



This is the 2nd affidavit  
of Talbir Mann in this case  
and was made on April 19, 2026

Province of British Columbia  
Bankruptcy Division  
Vancouver Registry  
Court File No. B26050  
Estate No. 11-3352394

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF  
1281805 BC LTD.

**AFFIDAVIT**

I, Talbir Mann of 900-980 Howe Street, Vancouver, British Columbia, businessperson, AFFIRM THAT:

1. I am a director of 1281805 BC Ltd. (the "**Company**") and as such have personal knowledge of the facts and matters hereinafter deposed to by me, except where stated to be based on information and belief, and where so stated, I verily believe them to be true.
2. This affidavit is further to my first affidavit made March 31, 2026, in support of the Company's application for an order creating a first-ranking debtor-in-possession ("**DIP**") financing charge on the Company's assets and for an extension of the stay of proceedings.

**NOI Proceedings to Date and Extension of Time to File a Proposal**

3. Since my first affidavit, the Company has been working diligently to stabilize its business and position itself to the continuing and completion of Phase 1 of the Everwood Project. That has included, but is not limited to, discussions with trade creditors and suppliers and with Envision Financial, a division of First West Credit Union ("**Envision**").
4. The Company requires time to consider and restructure its affairs so that it can meet its obligations to its creditors and advance the Everwood Project for the benefit of all stakeholders. With the benefit of the continuation of these proceedings, the Company will be able to take steps with the assistance of the Proposal Trustee to advance those goals, with the ultimate goal of presenting a viable plan or proposal to its creditors. For these reasons, the Company also requires that the *status quo* be maintained so that it can properly consider its options.

5. The Company has acted in good faith and with due diligence prior to the filing of the NOI and continues to do so in order to present a viable plan or proposal to its creditors. The Company is not aware of any creditor that would be materially prejudiced if the extension of time was granted.

#### **Cash Flow Forecast**

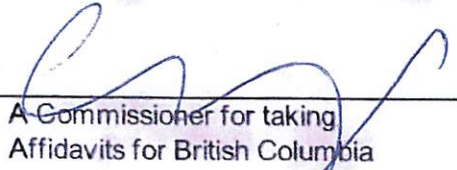
6. The Company, with the assistance of the Proposal Trustee, has prepared a cash flow statement (the "**Cash Flow Statement**") covering the period from March 26, 2026, to July 31, 2026.
7. The Cash Flow Statement reflects the costs of the Company to continue operations and pay its professional advisors in relation to its restructuring process.
8. Pursuant to the Cash Flow Statement, the Company is able to meet its post-filing obligations during the proposed extended period of the stay, with interim DIP funding.


#### **DIP Funding and Discussions with Envision**

9. As addressed in my first affidavit, the Company will have insufficient funds to meet the obligations it expects to incur going forward and will therefore need to obtain DIP funding.
10. Since my first affidavit, the Company has had several discussions with Envision, who indicated they would advance a competing term sheet to the Company.
11. Around April 17, 2026, the Company reached an agreement with Envision to provide the necessary amount to fund the Proposal proceedings and, in particular, the amounts required to advance Phase 1 of the Everwood Project. Attached to this Affidavit and marked as **Exhibit "A"** is a true copy of the executed term sheet dated April 17, 2026.
12. It is vital that such agreement is approved and preliminary draws funded as soon as possible. The negotiation of such term sheet has already significantly delayed the advancement of these proceedings. The Company cannot accommodate the further delay of funding given the urgent need for financing to secure critical supplier support, including insurance, security monitoring and outstanding strata management fees.
13. I was not physically present before the commissioner of this affidavit, but was present before the commissioner by video technology, and this affidavit was commissioned following the process for remote commissioning of affidavits as set out in Appendix A to the Law Society of British Columbia's Code of Professional Conduct.

14. I acknowledge the solemnity of making this affidavit and the consequences of making an untrue statement herein.

AFFIRMED BEFORE ME at Vancouver, )  
British Columbia, on April 19, 2026 )

  
A Commissioner for taking )  
Affidavits for British Columbia )

  
Talbir Mann

**WILLIAM E. SPRANSKY**  
*Barrister & Solicitor*  
**MCEWAN COOPER KIRKPATRICK LLP**  
900 - 980 Howe Street  
Vancouver, BC V6Z 0C8  
(604) 203-8065

**This is Exhibit "A" referred to in  
Affidavit #1 of Talbir Mann made  
before me on this 19th day of April,  
2026.**



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**A Commissioner for taking Affidavits  
in the Province of British Columbia**



200 - 19933 88th Avenue, Langley, BC V2Y 4K5

April 17, 2026

**PRIVATE AND CONFIDENTIAL**

1281805 BC Ltd.  
19951 80A Ave  
Langley, BC V2Y 0E2

**Re: Offer of Credit for A Senior Secured Super-Priority Debtor-In-Possession Credit Facility**

We are pleased to advise that Envision Financial, a division of Tru Cooperative Bank, formerly known as First West Credit Union (the "Financial Institution" or "Lender") has approved and hereby offers the senior secured super-priority debtor-in-possession financing to the Borrower, as described below, subject to the terms and conditions set forth in this Agreement ("Offer of Credit") in connection with the Borrower's filing of a Notice of Intention to Make a Proposal (the "NOI") on March 26, 2026 under the provisions of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 (the "Proceedings") and pursuant to which FTI Consulting Canada Inc. has been appointed as the Trustee under the NOI (the "Trustee"). The specific details of those terms and conditions are outlined in the following sections:

1. Borrowing Party
2. Credit Facility
3. Security
4. Fees
5. Other Terms and Conditions
6. Acceptance

Definitions and further particulars are incorporated into this Offer of Credit by reference, including attached Schedules:

- Standard Terms and Conditions – "Dip Loan"
- Commercial Insurance

**1. BORROWING PARTY**

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**BORROWER** 1281805 BC Ltd. and all other related parties of the Proceedings (collectively the "Borrower")

<b>INDEMNITORS</b>	<p>Wood Lock Developments Ltd. 1281826 BC Ltd. Hello Holdings Ltd. Simple Multi Media Solutions Inc. Lawrence Kwok Leung Chan</p> <p>(collectively, the "Indemnitors")</p>	<p>Advanced Marketing Solutions Inc. Black Vintage Media Inc. Talbir Mann Harry Ma Dennis Tin Tsi Jung Adrian Phillippe Chan</p>
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## 2. CREDIT FACILITY

