

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT,***  
***R.S.C. 1985, c. C-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF**  
**ASHCROFT URBAN DEVELOPMENTS INC., 2067166 ONTARIO INC., 2139770**  
**ONTARIO INC., 2265132 ONTARIO INC., ASHCROFT HOMES – LA PROMENADE**  
**INC., 2195186 ONTARIO INC, ASHCROFT HOMES – CAPITAL HALL INC., AND**  
**1019883 ONTARIO INC.**

Applicants

**RESPONDING APPLICATION RECORD**  
**(Returnable December 12, 2024)**

December 10, 2024

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CMLS Financial Ltd.*

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**DOCUMENT**

1. Affidavit of Robert Gartner sworn December 10, 2024  
**EXHIBITS TO THE AFFIDAVIT OF ROBERT GARTNER**
  - A. Forbearance Agreement dated February 23, 2024
  - B. Forbearance Extension Agreement dated July 3, 2024
  - C. Second Forbearance Extension Agreement dated November 19, 2024

# TAB 1

**ONTARIO  
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URBAN DEVELOPMENTS INC., 2067166 ONTARIO INC., 2139770 ONTARIO INC., 2265132  
ONTARIO INC., ASHCROFT HOMES – LA PROMENADE INC., 2195186 ONTARIO INC.,  
ASHCROFT HOMES – CAPITAL HALL INC., AND 1019883 ONTARIO INC.**

Applicants

**AFFIDAVIT OF ROBERT GARTNER  
(SWORN DECEMBER 10, 2024)**

I, Robert Gartner, of the City of Regina, in the Province of Saskatchewan, make oath and say as follows:

1. I am a Senior Account Manager in the Special Loans and Restructuring Group of Equitable Bank ("**EQ Bank**"). EQ Bank is a lender to Ashcroft Urban Developments Inc. (as a major participant in the first mortgage held by CMLS) and to Ashcroft Homes - Capital Hall Inc. (as the first mortgage lender on its property) and I am the manager in charge of the administration of those loans for EQ Bank. As such, I have personal knowledge of the matters to which I hereinafter depose. Where I do not have such personal knowledge, I have stated the source of my information and in all such cases believe it to be true.
2. Ashcroft Urban Developments Inc. owns a property at 101 Queen St., Ottawa, Ontario and 110 Sparks St., Ottawa, Ontario, which is referred to in the application materials as the "**REStays Property**".
3. The REStays Property is subject to a first mortgage in favor of CMLS Financial Ltd. ("**CMLS**"), and EQ Bank is a major participant in the mortgage. When I refer to information related to the position of CMLS, such information comes from my own knowledge as representing a participant in that mortgage, and/or from information given to me by Jeff Burt, the Associate Director of CMLS in charge of that loan.
4. Ashcroft Homes - Capital Hall Inc. owns a property at 105 Champagne Ave., Ottawa which is referred to in the application materials as the "**ENVIE II Property**". EQ Bank is the first mortgage holder on that property.
5. The mortgages given in respect of both the REStays Property and the ENVIE II property are in default and have been in default for a significant period of time. Indeed, the mortgage loan to REStays Property matured on September 1, 2023 and some 15 months later the owner has been unable to refinance that loan. EQ Bank has been patient with the two debtors but no longer

has confidence in their management to remain in control of their respective businesses or to restructure.

6. As described in the Affidavit of David Choo filed in support of the application, the Applicants are seriously overextended, insolvent and unable to pay their obligations as they fall due.

### **Commencement of the CCAA Application**

7. The Applicants gave no prior notice to EQ Bank or CMLS of any intention to commence an application under the *Companies Creditor Arrangement Act* ("CCAA"). Although the lenders under these two facilities in which EQ Bank has been involved have had significant and ongoing discussions over a long period of time with the Applicants regarding their continuing default and their unsuccessful efforts to refinance, there was never any consultation with these secured lenders with respect to any proposed filing. Indeed, neither CMLS nor EQ Bank had been served with the application materials or any formal notice of these proceedings from the Applicants prior to the first return of their application, nor were we served with the initial order, although the Applicants are well aware that we are the first secured lenders to these properties and are well aware of who our counsel has been. We were finally served on December 9, 2024.

8. EQ Bank (along with CMLS and other participants under its mortgage) only learned of the CCAA filing after the initial order was obtained. It only learned of such by word of mouth from other creditors of the Applicants. We were then able to view the materials from the website of Grant Thornton Limited. Until December 9, 2024, there was nothing on that website indicating that the initial order had actually been granted, although we had learned that such was the case. Further, until December 9, 2024, no formal notice had been given to EQ Bank or CMLS or their counsel of the return date for the CCAA application of December 12, 2024.

9. The application covers the owners of eight separate real properties. Each of the eight real properties is owned by a separate and distinct legal entity. Each of the eight real properties is financed by different lenders, which may have different participations in each loan facility. The lenders each hold distinct collateral. There is no synergy between the assets or the liabilities of the eight Applicants, but only the synergy that David Choo is the principal behind all of them.

10. The application materials do not disclose any significant unsecured debt, and thus the application appears to be made primarily for the purpose of effecting a stay on secured lenders. There is no suggestion in the materials that any proposal for compromise is expected to be made to secured lenders, nor would such a compromise be entertained by the lenders on a global basis, as all hold separate and distinct loans and security. In the case of EQ Bank, no proposed compromise would be acceptable, as we would expect to have a full recourse to our security and as the stay of proceedings causes our security position to erode since the debtors have been unable to pay their principal and interest payments and priority claims for realty taxes and HST as they accrue.

### **REStays – Ashcroft Urban Developments Inc.**

11. The first-ranking mortgage loan on REStays is held by CMLS Financial Ltd.. EQ Bank, as well as General Bank, are the beneficial participants in the loan. The original amount of the loan

was \$65 million, and had been reduced to approximately \$59 million as of November 2023. The loan presently stands at approximately \$52 million due to a \$10 million repayment recovered from the sale of an unrelated property during forbearance negotiations.

12. The loan to REStays matured on September 1, 2023. The borrower was in default of repayment on maturity and would have been in default on other payments and covenant conditions under the loan in any event. Demand for payment was made by CMLS on November 15, 2023. This ultimately resulted in the execution of a forbearance agreement.

13. The forbearance agreement dated February 23, 2024 is appended hereto as **Exhibit A**. The essential terms of the forbearance agreement were that the Borrower was to provide (and did provide) additional security by way of a \$10 million collateral mortgage over a property at 256 Rideau St., Ottawa. The forbearance agreement also provided that the Borrower was to refinance the REStays Property on or before May 31, 2024, and the Borrower provided a consent to a receivership in respect of the property in the event that it failed to do so.

14. As the borrower was unable to repay its indebtedness by the end of the initial forbearance period, a forbearance extension agreement was entered into dated July 3, 2024, extending the forbearance period to September 30, 2024. A copy of the forbearance extension agreement is appended hereto as **Exhibit B**.

15. The forbearance extension agreement provided the borrower with additional time to complete the sale of the property at 256 Rideau St. and therefore to pay down the mortgage by the amount of the \$10 million collateral mortgage provided under the first forbearance agreement. The forbearance extension also provided that the borrower was to seek to provide to the lenders an additional collateral mortgage over the property at 101 Champagne Ave. S., Ottawa in the amount of \$20 million. This never occurred.

16. Under the forbearance extension agreement for REStays, in exchange for the additional collateral to be obtained, CMLS agreed to provide some payment relief to the borrower. Regular monthly payments on the loan were approximately \$500,000 and the borrower indicated that they were simply unable to pay that amount. As a consequence the lenders agreed to accept \$300,000 per month to be applied toward interest accruing, with the balance of accruing interest being added to the principal each month. The reason that the lenders were prepared to receive a lesser payment and therefore accumulate arrears was the promised receipt of the \$20 million collateral mortgage, which would address the erosion of our collateral position caused by the arrears. The initial forbearance extension expired without repayment on September 30, 2024. The parties entered into a second extension agreement dated November 19, 2024 which would have provided a further extension through March 31, 2025, but was conditional upon the delivery to the lenders of the \$20 million mortgage on 101 Champagne Ave. S. This mortgage has never been and will not be delivered, and accordingly the prerequisite condition to the extension was not met and the extension is not in effect. Without the promised additional security being delivered, there was and is no reason for the lenders under the first mortgage on the REStays Property to consider any reduction in the accruing payments of principal and interest under the mortgage, and full repayment of the matured mortgage is due. Now shown to me and appended hereto as **Exhibit C** is a copy of the second forbearance extension agreement.

17. The financial statements for Ashcroft Urban Development Inc. are found starting at page 230 of the Application Record. The Statement of Operations (income statement) at page 231 of the Application Record confirms that the expenses of the property far exceed the revenues of the property, even before payment of interest. In short, the owners of this property are unable to sustain the property with its current debt load of approximately \$52 million. Further, the borrowers have known that their first mortgage matured since September 30, 2023 and have been completely unable to refinance the current debt.

