final judgments for the payment of money (which is not covered by insurance) shall be rendered against, and unpaid by, the Borrower; or
- (k) if any writ, attachment, execution, enforcement, sequestration, extent, distress or any other similar process shall become enforceable against the Borrower, or if a distress or any analogous process is levied against any properties or assets of the Borrower; or
- (l) if the Borrower shall suspend or cease or threaten to suspend or cease its business; or
- (m) if the Borrower shall breach any law which results in a notice or control order or cancellation of any license or certificate or approval that results in any material disruption of the business at the Property or that could reasonably be expected to have a material adverse effect on the Security, the repayment of the Loan, the Lender's rights under the Loan Documents, the Property or the business operations, prospect or condition of the Borrower (financial or otherwise); or
- (n) if any environmental order is issued by any public authority against the Property and such environmental order has not been satisfied or discharged within the shorter of time allowed for in such environmental order and within thirty (30) days after the date such environmental order was received by the Borrower; or
- (o) if the Borrower shall admit its inability to pay its debts generally as they become due or otherwise acknowledges its insolvency or if an order shall be made or an effective resolution passed for the winding up of such entity or if such entity shall make an assignment for the benefit of its creditors or if a receiver or a liquidator or a trustee in bankruptcy of such entity shall be appointed or if such entity shall make a proposal to its creditors under a bankruptcy act including, without limitation, the *Companies' Creditors Arrangement Act* (Canada); or
- (p) if any proceeding is instituted for the winding up of the Borrower or a petition in bankruptcy be presented against such entity under a bankruptcy act and if in either case such proceeding or petition shall not have been dismissed or withdrawn within twenty (20) days of the commencement of the proceeding or petition; or
- (q) if ownership control of the Borrower shall be transferred without the Lender's approval, which approval may be withheld in the Lender's sole, absolute and unfettered discretion.

15. **Postponement, Standstill and Subordination**

The Lender covenants and agrees as follows:

- (a) to postpone, standstill and subordinate the Loan Documents in favour of the First-Ranking Construction Loan Security and to enter into such postponement, subordination and/or standstill agreements as shall be reasonably required by the First-Ranking Construction Loan lender(s)
- (b) to postpone, standstill and subordinate the Loan Documents in favour of each financial and non-financial encumbrance which is reasonable for a development such as the Project and which individually does not materially adversely affect the market value of the Property (including, without limitation, encumbrances pertaining to purchaser's deposits, required Bond, roads, sidewalks, easements, rights-of-way, subdivision agreements, site plan control agreements, development agreements, cost-sharing agreements, encroachment agreements, zoning/use laws, utility licences, utility easements, Crown patent reservations and restrictive covenants), subject to payment of the Lender's counsel's reasonable fees, and to enter into such postponement, subordination and/or standstill agreements as shall be reasonably required by the holders of the respective financial or non-financial encumbrances;
- (c) to discharge the Loan Documents in respect of any part of the Property which is not material to the Project and/or the market value of the Property or which is required by any municipal or governmental authority, without requirement for payment or prepayment of any part of the Loan, subject to payment of the Lender's counsel's reasonable fees; and
- (d) to provide partial discharges of the Loan Documents in respect of all Project residential sales to third parties and the sale of the other components of the Project to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the First-Ranking Construction Loan Security and the Second-Ranking financial security and then to pay down the Loan, subject to payment of Lenders counsel's reasonable fees.

16. **General**

- (a) If the Borrower shall be comprised of more than one person/entity, then such persons/entities shall be jointly and severally liable for all of the obligations of the Borrower pursuant to this Agreement.
- (b) All notices, directions, service, correspondence and communications (collectively "Notice") between the parties hereunder shall be in writing and delivered, sent by prepaid registered mail or electronically communicated by telecopier; delivered Notices shall be deemed to have been delivered on the day of delivery, if delivered at or before 5:00 p.m. (Toronto time) on a Business Day, or on the next Business Day if delivered after that time; Notices sent by prepaid registered mail shall be deemed to have been received on the third (3rd) Business Day following

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the date of mailing (notwithstanding the date of actual receipt and the fact that it may not have then been received), except in the event of interruption of postal service during which period Notices shall not be mailed; Notices electronically communicated by telecopier shall be deemed to have been delivered on the day of communication with confirmation of transmission, if communicated at or before 5:00 p.m. (Toronto time), or on the next Business Day if communicated after that time; any party may provide Notice of a change of its address and/or telefax number, provided that the Notice is communicated in accordance with this Subsection 16(b).

- (c) The Borrower shall not assign its rights and obligations pursuant to this Agreement, in whole or in part, without the Lender's prior written consent, which consent may be withheld in the Lender's sole, absolute and unfettered discretion.
- (d) The Lender shall be entitled to assign all or part of its right, title and interest pursuant to this Agreement to one or more assignees, by way of simple assignment, syndication, securitization and/or other method of assignment.
- (e) All Loan Documents shall be governed by and interpreted in accordance with the laws in effect within the Province of Ontario.
- (f) The terms and conditions contained in this Agreement are inserted for the exclusive benefit of the Lender and may be waived, in whole or in part, by the Lender at any time or times. In the event of inconsistency or conflict between the provisions of this Agreement and the provisions of the Security, this Agreement shall prevail to the extent of such inconsistency or conflict.
- (g) This Agreement and the Loan Documents constitute the entire agreement between the parties hereto pertaining to the subject-matter hereof and supersede all prior agreements, negotiations, understandings and discussions, whether written or oral.
- (h) If any obligation contained in this Agreement or any other Loan Document or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement or such Loan Document and the application of such obligation to persons or circumstances other than those to whom/which it is held invalid or unenforceable, shall not be affected thereby and each obligation contained in this Agreement and each other Loan Document shall be separately valid and enforceable to the fullest extent permitted by law.
- (i) All amendments of this Agreement and any other Loan Document shall be in writing.
- (j) Time shall be of the essence of this Agreement and each other Loan Document.
- (k) This Agreement and each other Loan Document shall enure to the benefit of and be binding upon the successors and permitted assigns of the Borrower and the successors and assigns of the Lender.

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- (l) Words importing the singular number only shall include the plural, and vice versa, and words importing the masculine gender shall include the feminine gender and words importing persons shall include firms and corporations, and vice versa. Similarly, all references to any party or parties herein shall be read with such changes in number as the context or reference may require. References to any statute herein includes such statute as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.
- (m) In the event that any day on which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the first Business Day thereafter.
- (n) Any legal action or proceeding with respect to this Agreement shall be brought in the courts of the Province of Ontario and such courts shall have exclusive jurisdiction to deal with all matters relating to the interpretation of, or enforcement of rights under all Loan Documents and each of the parties hereto hereby irrevocably attorns to the jurisdiction of such courts.
- (o) Unless specifically otherwise provided herein, all references to dollar amounts herein or other money amounts herein are expressed in terms of lawful money of Canada.
- (p) The Borrower shall, at all times during the Term and for a period of two (2) years thereafter, maintain as confidential this Agreement and all related matters, except as required under law and except as disclosed to advisors and/or employees (who shall be bound by the same obligation).
- (q) The failure of any party hereto to insist upon the strict performance of any provision of this Agreement or to exercise any right or remedy contained herein, shall not be construed as a waiver or relinquishment of such provision/right/remedy, which provision/right/remedy shall remain in full force and effect.
- (r) This Agreement may be executed in counterparts.
- (s) If the Borrower shall, without the Lender's prior written consent, sell, transfer, lease, license or otherwise convey an interest in the Property or any part thereof in contravention of Subsection 13(x) hereof, or if the Borrower shall, without the Lender's prior written consent, mortgage or otherwise encumber an interest in the Property or any part thereof in contravention of this Agreement, then the Lender may, in its sole, absolute and unfettered discretion, demand in writing the immediate repayment of the Loan principal in full together with all accrued interest and all other amounts due hereunder.
- (t) Notwithstanding any other provision hereof, in the event that, for any reason whatsoever, less than the principal amounts required to be advanced by the Lender herein to the Borrower are available, then the Lender may, in its sole, absolute and unfettered discretion, agree to arrange a financing of the shortfall

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through an additional loan from a third party lender or agree to finance the shortfall itself by way of additional loan.

Such additional loan shall rank in priority to the Loan and the Loan Documents and rank behind the First-Ranking Construction Loan Security and the Second-Ranking financial security, and the parties agree to execute and deliver all reasonable documentation to reflect such priority/ranking. Such additional loan shall provide for usual cost-to-complete advances and be secured by all usual security/documentation and such other conditions as the Lender may reasonably require, all of which the borrower agrees to execute. It shall provide for an interest rate and maturity date consistent with the provisions of this Loan Agreement and may be repaid from future advances made herein.

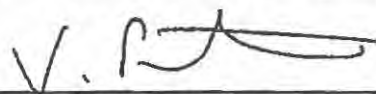
Building & Development Mortgages Canada Inc., In Trust

Per: 
 Name:
 Title:

Per: _____
 Name:
 Title:

We have the authority to bind the Corporation.

Old Market Lane Inc., or it's assignees

Per: 
 Name: Vince Petrozza
 Title: Vice President

Per: _____
 Name:
 Title:

We have the authority to bind the Corporation.

SCHEDULE "A" TO LOAN AGREEMENT**MUNICIPAL AND LEGAL DESCRIPTION OF THE PROPERTY**

PINS: 03299-0100, 03299-0101, 03299-0102

Municipal Address: 177, 185 & 197 Woodbridge Avenue, Woodbridge, ON

Legal Description: PT W1/2 LT 7 CON 7 VAUGHAN PT 1 65R11983; CITY OF VAUGHAN – PIN: 03299-0100 (LT); PT W1/2 LT 7 CON 7 VAUGHAN AS IN WB5781; CITY OF VAUGHAN – PIN: 03299-0101 (LT); PT W1/2 LT 7 CON 7 VAUGHAN AS IN R543783; CITY OF VAUGHAN – PIN: 03299-0102 (LT)

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SCHEDULE "B" TO LOAN AGREEMENT

PROJECT BUDGET / PROFORMA

See attached.

SCHEDULE "C" TO LOAN AGREEMENT**PRIORITY OF REPAYMENT THE "WATERFALL"**

1. Repayment of Senior Debt
2. Repayment of Equity plus paid and accrued interest to the charge, instrument # YR1763318 in favour of Building & Development Mortgages Canada Inc., in Trust and this charge provided by the Lender and the Borrower
3. Repayment of Equity plus paid and accrued interest to the charge, provided by the Lender and the Borrower on the charge, instrument # YR2083558 in favour of Sorrenti Law Professional Corporation, in Trust
4. Balance of profit to be split 50/50 between the Borrower and the Development Consultant

robapp2731788.5

PARTICIPATION AND SERVICING AGREEMENT

THIS AGREEMENT made as of the 4th day of April, 2016

B E T W E E N:

[REDACTED]

(hereinafter called "**Investor**")

OF THE FIRST PART

- and -

Sorrenti Law Professional Corporation, in Trust

(hereinafter called "**Sorrenti**")

OF THE SECOND PART

WHEREAS:

1. pursuant to the Loan Agreement, Sorrenti has agreed to provide the Borrower various loan facilities collectively with the Pari Passu 3rd mortgage, never exceeding \$19,000,000.00 (the "**Loan**") for the purposes of refinancing existing debt, and financing the development and the construction of residential homes on the Lands, to be secured by the Security Documents;
2. Investor has agreed to participate in the Loan to the extent of \$ [REDACTED] upon the terms and subject to the conditions of the Lender Acknowledgement & Consent dated April 4, 2016 (the "**MID/LAC**"); and
3. Investor has agreed that BDMC will administer the Investment on behalf of Investor in accordance with the terms and subject to the conditions of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT, in consideration of these presents and the covenants and agreements herein contained, the parties agree as follows:

ARTICLE 1.00 - INTERPRETATION

1.1 Defined Terms

The following words and phrases shall have the meanings attributed thereto when used in this Agreement:

"Borrower" means FCF Old Market Lane 2013 Inc.

"Force Majeure" shall mean any event or series of events beyond the control of the Borrower such as strikes, walkouts, labour troubles, inability to procure materials or services or construction financing, power failures, restrictive governmental laws or regulations or the orders or directions of any administrative board, governmental department, officer or other authority, riots, insurrections, war, sabotage, rebellion or acts of God, material changes or delays in market conditions affecting sales or closings, delays in obtaining governmental approvals, permits, rezoning or similar regulatory requirements, none of which is the fault of the Borrower.

"Investment" means the investment in the Loan of the Investor as set out in the MID/LAC and the 3rd recital hereof;

"Lands" means those lands more particularly described and charged pursuant to the Security Documents including without limitation all buildings, fixtures and improvements now or hereafter situate thereon and all easements, rights-of-way and other

similar rights appurtenant to or used in connection therewith;

“Loan” means the financing of the Project by Sorrenti to the Borrower to assist in the construction of Residential and commercial condo construction, on the Lands, in the maximum principal amount collectively with the Pari Passu 3rd mortgage, never exceeding \$19,000,000.00, on the terms and subject to the conditions set out in the Loan Agreement and includes without limitation all Principal, Interest, interest on overdue Interest, fees, expenses, charges and such other amounts owing by the Borrower from time to time to Sorrenti pursuant to the Loan Agreement or any of the Security Documents in respect of Loan;

“Loan Agreement” means the Loan Agreement dated April 4, 2016, between Sorrenti and the Borrower in respect of the Loan;

“Mortgaged Property” means:

- (a) the Lands;
- (b) all rights, privileges, advantages and benefits whatsoever arising pursuant to all agreements regarding the development of, and the construction of improvements on, the Lands;
- (c) all personal property presently or in the future owned or acquired by or on behalf of the Borrower and all proceeds and renewals thereof, accretions thereto and substitutions therefore which are used in connection with the Lands;
- (d) all other personal property of the Borrower securing the Facilities; and

“Participants” means Sorrenti and the Investor and other investors acquiring interests in the Loan and "Participant" means any one of them;

“Person” means any individual, company, corporation, partnership, firm, trust, sole proprietorship, government, government agency, authority or entity however designated or constituted;

“Principal” means the principal amount of the Loan and all Interest, interest on overdue Interest, fees, expenses, charges and other amount owing by the Borrower to Sorrenti from time to time which may be added thereto or become part thereof pursuant to the Loan Agreement or the Security Documents;

“Project” means a development being constructed at 177, 185 and 197 Woodbridge Avenue, Woodbridge, Ontario;

“Proportionate Share” means the proportionate share of each of the Participants in the Loan as stipulated in each MID/LAC entered into with each Participant;

“Security Documents” means:

- (e) all mortgages, charges, security agreements, instruments and documents executed and delivered by the Borrower to Sorrenti as security for the Facilities, from time to time, whether direct, indirect, primary or collateral, including without limitation any guarantees, charges, assignments and any other type of security agreement;
- (f) all policies of insurance relating to the Mortgaged Property as required under the Loan Agreement or under the Security Documents; and
- (g) all instruments and documents supplemental or ancillary to any of the foregoing.

