

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

BETWEEN:

KINGSETT MORTGAGE CORPORATION

Applicant

- and -

**759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688
SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC. and
2226 ROYAL WINDSOR LP**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**APPLICATION RECORD
(Volume III of III)**

February 12, 2024

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Lawyers for the Applicants

TO: THE SERVICE LIST

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NORAM GLASS CORPORATION 1325 Aimco Blvd. Mississauga, ON L4W 1B4	BLACK & MCDONALD LTD. 2 Bloor St E #2100 Toronto ON M4W 1A8
CLARK FARB FIKSEL LLP 188 Avenue Road Toronto, ON M5R 2J1 Attention: Mary Ann David <i>Lawyers for Noram Glass Corporation, a Construction Lien Claimant</i>	SPEIGEL NICHOLS FOX LLP 1 Robert Speck Parkway, Suite 200 Mississauga, ON L4Z 3M3 Attention: Erica Nadin Rochette <i>Lawyers for Black & McDonald Limited, a Construction Lien Claimant</i>

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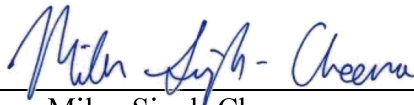
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1	Notice of Application issued on February 9, 2024
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3	Blackline to the Model Order
4	Affidavit of Daniel Pollack sworn February 12, 2024
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B	Exhibit "B" – A copy of a letter from Counsel to the Applicant to Counsel to the Debtors dated January 31, 2024
C	Exhibit "C" – A copy of the Churchill Corporate Profile Reports obtained from the Ministry of Public and Business Service Delivery on January 22, 2024
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E	Exhibit "E" – A copy of the Royal Windsor Corporate Profile Reports obtained from the Ministry of Public and Business Service Delivery on January 25, 2024
F	Exhibit "F" – A copy of the Churchill Commitment Letter dated January 18, 2022, (as amended by a letter amendment dated March 20, 2023)
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P	Exhibit "P" – Copies of the Churchill Parcel Registers (sub-searches of title conducted on February 5, 2024)
Q	Exhibit "Q" – Copies of the Churchill PPSA Search Results
R	Exhibit "R" – A copy of the Southdown Commitment Letter dated August 19, 2021 (as amended by a letter amendment dated March 29, 2023)
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RR	Exhibit "RR" – A copy of KSV's consent to act as the Receiver

**T
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B
Y**

THIS IS **EXHIBIT "Y"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema

A Commissioner for taking Affidavits
(or as may be)

PLEDGE AGREEMENT

THIS AGREEMENT is made as of the ____ day of September, 2021.

B E T W E E N:

SOUTH SHORE GP II INC. and SOUTH SHORE HOLDINGS II LP

(collectively, the "**Pledgor**")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "**Lender**")

OF THE SECOND PART

WHEREAS 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP (the "**Mortgagor**"), as mortgagor, has granted a first ranking mortgage (the "**Mortgage**") to and in favour of the Lender, as mortgagee, of the lands charged therein (the "**Lands**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS the Mortgage has been granted by the Mortgagor in favour of the Lender pursuant to the terms and conditions of a commitment letter dated August 19, 2021 between, *inter alios*, the Mortgagor, as borrower, and the Lender, as lender (as the same may be amended, restated, modified, supplemented, assigned and/or assumed from time to time, the "**Commitment Letter**");

AND WHEREAS the Pledgor has made a limited recourse guarantee dated of even date herewith (as such limited recourse guarantee may be amended, extended, renewed, replaced, restated and in effect from time to time the "**Guarantee**") in favour of the Lender with respect to the payment of the Loan Indebtedness and observance and performance of the Loan Obligations; and

AND WHEREAS as collateral security for the obligations under the Guarantee and as a condition for the Mortgagor receiving the Loan Indebtedness, the Lender has stipulated that the Pledgor enter into this Agreement as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations;

NOW THEREFORE IN CONSIDERATION of the recitals, the Lender extending the Loan Indebtedness and for such other good and valuable consideration received by the Pledgor, the receipt and adequacy of which is acknowledged by the Pledgor, the Pledgor agrees with the Lender as follows:

ARTICLE 1
INTERPRETATION

1.1 Defined Terms

In this Agreement capitalized terms used but not defined herein shall have the meaning ascribed thereto in the Mortgage. Otherwise, in this Agreement:

- (a) **"Delivery"** and the corresponding term **"Delivered"** when used with respect to the Secured Property means:
 - (i) in the case of Secured Property constituting Certificated Securities, physical delivery thereof to the Lender or its nominee of the Security Certificates to the Lender or its nominee, such Secured Property to be endorsed for transfer or accompanied by endorsements or powers of attorney duly executed in blank, all in form and content satisfactory to the Lender;
 - (ii) in the case of Secured Property constituting Uncertificated Securities: (i) registration thereof on the books and records of the issuer thereof in the name of the Lender or its nominee; or (ii) the execution and delivery by the issuer thereof of an effective agreement (each, an **"Issuer Control Agreement"**), pursuant to which such issuer agrees that it will comply with instructions originated by the Lender or its nominee without further consent of any of the Pledgor or any other person; and
 - (iii) such additional or alternative procedures as may hereafter become reasonably appropriate to grant control of, or otherwise perfect a security interest in, the Secured Property in favour of the Lender or its nominee;
- (b) **"Demand Date"** means the earlier of the date on which: (i) an Event of Default has occurred and is continuing; and (ii) the Maturity Date;
- (c) **"Indebtedness"**, in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
- (d) **"Issuer Control Agreement"** has the meaning set out in clause (ii) of the definition of **"Delivery"**;
- (e) **"Loan Indebtedness"** means any Indebtedness from time to time of the Mortgagor and any of the other Covenantors to the Lender arising under any of the Loan Documents;