18. The lenders have seen no evidence from the borrower that the value of their collateral exceeds the secured debt and have no confidence that the borrowers will be able to refinance, particularly given their lack of progress since our first forbearance agreement. Additionally, the lenders are concerned that the value of their collateral continues to erode as the borrower has been unable to lease the commercial space, which is almost entirely vacant, or to sell the remaining condominiums at the property, which continue to accrue liabilities. Further, the lenders are concerned, based on financial information provided by the borrower, that the business generates negative cash flow, even at a reduced level of debt service and before payment of HST and property taxes.

**Ashcroft Homes – Capital Hall Inc. (“ENVIE II”)**

19. EQ Bank is the first secured lender by a mortgage loan to Ashcroft Homes - Capital Hall Inc. on the ENVIE II Property. This loan is also substantially in default.

20. The loan has for more than 6 months been in default by reason of non-payment of real estate taxes and for non-payment of principal and interest payments as they fell due.

21. EQ Bank, through its counsel, delivered formal demand for repayment as well as a Notice of Intention to Enforce Security in respect of this loan to ENVIE II on October 9, 2024. At that time, the debt owing was at \$24,296,447. The debtor failed to make repayment pursuant to the demand and the loan is now due in full.

22. Following the demand, I had several discussions with Manny Difilippo who I understand to be the CFO for the various Ashcroft companies. Mr. Difilippo advised me that in November they were able to pay substantial arrears of property taxes as well as HST which were outstanding on the ENVIE II Property from sale proceeds received on the sale of an unrelated property at 256 Rideau St. I then discussed with him how he planned to pay principal and interest on this mortgage on an ongoing basis.

23. Mr. Difilippo advised me that the borrower for ENVIE II was unable to sustain the regular accruing principal and interest payments from revenues from the property. The monthly payment under the loan is approximately \$146,000, and Mr. Difilippo indicated that at most the debtor could pay \$100,000 per month. He stated that the debtor was also going to be unable to catch up on six delinquent payments totaling approximately \$890,000. This borrower remains delinquent for 6 months of payments totalling approximately \$890,000.

24. The financial statements for ENVIE II commence at page 323 of the Application Record. They confirm that the property loses money operationally, even before debt service, and therefore cannot sustain its ongoing operations.

25. In the past, on both the REStays and the ENVIE II Property, when the debtor was unable to meet its obligations it would also fall delinquent in payment of realty taxes and on payment of HST accruals on rental income. These items rank in priority to the mortgagees, and thus the mortgages are at risk with the debtor in possession of its own operations.

26. Prior to the institution of the CCAA application, EQ Bank had determined that it would proceed with a receivership application for the ENVIE II Property. The borrower had been given time to re-finance following demand but had no ability to do so and stated that further arrears would accrue since payments could not be maintained. For that reason the secured lender wishes to have recourse to its security.

### **Cash Flow Statement**

27. As required under the CCAA legislation, the proposed monitor set forth a 14 week cash flow for the debtors' operations. This is found in the pre-filing report to the Court submitted by Grant Thornton Limited on December 4, 2024.

28. In my view there are a number of serious flaws associated with this cash flow presentation. In particular, and most importantly, the cash flow is presented as a group and cumulative basis covering all eight Applicants and all eight properties. This is completely inappropriate as the creditors, collateral and operational cash flows of each of the Applicant identities are markedly different.

29. By combining all eight separate and distinct entities into one cash flow it suggests that money is freely available to move from one project to another which should not be the case. The effect would be to move collateral from one secured party to another, and clearly this should not occur. In short, no lender with a first security position in default on any one of the Applicant properties would consent to the cash flow from that property being used to sustain other properties for the benefit of other lenders.

30. The cash flows (as shown at Note 2) also assume that leasing is projected to increase in the next two months, when there is no reason to believe such to be the case based on current economic conditions. Accordingly, I therefore do not trust the cash flow figures as being historically reliable.

31. The cash flows make no mention of the payment of HST from operations, which is a significant expense. In the past, these Applicants have run serious arrears of HST and those can prejudice lenders as they rank in priority to lenders.

32. The cash flows (at Note 5) indicate that these are not based on the assumption of the full payment of principal and interest to lenders, but are apparently based on the expected outcome of a negotiation of those payments. As previously stated the lenders on the REStays project had been allowing significant reductions in monthly principal and interest payments (from \$500,000 per month to \$300,000 per month) because the borrowers are simply unable to sustain the payments at their actual levels. However, this temporary capitalization of unpaid interest was in exchange for the delivery of a \$20 million additional collateral mortgage security. The borrower is not delivering any such additional collateral security, therefore there is no reason for the lenders to REStays to continue to defer the receipt of principal and interest.



33. A review of the financial statements of the Applicants shows ongoing large operational losses far exceeding the amount that David Choo, who is a personal guarantor, is suggesting he may inject by way of a DIP loan from personal funds.

### **Concerns of the Lender**

34. In summary, EQ Bank is extremely concerned that eight separate and distinct properties have been crammed into one proceeding, brought without notice, with a significant risk of the intermingling of revenues and expenses.

35. In respect of REStays the debtor had consented to a receivership pursuant to the terms of the forbearance arrangements and it would be the lenders' intention to proceed with that receivership. There is no unsecured debt to be compromised and there is no judicial reason therefore to prevent the lender from having recourse to its security. The borrower granted the right to the secured creditor to appoint a receiver in the security documents. The borrowers then consented to such receivership for the REStays Property in exchange for the considerations granted under the forbearance agreements. There is no reason to deprive the first secured mortgage lenders of their legal remedies nor to relieve the borrowers of their consent to same when the borrowers have completely failed to honour the terms under which they received prior indulgences and have made no improvements to the performance of the business.

36. There is no short term or even intermediate term stay which would provide any material change to the debtors' situation. The debtor for the REStays Property has been in arrears and has been given extended time to re-finance its matured mortgage debt for over 15 months. In short, the debtor has had its time to refinance and has been unable to do so, nor has it stabilized its business. There is no good reason to relieve them from their obligations under the security agreements or their consent to receivership given under their forbearance agreement.

37. The subject properties are all in the Ottawa area and subject to Ontario real estate law and the Ontario real estate marketplace and mortgage practice. All of the advisors to the Applicants are based in Alberta. While I do not have any reason to question their professional abilities, they would not be the secured lender's choice for dealing with collateral in the Ontario real estate market.

38. It is apparent that each debtor has faced ongoing operational losses and there is nothing that has changed in its business or prospects which would suggest that those operational losses will no longer be incurred. As such, the stay of proceedings works to the severe detriment of secured lenders as the Applicants will clearly be unable to maintain the status quo. Worse still, the Applicants have shown a propensity to solve liquidity issues by failing to remit realty taxes and HST when due. This places the lenders at significant risk as long as the debtors remain in charge of their own affairs, including the accrual of mortgage arrears, realty taxes and HST. The lenders are further prejudiced by the payment of CCAA administrative costs for a process that is doomed to failure when there is no successful compromise that could be proposed and no reason to believe that the borrowers can be any more successful now in re-financing than they have been over the last 15 month or more of forbearance.

39. Most importantly the lenders to both REStays and ENVIE II have lost confidence in the ability of these debtors to manage their own affairs. They have become hopelessly overextended

and are now caught in a market downturn that is not expected to be short lived. As a result they have defaulted in their loans and despite a lengthy forbearance period, the situation has not improved. Arrears continue to accrue as well as realty tax and HST arrears. Leaving the debtors in possession will cause a continued erosion of the lenders' security positions.

40. Accordingly, EQ Bank is requesting that the Court lift the stay, terminate the CCAA proceedings, appoint an Interim Receiver, and permit each lender to proceed with receiverships of their individual properties within Ontario upon notice to the applicable stakeholders.

41. I make this affidavit in good faith and for no improper purpose whatsoever.

Sworn remotely by Robert Gartner of the )  
City of Regina in the Province of )  
Saskatchewan before me at the City of )  
Toronto in the Province of Ontario on )  
December 10, 2024 in accordance with O )  
Regulation 431/20 Administering Oath or )  
Declaration Remotely )



\_\_\_\_\_)  
Commissioner for taking affidavits )

Katie Victoria Bell, a )  
Commissioner, etc., Province of Ontario, )  
while a Student-at-Law. )  
Expires June 14, 2025 )

\_\_\_\_\_)  
**ROBERT GARTNER**

This is Exhibit "A" referred to in the Affidavit of Robert Gartner  
sworn before me this 10<sup>th</sup> day of December, 2024

A handwritten signature in black ink, appearing to read 'K Bell', written over a horizontal line.

*Commissioner for Taking Affidavits*

**Katie Victoria Bell, a  
Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 14, 2025**

## FORBEARANCE AGREEMENT

THIS AGREEMENT is made as of this 23 day of February, 2024.