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<b>Loan Amount</b>	Subject to court approval in the Proceedings, a non-revolving super priority senior secured credit facility up to \$2,400,000 would be made available to the Borrower for interim financing on the general terms set out herein (the "DIP Loan").
<b>Purpose</b>	The DIP Loan will be used by the Borrower to fund: (i) the remaining construction costs and operating expenses to complete the final 10 townhomes in Phase 1 and certain approved soft costs relating to 3 completed townhomes in Phase 2 of the development project located at 23697 Fern Crescent., Maple Ridge, BC, V4R 2S9 (the "Project" or the "Lands"); (ii) professional fees and expenses associated with the Proceeding; (iii) monthly interest and standby fees on the Credit Facility; iv) the financed portion of the Commitment Fee (\$35,000); and v) the Lender's closing costs and expenses.
<b>Interest Rate</b>	<b>Prime + 3.50%. Variable Rate as of today's date is Prime is 4.45%</b> (*see Definitions of "Prime" and "Variable Rate" in the attached Standard Terms and Conditions Schedule).
<b>Term</b>	The maturity of the DIP Loan (the "Maturity Date") shall be the earliest of: <ul style="list-style-type: none"> <li>a) 6-months from the date on which all Conditions Precedent have been satisfied and the initial advance under the DIP Loan has been made by the Financial Institution (the "Closing Date");</li> <li>b) the date on which (i) the stay of proceedings under the Proceedings is lifted without the consent of the Lender, or (ii) the Proceedings are terminated for any reason;</li> <li>c) the conversion of the Proceedings into a proceeding under the Company's Creditors Arrangement Act ("CCAA") or into a receivership under the BIA or applicable provincial statute; and</li> <li>d) 10 days following written notice being provided by the Lender to the Borrower of an Event of Default.</li> </ul>
<b>Payments</b>	<b>Interest Only.</b> Accrued interest is payable on the first day of every month and will be charged to the Borrower's account at the Financial Institution when the same become payable.
<b>Repayment</b>	All amounts outstanding under the Credit Facility, including, without limitation, principal, interest and fees, shall be paid to the Financial Institution on the Maturity Date.  If there has been no Event of Default, the Financial Institution may permit the sale of individual units within the Project (referred to individually as a "Unit") by the Borrower and in such case will grant a partial release of the Securities against each sold Unit upon receipt of 100% of the sale proceeds from the Unit, less real estate commissions, reasonable closing costs and applicable taxes.
<b>Prepayment</b>	The Borrower has the right, at any time when not in default hereunder or under the Securities, to prepay the whole or any portion of the balance outstanding under this

Agreement without notice or bonus provided that any such payments will be applied first to interest accrued to the date of payment and second to principal.

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### 3. SECURITY

As continuing security for the payment of all amounts payable by the Borrower to the Financial Institution under the DIP Loan, all security that has been delivered to the Financial Institution and is set forth as Securities in this Agreement shall remain in full force and effect, is expressly reserved by the Financial Institution and unless expressly indicated otherwise, shall apply in respect of all obligations of the Borrower under the DIP Loan.

Repayment of the DIP Loan and interest and Other Amounts will be secured by the Securities set forth in Schedule A hereto.

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### 4. FEES

**Commitment Fee**            **\$55,500.** The Borrower acknowledges that the Commitment Fee once paid by the Borrower to the Financial Institution is nonrefundable and is a reasonable estimate of the Financial Institution's cost incurred in investigating and preparing for the DIP Loan and of holding monies available to fund the DIP Loan and the Commitment Fee will not be returned to the Borrower even if the DIP Loan is not advanced

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### 5. OTHER TERMS AND CONDITIONS

#### CONDITIONS PRECEDENT

The Borrower must fulfil the conditions precedent, including but not limited to delivery to the Financial Institution confirmation of completion and registration of Securities, as outlined in Sections 3.3 and 3.4 of the attached Standard Terms and Conditions – DIP Loan, prior to the initial Loan advance, as well as the further conditions (to the satisfaction of the Financial Institution) outlined below (collectively, the "Conditions Precedent"):

Customary conditions precedent to closing transactions of this nature, including, without limitation:

- a) Issuance of a Court Order in the Proceedings granting the Lender a super-priority charge against all the assets, properties and undertakings of the Borrower in respect of the DIP Loan, ranking in priority to all other security interests, claims or deemed trusts (statutory or otherwise), satisfactory in form and substance to the Lender, approving and authorizing the DIP Loan transaction described herein (the "Order"), and such Order being in full force and effect, unamended and not stayed;
- b) Completion by the Lender of all business, financial, legal and environmental due diligence with respect to the Borrower, the collateral and the DIP Loan to the satisfaction of the Lender in its sole discretion;
- c) Lender commissioned appraisal or opinion of value on the Borrower's property comprising the Project, at the Lender's sole discretion;
- d) Receipt of a third-party Quantity Surveyor Report for the Project, if required by the Lender;
- e) Other reporting and reliance letters for any reports as may be reasonably requested by the Lender;

- f) There will be no pending appeals, injunctions or other legal impediments relating to the completion of the DIP Loan or pending litigation seeking to restrain or prohibit the completion of the DIP Loan;
- g) Provision of a Weekly Cash Flow forecast, to the satisfaction of the Lender;
- h) Detailed construction budget along with costs incurred to date, cost to complete and timetable for the Project;
- i) Execution of a definitive DIP Loan Agreement and other reasonably required transaction documents, in form and substance satisfactory to the Lender (collectively, the "DIP Credit Documents"), if requested by the Lender;
- j) The Borrower shall have paid all fees then owing to the Lender including, without limitation, the Commitment Fee;
- k) Perfected security interests in the Securities with the priorities described above, together with the execution and delivery of security documentation and perfection filing from the Lender by the Closing Date; and
- l) The Lender shall have been named as additional insured and first loss payee on the Borrower's property and casualty insurance policies and Course of Construction insurance in connection with the Project.

Budget	The Project Budget, for approval by and to the satisfaction of the Financial Institution.
Worksafe BC	Evidence of registration of the general contractor with WorkSafe BC.
Warranty	Confirmation that the Project has third-party home warranty insurance in place from an insurance company authorized by the Financial Institutions Commission that meet the requirements set out in the Homeowner Protection Act.
Schedule	A detailed construction schedule together with a cash flow forecast for the Project, indicating monthly cash requirements, the amount of monthly draws, the accumulated total cost and advances at each month end and incorporating, if requested, estimated sales including the timing of both sales and receipt of proceeds.
Other	Such other information as the Financial Institution may reasonably request.

#### CONDITIONS ONGOING

The following information is to be provided in support of the credit facilities:

Interest Reserve:	An interest reserve account will be drawn from the budget amount and held in a non-interest-bearing demand account at the Financial Institution for the term of the DIP Loan. Accrued monthly interest will be drawn from the account. The Borrower will not have access to this account, nor are there any fees for this account. The initial reserve is required in the amount of \$101,400, requests to replenish such amounts may be called for from time-to-time.
Reporting	<ul style="list-style-type: none"> <li>a) Monthly cash flow statements from the Borrower as reviewed by the Trustee;</li> <li>b) On a monthly basis, an updated construction budget which includes the construction costs incurred to date during the Proceedings, the projected cost to complete the Project and the remaining timeline to reach substantial completion;</li> </ul>

c) Evidence of payment of all government priority payables within 15 days of their respective due dates; and

d) Any such other reporting the Lender may reasonably request, including a Quantity Survey report on the Project status every 45 days.