- (f) **"Loan Obligations"** means the obligations of the Mortgagor and any of the other Covenantors arising under the Loan Documents;
- (g) **"Pledged Entities"** means, collectively, 688 Southdown GP Inc. and 688 Southdown LP;
- (h) **"Pledged Interests"** has the meaning set out in clause (i) of the definition of Secured Property;
- (i) **"PPSA"** means the *Personal Property Security Act* (Ontario) and the regulations thereto, as each may be amended, replaced or revoked from time to time;
- (j) **"Secured Property"** means:
 - (i) all common shares and units, as applicable, in the capital of the Pledged Entities owned by the Pledgor (the **"Pledged Interests"**) as set out in Schedule A, as such schedule may be amended or replaced from time to time, including all warrants and options relating to such shares and any substitutions, additions and proceeds arising out of any consolidation, subdivision, reclassification, conversion, stock dividend or similar increase or decrease in or alteration of the capital of the Pledged Entities, or any other event and additional Pledged Interests acquired pursuant to the exercise of a right or offer granted or made by the Pledgor to the extent that any such right or offer arises out of the ownership of any shares or units, as applicable, in the capital of the Pledged Entities, whether or not delivered to the Lender and all proceeds from time to time received, receivable or otherwise distributed in respect of, or in exchange for any or all of such Secured Property;
 - (ii) all Security Certificates, if any, with respect to the Secured Property and any other instruments evidencing or representing such Pledged Interests, and all interest, distributions, cash, instruments and other property, income, profits and proceeds from time to time received or receivable upon or otherwise distributed or distributable in respect of or in exchange for any and all of the Pledged Interests;
 - (iii) all additional or substitute units or shares or other equity interests in the Pledged Entities from time to time issued to or otherwise acquired by the Pledgor in any manner in respect of Pledged Interests, the Security Certificates, if any, and other instruments representing such additional or substitute units or interests, and all interests, distributions, cash, instruments and other property, income, profits and proceeds from time to time received or receivable upon or otherwise distributed or distributable in respect of or in exchange for any or all of such additional or substitute units; and
 - (iv) to the extent not otherwise included in the foregoing, all Proceeds thereof;

- (k) "STA" means the *Securities Transfer Act* (Ontario) and the regulations thereto, as each may be amended, replaced or revoked from time to time;

The terms "Certificated Security", "Uncertificated Security", "Proceeds", "Securities Intermediary", "Security", "Securities Account", "Security Entitlements" and "Security Certificate", whenever used herein have the meanings given to those terms in the PPSA.

1.2 Interpretation

For the purposes of this Agreement, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Agreement, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Agreement.

1.4 Statutory References

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulation made thereunder.

ARTICLE 2

GRANT OF SECURITY INTEREST AND PLEDGE

2.1 Grant and Pledge of Secured Property

As general and continuing security for the observance and performance of the Pledgor's liabilities and obligations under the Guarantee the Pledgor hereby grants to the Lender a security interest in, and pledges, assigns and hypothecates to the Lender, all right, title and interest of the Pledgor in and to, the Secured Property, whether now owned or existing or hereafter from time to time acquired, by way of amalgamation or otherwise.

2.2 Security Interest Absolute

The security interest granted hereby and all rights of the Lender hereunder are unconditional and absolute and independent and separate from any other security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, whether executed by the Pledgor or any other person.

2.3 Continuing Liability of the Pledgor

This Agreement and the security interest granted under Section 2.1 is granted as collateral security only and will not subject the Lender to, or transfer or in any way affect or modify,

any obligation or liability of the Pledgor with respect to any of the Secured Property or any transaction in connection therewith.

2.4 Delivery of Secured Property

All Secured Property must be Delivered immediately to the Lender or its nominee. The Lender may, at its option, upon the occurrence and continuance of an Event of Default, cause all or any of the Secured Property to be registered in the name of the Lender or its nominee.

2.5 Subsequently Acquired Collateral

To the extent the Pledgor acquires, by way of amalgamation or otherwise, any additional Secured Property at any time or from time to time after the date hereof, such Secured Property will automatically (and without any further action being required to be taken by the Lender) be subject to the security interest and pledge created hereby. The Pledgor will take, or cause to be taken, as promptly as practicable and, in any event within five (5) days after it obtains such additional Secured Property, all steps and actions as the Lender deems necessary to ensure that the additional Secured Property is Delivered to the Lender.

2.6 Attachment

The Pledgor acknowledges that the security interest hereby created attaches upon the execution of this Agreement (or in the case of any after acquired property, upon the date of acquisition of the Pledgor of any rights therein), that value has been given by the Lender and that the Pledgor has, respectively, or in the case of after acquired Secured Property will have, rights in the Secured Property or the power to transfer rights in the Secured Property to the Lender.

ARTICLE 3 DEALING WITH COLLATERAL

3.1 Rights and Duties of the Lender

The Lender:

- (a) may perform any of its rights and duties hereunder by or through agents and is entitled to retain counsel and to act in reliance upon the advice of such counsel concerning all matters pertaining to its rights and duties hereunder; and
- (b) in the holding of the Secured Property, the Lender and any nominee on its behalf is only bound to exercise the same degree of care as it would exercise with respect to similar property of its own of similar value held in the same place. The Lender and any nominee on its behalf will be deemed to have exercised reasonable care with respect to the custody and preservation of the Secured Property if it takes such action for that purpose as the Pledgor reasonably requests in writing.