**A M O N G S T:**

- and -

**CMLS FINANCIAL LTD., as Lender**  
(hereinafter referred to as “CMLS” or as “Lender”)

- and -

**ASHCROFT URBAN DEVELOPMENTS INC.**  
(the “Borrower”)

- and -

**DAVID CHOO**  
(the “Guarantor” and collectively with the Borrower, the “Credit Parties” and each a “Credit Party”)

**WHEREAS:**

- A. Pursuant to the commitment letter entered into between the Borrower and CMLS dated July 8, 2021 (as amended, restated, supplemented, replaced or otherwise altered from time to time, the “**Commitment Letter**”), the Lender agreed to provide to the Borrower a loan in the principal amount of \$65,000,000.00 (the “**Loan**”), which is secured by, *inter alia*, a mortgage (the “**Mortgage**”) on the lands and premises municipally known as 101 Queen Street, Ottawa, Ontario and 110 Sparks Street, Ottawa, Ontario (collectively, the “**Property**”).
- B. The Mortgage was registered against title to the Property on August 12, 2021 pursuant to instrument no. OC2385994, which includes as a schedule the Additional Provisions of CMLS Loan No. 50728 signed by the Borrower on August 4, 2021 (the “**Mortgage Terms**”).
- C. The Borrower’s obligations to the Lender has been guaranteed by the Guarantor pursuant to, among other things, the terms of the written guarantee agreement dated August 4, 2021 (the “**Guarantee**”).
- D. To secure the obligations of the Borrower to the Lender, including, without limitation, those arising under the Commitment Letter, the Borrower provided security in favour of the Lender (collectively, as amended, restated, supplemented, replaced or otherwise altered from time to time, the “**Existing Security**”) including, without limitation, the security set out in **Schedule "A"** hereto.

- E. The Loan matured on September 1, 2023 without renewal or repayment, and as a consequence the all amounts owing under the Loan became due on maturity.
- F. Certain events of default have occurred pursuant to the Commitment Letter (any and all such defaults as may be existing and known to the Lender as of the date hereof being referred to as the “**Existing Defaults**”), including by reason of maturity and non-payment of taxes.
- G. On November 15, 2023, CMLS made written demand for repayment of the indebtedness, and on the same date, delivered a notice of intention to enforce security pursuant to section 244 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the said demand and notice of intention to enforce security being collectively referred to as the “**Demands**”).
- H. As of November 9, 2023, the total amount of the indebtedness owing by the Borrower and secured by the Existing Security was \$58,920,629.31 in principal and interest, plus accruing interest and costs of the Lender, including, without limitation, the Lender’s legal and other professional fees (collectively the “**Indebtedness**”).
- I. As of the date hereof, the Credit Parties acknowledge and agree that they have failed to repay the Lender in full and, accordingly, the Lender is entitled to take steps to enforce on the Existing Security and pursue their remedies under the Commitment Letter and related documents.
- J. The Credit Parties have requested that the Lender agree to forbear from taking further action under the Commitment Letter, the Security, and the Additional Security (as hereinafter defined, and together with the Existing Security, collectively, the “**Security**”), subject to the terms, conditions and some limitations as specified in this Agreement.

**NOW THEREFORE**, in consideration of the respective covenants of the parties hereto as herein contained, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

In this Agreement, unless the context otherwise requires, all terms defined in the Commitment Letter, but not otherwise defined herein, shall have the respective meanings ascribed to them in the Commitment Letter, as applicable. All monetary amounts referred to in this Agreement shall refer to Canadian currency. In addition to the terms defined in the preamble and recitals to this Agreement above, the following capitalized terms used in this Agreement have the meanings set out below:

- (a) “**Business Day**” means any day except Saturday, Sunday or any other day on which commercial banks located in Toronto, Ontario are authorized or required by Law to be closed for business.
- (b) “**Financing Agreements**” means, collectively, the Commitment Letter, this Agreement, the Guarantee, the Security, the Mortgage Terms or any other agreement, document or instrument executed by one or more of the Credit Parties in connection therewith, all as amended, restated, supplemented, replaced or otherwise altered from time to time.
- (c) “**Forbearance Fee**” has the meaning given to such term in Section 4.4 of this Agreement.
- (d) “**PPSA**” means the *Personal Property Security Act* (Ontario) and all regulations made thereunder, as amended from time to time, and any other applicable legislation governing security interests in personal property.

## 1.2 Gender and Number

Words importing the singular include the plural and vice versa and words importing gender include all genders.

## 1.3 Severability

Each of the provisions contained in this Agreement is distinct and severable, and a declaration of invalidity, illegality or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Agreement.

## 1.4 Headings

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

## 1.5 Entire Agreement

Except for the Financing Agreements and the additional documents provided for herein, this Agreement constitutes the entire agreement of the parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, relating to the subject matter hereof. This Agreement may not be amended or modified except by written consent executed by all the parties. No provision of this Agreement will be deemed waived by any course of conduct unless such waiver is in writing and signed by all the parties, specifically stating that it is intended to modify this Agreement.

## **1.6 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflicts of law or principles of comity.

## **1.7 Attornment**

Each party hereto irrevocably attorns to the exclusive jurisdiction of the Superior Court of Justice (Commercial List) of the Province of Ontario in the City of Toronto for all matters arising out of or in connection with this Agreement.

## **1.8 Conflicts**

If there is any inconsistency or conflict between the terms of this Agreement and the terms of the Financing Agreements or any other agreement executed in connection therewith, the provisions of this Agreement shall prevail to the extent of the inconsistency, but the foregoing shall not apply to limit or restrict in any way the rights and remedies of the Lender under the Financing Agreements or this Agreement other than as may be specifically contemplated herein.

## **ARTICLE 2 ACKNOWLEDGEMENT AND CONFIRMATION**

### **2.1 Acknowledgement of Recitals**

Each of the Credit Parties acknowledges that each of the recitals above is true and correct in all respects and forms part of this Agreement.

### **2.2 Acknowledgement of Obligations**

- (a) Each of the Credit Parties hereby acknowledges, confirms and agrees that the Indebtedness and any other amounts now properly payable by the Borrower to the Lender under the Financing Agreements is unconditionally owing to the Lender, without any right of set-off, defence, counterclaim or reduction of any kind, nature or description whatsoever, and the Credit Parties are estopped from disputing such Indebtedness.
- (b) Each of the Credit Parties hereby acknowledges, confirms and agrees that the Borrower will continue to accept statements of the Indebtedness issued by the Lender to be accurate statements of the amount and the particulars of the Indebtedness as of the date of the statement, absent manifest error.
- (c) Each of the Credit Parties hereby acknowledges, confirms and agrees that CMLS has not withdrawn the Demands.

### **2.3 Acknowledgement of Existing Security Interests and Guarantee**

- (a) Each of the Credit Parties hereby acknowledges, confirms and agrees that the Existing Security has not been discharged, waived or varied, that it is binding upon the Credit Parties and that the Existing Security is enforceable in accordance with its written terms until such time as the obligations of the Credit Parties to the Lender has been indefeasibly paid and satisfied in full.
- (b) Each of the Credit Parties hereby acknowledges, confirms and agrees that the Guarantee is and shall continue to be in full force and effect and are valid, binding and enforceable upon the Guarantor until the obligations of the Borrower to the Lender has been indefeasibly paid and satisfied in full, and that neither the execution of this Agreement nor any change to the Indebtedness occasioned hereby, or any other matter arising here from, shall in any way affect the continuing effectiveness or validity of the Guarantee.

### **2.4 Acknowledgement of Certain Events of Default**

- (a) The Borrower hereby acknowledges, confirms and agrees that the Existing Defaults have occurred and are continuing pursuant to the provisions of the Financing Agreements.
- (b) Each of the Credit Parties further acknowledges, confirms and agrees that, as of the date hereof, the Lender and other loan participants have made no promises and have not waived, and do not intend to waive such Existing Defaults, and nothing contained herein or the transactions contemplated hereby shall be deemed to constitute any such waiver.

### **2.5 Additional Acknowledgements**

Each of the Credit Parties hereby acknowledges, confirms and agrees that:

- (a) except as hereby amended, the Financing Agreements will remain in full force and effect, unamended, except as provided for herein;
- (b) except as provided for in this Agreement including, without limitation in Section 4.1, the Lender (either by itself or through its employees or agents) has not made any promises, nor has it taken any action or omitted to take any action, that would constitute a waiver of its rights to enforce the Security and pursue its remedies in respect of the obligations of the Borrower to the Lender, or that would stop it from doing so;
- (c) except as otherwise specified in this Agreement, the Lender are entitled to exercise their rights and remedies under the Commitment Letter, the Security, the Guarantee, the PPSA and other applicable law; and



- (d) to the date hereof, the Lender has acted in a commercially reasonable manner and in good faith, and each of the Credit Parties are estopped from disputing same.

### **ARTICLE 3 CONDITIONS PRECEDENT**

#### **3.1 Conditions Precedent to the Effectiveness of this Agreement**

The forbearance obligations of the Lender under this Agreement shall not be effective unless and until the Lender shall be in receipt of each of the following, all in form and substance satisfactory to the Lender:

- (a) a copy of this Agreement, fully executed by all of the Credit Parties;
- (b) duly executed and registered (where required) mortgage amendments, guarantees or other documents as are necessary to effect the amendments and to provide the additional security as anticipated by this agreement;
- (c) the Forbearance Fee (as defined in Section 4.4 below) from the Borrower; and
- (d) an executed consent from the Borrower, in the form set out in **Schedule “B”** hereto (the **“Receivership Consent”**), to the immediate private or court-appointment of an interim receiver, receiver or receiver and manager, which shall be held in escrow by the Lender’s counsel, Aird & Berlis LLP, and used in the event of the termination, expiration or non-commencement of the Forbearance Period if the Lender is not indefeasibly repaid in full.