Unless specifically defined herein, all capitalized terms shall have the meanings ascribed to them in the Loan Agreement.

- 1.2 **Applicable Law** This Agreement shall be interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 1.3 **Headings, etc.** 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 hereof.
- 1.4 **Singular, Plural and Gender** Words importing the singular include the plural thereof and vice versa and words importing gender include the masculine, feminine and neuter genders.

ARTICLE 2.00 - LOAN ORIGATION AND PARTICIPATION

- 2.1 **Entering into of Loan** Sorrenti shall be exclusively responsible for the implementation of the Loan in accordance with the provisions of the Loan Agreement and to obtain and administer the Security Documents and the processing of the Loan in accordance with the provisions of the Loan Agreement. In connection therewith, it shall perform and attend to all matters and things necessary to administer and service the Loan in accordance with normal lending practice and with the same degree of care and skill as a prudent lending institution would exercise for its own account including, without limitation, the following:
- (a) acquire, assemble, record and process all the necessary information, data, applications and other forms and reports in connection with the Loan;
 - (b) retain solicitors to perform and carry out all instructions and requirements necessary to complete the Loan including, without limitation, the requisite title searches, the preparation, execution and delivery of the Security Documents and the registration and filing of the Security Documents or notices thereof as may be required to ensure the priority of the Security Documents subject only to such encumbrances and other qualifications permitted by the Loan Agreement;
 - (c) ensure that the Borrower has made satisfactory arrangements for insurance as may be required by the Loan Agreement;
 - (d) make the Advances in accordance with normal mortgage practice out of funds to be provided by the Participants, the provisions of the Loan Agreement, the MID/LAC and the Construction Lien Act.
- 2.2 **Endorsement of Security Documents** All Security Documents shall be taken by Sorrenti in its name and such other trustees appointed by a Participant from time to time and shall hold the Investment as agent for the Participants according to their Proportionate Shares and upon and subject to the terms of this Agreement.

ARTICLE 3.00- SERVICING OF INVESTMENT

- 3.1 **Servicing Duties** Sorrenti shall hold, administer and service the Loan for the Investor and other Participants in accordance with normal lending practice and with the same degree of care and skill as a prudent lending institution would exercise for its own account and shall perform, without limiting the generality of the foregoing, the following duties:
- (a) make reasonable efforts to collect all payments due under the Loan, including without limitation, all Principal, Interest and interest on overdue Interest, taxes (if applicable), and any other monies or payments required by the Loan Agreement or the Security Documents;
 - (b) perform all necessary services with respect to the settlement of any loss under insurance policies in the event of damage to or destruction of the Mortgaged Property;
 - (c) settle with the Borrower and any expropriating authority the amount and disposition of any compensation payable in connection with any

- expropriation of any part of or any interest in the Mortgaged Property;
- (d) pay out of payments of Interest or other monies received for the borrower by Sorrenti:
 - (i) when necessary, insurance premiums, taxes and any other amounts which Sorrenti is authorized to pay on behalf of the Borrower under any of the Security Documents;
 - (ii) the reasonable fees and expenses of any experts retained by Sorrenti pursuant to section 3.2;
 - (iii) any other reasonable expenses necessary to protect or preserve the Mortgaged Property approved by Investor; and
 - (e) remit to Investor forthwith upon receipt, or as soon as is reasonably possible thereafter, the applicable pro rata portions of all payments on account of Principal received by Sorrenti (except to the extent any amount thereof has been solely funded by Sorrenti), together with a statement indicating the amount of each payment of Principal;
 - (f) remit to Investor on or before the 1st Business Day of each month all payments of its Proportionate Share of Interest out of the Interest received by Sorrenti from the Borrower during the previous month, less any payments authorized by paragraph 3.1(e), together with a statement indicating the amount of each payment received and the deductions therefrom. It is the intention of Sorrenti that payments of Interest will be due on the first day of each month except as otherwise provided by the Loan Agreement and the Security Documents. If payments of Interest are received by Sorrenti on any other day, the balances of such payments shall be remitted to Investor on or before the 1st Business Day following receipt of the payment; **N/A DUE TO UPFRONT PAYMENT AND ACCRUAL.**
 - (g) maintain proper records and accounts showing all receipts and disbursements in respect of the Investment and permit Investor, its auditors and agents, on reasonable notice to Sorrenti, to examine such records and accounts from time to time and provide such copies thereof as Investor may reasonably require at its expense relating to the Loan;
 - (h) generally attend to the performance of such other things as a prudent lending institution would normally perform if the Loan was for its own account exclusively as per the Loan Agreement and the MID/LAC including, inter alia, sign all postponements, standstill, subordination and partial discharges for any of the Security Documents as per the MID/LAC and the Loan Agreement, or generally, as may arise from time to time in order to protect the interest of the Investor in the Loan;
 - (i) in the event that Sorrenti, in its sole discretion, acting as approved Lender and administrator, determines that the Borrower, as a result of an act of *Force Majeure*, will not be able to complete the Project so as to repay the Loan on or before the maturity date on the Loan under the Loan Agreement (as it may be extended under the terms thereof), it shall have the authority to extend the term of the Loan for such period of time, not exceeding **24** months so as to permit the Borrower to complete the Project and its sales, and thereby repay the Loan. Sorrenti shall have the right to do so on one or more occasions but for a period of time not exceeding 24 months as aforesaid, without the consent of the investor;
 - (j) give such notices to the Borrower and other Persons as Sorrenti may consider necessary;
 - (k) take all reasonable steps to enforce performance of the obligations of the Borrower under the Loan or the Security Documents or to protect or

preserve the Mortgaged Property;

- (l) if Sorrenti considers it necessary to accelerate repayment of the Loan and realize upon the Mortgaged Property including, inter alia, the appointment of a receiver, the exercise of powers of distress, the institution of foreclosure or power of sale proceedings and/or any other legal or equitable remedy. Sorrenti shall not be required to consult with Investor prior to determining what action Sorrenti should take to enforce its rights and exercise its remedies under the Security Documents or otherwise. Sorrenti shall not be required to take any action (or refrain from taking any action) that would result in Sorrenti being in default of any covenant, term, provision or condition of this Agreement, the Loan Agreement or the Security Documents or any obligation imposed on it by law including, without limitation, the obligation to act in a reasonable manner and in accordance with normal lending practice and with the same degree of care and skill as a prudent lending institution would exercise for its own account; and
- (m) to fulfill all obligations of the Investor under the Loan and any Loan arrangements including the MID/LAC relating to the execution of all necessary postponements, discharges, standstill agreements and other documentation consistent with the foregoing.

3.2 **Experts** To assist in administering the Investment and carrying out its duties hereunder, Sorrenti may retain at the expense of the Borrower, or failing same, the Participants to be shared based on their respective Proportionate Shares, such solicitors, notaries, counsel, auditors, appraisers and other experts as Sorrenti may, acting reasonably.

3.3 **No Warranties or Representations** Sorrenti has given no warranty or representation with respect to the Investment and shall not be responsible for the observance or performance of any of the obligations of the Borrower or the Covenantors pursuant to the Loan Agreement or the Security Documents. Investor acknowledges that it has made its own decision to participate in the Investment without any inducement from or reliance upon Sorrenti with respect to the financial condition of the Borrower or the Covenantors or the sufficiency of the Mortgaged Property or the Security Documents.

3.4 **Duty of Care** Sorrenti shall not be liable for any error of judgment or any action taken or omitted to be taken by it under or in connection with this Agreement if it acts upon or relies on any advice received from any expert retained by Sorrenti pursuant to section 3.2 or otherwise acts in good faith.

3.5 **Consent of Investor**

- (a) Save as set out herein, Sorrenti shall not, without the prior written consent of Investor, acting reasonably, agree to any renewal or any material amendment, modification or waiver of any of the terms of the Loan Agreement, the Security Documents or any agreement or document relating thereto, nor consent to any action or failure to act by the Borrower or any other party, or exercise any rights that Sorrenti may have in respect thereof or any rights pursuant to Section 3.1(j) hereof;
- (b) If Sorrenti should request Investor's written consent to any of the action described in this paragraph and shall not receive Investor's consent or denial thereof in writing within ten (10) Business Days of the mailing, delivery or emailing of such request, Investor shall be deemed to have given its consent to such action; and
- (c) Notwithstanding anything contained herein, in the event that Sorrenti obtains the written consent or agreement of Investors holdings at least fifty-one percent (51%) of the amount of the Loan advanced from time-to-time to any renewal, or material amendment, modification or waiver of any of the terms (collectively, the "**Change**") of the Loan Agreement, the

Security Documents or any agreement or document relating thereto, the consent of all of the Investors shall be deemed to have been given to the Change and Sorrenti shall be deemed to be authorized to enter into any and all such agreements and documentation to give effect to the Change on behalf of all the Investors. By way of example, in the event that the authorized loan is \$20,000,000.00 and when the Change is being requested \$10,000,000.00 has been advanced, provided that Sorrenti obtains the written consent of Investors to the Change who have advanced at least \$5,000,001.00, Sorrenti shall be permitted to take advantage of the provisions of this Section 3.5(b) to proceed with the proposed Change.

Investor Initials

- 3.6 **Indemnity** Investor shall indemnify and hold harmless Sorrenti from its pro rata share of all claims, costs, losses, expenses and damages of every nature and kind with respect to the performance of Sorrenti's obligations in this Agreement, the Loan Agreement and the Security Documents, as same relates to the Loan save and except any such claim, cost, loss, expense or damage which results from:
- (a) the failure of Sorrenti to act as a prudent lending institution as required by Sections 2.1 and 3.1;
 - (b) Sorrenti's failure to comply with its obligations under this Agreement; or
 - (c) Sorrenti's negligence, fraud or any illegal act.

The obligations of Investor under this section shall survive the termination of this Agreement.

- 3.7 **Interest Accrual** Investor acknowledges that the Loan includes funds raised for an interest reserve to pay out regular Investor interest payments. In the event that such interest reserve is not fully funded to cover all interest payments to the Participants, interest payments may be delayed, reduced or be unpaid until maturity of the Loan. In such event, all such interest would continue to accrue and be recoverable as and when the interest reserves are replenished or the Loan matures and is fully repaid, assuming successful completion of the Project and full repayment of the Loan at that time.

It is anticipated that such interest reserves will be fully funded for the term of the Loan provided Sorrenti has raised all required funds contemplated under the Loan. **NOT APPLICABLE**

ARTICLE 4.00- GENERAL

- 4.1 **Meetings** Subject to any other provisions to this Agreement, either party may at any time on three (3) Business Days notice call a meeting with the other party to consider any matter related to this Agreement and, if requested by Sorrenti, to obtain the consent of Investor to any action proposed to be taken by Sorrenti.
- 4.2 **Notices** All notices, consents, approvals or communications required or permitted hereunder shall be in writing and shall be delivered by courier or sent by facsimile transmission and, if intended for Sorrenti, addressed as follows:

Sorrenti Law Professional Corporation
3300 Highway 7, Suite 310
Vaughan, Ontario
Attention: Derek Sorrenti
Fax No.

and, if intended for Investor, addressed as follows:

Attention:
Fax No.

Any such notice, consent, approval or communication delivered or sent as aforesaid shall be deemed to be received on the Business Day next following the day it is delivered or sent. Any party may change its address for the foregoing purposes within the Province of Ontario by giving the other party notice of such change of address as hereinbefore provided.

- 4.3 **Termination** Subject as hereafter provided, this Agreement shall remain in force until the earlier of the Loan having been paid in full and the Security Documents have been discharged or the Mortgaged Property has been realized and the proceeds of realization have been disbursed among the Participants in accordance with this Agreement. The indemnity provided in section 3.6 shall survive termination indefinitely.
- 4.4 **Effective Date of this Agreement** This Agreement shall not be effective until the date on which it is executed and delivered by Sorrenti and Investor.
- 4.5 **Relationship** Neither the execution of this Agreement, nor the sharing of the Investment nor any agreement to share in profits or losses arising as a result of the Investment is intended to be nor shall it be construed to be the formation of a partnership or a joint venture among the Participants.
- 4.6 **Publications or Registration of Interest** Investor shall not register this Agreement or notice thereof in any manner on the title to the Lands or with respect to any of the other Mortgaged Property.
- 4.7 **Dealings with Borrower**
- (a) Investor shall not contact or deal either directly or indirectly with the Borrower or the Covenantors or any other Person with respect to the servicing of the Investment or the enforcement of the Security without the consent of Sorrenti. Investor shall also not enter into any other agreement or take any other security with respect to this Agreement, the Investment or its Proportionate Share without the consent of Sorrenti.
 - (b) Investor shall not exercise any right of set-off, counter claim or any other claim it may have against the Borrower with respect to Contributory Advances or Contributory Payments to be made by it pursuant to this Agreement.
- 4.8 **Legal Capacity** Each Participant warrants and represents to the others that it has the legal capacity to enter into this Agreement and the Investment pursuant to its constating documents and any applicable legislation and that this Agreement constitutes a valid and binding obligation of such Participant enforceable in accordance with its terms.
- 4.9 **Entire Agreement** This Agreement constitutes the entire agreement between the Participants with respect to the Investment and supersedes all prior proposals and agreements, whether oral or written, with respect to the Investment.
- 4.10 **Amendment** No term or provision of this Agreement may be amended, waived, discharged or terminated without the unanimous written consent of all of the parties.
- 4.11 **Binding, etc.** This Agreement shall enure to the benefit of and be binding upon the parties and their successors and permitted assigns.
- 4.12 **No Waiver** The failure of any party to insist upon the strict adherence to or performance of any of the covenants contained herein shall not be considered as a waiver of such covenant by that party. A waiver of any provision in this Agreement must be in writing and signed by the waiving party.