**Insurance**

Confirmation of Property, Asset and/or Course of Construction coverage will be provided within 60 days of the expiry date.

**Authorizations**

By signing this Offer of Credit, the Financial Institution is authorized to obtain any required financial statements directly from the Borrower's accounting firm should it not be provided within the time frame detailed. Each party will provide any further authorizations and/or consents that may be required to give effect to this provision.

**COVENANTS**

The Borrower covenants and agrees with the Financial Institution, that, so long as any portion of the DIP Loan or liabilities of the Borrower under this Offer of Credit letter remain outstanding, it shall not, without the prior written consent of the Financial Institution, grant or permit additional charges on pledged security assets.

**COSTS & EXPENSES**

The Borrower agrees to pay the Financial Institution all fees stipulated in this Agreement and all fees relating to the documentation or registration of this Agreement and the Securities. In addition, the Borrower agrees to pay all fees (including legal fees on a full indemnity basis), costs and expenses incurred by the Financial Institution in connection with the preparation, negotiation, documentation and registration of this Agreement and any Securities and the administration, operation, termination, enforcement, or protection of its rights in connection with this Agreement and the Securities.

The Borrower shall indemnify and hold the Financial Institution harmless against any loss, cost or expense incurred by the Financial Institution if the DIP Loan is repaid or prepaid other than on its Maturity Date. The determination by the Financial Institution of such loss, cost or expense shall be conclusive and binding for all purposes and shall include, without limitation, any loss incurred by the Financial Institution in liquidating or redeploying deposits acquired to make or maintain any facility.

**ASSET INSURANCE**

**All Risk Insurance Assignment / Endorsements** will be provided as outlined in the attached Schedule on all of the Borrower's real and personal property including, without limitation, lands, buildings, equipment and inventory owned by the Borrower, showing the Financial Institution as first loss payable by way of standard mortgage endorsement.

**SERVICE CHARGES**

Service charges are as per the posted Financial Institution Service Fee Guide and amended from time to time.

6. ACCEPTANCE

If the provisions of this Offer of Credit meet with your approval, please sign the Borrower Acceptance and return a copy of this Letter of Offer together with the Commitment Fee noted above to the Financial Institution **on or before 4:00 p.m. on Monday, April 20, 2026**, at which time the Financial Institution's offer, unless accepted, will lapse and terminate.

Yours truly,  
Envision Financial, a division of **Tru Cooperative Bank**

By its authorized signatories:

  
\_\_\_\_\_  
Mandeep Sindhi, Director Credit & Special Accounts  
**Corporate Credit**

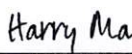
**Yvonne Waugh**  
\_\_\_\_\_  
Yvonne Waugh, Manage Special Accounts,  
**Commercial**

**BORROWER ACCEPTANCE:**

**1281805 BC Ltd.**

**Per:**

  
\_\_\_\_\_  
Authorized Signatory  
Name & Title: Talbir Mann Director

Signed by:  
  
\_\_\_\_\_  
27DB72048407488...  
Authorized Signatory  
Name & Title: Harry Ma Director

We have the authority to bind the Borrower

## STANDARD TERMS AND CONDITIONS - DIPLOAN

### PART 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions - In this Agreement, unless the context otherwise requires:

"**Agreement**" means these Standard Terms and Conditions - DIP Loan and the letter to which they are attached as the same may be amended from time to time and the expression "hereof", "herein", "hereto", "hereunder", and "hereby", and similar expressions refer to this Agreement and not to any particular provision;

"**Business Day**" means each day Monday through Friday inclusive other than a day which is a statutory holiday in the Governing Jurisdiction;

"**Compounding Frequency**" is monthly unless otherwise stated in the Offer of Credit or Loan Agreements.

"**Construction Contracts**" means all contracts between the Borrower and other persons relating to the construction of the Project;

"**CreditMaster<sup>®</sup> Mortgage**" means a mortgage in favour of the Financial Institution incorporating For BC: Standard Mortgage Terms MT980021 or MT030098 as Part 2 thereof or MT23001 and registered or to be registered in the applicable Land Title Office or Land Registry Office;

"**Event of Default**" means an event described in section 8.1;

"**Governing Jurisdiction**" has the meaning given thereto in Section 1.3;

"**Inspector**" means the quantity surveyor, engineer or other professional appointed by the Borrower and approved by the Financial Institution who will advise the Borrower on the progress of construction of the Project;

"**Other Amounts**" means any other amounts that are payable by the Borrower to the Financial Institution under this Agreement other than principal of the DIP Loan and interest thereon;

"**Plans**" means the plans for the Project;

"**Prime Rate**" means that rate of interest, regardless of compounding frequency, designated by the Financial Institution from time to time as the reference rate to be used to determine the rate of interest to be charged on variable rate Canadian dollar loans made by the Financial Institution (or if at any one time more than one such rate is so designated, the higher or highest of such rates as the case may be);

"**Project Budget**" means the budget for the Project;

"**Project Costs**" means all costs incurred by the Borrower in connection with the Project including

- Costs of professional advisors (including architects, engineers and lawyers);
- Construction costs;
- Interest on money borrowed to pay Project Costs;
- Costs of insuring the Project;
- Advertising and sales promotion costs; and
- Land acquisition costs;

**But specifically, not including any of the following:**

- Borrower's profit;
- Repayment of borrowed monies;

- Return of capital or any return of equity;
- Payment of any bonus to any person;
- Payment of wages or salary to any shareholder or director of the Borrower except as specifically authorized in writing by the Financial Institution;
- Payments of any nature or kind (whether pursuant to a contract or otherwise) to a person not at arm's length with the Borrower, except as specifically agreed to in writing by the Financial Institution;

**"Property"** means all of the undertaking, property and assets of the Borrower subject to the Securities;

**"Securities"** means the Order and the Mortgage together with any and all other security documents to be provided by the Borrower to the Financial Institution and described in the section entitled "Security" in the letter part of this Agreement and in section 2.1;

**"Security Interests"** means the security interests in favour of the Financial Institution created by this Agreement and the Securities;