#### **3.2 No Conditions Precedent to the Effectiveness of the Receivership Consent**

The Receivership Consent shall be effective immediately upon its execution and delivery to the Lender.

### **ARTICLE 4 FORBEARANCE CONDITIONS**

#### **4.1 Forbearance**

In reliance upon the acknowledgements, representations, warranties and covenants of the Credit Parties contained in this Agreement and subject to the terms and conditions of this Agreement, and any documents executed in connection herewith, the Lender agrees that the Lender shall forbear from exercising any other rights and remedies under the Financing Agreements, the PPSA and other applicable law, until the earlier of:

- (a) May 31, 2024; and

- (b) the occurrence of an Intervening Event (as hereinafter defined and pursuant to Section 7.1 of this Agreement),  
(the “**Forbearance Period**”).

#### **4.2 Expiration or Termination of the Forbearance Period**

Upon the expiration or termination of the Forbearance Period, the agreement of the Lender to forbear shall automatically and without further action terminate and be of no further force and effect, it being expressly agreed that the effect of such expiration or termination will be to permit the Lender to exercise their rights and remedies under the Financing Agreements, the Receivership Consent and any other agreement or documents executed in connection with this Agreement immediately, including, without limitation: (i) the exercise of all remedies available pursuant to the Financing Agreements; (ii) the acceleration of all the obligations of the Borrower to the Lender without any further notice, passage of time or forbearance of any kind; (iii) the appointment of a private or court-appointed receiver (at the Lender’s option) under the Security and pursuant to the Receivership Consent; and (iv) the making of an application to a court of competent jurisdiction to enforce any private or other remedies available to the Lender, or to seek the appointment by such court of a trustee in bankruptcy of any of the Credit Parties.

#### **4.3 Tolling**

- (a) As of the date hereof and continuing until the expiration or termination of the Forbearance Period, as applicable, and thereafter until the termination of the tolling arrangements in the manner provided for at paragraph 4.3(b) herein, the Lender and the Credit Parties hereby agree to toll and suspend the running of the applicable statutes of limitations, laches and other doctrines related to the passage of time in relation to the Indebtedness, the Security, the Guarantee and any entitlements arising from the Indebtedness, the Guarantee or the Security and any other related matters, and each of the parties confirms that this Agreement is intended to be an agreement to suspend or extend the basic limitation period, provided by section 4 of the *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B (the “**Limitations Act**”) as well as the ultimate limitation period provided by section 15 of the *Limitations Act* in accordance with the provisions of sections 22(3) and 22(4) of the *Limitations Act* and as a business agreement in accordance with the provisions of section 22(5) of the *Limitations Act* and any contractual time limitations on the commencement of proceedings, any claims or defences based upon such application statute of limitations, contractual limitations or any time related doctrine including waiver, estoppel or laches.
- (b) The tolling provisions of this Agreement will terminate upon either of its parties providing the other with 60 days’ written notice of an intention to terminate the tolling provisions hereof, and upon the expiry of such 60 days’ notice, any time provided for under the statute of limitations, laches or any other doctrine related to the passage of time in relation to the Indebtedness, the Security or any claims arising thereunder, will recommence running as of such date, and for greater

certainty the time during which the parties agree to the suspension of the limitation period pursuant to the tolling provisions of this Agreement shall not be included in the computation of any limitation period.

#### **4.4 Forbearance Fee**

In consideration of the Lender entering into this Agreement, the Borrower shall pay to the Lender a forbearance fee of \$100,000.00 (the “**Forbearance Fee**”), which fee is fully earned and payable on execution of this Agreement, but which will be added to the balance of the Indebtedness upon the execution of this Agreement, and shall form part of the Indebtedness and shall be secured by any and all of the Security.

#### **4.5 Payment of Professional Fees**

The Borrower hereby covenants and agrees with the Lender to reimburse the Lender for all reasonable expenses, including, without limitation, actual legal and other professional expenses that the Lender has incurred or will incur arising out of its dealings with any of the Credit Parties and in the protection, preservation and enforcement of the Security, including, without limitation, the actual fees and expenses of the Lender’s counsel, Aird & Berlis LLP, and any other professionals retained by the Lender (collectively, the “**Professional Expenses**”), and that the Professional Expenses shall be for the account of the Borrower and shall be paid by the Borrower upon delivery to the Borrower of invoices evidencing the Professional Expenses, or payment will otherwise be made by the Lender for later repayment by the Borrower by no later than the expiration or termination of the Forbearance Period. Nothing in this Agreement shall derogate from the Borrower’s obligation to pay for all the Professional Expenses or shall constitute a cap on Professional Expenses.

#### **4.6 No Other Waivers; Reservation of Rights**

Subject to Section 4.1 of this Agreement, the Lender reserves the right, in its sole and absolute discretion, to exercise any or all of its rights or remedies under any one or more of the Financing Agreements, the PPSA or other applicable law, and the Lender has not waived any such rights or remedies, and nothing in this Agreement and no delay on the part of the Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies.

### **ARTICLE 5 REPORTING**

#### **5.1 Reporting Requirements**

During the Forbearance Period, the Borrower agrees to continue to honour the reporting requirements as previously agreed with the Lender in the Commitment Letter, or as amended herein, and shall continue to do so until such time as the obligations of the Borrower to the Lender have been indefeasibly repaid in full. Without limiting the generality of the foregoing, the Credit Parties, shall provide the Lender with the following additional reporting or information, independently of any other reporting obligations until written notice from the Lender that it is no longer required:

- (a) within seven days of the date of this Agreement, evidence that the Borrower is current on all obligations payable in priority to the obligations owed to the Lender (“**Priority Payables**”), including wages and remittances required to be made for taxes and other liabilities owed to federal, provincial and municipal governments, including, without limitation, property taxes and money owed in respect of employee source deductions pursuant to the *Canada Pension Plan Act* (Canada), *Employment Insurance Act* (Canada) and *Income Tax Act* (Canada), and in respect of HST.①
- (b) all information that may be requested by CMLS regarding the sale process of the property municipally described as 256 Rideau Street, Ottawa, Ontario (the “**Rideau Property**”), including, but not limited to, appraisals, internal valuations, marketing materials, sales milestones, sales updates and any other due diligence materials;
- (c) weekly updates on each of the following:
  - (i) refinancing efforts relating to the Property;
  - (ii) the sale process of the Rideau Property; and
  - (iii) any other loans within the Borrower’s portfolio, including, but not limited to, loans in special servicing; and
- (d) Borrower shall provide written authorization to all consultants, or advisors assisting in the sale of the Rideau Property or the re-financing efforts for the Property, including CMLS Advisory to provide current information and documentation directly to the Lender respecting such sale or re-financing efforts.

## ARTICLE 6

### OBLIGATIONS OF THE BORROWER DURING THE FORBEARANCE PERIOD

#### 6.1 Financing Agreements

During the Forbearance Period, the Credit Parties shall strictly adhere to all the terms, conditions and covenants of the Commitment Letter, this Agreement and the other Financing Agreements, except to the extent that such terms, conditions and covenants are otherwise specifically amended by this Agreement.

① CURRENTLY THERE IS \$1,533,000 OF OUTSTANDING HST.

## 6.2 Amendments to Commitment Letter

- (a) The definition of “Interest Rate” is amended, with retroactive effect to January 1, 2024, from “200 basis points” to “300 basis points” such that it shall hereafter read as follows:

*300 basis points over the prevailing Royal Bank of Canada Prime Rate*

## 6.3 Amendments to Mortgage Terms

- (a) the definition of “Interest Rate” is amended, with retroactive effect to January 1, 2024, from “200 basis points” to “300 basis points” such that it shall hereafter read as follows:

*“Interest Rate” means 300 basis points over the prevailing Royal Bank of Canada Prime Rate, compounded monthly, not in advance, both before and after maturity, default and judgment. It is reset on the first day of each month and cannot fall below the floor rate of 445 basis points.*

- (b) the Credit Parties acknowledge and agree that the Mortgage charging the Property shall be amended to give effect to ss. 6.3(a) above, and the Credit Parties shall execute and deliver to the Lender all consents and documents, in a form satisfactory to the Lender, to effect the amendment of the Mortgage.