4.13 **Counterparts** This document may be executed in counterparts, each of which shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and notwithstanding the date of execution shall be deemed to be dated the date hereof.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date written hereunder.

Per: [Redacted]

Name:
Title:

Per: _____

Name:
Title:

Date: [Redacted]

Date: _____

Date: _____

Sorrenti Law Professional Corporation, in Trust

Per: _____

Name: Derek Sorrenti
Title:

I/We have authority to bind the Corporation

Investment Authority – Form 9D

Sorrenti Law Professional Corporation
 Derek Sorrenti
 3300 Highway 7, Suite 310
 Vaughan, Ontario

I, [REDACTED] hereby instruct you to act on my behalf, on my mortgage investment of [REDACTED] the details, conditions and disclosures of which are set below.

A. Details about the investment:

1. Name and Address of the Borrower: FCF Old Market Lane 2013 Inc.
1-25 Brodie Drive
Richmond Hill, Ontario L4B 3K7
2. Municipal Address and Legal Description of real property (ies)
Against which my investment will Be secured:
177, 185, 197 Woodbridge Ave, Woodbridge, ON
P/T W1/2 LT 7 Con. Vaughan as in R543783; Vaughan
3. Type of property: Residential construction development.
4. Principal amount of mortgage or charge: **\$1,600,000.00 – (increasing to complete instrument number and collectively with the Pari Passu third mortgage, never exceeding \$19,000,000.00).** See Paragraph 19.
5. Amount of loan to be advanced: \$ [REDACTED]
6. Rank of mortgage or charge: **Pari Passu Third Ranking Charge/Mortgage to instrument number YR2083558 (The ranking of the mortgage can change at any time over the duration of the term) – subject to paragraph 20, below.**
7. Encumbrances: **First ranking Charge/Mortgage will be registered in priority of this mortgage investment.**
Balance 1st mortgage \$3,400,000.00 to Firm Capital Corp.
2nd Mortgage registered with a face value and outstanding balance of \$4,000,000.00 to Building & Development Mortgages Canada Inc., in Trust
3rd Mortgage (Pari Passu) registered with a face value of \$7,700,000.00 and an outstanding balance of \$6,084,500.00 to Sorrenti Law Professional Corporation, in Trust
Please refer to paragraph 20, below for details on future postponements to construction financing and development agreements.
8. My investment of \$ [REDACTED] represents [REDACTED] % of the total loan to the borrower.

9. I am satisfied that the approximate and current market value of the property against which my investment has been secured is **\$17,400,000.00**. The means taken to determine said value was a Letter of Opinion authored by Kevin Ferguson & Jeff Cheong of Legacy Global Mercantile Partners Ltd. dated January 13, 2016.
10. Including my investment and mortgage amount of \$ [REDACTED], the percentage of the value of the property including this mortgage and all prior ranking charges is currently: [REDACTED]%. **The LTV on this project is calculated on the 1st and 2nd mortgage values only, there are encumbrances that postpone to this charge that are not calculated into the current LTV.**
11. 2.5 years (“**Term**”), commencing on April 4th 2016 and ending on the final day of such period (the “**Maturity Date**”). At the Borrower’s option (to be exercised in writing not less than three (3) months prior to the Maturity Date), the Borrower may extend the Maturity Date for twelve (12) additional months. **THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.**
12. The due date of the loan is **October 4th 2018. (Extension date October 4th 2019)** **THE LENDER ACKNOWLEDGES INTEREST CALCULATIONS AND PAYMENT DATES ARE TO BE BASED ON THE ACTUAL DATE OF THE FIRST ADVANCE OF FUNDS TO BORROWER UNLESS OTHERWISE PROVIDED IN ANY LOAN AGREEMENTS OR DOCUMENTS THERETO.**
13. The loan is amortized over **0 years**- the mortgage is an interest only mortgage.
14. The interest rate is **8.00%** calculated annually, not in advance.
15. Particulars of amounts and due dates (monthly, quarterly, etc.) of payments of interest only: Paid in advance for the first year. Interest for the remainder of the term, calculated annually, not in advance, shall accrue and be payable at the maturity date.

Should the Borrower choose to exercise the 12 month term extension, interest will continue to accrue at Eight Percent (8%) per annum (calculated annually, not in advance) and the final year of accrued interest will be paid in full with all other accrued interest at the time of the “extended” maturity.

16. Particulars and amounts of any bonus or holdback or any other special terms:

Waterfall:

1. Repayment of Senior Debt
2. Repayment of Equity plus paid and accrued interest to the charge, instrument # YR1763318 in favour of Building &

- Development Mortgages Canada Inc., in Trust and this charge provided by the Lender and the Borrower
3. Repayment of Equity plus paid and accrued interest to the charge, provided by the Lender and the Borrower on the charge, instrument # YR2083558 in favour of Sorrenti Law Professional Corporation, in Trust
 4. Balance of profit to be split 50/50 between the Borrower and the Development Consultant
17. The mortgage is to be registered in the name of: **“Building & Development Mortgages Canada Inc.” FOR [REDACTED]**
18. After completion of the mortgage transaction, a collection or administration fee of per instalment is payable by the borrower: N/A
19. I understand that the mortgage shall be initially registered indicating a face value of **\$1,600,000.00**, and that from time to time the loan amount will increase upon the completion of certain development and construction milestones on the Property by the Borrower. It is anticipated that the loan amount shall be amended during the term of the loan, increasing to complete instrument number and collectively with the Pari Passu third mortgage, never exceeding \$19,000,000.00
20. I understand the Charge/Mortgage in which I have an interest is currently a pari passu third ranking Charge/Mortgage against the Property and the position of the mortgage can change over the duration of the term.

I understand that a first ranking Charge/Mortgage against the Property in favour of Firm Capital Corp. exists in the principal amount of \$3,400,000.00 and the first/second/third mortgagees will postpone their positions to construction financing.

I understand that a second ranking Charge/Mortgage against the Property in favour of Building & Development Mortgages Canada Inc., in Trust exists in the principal amount of \$4,000,000.00 and the first/second/third mortgagees will postpone their positions to construction financing.

I understand that a third pari passu ranking Charge/Mortgage against the Property in favour of Sorrenti Law Professional Corporation, in Trust exists in the principal amount of \$7,700,000.00 with an outstanding balance of \$6,084,500.00 the first/second/third mortgagees will postpone their positions to construction financing.

I understand that during the course of this investment the Borrower anticipates obtaining additional construction financing for the Property which is expected to take priority to the first Charge/Mortgage, changing its position to a second Charge/Mortgage.

I hereby understand, consent and agree that other charges/mortgages and/or development agreements may be registered in priority to the first/second/third charge/mortgage against the property during the term of my investment in the first/second/third charge/mortgage.

I hereby confirm that I understand and agree that the pari passu third charge/mortgage in which I have invested shall be required to postpone and standstill to prior charges/mortgages to a maximum of \$100,000,000, plus a 10% contingency if required, in priority financing. I understand that priority financing is expected to periodically increase over the term of the third charge/mortgage and that such postponements shall be permitted and shall occur on the basis of cost consultant reports prepared on behalf of the borrower.

I understand that additional priority financing may be required if there is a shortfall pursuant to the terms of the charge/mortgage in which I am investing. In the event of a shortfall in the funding of this charge/mortgage I understand and agree that other charges/mortgages may be registered against the property to fund and secure any such shortfall.

I understand that the trustees of this charge/mortgage may requested to execute such documents as may be required to permit the registration of certain agreements for the purpose of facilitating the planned development of the property, examples of such agreements include, but are not limited to: site plans, development plans, planning act requirements, mezzanine financing, insurance on deposits, or condominium registration documents.

I hereby confirm that I am aware of and understand that I have provided the trustee of my charge/mortgage with my irrevocable consent to execute any required documents as a condition of my participation in this charge/mortgage.

I hereby re-confirm my consent and agreement to postpone and standstill to any required financing or development agreements, and to partially discharge my charge/mortgage, without payment, with respect to any lands secured by the charge/mortgage which may be required for public or quasi-public purposes.

I understand and agree to provide partial discharges of this security for sales of all condominium units or the office/retail/parking components, without charge, provided the proceeds of the sale are used to pay off the First-Ranking and Second-Ranking Construction Loan Security and/or trade creditors.

I understand that save and except as outlined herein, there shall be no other postponements or encumbrances which affect the position or security afforded by the current third charge/mortgage.

I agree to provide partial discharges of the Loan Documents in respect of all Project lot/unit sales to third parties and in respect of all Project office/retail/parking component sales to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the First-Ranking Construction Loan Security and then to pay down other Project trade creditors

*


Initials

21. I understand, covenant and agree to the following postponement, standstill and subordination terms:

- a) to postpone and subordinate the loan documents in favour of first-ranking construction loan security and to enter into such standstill agreements as shall be reasonable in the circumstances;
- b) to postpone and subordinate the loan documents in favour of each non-financial encumbrance, as well as any deposit insurer security, if applicable, which is reasonable for a development such as the project and which individually does not materially adversely affect the market value of the property (including, without limitation, encumbrances pertaining to roads, sidewalks, easements, rights-of-way, condominium agreements, site plan control agreements, development agreements, cost-sharing agreements, encroachment agreements, zoning/use laws, utility licences, utility easements, crown patent reservations and restrictive covenants);
- c) to discharge the loan documents in respect of any part of the property which is not material to the project and/or the market value of the property or which is required by any governmental authority, without requirement for payment or prepayment of any part of the loan; and
- d) if applicable, to provide partial discharges of the loan documents in respect of all project unit sales to third parties and in respect of all project sales to third parties, without compensation, provided that the full proceeds thereof shall be used immediately to first pay down the first-ranking construction loan security and then to pay down other project trade creditors.

22. Partial Investor Discharges:

Should the borrower, at any time, over the duration on the term choose to repay the loan in part, at any percentage, investors may be paid out based on the priority of registration.

The investor hereby agrees that in the event there is an early repayment of the Loan by the Borrower (excluding receipts from enforcement or sale of Project units) ("Early Repayment"), same shall be paid to investors in the Loan in the order of priority of advance by the applicable tranche in the original Loan, and the pari passu amongst the investors who had their share of the Loan funded within the same loan tranche.

Any portion of the mortgage repaid prior to the maturity will not be subject to any Deferred Lender Fee.

23. In the event that BDMC & Olympia, in its sole discretion, acting as approved Lender and administrator, determines that the Borrower, as a result of an act of "*Force Majeure*" (shall mean any event or series of events beyond the control of the Borrower such as strikes, walkouts, labour troubles, inability to procure materials or services or construction financing, power failures, restrictive governmental laws or regulations or the orders or directions of any administrative board, governmental

department, officer or other authority, riots, insurrections, war, sabotage, rebellion or acts of God, material changes or delays in market conditions affecting sales or closings, delays in obtaining governmental approvals, permits, rezoning or similar regulatory requirements, none of which is the fault of the Borrower.), will not be able to complete the Project so as to repay the Loan on or before the maturity date on the Loan under the Loan Agreement (as it may be extended under the terms thereof), it shall have the authority to extend the term of the Loan for such period of time, not exceeding **24** months so as to permit the Borrower to complete the Project and its sales, and thereby repay the Loan. BDMC & Olympia shall have the right to do so on one or more occasions but for a period of time not exceeding 24 months as aforesaid, without the consent of the investor;

24. Interest Accrual - Investor acknowledges that the Loan includes funds raised for an interest reserve to pay out regular Investor interest payments. In the event that such interest reserve is not fully funded to cover all interest payments to the Participants, interest payments may be delayed, reduced or be unpaid until maturity of the Loan. In such event, all such interest would continue to accrue and be recoverable as and when the interest reserves are replenished or the Loan matures and is fully repaid, assuming successful completion of the Project and full repayment of the Loan at that time. It is anticipated that such interest reserves will be fully funded for the term of the Loan provided BDMC & Olympia has raised all required funds contemplated under the Loan. – N/A
25. Net proceeds raised under this mortgage may be used to refinance portions of existing prior encumbrances and/or investors/lenders.
26. Particulars of disbursements made for legal, brokerage or other fees or commissions in connection with the placement of the loan, including the names of recipients and amounts paid by the borrower, are:

Estimate	Paid to	Purpose
\$2250.00	Building & Development Mortgages Canada Inc.	Co-Brokerage Fee - H/O
\$100.00	Building & Development Mortgages Canada Inc.	Administrator Fee – Per client/year
\$7500.00	FDS Broker Services Inc.	Brokerage Fee
\$3750.00	FDS Broker Services Inc.	Point of Sale expenses including, but not limited to, the following: maintenance of front office support for operations, staff, insurance, promotion, events, training, due diligence, pro forma reviews, reporting and compliance and legal
\$2250.00	FDS Broker Services Inc.	For the provision of back office functionality including, but not limited to, customer service operations, project reviews, compliance, dedicated project & market communications, client updates, events, ongoing training, continuing education, site visits, reviews of Deloitte Special Audited Procedure Reports.
\$10,000	Sorrenti Law Professional Corporation	Legal Fees – One-time payment for: - project setup - conveyancing - disbursements - security documents - placing security

		- various searches, etc.
\$		Upfront Interest Payment Equal to 1yr. of Interest
\$282.50	ILA Provider	Independent Legal Advice Fee

1. *(Instructions: Clauses (a) and (b) below refer to information which each investor may require from the lawyer. If you require the information referred to in a clause, initial the clause.)*

The information which I require from you as my administrator before the administrator for the trustee completes the transaction and makes the advance is as follows:

(a) If my investment will be in a position other than a first mortgage or charge, details, including amounts, of all existing encumbrances outstanding:

1st Ranking Mortgage Charge registered to Firm Capital Corp. with a face value of \$3,400,000.00. This mortgage is up to date and in good standing; subject to future postponements as per paragraph 21, above.