**"Specifications"** means the specifications for the Project.

- 1.2 **Headings** - The headings herein are inserted for convenience of reference only and will not affect the construction or interpretation of this Agreement.
- 1.3 **Governing Law** – This Agreement will be governed by, and construed in accordance with, the laws of the province where the branch office of the Financial Institution set out on page 1 of this Agreement is located (the **"Governing Jurisdiction"**) and the federal laws of Canada applicable therein.
- 1.4 **Submission to Jurisdiction** - The Borrower submits to the jurisdiction of the Courts of the Governing Jurisdiction and agrees to be bound by any suit, action or proceeding commenced in such Courts and by any order or judgment resulting from such suit, action or proceeding, provided however that the foregoing will in no way limit the right of the Financial Institution to commence suits, actions, or proceedings based on this Agreement or any of the Securities in any jurisdiction.
- 1.5 **Invalidity of Any Provision** - If any covenant, obligation or provision contained in this Agreement will be invalid or unenforceable, the remainder of this Agreement will not be affected thereby and each covenant, obligation or provision of this Agreement will separately be valid and enforceable to the fullest extent permitted by law.
- 1.6 **Conflict with Other Documents** - If the provisions of the Securities or any of them conflict with, or are inconsistent with, the provisions of this Agreement, the provisions of this Agreement will prevail.
- 1.7 **Certificate of Officer of Financial Institution** - A certificate signed by any officer (including a Branch Manager) of the Financial Institution stating the Prime Rate which applied on any day or during any period will be conclusive as to the respective rate which applied on that day or during that period, as the case may be, without further proof.
- 1.8 **Amendments** - This Agreement may only be amended from time to time in writing and any such amendment may be evidenced by memoranda or letters signed by an authorized officer of the respective parties without the necessity of such amendment being executed under seal.
- 1.9 **Counterparts** - This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement. For the purposes of this Section, the delivery of an electronic copy of an executed counterpart of this Agreement shall be deemed to be valid execution and delivery of this Agreement.

- 1.10 **Joint Obligations** - If more than one person constitutes the Borrower the agreements of, and all obligations and covenants to be performed and observed by, the Borrower hereunder will be the joint and several obligations and covenants of each of the persons comprising the Borrower and any request or authorization given to the Financial Institution by any of the persons comprising the Borrower will be deemed to be the joint and several requests or authorizations of each of the persons comprising the Borrower. If there is an Indemnitor and more than one person constitutes the Indemnitor the agreements of, and all obligations and covenants to be performed and observed by, the Indemnitor hereunder will be the joint and several obligations and covenants of each of the persons comprising the Indemnitor.
- 1.11 **Date for Action** - If any date on which any action required to be taken hereunder by either party is not a Business Day such action will be required to be taken on the next following Business Day.
- 1.12 **Entire Agreement** - This Agreement, including any schedules hereto, and the Securities constitute the entire agreement between the parties relating to the DIP Loan, expressly superseding all prior agreements and communications (both oral and written) between any of the parties hereto with respect to all matters contained herein, and except as stated herein or in the Securities or any other instruments and documents to be executed and delivered pursuant hereto, contain all the representations and warranties of the respective parties.
- 1.13 **Included Words** - Whenever the singular or the masculine is used herein the same will be deemed to include the plural or the feminine or the body corporate where the context or the parties so require.

## PART 2 SECURITY

- 2.1 **Further Security** - The Borrower hereby assigns to the Financial Institution as further security for repayment of the DIP Loan:
- (a) All Construction Contracts;
  - (b) All warranty rights relating to the Project;
  - (c) All designs, Plans, Specifications, permits and licenses relating to the Project;
  - (d) All sales tax, harmonized sales tax, or Goods and Services Tax input credits relating to, or arising from, the Project; and
  - (e) All Purchase and Sale Agreements for completed units in the Project,
- and the Borrower will, at the request of the Financial Institution, enter into specific assignments of the foregoing, in such form or forms of assignment as may be determined by the Financial Institution in its sole and absolute discretion.
- 2.2 **Demand** - Notwithstanding that the Mortgage or any of the other Securities (if any) is expressed to be payable on demand, the Financial Institution will not demand payment under the Mortgage or the other Securities unless and until an Event of Default has occurred under this Agreement or unless and until an event of default has occurred with respect to other indebtedness.
- 2.3 **Registration** - The Financial Institution will, at the expense of the Borrower, register, file or record the Security Interests in all offices where such registration, filing, or recording is necessary or of advantage to the creation, perfection and preserving of the Security Interests and renew such registrations, filings and recordings from time to time as and when required to keep them in full force and effect. The Borrower acknowledges that the forms of this Agreement and the Securities have been prepared based upon the governing laws applicable thereto and the laws of Canada applicable therein in effect at the date of this Agreement and that such laws may change. The Borrower agrees that the Financial Institution will have the right to require that the forms of this Agreement and any of the Securities be amended or supplemented to reflect any changes in such laws, whether arising as a

result of statutory amendments, court decisions or otherwise, in order to confer upon the Financial Institution the rights and security interests intended to be created hereby and thereby.

### **PART 3 ADVANCES**

- 3.1 **Advances** - Unless the Borrower otherwise provides in writing to the Financial Institution, all advances of the DIP Loan will be made by way of deposit to the Account. The Financial Institution may deduct from advances of the DIP Loan or may charge to the Account the following, as applicable: the Financial Institution's fees, legal fees, appraisal fees, interest adjustment, prepayment penalties, and Other Amounts.
- 3.2 **Borrower to Deliver** - The Borrower will, prior to the initial advance of the DIP Loan, deliver the following to the Financial Institution:
- (a) All requirements outlined in the Offer of Credit as Conditions Precedent (to Initial Advance);
  - (b) Details in writing from the Borrower (or an officer of the Borrower if the Borrower is a corporation) of any outstanding breach of any covenant, representation, or warranty contained in this Agreement or in the Securities;
  - (c) Such other items as are specified in the Offer of Credit; and
  - (d) Such other information as the Financial Institution may reasonably request.
- 3.3 **Conditions Precedent (To Initial Advance)** - It will be a condition precedent to the initial advance under the DIP Loan that:
- (a) The Financial Institution will have received the documents and information specified in section 3.2;
  - (b) The Borrower will have duly authorized, executed and delivered the Securities and the Securities will have been registered, filed and recorded in all offices in which, in the opinion of the Financial Institution, acting reasonably, registration is necessary or of advantage to preserve or perfect the priority of the security interests intended to be created thereby.
- 3.4 **Requirements for Final Advance** - Before the final advance of the DIP Loan:
- (a) The Inspector shall have provided an inspection report certifying completion of the Project (except for minor deficiencies approved by the Financial Institution), and
  - (b) The Borrower shall have delivered to the Financial Institution an occupancy permit or similar document with respect to the Project issued by the municipality or other local government unit in which the Lands are located.
- 3.5 **Statutory Lien Holdback(s)** - The Borrower is responsible for making the statutory lien holdback under the applicable construction lien legislation in the Governing Jurisdiction. Failure to properly make the holdback is a default under this Agreement.
- If a separate lien holdback account or accounts are required to be opened by the Borrower under the applicable construction lien legislation in the Governing Jurisdiction,
- (a) The Borrower will open and maintain separate lien holdback accounts with the Financial Institution in respect of each contract entered into by the Borrower (except in respect of material suppliers, architects, engineers and workers); and
  - (b) The Borrower will pay the Financial Institution the Financial Institution's standard fee for lien holdback accounts for each account to be opened, payable when the first account is opened.