## 6.4 Additional Security

As further and continuing collateral security for the Borrower’s obligations to the Lender, the Credit Parties shall execute and deliver to the Lender (the “**Additional Security**”) the following:

- (a) a fourth-ranking collateral charge/mortgage in the amount of \$10,000,000.00, in a form acceptable to the Lender and subject to satisfactory review by the Lender of title, value and collateral security, charging the property municipally described as 256 Rideau Street, Ottawa, Ontario, which charge shall rank ahead of any secured or unsecured creditor except for the existing mortgage in favour of GMI Servicing Inc. and two existing mortgages in favour of Kingsett Mortgage Corporation;
- (b) a collateral charge/mortgage in the amount of \$10,000,000, in a form acceptable to the Lender and subject to satisfactory review by the Lender of title, value and collateral security, charging each of the following properties (the “**Additional Properties**”) municipally described as:
- (i) 775, 787, and 809 Fanshawe Park Road West, London, ON (PIN: 08138-0146 and 08138-1117);
- (ii) 347, and 349 Alfred Street, Kingston, ON;

- (iii) 531, 525, 527, 523, 521, 507, 559, 557, and 555 Princess Street, Kingston, ON;
- (iv) 1230 Merivale Road, Ottawa, ON (PIN 03998-0558);
- (v) 1 Crystal Park Crescent, Ottawa, ON (PIN: 03998-0591);
- (vi) 300 Central Park Road, Ottawa, ON (PIN 03998-1743);

which charge shall rank behind only to any existing charge held by Pillar Capital Corp. charging the Additional Properties, subject to the consent of Pillar Capital Corp.; and

- (c) if any of the Additional Properties are not held in the name of the Borrower, the Borrower shall secure the granting of the collateral mortgage by the respective title holders by providing guarantees in favour of the Lender, which guarantees shall be in a form acceptable to the Lender but shall be limited in recourse to the collateral mortgage charging the Additional Properties.

## **6.5 Appointment of the Lender's Financial Advisor**

The Lender shall have the right, at any time they may in their sole discretion deem appropriate, to appoint a financial advisor of their choice (the "**Financial Advisor**") as consultant to the Lender, and to review and assess all matters affecting the collateral of the Lender the realizable value of the Property or the ability of the Borrower to service the Property and the Indebtedness, and the Borrower hereby agrees to provide their full co-operation and access to books and records of the Borrower to such Financial Advisor and hereby consents to any such engagement of the Financial Advisor by the Lender.

## **6.6 Full Co-Operation**

During the Forbearance Period, the Credit Parties shall cooperate fully with the Lender, and the Financial Advisor, if any, by promptly providing all the information requested by the Lender, CMLS and the Financial Advisor, and by providing to the Lender, CMLS and the Financial Advisor full access to the books, records, property assets and personnel of the Borrower wherever they may be situate and in whatever medium they may be recorded, at the request of and at times convenient to the Lender, CMLS and the Financial Advisor, which right of access shall include the right to inspect and appraise any property and assets of the Borrower.

## **6.7 Operational Obligations**

For the duration of the Forbearance Period, in addition to the other covenants contained herein, each of the Credit Parties hereby covenants and agrees with the Lender as follows:

- (a) interest that would ordinarily accrue in respect of the Loan under the Commitment Letter for the period of January through April 2024 and be payable monthly when

due shall, instead, be capitalized and added to the outstanding principal amount of the Mortgage;

- (b) the Credit Parties shall have, prior to the date hereof, paid all accrued realty taxes owing in respect of the Property of the date of this Agreement, and shall provided confirmation satisfactory to the Lender;
- (c) the Borrower shall consent to the delivery of all information and documents relating to the sale of any of the Borrower's real properties by the Borrower's selling advisor to the Lender, and the Borrower shall provide, execute and deliver any and all documents required to give effect to such consent;
- (d) the Borrower shall maintain its corporate existence as a valid and subsisting entity and shall not merge, amalgamate or consolidate with any other corporation(s), except with the Lender's prior written consent;
- (e) except as specifically provided for in this Agreement including, without limitation Section 4.1, each of the Credit Parties shall comply in all respects with all terms and provisions of the Financing Agreements and nothing herein derogates therefrom;
- (f) the Borrower shall not, without the prior written consent of the Lender, make any distribution or payment to any secured or unsecured creditor subordinate in interest to the Lender, including but not limited to any payments or distributions of dividends, interest or other payments to preferred shareholders, management fees, administration fees or charges, corporation or other entity who does not deal with the Borrower at arm's length (as such term is determined in the *Income Tax Act* (Canada)), except for:
  - (i) payments to the Borrower's contractors and suppliers in respect of any supply arrangement with the Borrower arising in the ordinary course of the Borrower's business, which are commercially reasonable and are competitive with payments that would be required to be paid to a comparable contractor or supplier acting at arm's length;
- (g) save and except for loans or advances of money or property to the Borrower, the Credit Parties shall not, without the prior written consent of the Lender, make any loans or advance money or property to any other party (including, without limitation, any subsidiary or affiliate of the Borrower) or invest in (by capital contribution, dividend or otherwise) or purchase or repurchase the shares or indebtedness or all or a substantial part of the assets or property of any other party (including, without limitation, any subsidiary or affiliate of the Borrower), or guarantee, assume, endorse, or otherwise become responsible (directly or indirectly) for the indebtedness, performance, obligations or dividends of any other party (including, without limitation, any subsidiary or affiliate of the Borrower) or

agree to do any of the foregoing, other than as required by the Financing Agreements;

- (h) other than permitted indebtedness and/or liens consented to by the Lender, the Credit Parties shall not encumber, mortgage, hypothec, pledge or otherwise cause any form of lien or charge on any of their property or assets, including intangible and contingent assets, without the prior written consent of the Lender, which shall not be unreasonably withheld or delayed;
- (i) the Borrower shall not, without the prior written consent of the Lender, which may be unreasonably withheld or delayed, repay any principal or interest which may be owing or become owing in connection with any shareholder or related party loan or any loan made by any party subordinate to the Lender;
- (j) the Borrower shall not, without the prior written consent of the Lender, make any distribution (whether by dividend or otherwise) or effect any return of capital on any investment made by any shareholder, or any party related to any shareholder, of the Borrower;
- (k) none of the Credit Parties shall, in any case, make any payment to any party if the financial position of such Credit Party after making such payment would put such Credit Party in a position of breach or default of its obligations under the Financing Agreements, this Agreement or constitute an Intervening Event;
- (l) the Borrower shall keep current at all times all Priority Payables;
- (m) each of the Credit Parties shall take all steps required to cure any deficiencies, if any, in the Security;
- (n) the Credit Parties shall give to the Lender prompt notice of any litigation, arbitration or administrative proceeding before or of any court, arbitration, tribunal or governmental authority adversely and materially affecting any of the assets, property or undertakings of the Credit Parties; and
- (o) unless otherwise agreed to herein, the Credit Parties shall not do any act or thing which may have the effect of defeating or delaying the enforcement of the Lender's rights and remedies under any of the Security.

## ARTICLE 7 INTERVENING EVENTS

### 7.1 Intervening Events

Upon the happening of any one of the following events from and after the date of this Agreement (each an “**Intervening Event**”), this Agreement shall forthwith terminate:



- (a) in the Lender's sole opinion, a material adverse change occurs in the business, affairs, financial condition, operation or ownership of the Borrower arising for any reason whatsoever;
- (b) any representation, warranty or statement made by any of the Credit Parties in this Agreement or any other agreement with the Lender was untrue or incorrect when made or becomes untrue or incorrect in any material respect;
- (c) any of the Credit Parties defaults in the performance of any obligation under any of the Financing Agreements after the date hereof other than any of the Existing Defaults;
- (d) the occurrence of any other event which, in the opinion of the Lender, acting reasonably, may materially and adversely impact the priority or enforceability of the Security granted by the Credit Parties, or the realizable value of the collateral subject to such Security;
- (e) the Security ceases to constitute a first-ranking or second-ranking, as the case may be, valid and perfected security interest against all assets of each of the Credit Parties, as applicable;
- (f) the loss, damage, destruction or confiscation of the Security or any part thereof, unless upon such event, the Credit Parties pay to the Lender forthwith such amount as the Lender, acting reasonably, determines is satisfactory;
- (g) any person takes possession of any property of any of the Credit Parties by way of or in contemplation of enforcement of security, or a distress or execution or similar process levied or enforced against any property of any of the Credit Parties;
- (h) any change of control in the ownership, or management of any of the Credit Parties, as applicable, without the Lender's prior written consent;
- (i) the Credit Parties fail to maintain current insurance;
- (j) without the Lender's prior written consent, any of the Credit Parties ceases to carry on business in the normal course in the same manner as such business has previously been carried on or as specifically amended by this Agreement or commits or threatens to commit an act of bankruptcy;
- (k) without the prior written consent of the Lender, any action or proceeding is taken or commenced by another person or persons against any of the Credit Parties, which the Credit Parties are not contesting, relating to the reorganization, readjustment, compromise or settlement of the debts owed by any of the Credit Parties to its creditors where such reorganization, readjustment, compromise or settlement shall affect a substantial portion of any of the Credit Parties' assets and property, including, without limitation, the filing of a Notice of Intention to Make a Proposal

under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), the making of an order under the *Companies’ Creditors Arrangement Act* (Canada) or the commencement of any similar action or proceeding by any party other than the Lender and CMLS;

- (l) the filing of an application for a bankruptcy order against any of the Credit Parties pursuant to the provisions of the BIA by any party other than the Lender and CMLS;
- (m) any of the Credit Parties fails to meet its payroll obligations or does not have sufficient funds available to fund its payroll obligations;
- (n) the Borrower defaults in the performance of any term or condition of this Forbearance Agreement;
- (o) any of the Credit Parties fails to make one or more of the payments, in full or in part, in accordance with the Financing Agreements, as amended only by this Agreement and which become due and payable after the date hereof;
- (p) the Borrower fails to meet one or more of the reporting requirements required to be met after the date hereof in accordance with Section 5.1 of this Agreement and not cured within 7 days after written notice; or
- (q) the expiration or termination of the Forbearance Period, unless extended by the agreement of the parties.