3.2 Voting Rights

In connection with the rights and powers of a holder of such Secured Property:

- (a) subject to the provisions of Section 3.2(b), the Pledgor is entitled to exercise, either directly or, if the Secured Property is registered in the name of the Lender or its nominee, by power of attorney or proxy, all the rights and powers of a holder of such Secured Property, including the right to vote from time to time exercisable in respect of the Secured Property and to give proxies, consents, ratifications and waivers in respect thereof. No such action may be taken if it would be prejudicial to the interests of the Lender or would have the effect of reducing the value of the Secured Property as security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, or imposing any restriction on the transferability of any of the Secured Property; and
- (b) upon the occurrence and during the continuance of an Event of Default the Lender may give the Pledgor a notice prohibiting the Pledgor from exercising the rights and powers of a holder of the Secured Property, including the right to vote the Secured Property, at which time all such rights of the Pledgor will cease immediately and the Lender will have the right to exercise the rights and powers related to such Secured Property, including the right to vote.

3.3 Dividends, Distributions and Interest Payments

With respect to dividends, distributions and interest payments:

- (a) the Pledgor is entitled to receive all dividend payments or other distributions or interest payments in respect of the Secured Property. If the Secured Property has been registered in the name of the Lender or its nominee, the Lender will execute and deliver (or cause to be executed and delivered) to the Pledgor all directions and other instruments as the Pledgor may request for the purpose of enabling the Pledgor to receive the dividends or other payments that the Pledgor is authorized to receive pursuant to this Section 3.3(a); and
- (b) upon the occurrence and during the continuance of an Event of Default all rights of the Pledgor pursuant to Section 3.1(a) will cease, and all such rights will thereupon become vested in the Lender, and the Lender will have the sole and exclusive right and authority to receive and retain all payments that the Pledgor would otherwise be authorized to retain pursuant to Section 3.3(a). All money and other property received by the Lender pursuant to the provisions of this Section 3.3(b) may be applied on account of the Loan Indebtedness or may be retained by the Lender as additional Secured Property hereunder and be applied in accordance with the provisions of this Agreement. All payments which are received by the Pledgor contrary to the provisions of this Section 3.3(b) will be held by the Pledgor in trust for the benefit of the Lender, will be segregated from other property or funds of the Pledgor and will be forthwith Delivered to the Lender or its nominee to hold as Secured Property.

ARTICLE 4
COVENANTS AND REPRESENTATIONS OF PLEDGOR

4.1 Covenants

The Pledgor covenants to and with the Lender, that:

- (a) in the event that the Pledgor shall receive any additional Secured Property, which the Pledgor shall accept same as the agent for the Lender in the form received and shall deliver to the Lender:
 - (i) the certificates with respect to the additional Secured Property if such additional Secured Property constitutes Certificated Securities;
 - (ii) if the additional Secured Property constitutes Uncertificated Securities, an Issuer Control Agreement with respect thereto; and
 - (iii) an updated Schedule A.

4.2 Representations and Warranties

The Pledgor represents and warrants:

- (a) as of the date hereof, the Pledgor has not assigned, mortgaged, pledged, hypothecated or encumbered the Secured Property except in favour of the Lender pursuant to this Agreement;
- (b) to the extent that the Secured Property includes an interest in, or unit certificates in a partnership, limited partnership, a limited liability partnership or a limited liability company, the partnership agreement, articles, articles of association, bylaws, other constating documents or any terms of any interest in such partnership, limited partnership, a limited liability partnership or a limited liability company, provide that such interest is a "**Security**" for the purposes of the STA;
- (c) has not consented to the entering into by: (i) any issuer of any Uncertificated Securities included in or relating to the Secured Property of an Issuer Control Agreement; or (ii) any Securities Intermediary for any Securities Accounts or Security Entitlements included in or relating to the Secured Property of an Issuer Control Agreement, other than, in either case, the Lender;
- (d) constitutes all of the issued and outstanding shares and units, as applicable, of the capital stock of the Pledged Entities owned by the Pledgor as at the date hereof;
- (e) all corporate action has been taken by the Pledged Entities and the Pledgor in order that the Secured Property is freely transferable and assignable to the Lender, its nominee or third party upon the exercise by the Lender of its rights hereunder to effect such transfer or assignment;

- (f) no consent is required, or is purported to be required, in connection with the granting of the security interest and the assignment, pledge and hypothecation of the Secured Property, or for enforcement thereof;
- (g) there are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is now or hereafter convertible into, or that requires the issuance or sale of, any Secured Property; and
- (h) there is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which the Pledgor would be required to sell or otherwise dispose of any of the Secured Property or under which the Pledged Entities have any obligation to issue any shares or units of the Pledged Entities to any other person.

All representations and warranties of the Pledgor made in this Agreement or in any certificate or other document delivered by or on behalf of the Pledgor to or for the benefit of the Lender are material, shall survive and shall not merge upon the execution and delivery of this Agreement and shall continue in full force and effect. The Lender shall be deemed to have relied upon such representations and warranties notwithstanding any investigation made by or on behalf of the Lender at any time.

ARTICLE 5 **REMEDIES**

5.1 Remedies

Upon the occurrence and during the continuance of an Event of Default, until payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations, the Lender shall have, without obligation to resort to other security or to recourse against any of the other Covenantors, the right at any time and from time to time to sell, resell, assign and deliver all or any of the Secured Property in Canada or elsewhere, in whole or in part, at the same or different times, and all right, title, interest, claim and demand therein and right of redemption thereof, at public or private sale, for cash, upon credit or for immediate or future delivery, and at such price or prices and on such terms as the Lender may determine, the Pledgor hereby agreeing that upon any such sale any and all equity and right of redemption shall be automatically waived and released without any further action on the part of the Pledgor, and in connection therewith the Lender may grant options, all without any demand, advertisement or notice, all of which are hereby expressly waived by the Pledgor. Until payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations, the Lender may, in its discretion, retain the Secured Property as continuing collateral security as provided herein. On and after a Demand Date where there are outstanding Loan Obligations, the Lender may in its own right, purchase all or any of the Secured Property being sold, whether in connection with a sale made under the power of sale herein contained or pursuant to judicial proceedings or otherwise, free of any equity or right of redemption. The proceeds of each such sale shall be applied to the payment of all costs and expenses of every kind for sale or delivery, including reasonable agent's fees or legal fees (including legal fees on a substantial indemnity basis) and expenses of the