2nd Ranking Mortgage Charge registered to Building & Development Mortgages Canada Inc., in Trust with a face value of \$4,000,000.00. This mortgage is up to date and in good standing; subject to future postponements as per paragraph 21, above.

Pari Passu 3rd Ranking Mortgage Charge to Sorrenti Law Professional Corporation, in Trust registered with a face value of \$7,700,000.00 and an outstanding balance of \$6,084,500.00. This mortgage is up to date and in good standing; subject to future postponements as per paragraph 21, above.

(b) If the mortgage or charge is a syndicated mortgage, and is prospectus exempt:


We have acknowledged and accept that you as my administrator express no opinion as to the necessity for a validity of a prospectus.

2. *(Instructions: Each investor to complete and initial clause (a) and, if clause (a) is answered in the affirmative, to complete (if necessary) and initial clause (b) and to initial clause (c).)*

(a) I instruct you to obtain a current and independent appraisal of the subject property and provide it to me before you complete this mortgage transaction. No. 

*
Initials

(b) The appraisal is to be paid by me. **Not Applicable**


(c) I have been advised and accept that you as my administrator do not express an opinion as to the validity of the appraisal/valuation/letter of opinion. 

*
Initials

Initials**Disclosure:**

1. I acknowledge being advised by you as the Lender's Independent Legal Advice (ILA), or as an independent lawyer to the transaction, that to the best of our knowledge the Independent Legal Advice Solicitor does not have any direct or indirect interest in the Borrower. *(Specify yes or no and indicate the date on which the lawyer advised you that he or she has no direct or indirect in the borrower or borrowers.)*

No independent legal advice has a direct or indirect interest in the Borrower.


* Investor to insert current date here

(If the lawyer has an interest in the borrower or borrowers, he or she is unable to act for you on this loan (Rule 2.06 of the Rules of Professional Conduct)).

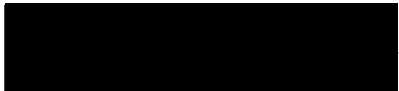
WARNINGS:

1. You are cautioned that the responsibility for assessing the financial merits of the mortgage investment rests with YOU the investor or investors at all times. The above-named lawyer's responsibility is limited to ensuring the mortgage is legally registered on title in accordance with the investor's or investors' instructions. The lawyer is not permitted to personally guarantee the obligations of the Borrower or Borrowers nor the suitability of the Property as security for the mortgage investment.


2. Any loss you may suffer on this mortgage investment will not be insured under the lawyer's professional liability policy if the lawyer has acted as a mortgage broker or has helped to arrange it.

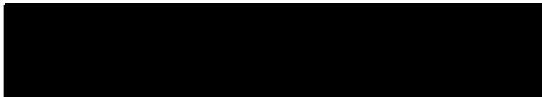
Investor's Signature: * 

I hereby acknowledge receipt of a copy of this form prior to the advance of funds to or on behalf of the Borrower. I further acknowledge having read and understood the above warnings.





Signature




Name: 

Address: 

I, , did witness

WITNESS NAME

 on the  day of 
INVESTOR NAME (day) (month)

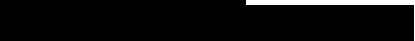
201  in the Town/City of , in the Province of 
(town/city) (province)

sign the document entitled "Investment Authority – Form 9D"



Signature/Seal of Notary Public/Commissioner

Date:  Phone:

Name:  Fax:

Address:  Email:

Appendix 14:
OML Hybrid Mortgage

Instrument No. YR2578049 registered November 15, 2016 being a Charge in favour of Building & Development Mortgages Canada Inc. to secure the original principal amount of \$1,600,000

PIN 03299-0100 (LT)

PIN 03299-0101 (LT)

PIN 03299-0102 (LT)

Properties

PIN 03299 – 0100 LT *Interest/Estate* Fee Simple
Description PT W1/2 LT 7 CON 7 VAUGHAN PT 1 65R11983; CITY OF VAUGHAN
Address 197 WOODBRIDGE AVENUE
 VAUGHAN

PIN 03299 – 0101 LT *Interest/Estate* Fee Simple
Description PT W1/2 LT 7 CON 7 VAUGHAN AS IN WB5781; CITY OF VAUGHAN
Address 185 WOODBRIDGE AVENUE
 VAUGHAN

PIN 03299 – 0102 LT *Interest/Estate* Fee Simple
Description PT W1/2 LT 7 CON 7 VAUGHAN AS IN R543783; CITY OF VAUGHAN
Address 177 WOODBRIDGE AVENUE
 VAUGHAN

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 OLD MARKET LANE INC.
Address for Service 25 Brodie Drive
 Unit 1
 Richmond Hill, Ontario
 L4B 3K7

I, Vince Petrozza, President, have the authority to bind the corporation.
 This document is not authorized under Power of Attorney by this party.

Chargee(s) *Capacity* *Share*

Name BUILDING & DEVELOPMENT MORTGAGES CANADA INC.
Address for Service in Trust
 25 Brodie Drive
 Unit 8
 Richmond Hill, Ontario
 L4B 3K7

Statements

Schedule: See Schedules

Provisions

Principal \$1,600,000.00 *Currency* CDN
Calculation Period annually, not in advance
Balance Due Date 2018/10/04
Interest Rate 8.00% per annum
Payments
Interest Adjustment Date
Payment Date
First Payment Date
Last Payment Date 2018 10 04
Standard Charge Terms 200033
Insurance Amount full insurable value
Guarantor

Signed By

Lynn Pender 77 King Street West Suite 3000 PO acting for Chargor Signed 2016 11 15
 Box 95 TD Centre (s)
 Toronto
 M5K 1G8

Signed By

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

2016 11 15

Tel 416-864-9700

Fax 416-941-8852

Fees/Taxes/Payment

Statutory Registration Fee \$63.35

Total Paid \$63.35

Appendix 15:**BDMC Notices to Investors dated March 15, 2017 and June 1, 2017**



BDMC
Building & Development Mortgages Canada Inc.

March 15th 2017

Dear Investor:

RE: Syndicated Mortgage Loan (the “Loan”) of \$3,350,000.00 to FCF Old Market Lane 2013 Inc. on the security of a 5th mortgage on 177, 185, 197 Woodbridge Ave, Woodbridge ON (the “Project”)

Please accept this update to your original investment in the Old Market Lane 3rd Hybrid project. As anticipated in the original Loan Agreement, the borrower will need to increase the Face Value amount from the current \$2,350,000.00 to \$3,350,000.00 in order to fund the necessary costs, as outlined in the original budget. These funds will work towards the overall project development and completion.

If you have additional questions about the revised Face Value, your investment, or the development in general, please speak to your mortgage agent, brokerage, or associated principal broker.

Regards,

Ildina Galati-Ferrante

Principal Broker

Building & Development Mortgages Canada Inc. o/a BDMC

(Formerly Centro Mortgage Inc.)



June 1st, 2017

Dear Investor:

RE: Syndicated Mortgage Loan (the "Loan") of \$3,820,000.00 to FCF Old Market Lane 2013 Inc. on the security of a 5th mortgage on 177, 185, and 197 Woodbridge Ave, Woodbridge ON (the "Project")

Please accept this update to your original investment in the Old Market Lane project.

As anticipated in the original Loan Agreement, the borrower is required to increase the Face Value amount from the current \$3,350,000.00 to \$3,820,000.00 in order to fund the necessary costs, as outlined in the original budget. These funds will work towards the overall project development and completion.

If you have additional questions about the revised face value, your investment, or the development in general, please speak to your mortgage agent, brokerage, or associated principal broker.

Regards,

Ildina Galati-Ferrante

Principal Broker

Building & Development Mortgages Canada Inc. o/a BDMC

(Formerly Centro Mortgage Inc.)

**Appendix 16:
OML Properties Title Search**

03299-0100 (LT)

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

PROPERTY DESCRIPTION: PT W1/2 LT 7 CON 7 VAUGHAN PT 1 65R11983; CITY OF VAUGHAN

PROPERTY REMARKS:

ESTATE/QUALIFIER: RECENTLY:
FEE SIMPLE RE-ENTRY FROM 03299-0283
LT CONVERSION QUALIFIED CAPACITY SHARE
OWNERS' NAMES ROWN
2735447 ONTARIO INC.

PIN CREATION DATE:
1999/05/21

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
EFFECTIVE	2000/07/29	THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN				
WAS REPLACED WITH THE		"PIN CREATION DATE" OF 1999/05/21				
** PRINTOUT		INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/05/21 **				
**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, MISEDSCRIPTION OR BOUNDARIES SETTLED BY				
**		CONVENTION.				
**		ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.				
**DATE OF CONVERSION TO		LAND TITLES: 1999/05/25 **				
NOTE: THIS		PROPERTY WAS RETIRED ON 2020/05/07. THIS PROPERTY IS NOW CONSOLIDATED INTO THE FOLLOWING PROPERTY: 03299-0390				
65R11983	1988/05/30	PLAN REFERENCE				
R611757	1993/01/20	TRANSFER				C
				MC LEAN, CORINNE BEVERLY MC LEAN, CHARLES DOUGLAS		
R678551	1996/06/03	CHARGE				
				ROYAL BANK OF CANADA		
YR622533	2005/04/11	APL OF SURV-LAND				
				MC LEAN, CHARLES DOUGLAS		
YR718709	2005/10/20	APL (GENERAL)				
				MC LEAN, CORINNE BEVERLY		

03299-0100 (LT)

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR763412	2006/01/16	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
YR1077793	2007/10/26	TRANSFER		*** COMPLETELY DELETED *** MC LEAN, CORINNE BEVERLY	IERADI, JOSEPH	
YR1077794	2007/10/26	CHARGE		*** COMPLETELY DELETED *** IERADI, JOSEPH	BANK OF MONTREAL	
YR1228310	2008/09/22	CHARGE		*** COMPLETELY DELETED *** IERADI, JOSEPH	SASSO, ENZO	
YR1228311	2008/09/22	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** IERADI, JOSEPH	SASSO, ENZO	
YR1349468	2009/07/28	BYLAW		THE CORPORATION OF THE CITY OF VAUGHAN THE CITY OF VAUGHAN AS A HERITAGE CONSERVATION DISTRICT		C
YR1470347	2010/04/27	CHARGE		*** COMPLETELY DELETED *** IERADI, JOSEPH	BROADCAST AUDITORS OF CANADA INC.	
YR1470404	2010/04/27	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** IERADI, JOSEPH	BROADCAST AUDITORS OF CANADA INC.	
YR1643571	2011/05/06	DISCH OF CHARGE		*** COMPLETELY DELETED *** SASSO, ENZO		
YR1696394	2011/08/16	DISCH OF CHARGE		*** COMPLETELY DELETED *** BROADCAST AUDITORS OF CANADA INC.		
YR1700044	2011/08/23	CHARGE		*** COMPLETELY DELETED *** IERADI, JOSEPH	PAHUJA, SANJAY KUMAR	
YR1711209	2011/09/13	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	

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.



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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR1711212	2011/09/13	TRANSFER OF CHARGE		PAHUJA, SANJAY KUMAR *** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	
YR1734978	2011/10/28	TRANSFER OF CHARGE		PAHUJA, SANJAY KUMAR *** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	
YR1734982	2011/10/28	TRANSFER OF CHARGE		PAHUJA, SANJAY KUMAR *** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	
YR1738136	2011/11/03	TRANSFER OF CHARGE		PAHUJA, SANJAY KUMAR *** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	
YR1763303	2011/12/22	DISCH OF CHARGE		PAHUJA, SANJAY KUMAR *** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
YR1763318	2011/12/22	CHARGE		PAHUJA, SANJAY KUMAR *** COMPLETELY DELETED *** IERADI, JOSEPH	PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	
YR1774640	2012/01/23	TRANSFER OF CHARGE		PAHUJA, SANJAY KUMAR *** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
YR1833283	2012/06/05	TRANSFER OF CHARGE		PAHUJA, SANJAY KUMAR *** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
				REMARKS: YR1643404, YR1700044 YR1700044		
				REMARKS: YR1643404, YR1700044 YR1700044		
				REMARKS: OLYMPIA TRUST COMPANY AS TO \$1,007,700.00, SANJAY KUMAR PAHUJAM AS TO \$1,192,300.00 - YR1643404, YR1700034, YR1734978 AND YR1734982 YR1700044	YR1700044, YR1711209, YR1711212,	
				REMARKS: MULTIPLE YR1763318		

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR1876366	2012/08/27	CHARGE		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED CUNDARI, FRANK IERADI, JOSEPH	1406819 ONTARIO LIMITED	
YR1876367	2012/08/27	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED CUNDARI, FRANK IERADI, JOSEPH	1406819 ONTARIO LIMITED	
				REMARKS: YR1876366		
YR2015768	2013/08/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
				REMARKS: YR1763318		
YR2083552	2014/01/14	TRANSFER		*** COMPLETELY DELETED *** IERADI, JOSEPH	OLD MARKET LANE INC.	
YR2083558	2014/01/14	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC	SORRENTI LAW PROFESSIONAL CORPORATION	
YR2084099	2014/01/15	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
				REMARKS: YR2083558.		
YR2084108	2014/01/15	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
				REMARKS: YR2083558.		
YR2095324	2014/02/13	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
				REMARKS: YR2083558.		
YR2107734	2014/03/21	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	FIRM CAPITAL MORTGAGE FUND INC.	
YR2107735	2014/03/21	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	FIRM CAPITAL MORTGAGE FUND INC.	
				REMARKS: YR2107734.		