## **ARTICLE 8 GENERAL PROVISIONS**

### **8.1 Effect of this Agreement**

Except as modified pursuant hereto, no other changes or modifications to the terms of the Financing Agreements are intended or implied and in all other respects, the terms of the Financing Agreements are confirmed.

### **8.2 Further Assurances**

The parties hereto shall execute and deliver such supplemental documents and take such supplemental action as may be necessary or desirable to give effect to the provisions and purposes of this Agreement, all at the sole expense of the Credit Parties.

### **8.3 Binding Effect**

This Agreement shall be binding upon and enure to the benefit of each of the parties hereto and its respective successors and permitted assigns.

#### **8.4 Survival of Representations and Warranties**

All representations and warranties made in this Agreement or any other document furnished in connection herewith shall survive the execution and delivery of this Agreement and such other document delivered in connection herewith, and no investigation by the Lender or any closing shall affect the representations and warranties or the rights of the Lender to rely upon such representations and warranties.

#### **8.5 Confidentiality**

Each of the Credit Parties acknowledges and agrees that the Lender and their professional advisors shall be at liberty, in their sole discretion, to disclose any information obtained from the Credit Parties to any party or parties in order to recover amounts owed to the Lender by the Credit Parties.

#### **8.6 Release**

In consideration of the agreements of the Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Credit Parties, on its behalf and on behalf of its successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges the Lender, each of the participants in the loan, and each of their respective successors and assigns, participants, affiliates, subsidiaries, branches, divisions, predecessors, directors, officers, attorneys, employees, lenders and other representatives and advisors (the Lender and all such other persons being hereinafter referred to collectively as the “**Releasees**” and individually as a “**Releasee**”), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defences, rights of set-off, demands and liabilities whatsoever (individually, a “**Claim**” and collectively, “**Claims**”) of every name and nature, known and unknown, both arising at law and in equity, which each of the Credit Parties or any of its successors, assigns or other legal representatives may now own, hold, have or claim to have against the Releasees or any of them for, upon or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the date of this Agreement, including, without limitation, for or on account of, or in relation to or in any way in connection with, any of the Financing Agreements or transactions thereunder or related thereto.

#### **8.7 No Novation**

This Agreement will not discharge or constitute novation of any debt, obligation, covenant or agreement contained in any of the Financing Agreements but the same shall remain in full force and effect save to the extent amended by this Agreement.

#### **8.8 Notice**

Without prejudice to any other method of giving notice, any notice required or permitted to be given to a party pursuant to this Agreement will be conclusively deemed to have been

received by such party on the day of the sending of the notice by prepaid private courier to such party at its, his or her address noted below or by email at its, his or her email address noted below. Any party may change its, his or her address for service or address by notice given in the foregoing manner.

Notice to the Credit Parties shall be sent to:

Ashcroft Urban Developments Inc.  
18 Antares Drive  
Ottawa, ON K2E 1A9

Attention: Manny Difilippo  
Email: [mdifilippo@ashcrofthomes.ca](mailto:mdifilippo@ashcrofthomes.ca)

Notice to CMLS shall be sent to:

1066 West Hastings Street, Suite 2110  
Vancouver, BC V6E 3X2

Attention: Commercial Servicing  
Email: [cmlsservicerequest@cmls.ca](mailto:cmlsservicerequest@cmls.ca)

with a copy to:

Aird & Berlis LLP  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

Attention: D. Robb English / Matilda Lici  
Email: [renglish@airdberlis.com](mailto:renglish@airdberlis.com) / [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

with a copy to:

Equitable Bank  
30 St. Clair Ave W, Suite 700  
Toronto, ON M4V 3A1

Attention: Robert Gartner  
Email: [eqbcommercialadministration@eqbank.ca](mailto:eqbcommercialadministration@eqbank.ca)

with a copy to:

General Bank of Canada  
11523 - 100th Avenue, Suite 100  
Edmonton, AB T5K 0J8

Attention: Paul Ermantrout, National Managing Director  
Email: [commercial@generalbank.ca](mailto:commercial@generalbank.ca)

**8.9 Execution in Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and which taken together will be deemed to constitute one and the same instrument. Counterparts may be executed either in original or portable document format (“**PDF**”) form and the parties adopt any signatures received by emailed PDF as original signatures of the parties, provided, however, that any party providing its signature in such manner will promptly forward to the other party an original of the signed copy of the Agreement which was so emailed.

**8.10 No Set Off, etc.**

Each of the Credit Parties reaffirms that the Financing Agreements remain in full force and effect as amended hereby and acknowledge and agree that, as of the date hereof, there is no defence, set off or counterclaim of any kind, nature or description to its obligations arising under the Financing Agreements as a result of the execution of this Agreement or otherwise.

**8.11 Independent Legal Advice, etc.**

Each of the Credit Parties acknowledges and declares that: (a) it has had an adequate opportunity to read and consider this Agreement and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice; (b) it fully understands the nature and effect of this Agreement; and (c) this Agreement has been duly executed voluntarily.

**IN WITNESS WHEREOF**, the parties hereto have entered into this Agreement as of the date first above mentioned.

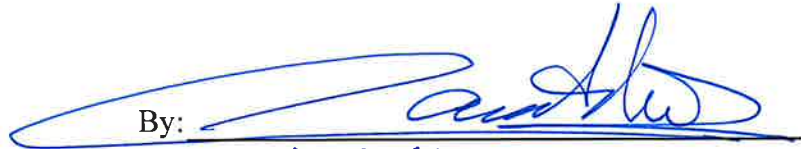
[remainder left intentionally blank]

**CMLS FINANCIAL LTD.**

By:  \_\_\_\_\_

Name: Neil Xue  
Title: Director, Commercial Servicing  
*I have authority to bind the corporation.*

**ASHCROFT URBAN DEVELOPMENTS INC.**

By:  \_\_\_\_\_

Name: DAVID CHOO  
Title: CEO  
*I have authority to bind the corporation.*



Witness Name: MANNY DIFILIPPO



DAVID CHOO

**SCHEDULE "A"**  
**THE SECURITY**

1. General Security Agreement dated August 4, 2021 and registered pursuant to the *Personal Property Security Act* (Ontario) on August 5, 2021 pursuant to Financing Statement No. 20210805 1110 1590 9515.
2. Charge/Mortgage, securing the principal amount of \$65,000,000.00 plus interest thereon, between Ashcroft Urban Developments Inc., as Chargor, and Computershare Trust Company of Canada, as Chargee, registered electronically in the Land Registry Office for the Land Titles Division of Ottawa (No. 4) on the 12<sup>th</sup> day of August, 2021, as Instrument No. C2385994.
3. General Assignment of Rents and Leases given by Ashcroft Urban Developments Inc. as Borrower, in favour of Computershare Trust Company of Canada, as Lender, registered electronically in the Land Registry Office of Ottawa (No. 4) on the 12<sup>th</sup> day of August, 2021, as Instrument No. OC2385999.

**SCHEDULE "B"  
CONSENT TO RECEIVER**

**TO: CMLS FINANCIAL LTD. (THE "LENDER")**

**AND TO: SOLICITORS FOR THE LENDER, AIRD & BERLIS LLP**

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ASHCROFT URBAN DEVELOPMENTS INC. (the "Debtor") hereby consents to: (i) the immediate appointment by the Lender of a private receiver or receiver and manager in respect of the Debtor's assets, property and undertaking and any and all of the Debtor's books and records (collectively, the "Assets"); and/or (ii) the immediate appointment by Court Order of an interim receiver, receiver or receiver and manager of the Assets pursuant to subsections 47(1) and 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*.

DATED this 23 day of February, 2024.

**ASHCROFT URBAN DEVELOPMENTS  
INC.**

By: 

Name: DAVID CHOO

Title: CEO

I have authority to bind the corporation.



This is Exhibit "B" referred to in the Affidavit of Robert Gartner  
sworn before me this 10<sup>th</sup> day of December, 2024

A handwritten signature in black ink, appearing to read "K. Bell", written over a horizontal line.

*Commissioner for Taking Affidavits*

**Katie Victoria Bell, a  
Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 14, 2025**

## FORBEARANCE EXTENSION AGREEMENT

AMONGST:

**CMLS FINANCIAL LTD., as Lender**  
(hereinafter referred to as “CMLS” or as “Lender”)

- and -

**ASHCROFT URBAN DEVELOPMENTS INC.**  
(the “Borrower”)

- and -

**DAVID CHOO**  
(the “Guarantor” and collectively with the Borrower, the “Credit Parties” and each a “Credit Party”)

### WHEREAS:

- A. The Lender and the Credit Parties are parties to a forbearance agreement made as of the 23<sup>rd</sup> day of February, 2024 (the “**Forbearance Agreement**”), pursuant to which the Lender agreed to forbear from exercising its rights and remedies under the Financing Agreements (as defined in the Forbearance Agreement) and under applicable law until the earlier of May 31, 2024 or the occurrence of an Intervening Event (as defined in the Forbearance Agreement).
- B. The Forbearance Period (as defined in the Forbearance Agreement) expired on May 31, 2024.
- C. The Borrower is unable to repay the amounts owed to the Lender despite the expiry of the Forbearance Period.
- D. The Credit Parties have requested, and the Lender has agreed, subject to the terms and conditions hereof, to extend the Forbearance Period to permit the Credit Parties to repay amounts owed to the Lender.
- E. All capitalized terms used and not defined herein shall have the respective meanings ascribed thereto in the Forbearance Agreement, or in the Credit Agreement, as applicable;

**NOW THEREFORE** this agreement (the “**Extension Agreement**”) sets out the terms on which the Lender is willing to extend the Forbearance Period and to forbear from enforcing its rights and remedies under the Financing Agreements and under applicable law for an extended Forbearance Period.