party entitled to sell the Secured Property, and after deducting such costs and expenses from the proceeds of the sale, any residue shall be applied in payment of the Loan Indebtedness in such order as the party entitled to sell the Secured Property may deem fit. The balance, if any, remaining after payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations shall be paid over to the Pledgor or to whomever else may be entitled thereto by law. Notwithstanding the foregoing provisions of this Section, the Lender shall not in any event be under any duty to do any of the foregoing. The Pledgor hereby ratify all that the Lender, or the Lender's nominee, as the case may be, shall do by virtue of the foregoing authority.

5.2 Compliance with Restrictions

The Pledgor agrees that in any sale of any of the Secured Property following the occurrence of an Event of Default that is continuing, the Lender is hereby authorized to comply with any limitation or restriction in connection with such sale as is necessary in order to avoid any violation of applicable law (including compliance with such procedures as may restrict the number of prospective bidders and purchasers, require that such prospective bidders and purchasers have certain qualifications, and restrict such prospective bidders and purchasers to persons who will represent and agree that they are purchasing for their own account for investment and not with a view to the distribution or resale of such Secured Property), or in order to obtain any required approval of the sale or of the purchaser by any governmental regulatory authority or official, and the Pledgor further agrees that such compliance shall not result in such sale being considered or deemed not to have been made in a commercially reasonable manner, nor shall the Lender be liable nor accountable to the Pledgor for any discount allowed by the reason of the fact that such Secured Property is sold in compliance with any such limitation or restriction.

5.3 Remedies Cumulative

The rights, powers and remedies of the Lender hereunder shall not be deemed exclusive, but shall be cumulative with and in addition to all other rights and remedies existing at law or in equity and available to a secured creditor under the PPSA, the *Securities Transfer Act* (Ontario) or any similar legislation of any other appropriate jurisdiction and the *Business Corporations Act* (Ontario) or any similar legislation of any other appropriate jurisdiction.

5.4 Private Sales

The Pledgor recognizes that subject to compliance with applicable securities laws and the rules and regulations of any stock exchange on which the applicable Secured Property is listed and posted for trading, any sale by the Lender of all or any portion of the Secured Property may be by way of one or more private sales to a restricted group of purchasers who may be obligated to agree, among other things, to acquire the Secured Property for their own account, for investment and not with a view to the distribution or resale thereof. The Pledgor acknowledges that any such private sales may be at prices and on terms less favorable than those of public sales.

5.5 Indemnity and Expenses

The Pledgor hereby indemnify and hold harmless the Lender from and against any and all claims, losses, and liabilities arising out of or resulting from this Agreement, save and except for those arising from the gross negligence or willful misconduct of the Lender or its agents. Upon demand, the Pledgor will pay to the Lender the amount of any and all reasonable expenses, including the reasonable fees and disbursements of its legal counsel and of any experts and agents, which the Lender may incur in connection with:

- (a) the administration of this Agreement;
- (b) the custody, preservation, use, or operation of, or the sale of, collection from, or other realization upon, any of the Secured Property;
- (c) the exercise or enforcement of any of the rights of the Lender hereunder; or
- (d) the failure by the Pledgor to perform or observe any of the provisions hereof.

ARTICLE 6 GENERAL

6.1 Termination of Pledge and Reassignment

The provisions of this Agreement shall remain in full force and effect as general and continuing collateral security for the payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations until the earlier of: (i) termination in writing by the parties hereto; or (ii) payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations. The Lender covenants and agrees that upon the termination of the Pledge as aforesaid it will release its security interests created hereby in the Secured Property at the sole cost and expense of the Pledgor.

6.2 Power of Attorney

The Pledgor hereby irrevocably constitutes and appoints the Lender and any officer or agent thereof the true and lawful attorney of the Pledgor upon the occurrence of an Event of Default, with full power of substitution, to do, make and execute all such statements, assignments, documents, agreements, acts, matters or things with the right to use the name of the Pledgor whenever and wherever the officer or agent may deem necessary or expedient and from time to time to exercise all rights and powers and to perform all acts of ownership in respect to the Secured Property in accordance with this Agreement, such power being coupled with an interest.

6.3 Authorization to Provide Copy of Agreement

The Pledgor hereby authorizes the Lender to provide a copy of this Agreement and such other information and documents specified under the PPSA to any person entitled pursuant to the PPSA to demand and receive same.

6.4 Copy of Agreement and Financing Statement

The Pledgor:

- (a) acknowledges receiving a copy of this Agreement; and
- (b) waives all rights to receive from the Lender a copy of any financing statement, financing change statement or verification statement filed, issued or obtained at any time in respect of this Agreement.

6.5 Payments

All payments required to be made by the Pledgor to the Lender under this Agreement will be made at the address of the Lender set out in Section 6.13 (or at any other place specified by the Lender by written notice to the Pledgor and the Mortgagor) in immediately available funds in lawful Canadian currency, without any set off counter claim or deduction.

6.6 Failure of Indulgence Not Waiver

No failure or delay by the Lender in the exercise of any power or right under this Agreement constitutes a waiver thereof, nor does any exercise of any such power or right preclude any other exercise of same. Each power and right under this Agreement is cumulative with, and not exclusive of, any power or right otherwise available.