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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03299-0100 (LT)

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2107736	2014/03/21	POSTPONEMENT		*** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY PAHUJA, SANJAY KUMAR	FIRM CAPITAL MORTGAGE FUND INC.	
	REMARKS: YR1763318 TO YR2107734					
YR2107739	2014/03/21	POSTPONEMENT		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	FIRM CAPITAL MORTGAGE FUND INC.	
	REMARKS: YR2083558 TO YR2107734					
YR2107842	2014/03/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** 1406819 ONTARIO LIMITED		
	REMARKS: YR1876366.					
YR2111271	2014/03/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** BANK OF MONTREAL		
	REMARKS: YR1077794.					
YR2141232	2014/06/17	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2173102	2014/08/18	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558					
YR2193468	2014/09/29	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2205958	2014/10/24	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2220495	2014/11/25	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					

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.

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2231039	2014/12/12	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2253139	2015/02/06	APL DEL EXECUTION		*** COMPLETELY DELETED *** OLD MARKET LANE INC.		
	REMARKS: DELETE S/T EXECUTION 11-002595					
YR2253389	2015/02/06	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2280461	2015/04/20	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2287045	2015/05/05	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: AMENDING CHARGE YR2083558					
YR2287204	2015/05/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2295575	2015/05/27	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2330977	2015/07/30	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2382497	2015/11/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	

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03299-0100 (LT)

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2398688	2015/12/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2411607	2016/01/04	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2411840	2016/01/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2447947	2016/03/23	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** CENTRO MORTGAGE INC. OLYMPIA TRUST COMPANY	CENTRO MORTGAGE INC. OLYMPIA TRUST COMPANY	
YR2448632	2016/03/24	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** CENTRO MORTGAGE INC. OLYMPIA TRUST COMPANY	CENTRO MORTGAGE INC. OLYMPIA TRUST COMPANY	
YR2452198	2016/04/01	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2466528	2016/05/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2469338	2016/05/09	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2480707	2016/06/01	TRANSFER OF CHARGE		*** COMPLETELY DELETED ***	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2512725	2016/07/26	TRANSFER OF CHARGE		SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2516898	2016/08/02	CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2516899	2016/08/02	POSTPONEMENT		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
YR2516901	2016/08/02	POSTPONEMENT		*** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
YR2539744	2016/09/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
YR2578049	2016/11/15	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2578055	2016/11/15	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	
YR2581566	2016/11/21	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2601782	2016/12/23	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2578049	YR2581566	YR2578049				333

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2615409	2017/01/25	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2617188	2017/01/27	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2620715	2017/02/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING DEVELOPMENTS MORTGAGE CANADA INC. OLYMPIA TRUST COMPANY	BUILDING DEVELOPMENTS MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2623336	2017/02/09	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2634666	2017/03/06	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2641295	2017/03/21	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2662572	2017/05/03	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2683775	2017/06/12	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2697047	2017/07/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	

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03299-0100 (LT)

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR2712675	2017/08/03	CONSTRUCTION LIEN		OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
YR2731028	2017/09/14	CERTIFICATE		*** COMPLETELY DELETED *** COLE ENGINEERING GROUP LTD.		
YR2882046	2018/10/03	APL GOVT ORDER		*** COMPLETELY DELETED *** THE CORPORATION OF THE CITY OF VAUGHAN		
YR2904291	2018/11/30	APL (GENERAL)		*** COMPLETELY DELETED *** THE CORPORATION OF THE CITY OF VAUGHAN		
YR2911594	2018/12/18	APL CH NAME INST		*** COMPLETELY DELETED *** BUILDING DEVELOPMENTS MORTGAGES CANADA INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	
YR2912843	2018/12/20	APL COURT ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	FAAN MORTGAGE ADMINISTRATORS INC.	
YR2914050	2018/12/21	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2914269	2018/12/27	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	EISEN, MELVYN	
YR2914273	2018/12/27	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	EISEN, MELVYN	
YR2914767	2018/12/28	APL DEL CONST LIEN		*** COMPLETELY DELETED *** COLE ENGINEERING GROUP LTD.		
YR2914768	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2914769	2018/12/28	POSTPONEMENT	REMARKS: YR2914768 = (YR1763326 ONLY ON PIN 03299-0102) & YR291450 TO YR2914269	*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
YR2914770	2018/12/28	POSTPONEMENT	REMARKS: YR2914769 = YR1763336 (ON PIN 03299-0101) & YR2914050 TO YR2914269	*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
YR2914771	2018/12/28	POSTPONEMENT	REMARKS: YR2914770 = YR1763318 (ON PIN 03299-0100) & YR2914050 TO YR2914269	*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
YR2914772	2018/12/28	POSTPONEMENT	REMARKS: YR2578049 TO YR2914269	*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
YR2914773	2018/12/28	DISCH OF CHARGE	REMARKS: YR2083558 TO YR2914269	*** COMPLETELY DELETED *** JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION		
YR2914854	2018/12/28	DISCH OF CHARGE	REMARKS: YR2516898	*** COMPLETELY DELETED *** FIRM CAPITAL MORTGAGE FUND INC.		
YR2992219	2019/08/02	APL GOVT ORDER		THE CORPORATION OF THE CITY OF VAUGHAN		C
YR2993995	2019/08/09	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** EISEN, MELVYN	5019203 ONTARIO LTD.	
YR3010119	2019/09/19	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** CAPITAL BUILD CONSTRUCTION MANAGEMENT CORP.		
YR3033221	2019/11/13	CERTIFICATE		*** COMPLETELY DELETED *** CAPITAL BUILD CONSTRUCTION MANAGEMENT CORP.		
						336

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR3057323	2020/01/16 REMARKS: YR2914269.	TRANS POWER SALE	\$7,500,000	5019203 ONTARIO LTD.	2735447 ONTARIO INC.	C
YR3057324	2020/01/16	CHARGE	\$5,500,000	2735447 ONTARIO INC.	PAISLEY, MICHAEL USHER, MARTY CANADIAN SHIELD HOLDINGS & CONSULTING INC. TAURO, LUCIANO 1220356 ONTARIO LTD. ALTER, BARRY MARTIN A. LIEBERMAN ENTERPRISES INC. HOLLANDER, ANNETTE SOLWAY, CAROLE THE SALZ CORP. TENEBBAUM, LARRY MISIM INVESTMENTS LTD. MELE, MICHELE HOLLANDER, FAIGE	C
YR3057327	2020/01/16	NO ASSGN RENT GEN		2735447 ONTARIO INC.	PAISLEY, MICHAEL USHER, MARTY CANADIAN SHIELD HOLDINGS & CONSULTING INC. TAURO, LUCIANO 1220356 ONTARIO LTD. ALTER, BARRY MARTIN A. LIEBERMAN ENTERPRISES INC. HOLLANDER, ANNETTE SOLWAY, CAROLE THE SALZ CORP. TENEBBAUM, LARRY MISIM INVESTMENTS LTD. MELE, MICHELE HOLLANDER, FAIGE	C
YR3057328	2020/01/16	CHARGE	\$3,400,000	2735447 ONTARIO INC.	2735440 ONTARIO INC.	C
YR3066420	2020/02/11	APL CONSOLIDATE		2735447 ONTARIO INC.		C
YR3072300	2020/02/27	APL AMEND ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	FAAN MORTGAGE ADMINISTRATORS INC.	
YR3091998	2020/04/24	APL DEL CONST LIEN		*** COMPLETELY DELETED ***		

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
REMARKS: YR3010119. , AND YR3033221				CAPITAL BUILD CONSTRUCTION MANAGEMENT CORP.		

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND
REGISTRY
OFFICE #65

PAGE 1 OF 13 PREPARED
FOR LStorm01
ON 2020/09/14 AT 14:08:54

03299-0101 (LT)

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

PROPERTY DESCRIPTION: PT W1/2 LT 7 CON 7 VAUGHAN AS IN WB5781; CITY OF VAUGHAN

PROPERTY REMARKS:

ESTATE/QUALIFIER: RECENTLY:
FEE SIMPLE RE-ENTRY FROM 03299-0284

LT CONVERSION QUALIFIED

OWNERS' NAMES: CAPACITY SHARE
2735447 ONTARIO INC. ROWN

PIN CREATION DATE:
1999/05/21

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
EFFECTIVE	2000/07/29	THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN				
WAS REPLACED WITH THE		"PIN CREATION DATE" OF 1999/05/21				
** PRINTOUT		INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/05/21 **				
**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: 1999/05/25 **				
NOTE: THIS		PROPERTY WAS RETIRED ON 2020/05/07. THIS PROPERTY IS NOW CONSOLIDATED INTO THE FOLLOWING PROPERTY: 03299-0390				
WB5396	1963/10/07	AGREEMENT		*** COMPLETELY DELETED ***		
WB5781	1965/03/29	TRANSFER		*** DELETED AGAINST THIS PROPERTY ***	WALLACE, EVA GRACE	
LT1383766	1999/07/29	TRANSFER		*** COMPLETELY DELETED ***	1363531 ONTARIO INC.	
LT1383767	1999/07/29	CHARGE		*** COMPLETELY DELETED ***	THE TORONTO-DOMINION BANK	
LT1383768	1999/07/29	NOTICE		*** COMPLETELY DELETED ***	1363531 ONTARIO INC.	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR1002766	2007/06/19	LIEN		CASEY VAN MOORLEHEM PROFESSIONAL CORPORATION *** COMPLETELY DELETED *** HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF REVENUE	2130892 ONTARIO INC.	
YR1030913	2007/08/03	CHARGE		*** COMPLETELY DELETED *** CASEY VAN MOORLEHEM PROFESSIONAL CORPORATION	KATIS, THEMIS	
YR1112995	2008/01/15	DISCHARGE INTEREST		*** COMPLETELY DELETED ***	HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF REVENUE	
				REMARKS: RE: YR1002766		
YR1113451	2008/01/16	DISCH OF CHARGE		*** COMPLETELY DELETED *** 2130892 ONTARIO INC.		
				REMARKS: RE: YR963058		
YR1113452	2008/01/16	DISCH OF CHARGE		*** COMPLETELY DELETED *** KATIS, THEMIS		
				REMARKS: RE: YR1030913		
YR1113490	2008/01/16	TRANSFER		*** COMPLETELY DELETED *** CASEY VAN MOORLEHEM PROFESSIONAL CORPORATION	CUNDARI, FRANK	
				REMARKS: PLANNING ACT STATEMENTS		
YR1113491	2008/01/16	CHARGE		*** COMPLETELY DELETED *** CUNDARI, FRANK	BANK OF MONTREAL	
YR1121414	2008/02/05	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
				REMARKS: RE: YR289930		
YR1140539	2008/03/26	CHARGE		*** COMPLETELY DELETED *** CUNDARI, FRANK	CASEY VAN MOORLEHEM PROFESSIONAL CORPORATION	
YR1228306	2008/09/22	CHARGE		*** COMPLETELY DELETED *** CUNDARI, FRANK	SASSO, ENZO	
YR1228307	2008/09/22	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** CUNDARI, FRANK	SASSO, ENZO	
				REMARKS: YR1228306 - RENTS		



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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR1349468	2009/07/28	BYLAW		THE CORPORATION OF THE CITY OF VAUGHAN		C
	REMARKS: BY-LAW	NO. 102-2009- TO DESIGNATE AN AREA OF		THE CITY OF VAUGHAN AS A HERITAGE CONSERVATION DISTRICT		
YR1470346	2010/04/27	CHARGE		*** COMPLETELY DELETED *** CUNDARI, FRANK	BROADCAST AUDITORS OF CANADA INC.	
YR1470403	2010/04/27	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** CUNDARI, FRANK	BROADCAST AUDITORS OF CANADA INC.	
	REMARKS: RENTS,	YR1470346				
YR1579161	2010/11/24	APL COURT ORDER		*** COMPLETELY DELETED *** SUPERIOR COURT OF JUSTICE FAMILY COURT BRANCH	VAN MOORLEHEM, LEIGH	
YR1608594	2011/02/08	APL COURT ORDER		*** COMPLETELY DELETED *** SUPERIOR COURT OF JUSTICE FAMILY COURT BRANCH	VAN MOORLEHEM, LEIGH	
YR1643572	2011/05/06	DISCH OF CHARGE		*** COMPLETELY DELETED *** SASSO, ENZO		
	REMARKS: YR1228306.					
YR1685676	2011/07/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** BROADCAST AUDITORS OF CANADA INC.		
	REMARKS: YR1470346.					
YR1707474	2011/09/02	DISCH OF CHARGE		*** COMPLETELY DELETED *** VAN MOORLEHEM, LEIGH		
	REMARKS: YR1140539.					
YR1763336	2011/12/22	CHARGE		*** COMPLETELY DELETED *** CUNDARI, FRANK	PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	
YR1774640	2012/01/23	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
	REMARKS: YR1763336					
YR1833283	2012/06/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
	REMARKS: MULTIPLE YR1763336					
YR1876366	2012/08/27	CHARGE		*** COMPLETELY DELETED ***		

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YR1876367	2012/08/27	NO ASSGN RENT GEN		2041254 ONTARIO LIMITED CUNDARI, FRANK IERADI, JOSEPH *** COMPLETELY DELETED ***	1406819 ONTARIO LIMITED	
				2041254 ONTARIO LIMITED CUNDARI, FRANK IERADI, JOSEPH	1406819 ONTARIO LIMITED	
YR2015768	2013/08/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
				*** COMPLETELY DELETED *** CUNDARI, FRANK	OLD MARKET LANE INC.	
YR2083551	2014/01/14	TRANSFER		*** COMPLETELY DELETED *** CUNDARI, FRANK	SORRENTI LAW PROFESSIONAL CORPORATION	
YR2083558	2014/01/14	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC	SORRENTI LAW PROFESSIONAL CORPORATION	
YR2084099	2014/01/15	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
				*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2084108	2014/01/15	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
				*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2095324	2014/02/13	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
				*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	OLD MARKET LANE INC.	
YR2107685	2014/03/21	APL AMEND ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	OLD MARKET LANE INC.	
				*** COMPLETELY DELETED *** OLD MARKET LANE INC.	FIRM CAPITAL MORTGAGE FUND INC.	
YR2107734	2014/03/21	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	FIRM CAPITAL MORTGAGE FUND INC.	