1. Except as modified herein, no other changes or modifications to the terms of the Financing Agreements or any other documents delivered in connection therewith are intended or implied, and in all other respects, the terms of the Forbearance Agreement and the other

Financing Agreements are confirmed, and the terms of the Forbearance Agreement are incorporated by reference herein.

2. Subject to the continued compliance by the Credit Parties with all covenants and obligations contained in the Forbearance Agreement, except as modified herein, and this agreement (the “**Extension Agreement**”), the Forbearance Period set out in section 4.1(a) of the Forbearance Agreement shall be extended until the earlier of:

- (a) September 30, 2024; and
- (b) the occurrence of an Intervening Event,

(the “**Extension Period**”).

3. Section 6.2 of the Forbearance Agreement is hereby deleted in its entirety and replaced with the following:

- (a) The definition of “Interest Rate” is amended, with retroactive effect to June 1, 2024, from “200 basis points” to “400 basis points” such that it shall hereafter read as follows:

*400 basis points over the prevailing Royal Bank of Canada Prime Rate*

4. Section 6.3 of the Forbearance Agreement is hereby deleted in its entirety and replaced with the following:

- (a) the definition of “Interest Rate” is amended, with retroactive effect to June 1, 2024, from “200 basis points” to “400 basis points” such that it shall hereafter read as follows:

*“Interest Rate” means 400 basis points over the prevailing Royal Bank of Canada Prime Rate, compounded monthly, not in advance, both before and after maturity, default and judgment. It is reset on the first day of each month and cannot fall below the floor rate of 445 basis points.*

- (b) the Credit Parties acknowledge and agree that the Mortgage charging the Property shall be amended to give effect to ss. 6.3(a) above, and the Credit Parties shall execute and deliver to the Lender all consents and documents, in a form satisfactory to the Lender, to effect the amendment of the Mortgage.


5. As consideration for the Extension Period, and as further and continuing collateral security for the Borrower’s obligations to the Lender, the Credit Parties shall:

- (a) *Subject to receiving consent from the 1st & 2nd charge of the existing lenders on the 101 Champagne Ave S. Property*  
execute and deliver to the Lender a collateral charge/mortgage in the amount of \$20,000,000 (the “**Champagne Security**”), in a form acceptable to the Lender, charging the property municipally described as 101 Champagne Ave S, Ottawa, Ontario, K1S 4P3 (the “**Champagne Property**”); and

- (b) deliver a limited guarantee, in a form acceptable to the Lender, from 2195186 Ontario Inc. up to the amount of the collateral charge/mortgage on the Champagne Property, and limited in recourse to the Champagne Property,

each within seven (7) days of the execution of this Extension Agreement, and the Guarantor shall deliver an executed consent, in the form set out in **Schedule “A”** hereto (the “**Consent to Judgment**”), to immediate judgment in favour of the Lender, which shall be held in escrow by the Lender’s counsel, Aird & Berlis LLP, and used in the event of the termination, expiration or non-commencement of the Extension Period if the Lender is not repaid in full.


- 6. In consideration of the Lender entering into this Extension Agreement, the Credit Parties shall pay to the Lender a forbearance extension fee of \$100,000 (the “**Forbearance Fee**”), which fee is fully earned and payable on execution of this Extension Agreement, and which will be added to the outstanding principal amount of the Mortgage upon the execution of this Extension Agreement, and shall form part of the Indebtedness and shall be secured by any and all of the Security, including the Champagne Security.
- 7. During the extended Forbearance Period the Borrower shall continue to pay monthly payments of all accruing interest in accordance with the provisions of the Commitment Letter, as amended by the Forbearance Agreement, and the Borrower acknowledges that no such payments of interest shall in any way be construed as extending the term of the loan, which fully matured as of September 1, 2023, and which remains matured and due without renewal. Specifically, the Borrower acknowledges and agrees that it shall pay \$300,000 of the accruing interest due and owing by the Borrower each month in cash on the first (1<sup>st</sup>) day of each month, and the balance of the accruing interest shall be added to the outstanding principal amount of the Mortgage.
- 8. In addition to all existing reporting obligations under the Commitment Letter or under the Forbearance Agreement, the Borrower agrees with the Lender as follows:
  - (a) The Borrower shall provide weekly updates, for receipt by the Lender by Tuesday of each week commencing July 2, 2024, regarding all efforts being undertaken and all progress made to secure a sale of the Rideau Property, including the status of and prospect for fulfilling all due diligence conditions relating to such sale and shall provide copies of any and all relevant supporting documents relating to same.
  - (b) The Borrower shall provide evidence of the listing for sale of the Champagne Property within 21 days of the execution of this agreement and thereafter shall include in its weekly reporting an update on the status of such sale including copies of all relevant documents.
- 9. Borrower agrees to provide to the Lender evidence of the fulfillment or waiver of all conditions for the sale of the Rideau Property, and a confirmed closing date, on or before September 1, 2024.
- 10. It is a condition of the offered extension that the Credit Parties must execute this Extension Agreement in the space provided for below, and return it to the Lender, on or before the

July 3, 

close of business on ~~June 28~~, 2024, after which it will be null and void unless extended in writing by the Lender.

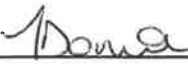
- 11. This agreement shall be governed by and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable thereto.
- 12. This agreement may be executed in counterparts each of which shall be deemed to be an original and which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or portable document format (“PDF”) form and the parties adopt any signatures received by emailed PDF as original signatures of the parties, provided, however, that any party providing signature in such manner will forward to the other party an original of such signed document of the agreement which was so emailed.

**IN WITNESS WHEREOF**, the parties hereto hereby accept the terms and conditions of this Extension Agreement as of the ~~26th day of June~~, 2024.

3rd day of July. 


**ASHCROFT URBAN DEVELOPMENTS INC.**

By: DAVID CHOO  
 Name:  
 Title:  
*I have authority to bind the corporation.*

  
**Witness Name:**

)  
 )  
 )   
 ) **DAVID CHOO**  
 )

**CMLS FINANCIAL LTD.**

By:   
 Name: Neil Xue  
 Title: Director, Commercial Servicing  
*I have authority to bind the corporation.*

**SCHEDULE "A"**  
**CONSENT TO JUDGMENT**

Court File No. \_\_\_\_\_

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

**BETWEEN:**

**CMLS FINANCIAL LTD.**

Applicant

- and -

**DAVID CHOO**

Respondent

**CONSENT**

The undersigned consents to Judgment, in substantially the same form as that attached hereto as **Schedule A**, being entered against him.

The undersigned certifies that the Judgment being sought herein does not affect the rights of any person under disability.

**DATED** this \_\_\_ day of June, 2024.

**SIGNED, SEALED AND DELIVERED** )  
in the presence of )

*Tara Bonsor*

  
\_\_\_\_\_  
**DAVID CHOO**

Witness  
Name: *Tara Bonsor*  
Date: *Jul 3, 2024*

**SCHEDULE "A"**

Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**CMLS FINANCIAL LTD.**

Applicant

- and -

**DAVID CHOO**

Respondent

**JUDGMENT**

**THIS APPLICATION**, made by the Applicant, CMLS Financial Ltd., on consent, for Judgment against the Respondent, David Choo, was heard this day at Toronto, Ontario.

**ON READING THE CONSENT** signed by the Respondent and upon hearing the submissions of counsel for the Applicant,

1. **THIS COURT ORDERS AND ADJUDGES** that the Respondent pay to the Applicant the sum of \$58,290,629.31, forthwith, together with interest thereon at the prime rate of interest determined by the Royal Bank of Canada from time to time plus 400 basis points per annum from the 15<sup>th</sup> day of November 2023 until the date of payment in full. **[NTD: Given the increase of the interest rate on the loan by 100 BP's.]**

2. **THIS COURT ORDERS AND ADJUDGES** that the costs of this application are fixed on a full indemnity scale in the amount of \$\_\_\_\_\_ and are payable forthwith by the Respondent to the Applicant.

3. This Judgment bears interest on the sum of \$ \_\_\_\_\_ for costs at the rate of \_\_\_\_\_% per annum, commencing on its date.

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**CMLS FINANCIAL LTD.**  
Applicant

- and -

**DAVID CHOO**  
Respondent

Court File No.