6.7 Modification

No modification or waiver of this Agreement is binding on the Lender unless made in writing and signed by a duly authorized officer of the Lender.

6.8 Entire Agreement

On the execution and delivery by the Pledgor, this Agreement is deemed to be finally executed and delivered by the Pledgor to the Lender and is not subject to or affected by any condition as to the receipt by the Lender of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Lender of any other Loan Documents, nor by any promise or condition affecting the liability of the Pledgor. No agreement, promise, representation or statement by the Lender or any of its officers, employees or agents unless in this Agreement forms part of this Agreement, has induced the making of it or affects the liability of the Pledgor and the Mortgagor under it.

6.9 Severability

If any part or provision of this Agreement is determined to be invalid, illegal or unenforceable, it will be severable from this Agreement and the remainder of this Agreement will be construed as if such invalid, illegal or unenforceable provision or part had been deleted.

6.10 Non-Merger

The giving of this Agreement is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default that is continuing, proceedings may be taken under this Agreement, the Commitment Letter, the Mortgage or any of the other Security Documents or any one or more of them at the option of the Lender.

6.11 Paramountcy

The provisions of any agreement between the Pledgor and the Lender in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Agreement except where inconsistent with the provisions hereof. In the case of any inconsistency between this Agreement and the Mortgage, the provisions of the Mortgage shall prevail.

6.12 Assignability

The Pledgor hereby consents to the Lender assigning, transferring or selling all or any portion of its interest under this Agreement, the Loan Indebtedness and the Loan Obligations and without limiting the foregoing, the Lender may enter into participation, contending or syndication agreements with other Lenders in connection with this Agreement, the Loan Indebtedness and the Loan Obligations. The Lender may provide information of a financial or other nature to any prospective assignee, transferee, purchaser or other Lenders concerning the Pledgor, this Agreement, the Loan Indebtedness and the Loan Obligations.

6.13 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Agreement shall be in writing and shall be delivered in person, transmitted by e-mail or similar means of recorded electronic communication or sent by registered mail, charges pre-paid, addressed:

(a) to the Pledgor:

1111 Clarkson Road, North
Mississauga, Ontario
L5J 2W1

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Pledgor's solicitors at

McCarthy Tetrault LLP
Suite 5300 – 66 Wellington Street West
Toronto, Ontario
M5K 1E6

Attention: Sarit Pandya
Email: spandya@mccarthy.ca
Facsimile: 416-601-7785

(b) to the Lender:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

6.14 Expenses, Fees and Indemnity

The Pledgor will pay to the Lender all reasonable costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Lender in connection with the collection of any amount payable under this Agreement by the Pledgor to the Lender. The Pledgor shall indemnify the Lender against all claims, loss or damages arising out of or in connection with any breach or default by the Pledgor under this Agreement.

6.15 Applicable Law

This Agreement and the rights and obligations of the Pledgor and the Lender under it are governed by and construed according to the laws of the jurisdiction in which the Lands are situate (the "**Province**") and the laws of Canada applicable therein.

6.16 Time of the Essence

Time is of the essence of this Agreement.

6.17 Jurisdiction

Any legal action or proceeding with respect to this Agreement may be brought, in the discretion of the Lender, in the courts of the Province or in such other courts as the Lender in its sole discretion elects and each of the Pledgor and the Mortgagor irrevocably submits to each such jurisdiction.

6.18 Execution by the Lender

This Agreement need not be executed by the Lender to be binding on and to enure to the benefit of the Lender.

6.19 Counterparts

This Agreement may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document, and such will not affect the obligations of the Pledgor under this Agreement. This Agreement or counterparts hereof may be executed by fax or email PDF, and the parties shall adopt any signatures provided or received by fax or email PDF as original signatures of the applicable party or parties, provided that any party providing its signature by fax or email PDF shall promptly forward to the other party a copy of this Agreement with an original signature.

6.20 Further Assurances

The Pledgor will promptly do all further acts and execute and deliver further documents as the Lender considers necessary or advisable to carry out the terms or intent of this Agreement.

6.21 Successors and Assigns

This Agreement is binding on and enures to the benefit of the Lender and the Pledgor and their respective executors, administrators, successors and assigns and to any Person to whom the Lender may grant any participation in this Agreement, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Lender under this Agreement or any of the Lender's interest herein or in the Loan Indebtedness and the Loan Obligations.

6.22 Multiple Parties


This Agreement will be read with all necessary grammatical changes and each reference to the Pledgor includes each and every such Person or corporation individually. All covenants and agreements herein of the Pledgor are the joint and several covenants and agreements of each such Person or corporation. If the Lender consists of more than one party, this

Agreement will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Lender under this Agreement.

-- signatures follow on next page --

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

SOUTH SHORE GP II INC.



Per: _____

Name:

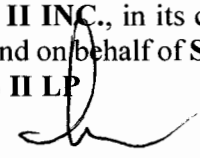
Title:

Per: _____

Name:

Title:

SOUTH SHORE GP II INC., in its capacity
as general partner for and on behalf of **SOUTH
SHORE HOLDINGS II LP**



Per: _____

Name:

Title:

Per: _____

Name:

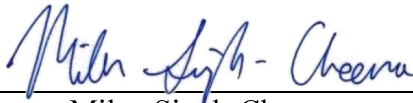
Title:

SCHEDULE A

Pledged Entities	Type/Class of Pledged Securities	Stock Certificate Number	Number of Shares/ Units	Shareholder/ Unitholder
688 Southdown GP Inc.	100	C-1	Common shares	South Shore GP II Inc.
688 Southdown LP	100	A-1	Class A units	South Shore Holdings II LP

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Z**

THIS IS **EXHIBIT "Z"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

PROPERTY DESCRIPTION: PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDS TORONTO PTS 1 TO 6,8, 43R13084; S/T TT129899 ; S/T TT103210,TT103804,TT153650,VS163947,VS42085,VS58563 MISSISSAUGA