If separate lien holdback accounts are not required by the applicable construction lien legislation in the Governing Jurisdiction, the Borrower may, but will not be required to, open a separate account in the Financial Institution into which to pay the required lien holdback.

- 3.6 **No Re-advances** - Advances on account of the DIP Loan once repaid by the Borrower will not be re-advanced by the Financial Institution.

#### **PART 4 - PAYMENTS**

- 4.1 **Use of Payments** - The Financial Institution will apply all payments received from the Borrower, including prepayments, in such order as the Financial Institution decides.
- 4.2 **Place of Payments** - The Borrower will make all payments under this Agreement at the address of the Financial Institution set out on page 1 of the letter part of this Agreement or at any other address specified by the Financial Institution.
- 4.3 **Time of Payments** - Payments received after 2:00 p.m. (local time) on a Business Day or received on a day which is not a Business Day will be considered received on the next Business Day of the Financial Institution's branch or office where the payment was made.

#### **PART 5 - REPRESENTATIONS AND WARRANTIES**

- 5.1 **Representations and Warranties** - The Borrower represents and warrants to the Financial Institution that:
- (a) **Corporate Status** - if the Borrower is a corporation, it is duly incorporated and is in good standing under the laws of the governing jurisdiction
  - (b) **Corporate Powers and Authority** - if the Borrower is a corporation, the Borrower has the power and authority to carry on the business now being carried on by it and has the full power and authority to enter into this Agreement and to execute and deliver the Securities;
  - (c) **Corporate Proceedings** - if the Borrower is a corporation, all necessary and requisite corporate proceedings, resolutions and authorizations have been taken, passed, done and given by the Borrower and by the Borrower's directors to authorize, permit and enable the Borrower:
    - (i) To borrow the DIP Loan from the Financial Institution;
    - (ii) To execute and deliver this Agreement; and
    - (iii) To execute and deliver the Securities;
  - (d) **Not Contravene Constatng Documents** - if the Borrower is a corporation, neither the borrowings nor the issue of the Securities will be in contravention or constitute default under the constating documents of the Borrower; and
  - (e) **Not Contravene Any Agreement** - neither the borrowings nor the issue of the Securities will be in contravention or constitute default under any indenture, deed, agreement, undertaking or obligation of the Borrower or to which the Borrower is a party.

#### **PART 6 POSITIVE COVENANTS**

- 6.1 **General Covenants** - The Borrower covenants with the Financial Institution:
- (a) **Corporate Existence** - that, if it is a corporation, it will at all times maintain its corporate existence;
  - (b) **Conduct Business** - that it will carry on and conduct its business in a proper, efficient and businesslike manner and in accordance with good business practices;

- (c) **Books of Account** - that it will keep or cause to be kept proper books of account in accordance with sound accounting practice;
- (d) **Title to Property** - that it has good title and possession of the Property save Permitted Encumbrances;
- (e) **Insurance** - that it will obtain and keep in force insurance which meets the requirements set out in the attached Insurance Schedule and whenever and only if required in writing by the Financial Institution, the Borrower will:
  - (i) Furnish a certificate by an independent appraiser or insurance adjuster selected by the Borrower and approved by the Financial Institution as to the sufficiency of such insurance, which certificate will be conclusive as against the Borrower both as to the amount of insurance required hereunder and the perils against which coverage is required hereunder and the Borrower will immediately insure in accordance with such certificate;
  - (ii) Cause to be endorsed in such form as may be required by the Financial Institution on the policies evidencing such insurance a notation that any amounts payable under such policies will be paid to the Financial Institution as its interest may appear; and
  - (iii) Deposit with the Financial Institution every policy and renewal certificate for such insurance or a certified copy thereof;
- (f) **Other Indebtedness** - that it will pay and discharge as they become due all payments due and owing under, or with respect to, any previous indebtedness created or security given by the Borrower to any person or corporation and will observe, perform and carry out all the terms, covenants, provisions and agreements relating thereto and any default in payment of any monies due and payable under or relating to any previous indebtedness or security or in the observance, performance or carrying out of any of the terms, covenants, provisions and agreements relating thereto will be deemed to be a default hereunder at the option of the Financial Institution and any and all remedies available to the Financial Institution hereunder by reason of any default hereunder or by law or otherwise will be forthwith available to the Financial Institution upon any default of the Borrower under the previous security;
- (g) **Costs Caused By Default** - that if the Borrower defaults in any covenant to be performed by it hereunder or under the Securities the Financial Institution may perform any covenant of the Borrower capable of being performed by the Financial Institution and if the Financial Institution is put to any costs, charges, expenses or outlays to perform any such covenant, the Borrower will indemnify the Financial Institution for such costs, charges, expenses or outlays and such costs, charges, expenses or outlays incurred by the Financial Institution (including solicitors' fees and charges incurred by the Financial Institution) may be charged by the Financial Institution to the Account and will be secured by the Securities;
- (h) **Court Costs** - that in any judicial proceedings taken to enforce this Agreement and the covenants of the Borrower hereunder or to enforce or redeem the Securities or to foreclose the interest of the Borrower in any property subject thereto the Financial Institution will be entitled to costs on a full indemnity basis. Any costs so recovered will be credited against any solicitors' fees and charges paid or incurred by the Financial Institution relating to the matters in respect of which the costs were awarded and which may have been charged by the Financial Institution to the Account in accordance with clause (g) above.

**6.2 Construction Covenants - The Borrower will:**

- (a) **Complete Project** - proceed to complete the Project with diligence and continuity in a good and workmanlike manner, in accordance with sound building and engineering practices and in accordance with the Plans and Specifications approved by the Financial Institution;

- (b) **Changes to Plans and Specifications** - not make material changes to the Plans or the Specifications without the Financial Institution's prior written consent;
- (c) **Not Cease Work** - not permit cessation of work on the Project prior to completion for a period in excess of 30 days without the prior written consent of the Financial Institution, unless cessation is caused by factors which in the opinion of the Financial Institution, acting reasonably, are beyond the control of the Borrower;
- (d) **Correct Defects** - correct promptly upon notice from the Financial Institution any defects in construction of the Project or unapproved deviations from the Plans and Specifications;
- (e) **Only Pay Project Costs** - use amounts advanced hereunder by the Financial Institution only for the payment of Project Costs and for no other purpose;
- (f) **Pay Excess** - pay from sources other than amounts advanced hereunder by the Financial Institution the Project Costs in excess of the amounts advanced hereunder;
- (g) **Ensure Un-advanced DIP Loan Sufficient** - ensure that the amount un-advanced hereunder will at all times be sufficient to pay the Project Costs necessary to complete the Project;
- (h) **Notify Financial Institution** - promptly notify the Financial Institution of any deviations from the Project budget.