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OFFICE #65

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2107735	2014/03/21	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	FIRM CAPITAL MORTGAGE FUND INC.	
		REMARKS: YR2107734.				
YR2107738	2014/03/21	POSTPONEMENT		*** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY PAHUJA, SANJAY KUMAR	FIRM CAPITAL MORTGAGE FUND INC.	
		REMARKS: YR1763336 TO YR2107734				
YR2107739	2014/03/21	POSTPONEMENT		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	FIRM CAPITAL MORTGAGE FUND INC.	
		REMARKS: YR2083558 TO YR2107734				
YR2107842	2014/03/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** 1406819 ONTARIO LIMITED		
		REMARKS: YR1876366.				
YR2112406	2014/04/02	DISCH OF CHARGE		*** COMPLETELY DELETED *** BANK OF MONTREAL		
		REMARKS: YR1113491.				
YR2141232	2014/06/17	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
		REMARKS: YR2083558.				
YR2173102	2014/08/18	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
		REMARKS: YR2083558				
YR2193468	2014/09/29	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
		REMARKS: YR2083558.				
YR2205958	2014/10/24	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
		REMARKS: YR2083558.				
YR2220495	2014/11/25	TRANSFER OF CHARGE		*** COMPLETELY DELETED ***	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2231039	2014/12/12	TRANSFER OF CHARGE		SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY *** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2253389	2015/02/06	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2280461	2015/04/20	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2287045	2015/05/05	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2287204	2015/05/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2295575	2015/05/27	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2330977	2015/07/30	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2382497	2015/11/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
						345

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YR2398688	2015/12/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2411607	2016/01/04	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558					
YR2411840	2016/01/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2452198	2016/04/01	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2466528	2016/05/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2469338	2016/05/09	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558					
YR2480707	2016/06/01	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2512725	2016/07/26	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2516898	2016/08/02	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	346

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03299-0101 (LT)

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR2516899	2016/08/02	POSTPONEMENT		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
	REMARKS: YR2083558 TO YR2516898					
YR2516900	2016/08/02	POSTPONEMENT		*** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
	REMARKS: YR1763336 TO YR2516898					
YR2516901	2016/08/02	POSTPONEMENT		*** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
	REMARKS: YR1763326 TO YR2516898					
YR2539744	2016/09/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2578049	2016/11/15	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	
YR2578055	2016/11/15	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049.					
YR2581566	2016/11/21	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578055 YR2578049					
YR2601782	2016/12/23	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049, YR2581566 YR2578049					
YR2615409	2017/01/25	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2617188	2017/01/27	TRANSFER OF CHARGE		*** COMPLETELY DELETED ***	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	



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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2620715	2017/02/02	TRANSFER OF CHARGE		BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY *** COMPLETELY DELETED *** BUILDING DEVELOPMENTS MORTGAGE CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2623336	2017/02/09	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2634666	2017/03/06	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2641295	2017/03/21	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2662572	2017/05/03	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2683775	2017/06/12	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2697047	2017/07/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2712675	2017/08/03	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** COLE ENGINEERING GROUP LTD.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2731028	2017/09/14	CERTIFICATE		*** COMPLETELY DELETED ***		

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2882045	2018/10/03	APL GOVT ORDER		COLE ENGINEERING GROUP LTD. *** COMPLETELY DELETED *** THE CORPORATION OF THE CITY OF VAUGHAN		
YR2904290	2018/11/30	APL (GENERAL)		*** COMPLETELY DELETED *** THE CORPORATION OF THE CITY OF VAUGHAN		
YR2911594	2018/12/18	APL CH NAME INST		*** COMPLETELY DELETED *** BUILDING DEVELOPMENTS MORTGAGES CANADA INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	
YR2912843	2018/12/20	APL COURT ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	FAAN MORTGAGE ADMINISTRATORS INC.	
YR2914050	2018/12/21	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2914269	2018/12/27	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	EISEN, MELVYN	
YR2914273	2018/12/27	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	EISEN, MELVYN	
YR2914767	2018/12/28	APL DEL CONST LIEN		*** COMPLETELY DELETED *** COLE ENGINEERING GROUP LTD.		
YR2914768	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
YR2914769	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
YR2914769	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
YR2914769	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR2914770	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
		REMARKS: YR2914770 = YR1763318 (ON PIN 03299-0100) & YR2914050 TO YR2914269				
YR2914771	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
		REMARKS: YR2578049 TO YR2914269				
YR2914772	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
		REMARKS: YR2083558 TO YR2914269				
YR2914773	2018/12/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION		
		REMARKS: YR2516898.				
YR2914854	2018/12/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** FIRM CAPITAL MORTGAGE FUND INC.		
		REMARKS: YR2107734.				
YR2992218	2019/08/02	APL GOVT ORDER		THE CORPORATION OF THE CITY OF VAUGHAN		C
YR2993995	2019/08/09	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** EISEN, MELVYN	5019203 ONTARIO LTD.	
		REMARKS: YR2914269.				
YR3010119	2019/09/19	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** CAPITAL BUILD CONSTRUCTION MANAGEMENT CORP.		
YR3033221	2019/11/13	CERTIFICATE		*** COMPLETELY DELETED *** CAPITAL BUILD CONSTRUCTION MANAGEMENT CORP.		
		REMARKS: YR3010119				
YR3057323	2020/01/16	TRANS POWER SALE	\$7,500,000	5019203 ONTARIO LTD.	2735447 ONTARIO INC.	C
		REMARKS: YR2914269.				
YR3057324	2020/01/16	CHARGE	\$5,500,000	2735447 ONTARIO INC.	PAISLEY, MICHAEL USHER, MARTY CANADIAN SHIELD HOLDINGS & CONSULTING INC. TAURO, LUCIANO	C

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR3057326	2020/01/16	NO ASSGN RENT GEN		2735447 ONTARIO INC.	1220356 ONTARIO LTD. ALTER, BARRY MARTIN A. LIEBERMAN ENTERPRISES INC. HOLLANDER, ANNETTE SOLWAY, CAROLE THE SALZ CORP. TENEBBAUM, LARRY MISIM INVESTMENTS LTD. MELE, MICHELE HOLLANDER, FAIGE	C
					PAISLEY, MICHAEL USHER, MARTY CANADIAN SHIELD HOLDINGS & CONSULTING INC. TAURO, LUCIANO 1220356 ONTARIO LTD. ALTER, BARRY MARTIN A. LIEBERMAN ENTERPRISES INC. HOLLANDER, ANNETTE SOLWAY, CAROLE THE SALZ CORP. TENEBBAUM, LARRY MISIM INVESTMENTS LTD. MELE, MICHELE HOLLANDER, FAIGE	
YR3057328	2020/01/16	CHARGE	\$3,400,000	2735447 ONTARIO INC.	2735440 ONTARIO INC.	C
YR3066420	2020/02/11	APL CONSOLIDATE		2735447 ONTARIO INC.		C
YR3072300	2020/02/27	APL AMEND ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE		
YR3091998	2020/04/24	APL DEL CONST LIEN		*** COMPLETELY DELETED *** CAPITAL BUILD CONSTRUCTION MANAGEMENT CORP.	FAAN MORTGAGE ADMINISTRATORS INC.	

REMARKS: YR3057324.

REMARKS: DELETE
YR2912843

REMARKS: YR3010119. , AND YR3033221



Ontario ServiceOntario

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND
REGISTRY
OFFICE #65

PAGE 1 OF 13 PREPARED
FOR LStorm01
ON 2020/09/14 AT 14:09:27

03299-0102 (LT)

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

PROPERTY DESCRIPTION: PT W1/2 LT 7 CON 7 VAUGHAN AS IN R543783; CITY OF VAUGHAN

PROPERTY REMARKS:

ESTATE/QUALIFIER: RECENTLY:
FEE SIMPLE RE-ENTRY FROM 03299-0285
LT CONVERSION QUALIFIED CAPACITY SHARE
OWNERS' NAMES ROWN
2735447 ONTARIO INC.

PIN CREATION DATE:
1999/05/21

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
EFFECTIVE	2000/07/29	THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN				
WAS REPLACED WITH THE		"PIN CREATION DATE" OF 1999/05/21				
** PRINTOUT		INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/05/21 **				
**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: 1999/05/25 **				
NOTE: THIS		PROPERTY WAS RETIRED ON 2020/05/07. THIS PROPERTY IS NOW CONSOLIDATED INTO THE FOLLOWING PROPERTY: 03299-0390				
WB5396	1963/10/07	AGREEMENT		*** COMPLETELY DELETED ***		
R543783	1990/05/30	TRANSFER		*** DELETED AGAINST THIS PROPERTY ***	LIBERTUCCI, ANGELO	
R543784	1990/05/30	CHARGE		*** COMPLETELY DELETED ***	CENTRAL GUARANTY TRUST COMPANY	
R543785	1990/05/30	ASSIGNMENT GENERAL		*** COMPLETELY DELETED ***		
REMARKS: RENTS,		R543784				
YR67598	2001/10/31	CHARGE		*** COMPLETELY DELETED ***		

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YR67599	2001/10/31	NO ASSGN RENT GEN		LIBERTUCCI, ANGELO	BANK OF MONTREAL	
	REMARKS: YR67598			*** COMPLETELY DELETED *** LIBERTUCCI, ANGELO	BANK OF MONTREAL	
YR109823	2002/02/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** CENTRAL GUARANTY TRUST COMPANY		
	REMARKS: RE: R543784					
YR1227961	2008/09/22	APL (GENERAL)		*** COMPLETELY DELETED *** LIBERTUCCI, ANGELO		
	REMARKS: DELETE WB5396					
YR1228699	2008/09/23	TRANSFER		*** COMPLETELY DELETED *** LIBERTUCCI, ANGELO	2041254 ONTARIO LIMITED	
	REMARKS: PLANNING ACT STATEMENTS					
YR1228712	2008/09/23	CHARGE		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	1406819 ONTARIO LIMITED	
YR1228713	2008/09/23	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	1406819 ONTARIO LIMITED	
	REMARKS: YR1228712					
YR1228722	2008/09/23	CHARGE		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	SASSO, ENZO	
YR1228723	2008/09/23	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	SASSO, ENZO	
	REMARKS: YR1228722					
YR1238310	2008/10/10	DISCH OF CHARGE		*** COMPLETELY DELETED *** BANK OF MONTREAL		
	REMARKS: RE: YR67598					
YR1349468	2009/07/28	BYLAW		THE CORPORATION OF THE CITY OF VAUGHAN THE CITY OF VAUGHAN AS A HERITAGE CONSERVATION DISTRICT		
	REMARKS: BY-LAW NO. 102-2009 - TO DESIGNATE AN AREA OF					
YR1372921	2009/09/10	NOTICE OF LEASE		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	CC'S CREATIONS	
YR1470345	2010/04/27	CHARGE		*** COMPLETELY DELETED ***		

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YR1470402	2010/04/27	NO ASSGN RENT GEN		2041254 ONTARIO LIMITED	BROADCAST AUDITORS OF CANADA INC.	
	REMARKS: RENTS, YR1470345			*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	BROADCAST AUDITORS OF CANADA INC.	
YR1643404	2011/05/05	CHARGE		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	PAHUJA, SANJAY KUMAR	
YR1643570	2011/05/06	DISCH OF CHARGE		*** COMPLETELY DELETED *** SASSO, ENZO		
	REMARKS: YR1228722.			*** COMPLETELY DELETED *** BROADCAST AUDITORS OF CANADA INC.	PAHUJA, SANJAY KUMAR	
YR1644018	2011/05/06	POSTPONEMENT		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED		
	REMARKS: YR1470345 TO YR1643404			*** COMPLETELY DELETED *** BROADCAST AUDITORS OF CANADA INC.		
YR1696393	2011/08/16	DISCH OF CHARGE		*** COMPLETELY DELETED *** BROADCAST AUDITORS OF CANADA INC.		
	REMARKS: YR1470345.			*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	PAHUJA, SANJAY KUMAR, IN TRUST	
YR1700034	2011/08/23	NOTICE		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED		
	REMARKS: YR1643404			*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	
YR1711209	2011/09/13	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR AS TO \$2,014,500 SHARE. YR1643404		
	REMARKS: OLYMPIA TRUST COMPANY AS TO \$185,500 SHARE; PAHUJA, SANJAY KUMAR AS TO \$444,200 SHARE; PAHUJA, SANJAY KUMAR AS TO 1,755,800 SHARE YR1643404			*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	
YR1711212	2011/09/13	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR AS TO 1,755,800 SHARE YR1643404		
	REMARKS: OLYMPIA TRUST COMPANY AS TO \$444,200 SHARE; PAHUJA, SANJAY KUMAR AS TO 1,755,800 SHARE YR1643404			*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	
YR1734978	2011/10/28	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR		
	REMARKS: YR1643404, YR1700044 YR1643404			*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	
YR1734982	2011/10/28	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR		



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YR1738136	2011/11/03	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR PAHUJA, SANJAY KUMAR	OLYMPIA TRUST COMPANY	
YR1763302	2011/12/22	DISCH OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	YR1700044, YR1711209, YR1711212,	
YR1763326	2011/12/22	CHARGE		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	
YR1774640	2012/01/23	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
YR1833283	2012/06/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
YR1876366	2012/08/27	CHARGE		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED CUNDARI, FRANK IERADI, JOSEPH	1406819 ONTARIO LIMITED	
YR1876367	2012/08/27	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED CUNDARI, FRANK IERADI, JOSEPH	1406819 ONTARIO LIMITED	
YR1876448	2012/08/28	POSTPONEMENT		*** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY PAHUJA, SANJAY KUMAR	1406819 ONTARIO LIMITED	
				REMARKS: YR1763326 TO YR1876366 DELETED BY YR2107842.		