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:

RE-ENTRY FROM 13493-0132

PIN CREATION DATE:

1999/03/25

OWNERS' NAMES

688 SOUTHDOWN GP INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<p>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/03/18 ON THIS PIN**</p> <p>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/03/25**</p> <p>** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **</p> <p>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</p> <p>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * AND ESCHEATS OR FORFEITURE TO THE CROWN. * * * * *</p> <p>** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION. * * * * *</p> <p>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES. * * * * *</p> <p>**DATE OF CONVERSION TO LAND TITLES: 1999/03/26 **</p>						
TT102320	1957/03/12	PLAN MISCELLANEOUS				C
TT103210	1957/05/03	TRANSFER EASEMENT			INTERPROVINCIAL PIPE LINE COMPANY	C
TT103804	1957/06/07	TRANSFER EASEMENT REMARKS: SKETCH ATTACHED.			INTERPROVINCIAL PIPE LINE COMPANY	C
TT153650	1963/04/25	TRANSFER EASEMENT REMARKS: SKETCH ATTACHED.			THE CORPORATION OF THE TOWNSHIP OF TORONTO	C
VS42085	1967/06/15	TRANSFER EASEMENT REMARKS: SKETCH ATTACHED.			THE CORPORATION OF THE TOWNSHIP OF TORONTO	C
VS58563	1967/11/24	TRANSFER EASEMENT REMARKS: SKETCH ATTACHED.			THE CORPORATION OF THE TOWNSHIP OF TORONTO	C

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

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
RD212	1970/04/06	PLAN REFERENCE				C
VS163947	1971/03/04	TRANSFER EASEMENT <i>REMARKS: SKETCH ATTACHED.</i>			ONTARIO WATER RESOURCES COMMISSION	C
43R11520	1984/03/27	PLAN REFERENCE				C
RO685007	1984/06/27	PLAN MISC DEPOSIT				C
RO685008	1984/06/27	PLAN MISC DEPOSIT				C
43R13084	1985/12/23	PLAN REFERENCE				C
43R13275	1986/03/05	PLAN REFERENCE				C
RO1065043	1994/05/12	NOTICE OF CLAIM <i>REMARKS: MULTI</i>				C
RO1172408	1998/06/23	ORDER <i>REMARKS: MINISTER'S TRANSFER ORDER</i>		THE ONTARIO CLEAN WATER AGENCY	THE REGIONAL MUNICIPALITY OF PEEL	C
PR2007703	2011/05/25	NOTICE <i>REMARKS: VS42085, VS58563</i>		THE REGIONAL MUNICIPALITY OF PEEL		C
PR2370039	2013/05/17	CERTIFICATE		7037619 CANADA INC.	MINISTRY OF THE ENVIRONMENT	C
43R37438	2016/11/30	PLAN REFERENCE				C
PR3909221	2021/09/15	APL ANNEX REST COV		7037619 CANADA INC.		C
PR3909579	2021/09/15	TRANSFER <i>REMARKS: PLANNING ACT STATEMENTS.</i>	\$125,000,000	7037619 CANADA INC.	688 SOUTHDOWN GP INC.	C
PR3909580	2021/09/15	CHARGE	\$193,750,000	688 SOUTHDOWN GP INC.	KINGSETT MORTGAGE CORPORATION	C
PR3909581	2021/09/15	NO ASSGN RENT GEN <i>REMARKS: PR3909580</i>		688 SOUTHDOWN GP INC.	KINGSETT MORTGAGE CORPORATION	C
PR3909582	2021/09/15	CHARGE	\$20,000,000	688 SOUTHDOWN GP INC.	7037619 CANADA INC.	C
PR3909619	2021/09/15	NOTICE	\$2	7037619 CANADA INC.		C

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

LAND
REGISTRY
OFFICE #43

13493-0044 (LT)

PREPARED FOR JZHANG01
ON 2024/02/05 AT 15:13:03

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
PR4212934	2023/06/16	NOTICE <i>REMARKS: PR3909580</i>	\$2	688 SOUTHDOWN GP INC.	KINGSETT MORTGAGE CORPORATION	C
PR4212935	2023/06/16	POSTPONEMENT <i>REMARKS: PR3909582 TO PR4212934</i>		7037619 CANADA INC.	KINGSETT MORTGAGE CORPORATION	C
PR4288556	2023/12/28	CONSTRUCTION LIEN	\$9,572,190	KEN Aidan CONTRACTING LTD.		C
PR4292044	2024/01/12	CHARGE	\$43,750,000	688 SOUTHDOWN GP INC.	KINGSETT MORTGAGE CORPORATION	C
PR4292045	2024/01/12	NO ASSGN RENT GEN <i>REMARKS: PR4292044</i>		688 SOUTHDOWN GP INC.	KINGSETT MORTGAGE CORPORATION	C
PR4295545	2024/01/25	CONSTRUCTION LIEN	\$3,950,495	SOILCAN INC.		C
PR4299203	2024/02/02	CERTIFICATE		SOILCAN INC.		

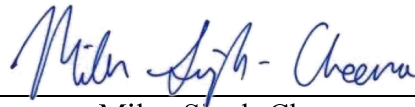
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AA

THIS IS **EXHIBIT "AA"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 688 Southdown LP

FILE CURRENCY: February 4, 2024

RESPONSE CONTAINS: APPROXIMATELY 1 FAMILIES and 3 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE
INTERPRETATION AND USE THAT ARE MADE OF IT.