6.3 **Substantial Completion** - Upon substantial completion of the Project the Borrower will provide the Financial Institution with:

- (a) An occupancy certificate or similar certification by the municipality or other local government unit certifying that the Project may be occupied; and
- (b) One set of "as built" Plans.

6.4 **During Construction** - During construction the Borrower will:

- (a) Provide to the Financial Institution status reports (including copies of the engineer's and/or the quantity surveyor's reports) with respect to the Project containing such information concerning the Project as the Financial Institution may reasonably require;
- (b) Permit the Financial Institution and its employees and agents access to the Project site and will permit such persons to enter and inspect the Project; and
- (c) Keep and will permit the Financial Institution and its employees and agents at all reasonable times to examine and copy books and records of the Borrower pertaining to the Project and all contracts, statements, invoices, bills and claims for labour, materials and services supplied for the Project.

6.5 **Sign** - While the DIP Loan is outstanding the Borrower will permit the Financial Institution to post a sign at the Project indicating that construction financing is being provided to the Borrower by the Financial Institution.

## **PART 7 NEGATIVE COVENANTS**

7.1 **Covenants** - The Borrower covenants with the Financial Institution that the Borrower will not, without the consent in writing of the Financial Institution first being obtained:

- (a) **Grant Security** - make, give or create or attempt to make, give or create any mortgage, charge, lien or encumbrance upon the Property or any part or parts thereof ranking or purporting to rank prior to or pari passu with the Securities or any of them;
- (b) **Demolish Property** - demolish, remove or destroy any pledged Property or any part or parts thereof or cause or permit the demolition, or removal or destruction of the same except in the ordinary course of business;

- (c) **Sell Property** - make any sale or dispose of any substantial part of the Property at less than market value and then only in the ordinary course of business and if the Borrower disposes of the whole or any substantial part of the Property it will hold the proceeds of the sale thereof in trust for the Financial Institution;
- (d) **Payments Out of Usual Course** - make any payments to any person other than in the normal course of the Borrower's business;
- (e) **Make Loans** - make loans or extend credit to any person (including specifically if it is a corporation, any directors, officers or shareholders of the Borrower and any person related by blood or marriage to such persons or any corporation controlled by such person or relative or by the Borrower) except customers of the Borrower in the ordinary course of business;
- (f) **Reduce Capital** – if it is a corporation, purchase or redeem any of its shares or otherwise reduce its share capital;
- (g) **Alter Share Structure** - if it is a corporation, in any way vary or alter its share structure;
- (h) **Borrow Elsewhere** - raise or borrow any money from any person other than the Financial Institution, members of the Borrower and trade creditors in the ordinary course of business;
- (i) **Guarantee** - guarantee, indemnify any person for, or endorse for accommodation, the obligations of any other person, directly or indirectly;
- (j) **Sell Property** - sell, agree to sell or otherwise dispose of any of the Property subject to a specific mortgage or charge under the Securities.

## **PART 8 EVENTS OF DEFAULT**

- 8.1 **Events of Default** - The whole of the outstanding balance of the DIP Loan (including principal, interest and all Other Amounts) will immediately become due and payable and the Securities will become enforceable in each and every of the following events:
- (a) **Default** - if the Borrower fails to observe or perform something hereby required to be done or some covenant or condition hereby required to be observed or performed;
  - (b) **Permits To Be Done** - if the Borrower does, or permits to be done, anything which the Borrower has herein agreed not to do or permit to be done;
  - (c) **Misrepresentation** - if any representation or warranty given by the Borrower (or any director or officer thereof if the Borrower is a corporation) is untrue in any material respect;
  - (d) **Winding Up** - if the Borrower is a corporation and if an order is made or a resolution passed for the winding up of the Borrower, or if a petition is filed for the winding up of the Borrower;
  - (e) **Insolvency Proceedings** – if any of the following should occur:
    - i. there is a change in the party appointed as the Borrower's Trustee in the Proceedings without the Lender's prior written consent;
    - ii. failure by the Borrower to pay principal or interest when due;
    - iii. failure by the Borrower to cooperate with the Trustee;
    - iv. any order is issued by a court of competent jurisdiction that materially adversely affects the Lender;
    - v. the issuance of a court order terminating the Proceeding, lifting the stay of proceedings, appointing a receiver, or granting any charge or encumbrance equal or superior in priority to the Securities; and

vi. any payment is made by the Borrower that is not contemplated by or within the approved cash flow budget, without the Lender's prior written consent.

- (f) **Arrangement** - if the Borrower is a corporation and if any proceedings with respect to the Borrower are commenced under the Companies Creditors Arrangement Act;
- (g) **Execution Etc.** - if any execution, sequestration, extent or any other process of any Court become enforceable against the Borrower or if a distress or analogous process is levied against the property of the Borrower or any part thereof;
- (h) **Other Indebtedness** - if the Borrower permits any sum which has been admitted as due by the Borrower or is not disputed to be due by the Borrower and which forms or is capable of being made a charge upon any of the Property in priority to the Securities to remain unpaid after proceedings have been taken to enforce the same as a prior charge;
- (i) **Default in Other Payment** - if the Borrower defaults in payment of any indebtedness or liability to the Financial Institution (whether secured hereby or not) or to any other lender;
- (j) **Sale or Lease** - if, without the prior written consent of the Financial Institution, the Borrower sells, agrees to sell, leases, agrees to lease or otherwise disposes or agrees to dispose of the Lands or any part or parts thereof or any interest therein;
- (k) **Mortgage or Encumbrance** - if, without the prior written consent of the Financial Institution, the Borrower grants or agrees to grant any further mortgage of the Lands or any part or parts thereof or any interest therein or otherwise permits the Lands to be encumbered in any manner other than by encumbrances specifically permitted hereunder;
- (l) **Construction Contract Default** - if the Borrower defaults under any construction contract entered into by the Borrower with respect to the Project;
- (m) **Change of Control** - if the Borrower is a corporation and if, without the prior written consent of the Financial Institution, there is in the opinion of the Financial Institution a change of effective control of the Borrower;
- (n) **Change in Risk** - if, in the sole opinion of the Financial Institution, a material adverse change in risk occurs;  
or
- (o) **Default Under Securities** - if an event of default occurs under any of the Securities.