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YR1876449	2012/08/28	POSTPONEMENT		*** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY PAHUJA, SANJAY KUMAR DELETED BY CATHY BULMER 03/06/2014	1406819 ONTARIO LIMITED	
YR1876450	2012/08/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** 1406819 ONTARIO LIMITED		
YR2015768	2013/08/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	OLYMPIA TRUST COMPANY	
YR2083550	2014/01/14	TRANSFER		*** COMPLETELY DELETED *** 2041254 ONTARIO LIMITED	OLD MARKET LANE INC.	
YR2083558	2014/01/14	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC	SORRENTI LAW PROFESSIONAL CORPORATION	
YR2084099	2014/01/15	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2084108	2014/01/15	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2095324	2014/02/13	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2107734	2014/03/21	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	FIRM CAPITAL MORTGAGE FUND INC.	
YR2107735	2014/03/21	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	FIRM CAPITAL MORTGAGE FUND INC.	
YR2107737	2014/03/21	POSTPONEMENT		*** COMPLETELY DELETED ***		

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YR2107739	2014/03/21	POSTPONEMENT		OLYMPIA TRUST COMPANY PAHUJA, SANJAY KUMAR *** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	FIRM CAPITAL MORTGAGE FUND INC. FIRM CAPITAL MORTGAGE FUND INC.	
YR2107842	2014/03/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** 1406819 ONTARIO LIMITED		
YR2141232	2014/06/17	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2173102	2014/08/18	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2193468	2014/09/29	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2205958	2014/10/24	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2220495	2014/11/25	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2231039	2014/12/12	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
						357

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR2253389	2015/02/06	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2280461	2015/04/20	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2287045	2015/05/05	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: AMENDING CHARGE YR2083558					
YR2287204	2015/05/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2295575	2015/05/27	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2330977	2015/07/30	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2382497	2015/11/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2398688	2015/12/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
	REMARKS: YR2083558.					
YR2411607	2016/01/04	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	

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YR2411840	2016/01/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2452198	2016/04/01	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2466528	2016/05/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2469338	2016/05/09	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2480707	2016/06/01	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2512725	2016/07/26	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	
YR2516898	2016/08/02	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
YR2516899	2016/08/02	POSTPONEMENT		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
YR2516901	2016/08/02	POSTPONEMENT		*** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
REMARKS: YR1763326 TO YR2516898						

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YR2516902	2016/08/02	POSTPONEMENT		*** COMPLETELY DELETED *** OLYMPIA TRUST COMPANY	JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION	
		REMARKS: YR1763326 TO YR2516898				
YR2539744	2016/09/08	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** SORRENTI LAW PROFESSIONAL CORPORATION OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
		REMARKS: YR2083558.				
YR2578049	2016/11/15	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	
YR2578055	2016/11/15	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
		REMARKS: YR2578049.				
YR2581566	2016/11/21	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
		REMARKS: YR2578055 YR2578049				
YR2601782	2016/12/23	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
		REMARKS: YR2578049, YR2581566 YR2578049				
YR2615409	2017/01/25	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
		REMARKS: YR2578049				
YR2617188	2017/01/27	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
		REMARKS: YR2578049				
YR2620715	2017/02/02	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING DEVELOPMENTS MORTGAGE CANADA INC. OLYMPIA TRUST COMPANY	BUILDING DEVELOPMENTS MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
		REMARKS: YR2083558.				

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR2623336	2017/02/09	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2634666	2017/03/06	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2641295	2017/03/21	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2662572	2017/05/03	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2683775	2017/06/12	NOTICE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2697047	2017/07/05	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2578049					
YR2712675	2017/08/03	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** COLE ENGINEERING GROUP LTD.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
YR2731028	2017/09/14	CERTIFICATE		*** COMPLETELY DELETED *** COLE ENGINEERING GROUP LTD.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
	REMARKS: YR2712675					
YR2911594	2018/12/18	APL CH NAME INST		*** COMPLETELY DELETED *** BUILDING DEVELOPMENTS MORTGAGES CANADA INC.	BUILDING & DEVELOPMENT MORTGAGES CANADA INC.	
	REMARKS: YR2620715.					
YR2912843	2018/12/20	APL COURT ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	FAAN MORTGAGE ADMINISTRATORS INC.	

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YR2914050	2018/12/21	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** PAHUJA, SANJAY KUMAR OLYMPIA TRUST COMPANY	BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	
		REMARKS: YR1763326, YR1763336, YR1763326				
YR2914269	2018/12/27	CHARGE		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	EISEN, MELVYN	
YR2914273	2018/12/27	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** OLD MARKET LANE INC.	EISEN, MELVYN	
		REMARKS: YR2914269				
YR2914767	2018/12/28	APL DEL CONST LIEN		*** COMPLETELY DELETED *** COLE ENGINEERING GROUP LTD.		
YR2914768	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
		REMARKS: YR2712675.				
YR2914769	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
		REMARKS: YR2914768 = (YR1763326 ONLY ON PIN 03299-0102) & YR291450 TO YR2914269				
YR2914770	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
		REMARKS: YR2914769 = YR1763336 (ON PIN 03299-0101) & YR2914050 TO YR2914269				
YR2914771	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
		REMARKS: YR2914770 = YR1763318 (ON PIN 03299-0100) & YR2914050 TO YR2914269				
YR2914772	2018/12/28	POSTPONEMENT		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
		REMARKS: YR2578049 TO YR2914269				
YR2914773	2018/12/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** BUILDING & DEVELOPMENT MORTGAGES CANADA INC. OLYMPIA TRUST COMPANY	EISEN, MELVYN	
		REMARKS: YR2083558 TO YR2914269				

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YR2914854	2018/12/28	DISCH OF CHARGE		JYR REAL CAPITAL MORTGAGE INVESTMENT CORPORATION *** COMPLETELY DELETED *** FIRM CAPITAL MORTGAGE FUND INC.		
YR2993995	2019/08/09	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** EISEN, MELVYN	5019203 ONTARIO LTD.	
YR3010119	2019/09/19	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** CAPITAL BUILD CONSTRUCTION MANAGEMENT CORP.		
YR3033221	2019/11/13	CERTIFICATE		*** COMPLETELY DELETED *** CAPITAL BUILD CONSTRUCTION MANAGEMENT CORP.		
YR3057323	2020/01/16	TRANS POWER SALE	\$7,500,000	5019203 ONTARIO LTD.	2735447 ONTARIO INC.	C
YR3057324	2020/01/16	CHARGE	\$5,500,000	2735447 ONTARIO INC.	PAISLEY, MICHAEL USHER, MARTY CANADIAN SHIELD HOLDINGS & CONSULTING INC. TAURO, LUCIANO 1220356 ONTARIO LTD. ALTER, BARRY MARTIN A. LIEBERMAN ENTERPRISES INC. HOLLANDER, ANNETTE SOLWAY, CAROLE THE SALZ CORP. TENEBAUM, LARRY MISIM INVESTMENTS LTD. MELE, MICHELE HOLLANDER, FAIGE	C
YR3057325	2020/01/16	NO ASSGN RENT GEN		2735447 ONTARIO INC.	PAISLEY, MICHAEL USHER, MARTY CANADIAN SHIELD HOLDINGS & CONSULTING INC. TAURO, LUCIANO 1220356 ONTARIO LTD. ALTER, BARRY MARTIN A. LIEBERMAN ENTERPRISES INC.	C

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				HOLLANDER, ANNETTE SOLWAY, CAROLE THE SALZ CORP. TENEBAUM, LARRY MISIM INVESTMENTS LTD. MELE, MICHELE HOLLANDER, FAIGE		
REMARKS: YR3057324.						
YR3057328	2020/01/16	CHARGE	\$3,400,000	2735447 ONTARIO INC.	2735440 ONTARIO INC.	C
YR3066420	2020/02/11	APL CONSOLIDATE		2735447 ONTARIO INC.		C
YR3072300	2020/02/27	APL AMEND ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	FAAN MORTGAGE ADMINISTRATORS INC.	
REMARKS: DELETE YR2912843						
YR3091998	2020/04/24	APL DEL CONST LIEN		*** COMPLETELY DELETED *** CAPITAL BUILD CONSTRUCTION MANAGEMENT CORP.		
REMARKS: YR3010119. , AND YR3033221						
YR3095331	2020/05/04	APL (GENERAL)		*** COMPLETELY DELETED *** 2735447 ONTARIO INC.		
REMARKS: DELETE LEASE YR1372921						

Appendix 17:
Summary of Loan Documentation

OML Original Loan Agreements

Borrower	2041254 Ontario Ltd., in trust for OML Inc.
Lender	Each individual lender (or Olympia Trust Company, in trust for a specific individual lender) signed a separate loan agreement with the borrower
Date	Various dates starting in 2011
Authorized loan amount	Total aggregate amount of up to \$4 million
Principal amount of loan outstanding prior to OML Sale Transaction	\$2,977,200
Number of OML Original Investors	58. Note that this number reflects a reduction from the original number of investors on account of the Former OML Original Investor Minutes of Settlement.
Maturity date	May 4, 2014 (available extension to May 4, 2015)
Details of mortgage registration	Registered December 22, 2011 for \$4 million in favour of Sanjay Pahuja, as Trustee and Olympia Trust Company. At the time that the mortgage was registered, the three parcels comprising the OML Properties, being 177 Woodbridge Avenue, 185 Woodbridge Avenue and 197 Woodbridge Avenue, were owned by 2041254 Ontario Ltd., Frank Cundari and Joseph Jeradi, respectively. The OML Original Mortgage was granted by each of these three owners to Mr. Pahuja and Olympia Trust Company. Each parcel was transferred to OML Inc. on January 14, 2014.
Mortgage ranking at date of registration	The Trustee understands that the OML Original Mortgage ranked in second priority on title to the OML Properties at the time of registration.

The Trustee notes that it appears that the thirteenth and final tranche of the OML Original Investors were provided with a different version of the loan document than the version provided to the OML Original Investors in the other twelve tranches of the OML Original Loans. References in the Report to the OML Original Loan Agreements are to the version provided to the majority of the OML Original Investors.

OML Original Loan Amending Documents and Agency Agreement

On or around June 2015, Investors were asked to sign the following documents in contemplation of the Proposed Fortress/Fernbrook Transaction (and these agreements were entered into after the APS was executed, but before the closing of the transaction, which ultimately never occurred): (i) a Loan Amending Agreement and Schedule "A" (Acknowledgement of Co-Tenancy Provisions); (ii) a revised Form 9D disclosure form; and (iii) Participation and Servicing Agreement with Centro whereby Centro would administer the investment. Investors were also asked to sign accession agreements to an Agency Agreement at this time.

<p>OML Original Loan Amending Agreement</p>	<p>The OML Original Loan Amending Agreement is dated June 1, 2015 between the applicable OML Original Investor, OML Inc., Fortress OML Inc., FCF OML 2013 Inc. and Centro Mortgage Inc. (now BDMC).</p> <p>The OML Original Loan Amending Agreement includes, among other things, the following terms:</p> <ul style="list-style-type: none"> • The applicable OML Original Investor consents to the transfer of the property to Fortress OML Inc. and Fernbrook. • FCF OML 2013 Inc. shall take title to the OML Properties and assume the obligations of the Original OML Borrower under the OML Original Loan Agreements upon the closing of, and the registration of the proposed transfers in respect of, the Proposed Fortress/Fernbrook Transaction. • The maturity date is amended to October 4, 2018 (with an extension available to October 4, 2019). • The repayment of the loan shall be in accordance with the Co-Tenancy Agreement. • The OML Original Loan, the OML 3 Loan and any future syndicated loans in favour of Derek Sorrenti, BDMC or RRSF trustees will rank <i>pari passu</i> with respect to any recoveries or distributions on their respective loans, notwithstanding the order of registration or advance of monies. • The applicable OML Original Investor consents and directs Sanjay Pahuja to transfer its interest in the charge to BDMC as new trustee. • The applicable OML Original Investor agrees to enter into the Original PASA with BDMC.
<p>Schedule "A" to the OML Original Loan Amending Agreement: Acknowledgement of Co-Tenancy Provisions</p>	<p>The Acknowledgement provides as follows:</p> <p><i>"in order to induce Fortress and Fernbrook to enter into and require title to the Properties and to cause [FCF OML 2013 Inc.] to assume the obligations of the borrower under the terms of the Loan Agreement, the [OML Original Investor] consents to and agrees to be bound by the Co-Tenancy Provisions".</i></p> <p>Neither BDMC nor the OML Original Investors are party to the Co-Tenancy Agreement. It is unclear to the Trustee whether the OML Original Investors were provided with a complete copy of the Co-Tenancy Agreement. Excerpts are attached as an exhibit to the OML Original Loan Amending Agreement.</p>
<p>Form 9D disclosure form</p>	<p>The revised Form 9D signed in connection with the OML Original Loan Amending Agreement provides, among other things, as follows:</p> <ul style="list-style-type: none"> • The OML Original Mortgage would be for a principal amount of \$4 million, increasing to a maximum of \$19 million. The increase of the loan to \$19 million is not authorized in the OML Original Loan Amending Agreement itself. • The Form 9D states that the new borrower is FCF OML 2013 Inc. (which, as noted in the OML Original Loan Amending Agreement, would only occur upon the closing and registration of the proposed transfers in respect of the Proposed Fortress/Fernbrook Transaction).
<p>Original PASA</p>	<p>The Participation and Servicing Agreement is dated as of June 1, 2015 between the applicable OML Original Investors and Centro Mortgage Inc., in trust (now BDMC). It describes certain terms and conditions of BDMC's administration of the OML Original Loans. It was made in contemplation of various loan facilities to FCF OML 2013 Inc. totaling \$19 million (which aligns with the statement in the Form 9D disclosure form but is not directly authorized in the OML Original Loan Amending Agreement).</p> <p>The Trustee notes that the Original PASA contains various internal inconsistencies. Although it appears to contemplate BDMC's administration of a \$19 million loan in the recitals, it defines the loan as being a loan of "up to \$14 million" and states that the loan agreement is between Centro and FCF OML 2013 Inc. (as opposed to being between the individual OML Original Investors and OML Original Borrower).</p>
<p>Agency Agreement</p>	<p>The Agency Agreement is dated as of June 1, 2015 between the applicable OML Original Investors and Centro Mortgage Inc., as agent (now BDMC). It appoints BDMC as agent for the OML Original Investors to facilitate the management of such Investors' interests in the OML Original Loans and the OML Properties, including the OML Original Mortgage.</p> <p>The Agency Agreement references the OML Original Loan Agreements and the OML Original Mortgage (i.e., it does not reference the amended loan documentation). It does not appear to reference the Proposed Fortress/Fernbrook Transaction.</p>

OML 3 Loan Agreement and Related Documents

The Trustee understands that early tranches of OML 3 Investors were presented with a different version of the OML 3 Loan Agreement than the later tranches of investors. Certain differences between the two loan agreements are summarized below. Other differences include a change to the frequency of interest payments, a change in the terms of the deferred lender fee provisions, an increase of the available first ranking construction loan security from \$50 million to \$100 million, and the attachment of a Schedule "C" to the later version of the OML 3 Loan Agreement that contained certain provisions of the Co-Tenancy Agreement.