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**Proceedings commenced at Toronto**

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**JUDGMENT**

---

**AIRD & BERLIS LLP**

Barristers and Solicitors

Brookfield Place

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Toronto, ON M5J 2T9

**D. Robb English (LSO No. 19862F)**

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Tel: 416.865.7713

Email: [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

*Lawyers for CMLS Financial Ltd.*

This is Exhibit "C" referred to in the Affidavit of Robert Gartner  
sworn before me this 10<sup>th</sup> day of December, 2024

A handwritten signature in black ink, appearing to read 'K. Bell', written over a horizontal line.

*Commissioner for Taking Affidavits*

**Katie Victoria Bell, a  
Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 14, 2025**

## SECOND FORBEARANCE EXTENSION AGREEMENT

AMONGST:

**CMLS FINANCIAL LTD., as Lender**  
(hereinafter referred to as “CMLS” or as “Lender”)

- and -

**ASHCROFT URBAN DEVELOPMENTS INC.**  
(the “Borrower”)

- and -

**DAVID CHOO**  
(the “Guarantor” and collectively with the Borrower, the “Credit Parties”  
and each a “Credit Party”)

### WHEREAS:

- A. The Lender and the Credit Parties are parties to a forbearance agreement made as of the 23<sup>rd</sup> day of February, 2024 (the “**Forbearance Agreement**”), pursuant to which the Lender agreed to forbear from exercising its rights and remedies under the Financing Agreements (as defined in the Forbearance Agreement) and under applicable law until the earlier of May 31, 2024 or the occurrence of an Intervening Event (as defined in the Forbearance Agreement).
- B. The Forbearance Period (as defined in the Forbearance Agreement) expired on May 31, 2024.
- C. The Lender and the Credit Parties entered into a Forbearance Extension Agreement as of July 3, 2024, extending the Forbearance Period, as defined in the Forbearance Agreement to September 30, 2024.
- D. The Borrower was unable to repay the amount owed to the Lender by the expiry of the Extended Forbearance Period on September 30, 2024.
- E. The Borrower is unable to repay the amounts owed to the Lender despite the expiry of the Forbearance Period.
- F. The Credit Parties have requested, and the Lender has agreed, subject to the terms and conditions hereof, to extend the Forbearance Period to permit the Credit Parties to repay amounts owed to the Lender.
- G. All capitalized terms used and not defined herein shall have the respective meanings ascribed thereto in the Forbearance Agreement, or in the Credit Agreement, as applicable;

**NOW THEREFORE** this agreement (the “**Second Extension Agreement**”) sets out the terms on which the Lender is willing to extend the Forbearance Period and to forbear from enforcing its rights and remedies under the Financing Agreements and under applicable law for an extended Forbearance Period.

1. Except as modified herein, no other changes or modifications to the terms of the Financing Agreements or any other documents delivered in connection therewith are intended or implied, and in all other respects, the terms of the Forbearance Agreement, the Forbearance Extension Agreement and the other Financing Agreements are confirmed, and the terms of the Forbearance Agreement are incorporated by reference herein.
2. Subject to the continued compliance by the Credit Parties with all covenants and obligations contained in the Forbearance Agreement and in the Forbearance Extension Agreement, except as modified herein, and this agreement (the “**Second Extension Agreement**”), the Forbearance Period set out in section 4.1(a) of the Forbearance Agreement shall be extended until the earlier of:
  - (a) March 31, 2025; and
  - (b) the occurrence of an Intervening Event,
 (the “**Extension Period**”).
3. For greater clarity, the amendment as described and provided for at paragraphs of 3, 4 and 7 of the Extension Agreement shall continue in full force and effect during the Forbearance Period as extended pursuant to this agreement.
4. As consideration for the Extension Period provided herein, and as a condition of this agreement, and as further and continuing collateral security for the Borrower’s obligations to the Lender, the Credit Parties shall:
  - (a) execute and deliver to the Lender a collateral charge/mortgage in the amount of \$20,000,000 (the “**Champagne Security**”), in a form acceptable to the Lender, charging the property municipally described as 101 Champagne Ave S, Ottawa, Ontario, K1S 4P3 (the “**Champagne Property**”); and
  - (b) deliver a limited guarantee, in a form acceptable to the Lender, from 2195186 Ontario Inc. up to the amount of the collateral charge/mortgage on the Champagne Property, and limited in recourse to the Champagne Property,

each within seven (7) days of the execution of this Extension Agreement, and the Guarantor has delivered an consent to immediate judgment in favour of the Lender under the Guarantee, which shall be held in escrow by the Lender’s counsel, Aird & Berlis LLP, and used in the event of the termination, expiration or non-commencement of this agreement. For greater clarity this Second Extension Agreement shall be of no force and effect and all loans and security shall immediately fall due and payable unless the Champagne Security has been received by the Lender in a form satisfactory to the Lender within the time specified.

5. In consideration of the Lender entering into this Second Extension Agreement, the Credit Parties shall pay to the Lender a forbearance extension fee of \$100,000 (the “**Forbearance Fee**”), which fee is fully earned and payable on execution of this Extension Agreement, and which will be added to the outstanding principal amount of the Mortgage upon the execution of this Extension Agreement, and shall form part of the Indebtedness and shall be secured by any and all of the Security, including the Champagne Security.
6. During the extended Forbearance Period the Borrower shall continue to be obligated to pay monthly payments of all accruing interest or other charges as they fall due in accordance with the provisions of the Commitment Letter, as amended by the Forbearance Agreement, and the Borrower acknowledges that no such payments of interest shall in any way be construed as extending the term of the loan, which fully matured as of September 1, 2023, and which remains matured and due without renewal. Provided however, the Lender and the Borrower agree that the Borrower shall pay \$300,000 of the accruing interest due and owing by the Borrower each month in cash on the first (1<sup>st</sup>) day of each month, and the balance of the accruing interest shall be added to the outstanding principal amount of the Mortgage during the extended Forbearance Period.
7. In addition to all existing reporting obligations under the Commitment Letter or under the Forbearance Agreement, the Borrower agrees with the Lender as follows:
  - (a) The Borrower shall provide weekly updates, for receipt by the Lender by Tuesday of each week commencing November 19, 2024, regarding all efforts being undertaken and all progress made to secure a sale of the Champagne Property, including the status of and prospect for fulfilling all due diligence conditions relating to such sale and shall provide copies of any and all relevant supporting documents relating to same.
  - (b) The Borrower shall provide evidence of the continued listing for sale of the Champagne Property and shall include in its weekly reporting an update on the status of such sale including copies of all relevant documents, including but not limited to all appraisals, opinions of value, expressions of interest, letters of intent and offers, as well as communications concerning the timing and details of the completion of any sale.
  - (c) The Borrower agrees to provide written authorization to the current prior lenders on title to the Champagne Property and to all persons assisting the Borrower in the sale of the Champagne Property to provide direct communication to the Lender concerning all matters relating to the financing or the sale or attempted sale of the Champagne Property or the closing of such transaction.
8. It is agreed that the termination or suspension of any sale process, or the termination of any agreement of purchase and sale, for the Champagne Property without the express written consent of the Lender shall constitute an additional Intervening Event as defined in the Forbearance Agreement.

- 9. It is a condition of the offered extension that the Credit Parties must execute this Second Extension Agreement in the space provided for below, and return it to the Lender, on or before the close of business on November 21, 2024, after which it will be null and void unless extended in writing by the Lender.
- 10. This agreement shall be governed by and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable thereto.
- 11. This agreement may be executed in counterparts each of which shall be deemed to be an original and which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or portable document format (“PDF”) form and the parties adopt any signatures received by emailed PDF as original signatures of the parties, provided, however, that any party providing signature in such manner will forward to the other party an original of such signed document of the agreement which was so emailed.

**IN WITNESS WHEREOF**, the parties hereto hereby accept the terms and conditions of this Second Extension Agreement as of the 19<sup>th</sup> day of November, 2024.

**ASHCROFT URBAN DEVELOPMENTS INC.**

By: 

Name: DAVID CHOO

Title: CEO

*I have authority to bind the corporation.*



**Witness Name:**



**DAVID CHOO**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF ASHCROFT URBAN DEVELOPMENTS INC., 2067166 ONTARIO INC., 2139770 ONTARIO INC., 2265132 ONTARIO INC., ASHCROFT HOMES – LA PROMENADE, 2195186 ONTARIO INC., ASHCROFT HOMES – CAPITAL HALL INC., AND 1019883 ONTARIO INC**

Court File No. CV-24-00098058-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED AT OTTAWA**

**AFFIDAVIT OF ROBERT GARTNER**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
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Lawyers for the Creditors, Equitable Bank and CMLS Financial Ltd.

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF ASHCROFT URBAN DEVELOPMENTS INC., 2067166 ONTARIO INC., 2139770 ONTARIO INC.,  
2265132 ONTARIO INC., ASHCROFT HOMES – LA PROMENADE, 2195186 ONTARIO INC., ASHCROFT HOMES – CAPITAL  
HALL INC., AND 1019883 ONTARIO INC**

Court File No. CV-24-00098058-0000

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**PROCEEDING COMMENCED AT OTTAWA**

**RESPONDING APPLICATION RECORD**  
**(Returnable December 12, 2024)**

**AIRD & BERLIS LLP**  
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*Lawyers for Equitable Bank and CMLS Financial Ltd.*