8.2 **Waiver** - The Financial Institution may waive any Event of Default, provided always that no waiver by the Financial Institution or any failure to take any action to enforce its rights or to enforce any security will extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

8.3 **Completion of Project** - If an Event of Default occurs and is continuing the Financial Institution may, in addition to any other remedies which it has under the Securities

- (a) Enter upon the Lands and complete the Project in accordance with the Plans and Specifications with such changes therein as the Financial Institution may in its absolute discretion deem appropriate;
- (b) Discontinue at any time any work commenced on the Project or change any course of action undertaken by the Borrower;
- (c) Assume any Construction Contract and take over and use all or any part of the labour, materials, supplies and equipment contracted for by the Borrower;
- (d) Engage builders, contractors, architects, engineers and other persons and trades as may be necessary for the purpose of completing the construction of the Project;

- (e) Pay, settle or compromise all bills or claims which may become liens against the Lands; and
- (f) Generally to take or refrain from taking such action hereunder as the Financial Institution may from time to time determine.

The Borrower hereby irrevocably constitutes and appoints the Financial Institution as its true and lawful attorney in order to complete the foregoing.

- 8.4 Reimbursement** - The Borrower will immediately reimburse the Financial Institution on demand for any amount paid under section 8.3 and until reimbursement the amount paid will:
- (a) Bear interest from the date incurred by the Financial Institution at the Interest Rate; and
  - (b) Be secured by the Securities.
- 8.5 Remedies Not Restrictive** - All remedies stipulated for by the Financial Institution hereunder or in any of the Securities will be deemed to be in addition to and not restrictive of the remedies which the Financial Institution might be entitled to at law or in equity and the Financial Institution may realize any of the Securities or any part thereof in such order as it may be advised and any such realization by any means will not bar realization of any other security or any part or parts thereof nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof nor will the failure on the part of the Financial Institution or any delay in exercising any rights under this Agreement or any of the Securities operate as a waiver.
- 8.6 Set Off** - If an Event of Default has occurred and is continuing, in addition to and not in limitation of any rights now or hereafter granted under applicable law or the Securities, the Financial Institution may without notice to the Borrower and at any time and from time to time set off, apply or transfer any or all sums owing from time to time by the Lender to the Borrower towards the satisfaction of the outstanding balance of the DIP Loan (including principal, interest and Other Amounts).
- 8.7 Indemnity** - Notwithstanding any other provision of this Agreement, the Borrower will fully indemnify and hold the Financial Institution harmless from and against any loss, expense, damage or liability incurred by it which the Financial Institution may sustain or incur as a result of any Event of Default, including but not limited to legal costs on a full indemnity basis.

## **PART 9 NOTICES**

- 9.1 Notices** - All notices which may or are required to be given herein or pursuant to this Agreement or relating to the Securities shall be in writing and may be given
- (a) Personally by serving the same upon the party (or any officer of the party if it is a corporation) to be served, or
  - (b) By mail by posting the same by prepaid registered mail addressed:
    - (i) To the Borrower at the address of the Borrower set forth in the Offer of Credit;
    - (ii) To the Financial Institution at the branch of the Financial Institution where the loan accounts reside;
    - (iii) To the Indemnitor, if any, at the address of the Indemnitor shown in the Indemnitor Provision, if any, of this Agreement.
- Or such other addresses as the parties may advise by notice in writing, or
- (c) By email to the following email addresses but addressed in the manner set out in (b):
    - (i) To the Borrower at such email address, if any, as the Borrower may provide to the Financial Institution in writing;
    - (ii) To the Financial Institution at the email address of the division of the Financial Institution found on our website, or any other email address we may advise by notice in writing;

(iii) To the Indemnitor, if any, at such email address, if any, shown in the Indemnitor Provision, if any, of this Agreement;

or such other email addresses as the parties may advise by notice in writing.

**9.2 Receipt of Notice** - Subject to sections 9.3 and 9.4, any notice shall be deemed to have been received and effectively served

- (a) If served personally, at the time of delivery,
- (b) If mailed, on the third Business Day following posting, and
- (c) If sent by email, at the time of transmission.

**9.3 Deemed Receipt Next Business Day** - Notwithstanding any other provisions of this Agreement any notice received or otherwise deemed received after 4:30 p.m. (Pacific time) on a Business Day or on a day which is not a Business Day will be deemed to have only been received on the next Business Day.

**9.4 Delays** - In the event that, at the time a notice is mailed or at any time during the period of three Business Days following such mailing, postal or airline or airport employees are engaged in a strike, work slowdown or other work stoppage at the place at which the notice is mailed or at the place to which the notice is mailed or at any point through which such notice must pass, such notice will be deemed to have been given and received at the time when such notice would be received in the ordinary course of the mails, allowing for such strike, work slowdown or other work stoppage.

## **PART 10 TERMINATION**

**10.1 Termination of Agreement** - This Agreement will continue in full force and effect until the outstanding balance of the DIP Loan (including principal, interest and all Other Amounts) has been paid in full.

## **PART 11 GENERAL**

**11.1 No Obligation to Advance DIP Loan** - Notwithstanding any other provisions hereof neither the execution of this Agreement nor the execution and delivery of the Securities or any other security required and from time to time given by the Borrower to the Financial Institution will bind the Financial Institution to advance the DIP Loan nor will the advance of any part thereof bind the Financial Institution to advance any un-advanced portion thereof.

**11.2 Records** - The information in the records of the Financial Institution as to the Account and as to the Borrower being in default of this Agreement or the Securities or any of them and the amount outstanding hereunder and thereunder will be *prima facie* evidence of the obligations of the Borrower hereunder and under the Securities. The Borrower will, on reasonable notice to the Financial Institution, be entitled to obtain extracts of all entries made in such records.

**11.3 Costs** - The Borrower will pay the costs of and incidental to the drawing, execution and delivery of this Agreement and of the drawing, execution, delivery and registration of the Securities or any other securities required to or from time to time given by the Borrower to the Financial Institution and at its option the Financial Institution may pay the said costs for the account of the Borrower out of the monies to be advanced on account of the DIP Loan or may debit the Account for the said costs.

**11.4 Service Charges** - The Borrower will pay to the Financial Institution the Financial Institution's applicable handling and service charges in connection with the Account and the handling and processing of cheques drawn thereon.

**11.5 Assignment by Borrower** - The Borrower will not be entitled to assign any of its rights hereunder except with the prior written consent of the Financial Institution.