Borrower	FCF OML 2013 Inc. Note: The OML 3 Loan Agreement contains a representation from this borrower that it has good, valid and marketable title to the OML Properties. However, at the time the OML 3 Loan Agreement was entered into, the OML Properties were owned by OML Inc.
Lender	Sorrenti Law Professional Corporation, in trust
Date	September 4, 2013
Authorized loan amount	Total aggregate amount of up to \$14 million.
Principal amount of loan outstanding prior to OML Sale Transaction	Later tranches of OML 3 Investors were provided with a version of the OML 3 Loan Agreement that stated that the total aggregate amount of the loan was up to \$19 million. \$6,379,500
Number of OML 3 Investors	136
Maturity date	October 4, 2016 (available extension to October 4, 2017). Later tranches of OML 3 Investors were provided with a version of the OML 3 Loan Agreement that stated that the maturity date was October 4, 2018 (with an extension available to October 4, 2019).
Details of mortgage registration	Registered January 14, 2014 for \$3 million in favour of Sorrenti Law Professional Corporation (which amount was subsequently increased to \$7.7 million). The mortgage was granted by OML Inc., the registered owner at the time of registration. The Trustee notes that OML Inc. is not the borrower under this loan agreement.
Mortgage ranking at date of registration	The Trustee understands that the OML 3 Mortgage ranked in third priority on title to the OML Properties at the time of registration.
Form 9D disclosure form	The Form 9D signed by the earlier tranches of OML 3 Investors contains various contradictory statements regarding the proposed ranking of the various OML Loans. For example: <ul style="list-style-type: none"> • It states that the second-ranking OML Original Mortgage "will merge with the 3rd mortgage charge increasing over the duration of the term to a maximum of \$14 million". • In another section, it provides that the new third ranking mortgage would postpone its position to the first and second ranking mortgages. Accordingly, it is unclear whether the OML 3 Loan and the OML Original Loan were intended to "merge" and rank <i>pari passu</i> , or if the OML 3 Mortgage would rank subordinate to the OML Original Mortgage. The Trustee understands that there was no documentation between the OML Original Investors and the OML 3 Investors evidencing any agreement to "merge" or increase the authorized amount of the loans at the time. Later tranches of OML 3 Investors signed a Form 9D that did not reference a similar "merger" concept. The later version of the Form 9D only stated that the OML 3 Mortgage would be a third ranking mortgage.

OML 3 Loan Amending Documents

In 2014 and 2015, the Trustee understands that the earlier tranches of OML 3 Investors were asked to sign the following documents in contemplation of the Proposed Fortress/Fernbrook Transaction (and these agreements were entered into after the APS was executed, but before the closing of the transaction, which ultimately never occurred): (i) a Loan Amending Agreement; (ii) a revised Form 9D disclosure form; and (iii) a Participation and Servicing Agreement with Centro whereby Centro would administer the investment. The Trustee understands that the later tranches of OML 3 Investors were not asked to sign the OML 3 Loan Amending Documents.

<p>OML 3 Loan Amending Agreement</p>	<p>The OML 3 Loan Amending Agreement is dated on or around August 2014 between Sorrenti, OML Inc., Fortress OML Inc. and FCF OML 2013 Inc (although the Trustee notes that it appears to be signed by the individual Investor, not Sorrenti). The Trustee notes that each Loan Amending Agreement signed by an OML 3 Investor may be dated as of the date signed by such Investor.</p> <p>The OML 3 Loan Amending Agreement includes, among other things, the following terms:</p> <ul style="list-style-type: none"> • The applicable OML 3 Investor consents to the transfer of the property to Fortress OML Inc. and Fernbrook. • FCF OML 2013 Inc. shall take title to the OML Properties and assume the obligations of OML Inc. under the OML 3 Loan Agreement upon the closing of, and registration of the proposed transfers in respect of, the Proposed Fortress/Fernbrook Transaction. The Trustee notes that OML Inc. was not the borrower under the OML 3 Loan Agreement. • The maturity date is amended to October 4, 2018 (with an extension available to October 4, 2019). • The repayment of the loan shall be in accordance with the Co-Tenancy Agreement. • The OML Original Loan, the OML 3 Loan and any future syndicated loans in favour of Derek Sorrenti, BDMC or RRSF trustees will rank <i>pari passu</i> with respect to any recoveries or distributions on their respective loans, notwithstanding the order of registration or advance of monies. <p>The Trustee notes that the OML 3 Loan Amending Agreement incorrectly states that the OML 3 Loan Agreement was between OML Inc. and Sorrenti (not FCF OML 2013 Inc. and Sorrenti).</p>
<p>Revised Form 9D disclosure form</p>	<p>The revised Form 9D signed in connection with the OML 3 Loan Amending Agreement provides, among other things, as follows:</p> <ul style="list-style-type: none"> • The OML 3 Mortgage shall be a third ranking charge in the principal amount of \$5.7 million, increasing to a maximum of \$19 million. The increase of the loan to \$19 million is not authorized in the OML 3 Loan Amending Agreement itself. • In certain sections, it states that the third ranking mortgage shall rank below and postpone to the second ranking charge in favour of BDMC of \$4 million (being the OML Original Mortgage). However, in another section, it provides that the second ranking mortgage may merge with the third ranking mortgage, increasing over the duration of the term to a maximum of \$19 million. <p>Accordingly, following the amendments to the loan agreement, it remains unclear whether the OML 3 Loan and the OML Original Loan were intended to "merge" and rank <i>pari passu</i>, or if the OML 3 Mortgage was intended to rank subordinate to the OML Original Mortgage.</p>
<p>OML 3 PASA</p>	<p>The Participation and Servicing Agreement is dated as of June 1, 2015 between the applicable OML 3 Investors and Sorrenti. It describes certain terms and conditions of Sorrenti's administration of the OML 3 Loan.</p> <p>It references a loan of up to \$19 million to FCF OML 2013 Inc. (which amount aligns with the Form 9D disclosure form but is not authorized under the OML 3 Loan Amending Agreement).</p> <p>The administration of the OML 3 Loan was transferred from Sorrenti to BDMC pursuant to a transfer of charge registered on title to the properties on September 8, 2016.</p>

OML Hybrid Loan Agreement and Related Documents

Borrower	OML Inc., or its assignees
Lender	BDMC, in trust
Date	April 16, 2016
Authorized loan amount	"Up to and collectively with the <i>Pari Passu</i> 3rd mortgage, never exceeding \$19 million". The " <i>Pari Passu</i> 3 rd mortgage" is not defined.
Principal amount of loan outstanding prior to OML Sale Transaction	\$3,094,200
Number of OML Hybrid Investors	47
Maturity date	2.5 years from the date of the first advance.
Details of mortgage registration	Registered November 15, 2016 for \$1.6 million in favour of BDMC, in trust (which amount was subsequently increased to \$3.82 million).
Mortgage ranking at date of registration	The Trustee understands that the OML Hybrid Mortgage ranked in fifth priority on title to the OML Properties at the time of registration. However, the loan agreement provided that BDMC would be granted a " <i>Pari Passu</i> 3 rd mortgage" (which is not defined in the OML Hybrid Loan Agreement). Between the date of the OML Hybrid Loan Agreement and the registration of the OML Hybrid Mortgage, the JYR mortgage was registered in second priority on title. As a result, it is unclear whether the " <i>Pari Passu</i> 3rd mortgage" was intended to rank <i>pari passu</i> with the 3rd mortgage as of: (i) the date of the OML Hybrid Loan Agreement (being the OML 3 Mortgage), or (ii) the date of registration of the OML Hybrid Mortgage (being the OML Original Mortgage).
Schedule "C" to the Loan Agreement: Priority of Repayment Waterfall	Schedule "C" to the Loan Agreement provides a "waterfall" describing the priority of repayment of debt by the OML Hybrid Borrower. Schedule "C" is not referenced in the body of the OML Hybrid Loan Agreement, and uses certain defined terms that are not defined in the OML Hybrid Loan Agreement. This repayment waterfall provides that, after repayment of the senior mortgages on title, certain amounts owing under the OML Hybrid Loan and the OML Original Loans would be repaid as part of the same step in the payment waterfall, following which certain amounts owing under the OML 3 Loan would be repaid.
OML Hybrid PASA	The Participation and Servicing Agreement is dated as of April 4, 2016 between the applicable OML Hybrid Investors and Sorrenti. The Trustee notes that the OML Hybrid PASA was executed between the applicable OML Hybrid Investor and Sorrenti (as opposed to BDMC). Sorrenti did not sign the OML Hybrid Loan Agreement. The OML Hybrid PASA also incorrectly states that the borrower under the loan is FCF OML 2013 Inc. (not the OML Hybrid Borrower).
Form 9D disclosure form	The Form 9D disclosure form states that the borrower is FCF OML 2013 Inc. (not the OML Hybrid Borrower) and is addressed to Sorrenti (not BDMC). The Form 9D contains various contradictory statements regarding the proposed ranking of the various OML Loans. For example: <ul style="list-style-type: none"> • In certain sections, it states that the OML Hybrid Mortgage will rank <i>pari passu</i> with the OML 3 Mortgage, which would both rank below the second-ranking OML Original Mortgage. • In another section, it incorporates the repayment waterfall included as Schedule "C" to the OML Hybrid Loan Agreement, which provides that the OML Hybrid Mortgage would rank <i>pari passu</i> with the OML Original Mortgage, with the OML 3 Mortgage being subsequent in priority. Accordingly, it is unclear whether the OML Hybrid Loan was intended to rank <i>pari passu</i> with the OML 3 Loan, the OML Original Loans or both of these loans.

The Trustee notes that, although the Proposed Fortress/Fernbrook Transaction did not fall apart until January 2018, the OML Hybrid Loan documents do not appear to reference the Proposed Fortress/Fernbrook Transaction in the same manner as the amending agreements in respect of the OML Original Loans and the OML 3 Loan.

**Confidential Appendix 1:
Minutes of Settlement dated December 15, 2015**

**[THIS DOCUMENT IS REDACTED IN ITS ENTIRETY AND
SUBJECT TO A REQUEST FOR A SEALING ORDER]**

TAB 3

Court File No.: CV-18-596204-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	THURSDAY, THE 15 TH
)	
JUSTICE HAINEY)	DAY OF OCTOBER, 2020

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,
c. 29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

OML DISTRIBUTION ORDER

THIS MOTION, made by FAAN Mortgage Administrators Inc., in its capacity as Court-appointed trustee (in such capacity, the “**Trustee**”), of all of the assets, undertakings and properties of Building & Development Mortgages Canada Inc. (“**BDMC**”) pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, for an Order, *inter alia*: (i) authorizing the Trustee to make a distribution of 85% of the Realized Property received in

Draft

respect of the OML Sale Transaction (as defined in the Twentieth Report) on a *pari passu* basis to all remaining OML Investors in accordance with the approach described in the Twentieth Report and pursuant to the terms of the Realized Property Order, as amended; (ii) approves the Twentieth Report and the Trustee's activities described therein, and (iii) seals Confidential Appendix "1" to the Twentieth Report until further Order of this Court, was heard this day by videoconference in Toronto, in accordance with the changes to the operations of the Commercial List in light of the COVID-19 pandemic;

ON READING the Twentieth Report of the Trustee dated October 2, 2020 (the "**Twentieth Report**"), and on hearing the submissions of counsel for the Trustee, Chaitons LLP, in its capacity as Representative Counsel, and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of ● sworn ●, filed;

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record, and the Twentieth Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meanings given to them in the Twentieth Report.

OLD MARKET LANE REALIZED PROPERTY

3. **THIS COURT ORDERS** that all proceeds received or receivable by the Trustee from the OML Sale Transaction are and shall be deemed to be "Realized Property" as defined in the Order of this Court dated June 26, 2018.
4. **THIS COURT ORDERS** that the Trustee shall make a distribution in an aggregate amount equal to 85% of the Realized Property received from the OML Sale Transaction on a *pari passu* basis to all remaining OML Investors in accordance with the Pari Passu Approach described in the Twentieth Report, and in accordance with paragraph 3(b) of the Order of this Court dated October 30, 2018, as amended by Orders of this Court dated November 28, 2018 and December 20, 2018.

APPROVAL OF TWENTIETH REPORT AND ACTIVITIES

5. **THIS COURT ORDERS** that the Twentieth Report and the Trustee's activities described therein are hereby approved.

SEALING

6. **THIS COURT ORDERS** that Confidential Appendix "1" of the Twentieth Report shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

OTHER

7. **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 Trustee 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 Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

Draft

Applicant

Respondent

Court File No. CV-18-596204-00CL

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

Proceedings commenced at Toronto

OML DISTRIBUTION ORDER

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in its capacity as Court-appointed Trustee of
Building & Development Mortgages Canada Inc.

Draft

THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Applicant

Respondent

Court File No. CV-18-596204-00CL

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

Proceedings commenced at Toronto

**MOTION RECORD OF
FAAN MORTGAGE ADMINISTRATORS INC.,
in its capacity as Court-appointed Trustee
(OML Distribution Motion)**

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in its capacity as Court-appointed Trustee of
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