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 688 Southdown LP

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 1 OF 3

SEARCH : BD : 688 SOUTHDOWN LP

00 FILE NUMBER : 776307366 EXPIRY DATE : 13SEP 2026 STATUS :
01 CAUTION FILING : PAGE : 001 OF 3 MV SCHEDULE ATTACHED :
REG NUM : 20210913 0934 9234 8752 REG TYP: P PPSA REG PERIOD: 5
02 IND DOB : IND NAME:
03 BUS NAME: 688 SOUTHDOWN GP INC.
OCN :
04 ADDRESS : 66 WELLINGTON STREET WEST TD BANK TOWER,
CITY : TORONTO PROV: ON POSTAL CODE: M5K 1E6
05 IND DOB : IND NAME:
06 BUS NAME: 688 SOUTHDOWN LP
OCN :
07 ADDRESS : 66 WELLINGTON STREET WEST TD BANK TOWER,
CITY : TORONTO PROV: ON POSTAL CODE: M5K 1E6

08 SECURED PARTY/LIEN CLAIMANT :
KINGSETT MORTGAGE CORPORATION
09 ADDRESS : 3700-40 KING STREET WEST, P.O. BOX 110
CITY : TORONTO PROV: ON POSTAL CODE: M5H 3Y2
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10 X X X X X
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 ALL OF THE DEBTORS' PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY
14 LOCATED AT, RELATING TO, ARISING FROM OR USED IN CONNECTION WITH, OR
15 WHICH IS NECESSARY TO THE USE AND OPERATION OF THE PROPERTY
16 AGENT: BENNETT JONES LLP (O'GRADY/59445-74/OD)
17 ADDRESS : 3400-1 FIRST CANADIAN PLACE
CITY : TORONTO PROV: ON POSTAL CODE: M5X 1A4

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 688 Southdown LP

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 2 OF 3

SEARCH : BD : 688 SOUTHDOWN LP

00 FILE NUMBER : 776307366 EXPIRY DATE : 13SEP 2026 STATUS :
01 CAUTION FILING : PAGE : 002 OF 3 MV SCHEDULE ATTACHED :
REG NUM : 20210913 0934 9234 8752 REG TYP: REG PERIOD:
02 IND DOB : IND NAME:
03 BUS NAME:
OCN :
04 ADDRESS : SUITE 5300
CITY : PROV: POSTAL CODE:
05 IND DOB : IND NAME:
06 BUS NAME:
OCN :
07 ADDRESS : SUITE 5300
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :
CITY : PROV: POSTAL CODE:
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 MUNICIPALLY KNOWN AS 688 SOUTHDOWN ROAD, MISSISSAUGA, ONTARIO, AND
14 LEGALLY IDENTIFIED AS PIN 13493-0044 (LT), PT LT 31 CON 3 SDS
15 TORONTO, PT LT 32 CON 3 SDS TORONTO PTS 1 TO 6, 8, 43R13084, S/T
16 AGENT:
17 ADDRESS :
CITY : PROV: POSTAL CODE:

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 688 Southdown LP

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 3 OF 3

SEARCH : BD : 688 SOUTHDOWN LP

00 FILE NUMBER : 776307366 EXPIRY DATE : 13SEP 2026 STATUS :
01 CAUTION FILING : PAGE : 003 OF 3 MV SCHEDULE ATTACHED :
REG NUM : 20210913 0934 9234 8752 REG TYP: REG PERIOD:
02 IND DOB : IND NAME:
03 BUS NAME:
OCN :
04 ADDRESS :
CITY : PROV: POSTAL CODE:
05 IND DOB : IND NAME:
06 BUS NAME:
OCN :
07 ADDRESS :
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :
CITY : PROV: POSTAL CODE:
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 TT129899, S/T TT103210, TT103804, TT153650, VS163947, VS42085,
14 VS58563 MISSISSAUGA AND ALL PROCEEDS THEREFROM.

15

16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

LAST SCREEN

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 688 Southdown GP Inc.

FILE CURRENCY: February 4, 2024

RESPONSE CONTAINS: APPROXIMATELY 1 FAMILIES and 3 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE
INTERPRETATION AND USE THAT ARE MADE OF IT.

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 688 Southdown GP Inc.

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 1 OF 3

SEARCH : BD : 688 SOUTHDOWN GP INC.

00 FILE NUMBER : 776307366 EXPIRY DATE : 13SEP 2026 STATUS :
01 CAUTION FILING : PAGE : 001 OF 3 MV SCHEDULE ATTACHED :
REG NUM : 20210913 0934 9234 8752 REG TYP: P PPSA REG PERIOD: 5
02 IND DOB : IND NAME:
03 BUS NAME: 688 SOUTHDOWN GP INC.
OCN :
04 ADDRESS : 66 WELLINGTON STREET WEST TD BANK TOWER,
CITY : TORONTO PROV: ON POSTAL CODE: M5K 1E6
05 IND DOB : IND NAME:
06 BUS NAME: 688 SOUTHDOWN LP
OCN :
07 ADDRESS : 66 WELLINGTON STREET WEST TD BANK TOWER,
CITY : TORONTO PROV: ON POSTAL CODE: M5K 1E6

08 SECURED PARTY/LIEN CLAIMANT :
KINGSETT MORTGAGE CORPORATION
09 ADDRESS : 3700-40 KING STREET WEST, P.O. BOX 110
CITY : TORONTO PROV: ON POSTAL CODE: M5H 3Y2
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10 X X X X X
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 ALL OF THE DEBTORS' PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY
14 LOCATED AT, RELATING TO, ARISING FROM OR USED IN CONNECTION WITH, OR
15 WHICH IS NECESSARY TO THE USE AND OPERATION OF THE PROPERTY
16 AGENT: BENNETT JONES LLP (O'GRADY/59445-74/OD)
17 ADDRESS : 3400-1 FIRST CANADIAN PLACE
CITY : TORONTO PROV: ON POSTAL CODE: M5X 1A4

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 688 Southdown GP Inc.