- 11.6 **Assignment by Financial Institution** - The Financial Institution may assign its rights hereunder, in whole or in part, but will not assign its rights or any interest under any of the Securities without also assigning the same proportionate rights or interest in this Agreement to the assignee of the Securities.
- 11.7 **Solicitor's Opinion** - The whole of the arrangements described in this Agreement are subject to the solicitors for the Financial Institution being satisfied as to the title of the Lands, the form and content of the Securities, the corporate status of the Borrower and any corporate Indemnitor and as to all legal matters pertaining to the DIP Loan and compliance with the conditions herein, subject always to the right of the solicitors for the Financial Institution to require an opinion from the solicitors for the Borrower pertaining to any of the aforesaid.
- 11.8 **Further Assurances** - The Borrower will do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including certificates, declarations, affidavits, reports and opinions) and things as the Financial Institution may reasonably request for the purpose of giving effect to this Agreement or for the purpose of establishing compliance with the representations, warranties and conditions of this Agreement or any of the Securities.
- 11.9 **Non Merger** - The taking of a judgment or judgments or any other action or dealing whatsoever by the Financial Institution in respect of any security given by the Borrower to the Financial Institution will not operate as a merger of any indebtedness of the Borrower to the Financial Institution or in any way suspend payment or affect or prejudice the rights, remedies and powers, legal or equitable, which the Financial Institution may have in connection with such indebtedness and the foreclosure, surrender, cancellation or any other dealing with any such security will not release or affect the liability of the Borrower, or release or affect any of the Securities or any other security held by the Financial Institution.
- 11.10 **Examinations of Books Etc.** - The Financial Institution will have the right whenever it deems reasonably necessary either by its officers or authorized agents to enter upon the Borrower's premises and to inspect the undertaking, property and assets of the Borrower, all books of account and records of the Borrower and copies of all returns made from time to time by the Borrower to boards, agencies or governmental departments (including the Canada Revenue Agency) and to make extracts therefrom and generally to conduct such examinations as it may see fit and without limiting the generality of the foregoing, the Financial Institution may request information from the solicitor, auditor and other advisors and agents of the Borrower for the time being concerning the affairs and the conduct of business of the Borrower and the Borrower hereby irrevocably authorizes and directs and this will constitute the sufficient authority and direction to any such solicitor, auditor or other person to disclose to the Financial Institution such information as to any and all matters touching upon the affairs and conduct of the business of the Borrower whether of confidential nature or otherwise and any costs, expenses and outlays which the Financial Institution may incur pursuant hereto may be charged to the Account.
- 11.11 **Extension of Dates** - The Financial Institution may extend all relevant dates, including those contained in this Agreement in the event of fires, strikes, and Acts of God and other events beyond the Borrower's reasonable control and the Borrower will pay all resulting costs to the Financial Institution of extending the date or dates.
- 11.12 **Enurement** - This Agreement and all its provisions will enure to the benefit of and be binding upon the parties hereto, their successors and assigns.
- 11.13 **Statute References** - A reference in this document to a particular statute means the statute as amended from time to time and any statute substituted therefore.
- 11.14 **Interest Act** - If any provision of this Agreement would oblige the Borrower to make any payment of interest or other amount payable to the Financial Institution in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by that Lender of "interest" at

a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows:

11.14.1 first, by reducing the amount or rate of interest required to be paid to the affected Financial Institution under this Section 11.14; and

11.14.2 thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the Financial Institution which would constitute interest for purposes of Section 347 of the *Criminal Code* (Canada).

11.15 **Electronic Mail** - The Financial Institution is entitled to rely on any agreement, document or instrument provided by the Borrower and/or any Indemnitor as applicable, by way of electronic mail as though it were an original document. The Financial Institution is further entitled to assume that any communication from the Borrower and/or any Indemnitor received by electronic mail is a reliable communication from the Borrower and/or any Indemnitor.

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

## **INSURANCE SCHEDULE - COURSE OF CONSTRUCTION REQUIREMENT**

### **1. During Construction**

- (a) The property must be insured for 100% of replacement cost under a form providing coverage at least equivalent to IAO Form 507 - Builders Risk - All Risk.
- (b) The Builders Risk - All Risk cover must grant permission for partial or full occupancy.
- (c) The insurance policy should include the insurance of the foundation and all parts below ground level.
- (d) The Insurer may reserve the right to cancel the policy as provided by statutory provisions but must agree that it will neither terminate nor alter the policy to our prejudice except by registered letter giving a notification of 30 days to the Financial Institution
- (e) Loss must be made payable firstly to the Financial Institution, as its interest may appear and a standard IAO mortgage clause must be attached.
- (f) Comprehensive General Liability Insurance for bodily injury and/or death and damage to property of others in an amount not less than \$3,000,000.

### **2. Upon Completion of Construction**

The Borrower shall keep in force the following insurance in respect of the Lands:

- (a) "All Risks" coverage equivalent to the IAO Commercial Building Form (CBF) for 100% of replacement cost on a stated amount basis, with loss must be made payable firstly to the Financial Institution, as its interests may appear. The policy must contain:
  - (i) A stated amount co-insurance clause;
  - (ii) A standard IAO mortgage clause;
  - (iii) A replacement cost endorsement.
- (b) Broad form boiler insurance including pressure vessels insurance and air-conditioning equipment, if any, and repair and replacement and use and occupancy coverage, with loss must be made payable firstly to the Financial Institution, as its interest may appear and a standard IAO mortgage clause must be attached.
- (c) Comprehensive General Liability Insurance for bodily injury and/or death and damage to property of others, in amount not less than \$3,000,000.
- (d) Rental insurance coverage sufficient to cover 100% of the gross annual rents and if on a net basis, the equivalent gross rentals, for a period of one year.

All of the above policies must be with insurers and on terms and conditions satisfactory to the Financial Institution, including the provisions of 30 days written notice to the Financial Institution of cancellation or of any alteration to the policy to the prejudice of the Financial Institution, must be signed by the insurers and the originals of the policies signed by the insurers must be deposited with the Financial Institution prior to any advances under the loan.

All fire insurance policies must include the insurance of the foundation and all parts below level and in case of destruction of the reconstruction should not be limited to the same site and shall cover debris removal costs.

### **3. Other Requirements**

- (a) All insurance policies will be issued by a company to be communicated to the Financial Institution to confirm acceptability.
- (b) Any deductible amounts under such policies shall be at a maximum of \$25,000.
- (c) The terms and conditions of all insurance policies will be provided to the Financial Institution for review and to confirm acceptability.

**4. Loss payable**

The policy or policies will contain a standard mortgage clause approved by the Insurance Bureau of Canada and will name Tru Cooperative Bank as first loss payee (as first mortgagee), as its interest may appear and a standard IAO mortgage clause must be attached.

**5. Cancellation**

The Insurer may reserve the right to cancel the policy as provided by statutory provisions but must agree that it will neither terminate nor alter the policy to our prejudice except by registered letter giving a notification of thirty (30) days to the Financial Institution.

All of the above policies must be with insurers and on terms and conditions satisfactory to the Financial Institution, including the provisions of thirty (30) days written notice to the Financial Institution of cancellation or of any alteration to the policy to the prejudice of the Financial Institution, must be signed by the insurers and the originals of the policies signed by the insurers must be deposited with the Financial Institution prior to any advances under the loan.

**6. Adequacy**

To confirm adequate coverage, the Financial Institution may, at its discretion, have its insurance consultant review all policies of insurance.