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 2 OF 3

SEARCH : BD : 688 SOUTHDOWN GP INC.

00 FILE NUMBER : 776307366 EXPIRY DATE : 13SEP 2026 STATUS :
01 CAUTION FILING : PAGE : 002 OF 3 MV SCHEDULE ATTACHED :
REG NUM : 20210913 0934 9234 8752 REG TYP: REG PERIOD:
02 IND DOB : IND NAME:
03 BUS NAME:
OCN :
04 ADDRESS : SUITE 5300
CITY : PROV: POSTAL CODE:
05 IND DOB : IND NAME:
06 BUS NAME:
OCN :
07 ADDRESS : SUITE 5300
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :
CITY : PROV: POSTAL CODE:
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 MUNICIPALLY KNOWN AS 688 SOUTHDOWN ROAD, MISSISSAUGA, ONTARIO, AND
14 LEGALLY IDENTIFIED AS PIN 13493-0044 (LT), PT LT 31 CON 3 SDS
15 TORONTO, PT LT 32 CON 3 SDS TORONTO PTS 1 TO 6, 8, 43R13084, S/T
16 AGENT:
17 ADDRESS :
CITY : PROV: POSTAL CODE:

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 688 Southdown GP Inc.

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 3 OF 3

SEARCH : BD : 688 SOUTHDOWN GP INC.

00 FILE NUMBER : 776307366 EXPIRY DATE : 13SEP 2026 STATUS :
01 CAUTION FILING : PAGE : 003 OF 3 MV SCHEDULE ATTACHED :
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02 IND DOB : IND NAME:
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07 ADDRESS :
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13 TT129899, S/T TT103210, TT103804, TT153650, VS163947, VS42085,
14 VS58563 MISSISSAUGA AND ALL PROCEEDS THEREFROM.

15

16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

LAST SCREEN

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

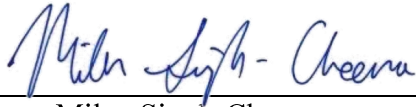
T

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B

BB

THIS IS **EXHIBIT "BB"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)



June 28, 2022

2226 Royal Windsor LP and 688 Southdown LP
2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7
Attention: Michael Moldenhauer

Re: First mortgage land financing of 2226 Royal Windsor Drive, Mississauga.

A. LOAN TERMS

The Lender is pleased to offer a 1st Mortgage, non-revolving demand loan (the "**Loan**") in connection with the above noted matter, subject to the terms and conditions as described herein and within the Schedules attached hereto (the "**Commitment Letter**").

1. **Property:** An irregular shaped site which is largely vacant except for radio towers thereon, which measure approximately 74.50 acres and is zoned E2-108, located at 2226 Royal Windsor Drive (the "**Property**").
2. **Collateral Property:** 688 Southdown being a ~91 acre industrial site (80 acres developable), in Mississauga, Ontario, which is to be remediated to accommodate +/- 1,700,000 square feet of Class A industrial buildings (the "**Collateral Property**").
3. **Lender:** KingSett Mortgage Corporation (the "**Lender**").
4. **Borrower:** 2226 Royal Windsor LP being the beneficial owner of the Property (the "**Borrower**").
5. **Guarantor:** South Shore Holdings II LP, by its general partner South Shore GP II Inc. (the "**Guarantor**").
6. **Limited Recourse Guarantor:** 688 Southdown LP, being the beneficial owner of the Collateral Property (the "**Limited Recourse Guarantor**")
7. **Loan Amount:** \$35,000,000 (the "**Loan Amount**").
8. **Interest Rate:** Prime Rate + 4.80% (floor rate of 8.50%) per annum, calculated on the daily outstanding balance, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgment with respect to the Loan for each and every month of the Term (as such Term may be extended in accordance with this Commitment Letter), save and except for the last month of the Term, and 14.5% per annum for the last month of the Term and each and every month thereafter (as applicable, the "**Interest Rate**"), provided that "**Prime Rate**" shall mean, for any day, the rate of interest per annum established and published from time to time by Royal Bank of Canada as the reference rate of interest for the determination of interest rates charged to its customers of varying

degrees of creditworthiness in Canada for Canadian Dollar demand loans in Toronto, Ontario.

9. **Amortization**: Not applicable; monthly interest payments only.
10. **Lender's Fee**: \$612,500 (1.75% of the Loan Amount) non-refundable lender's fee (the "**Lender's Fee**") earned by the Lender upon the Borrower's execution of this Commitment Letter and payable by the Borrower to the Lender at the time of the initial advance of the Loan. The Lender shall deduct the Lender's Fee, adjusted to reflect any credit for the remaining Good Faith Deposit, from the proceeds of the initial advance of the Loan.
11. **Term**: Any portion of the Loan Amount outstanding at any time is repayable on demand by the Lender, however, without prejudice to the right of the Lender to demand payment at any time and for any reason whatsoever, 25 months (the "**Term**") after the first calendar day of the month next following the date of the initial advance of the Loan (the "**Interest Adjustment Date**"), as may be extended in accordance with this Commitment Letter. The principal balance of the Loan outstanding on the last day of the Term (the "**Maturity Date**") together with all accrued and unpaid interest thereon and all other costs secured by the Security is repayable in full on the Maturity Date together with all accrued and unpaid interest, costs, fees and any other amount secured by the Security.

Notwithstanding anything to the contrary provided herein, the Lender will not demand repayment of the loan unless there is an Event of Default hereunder, which is continuing.

12. **Good Faith Deposit**: The Lender acknowledges the prior receipt of a \$25,000 good faith deposit from the Borrower (the "**Good Faith Deposit**"). The Good Faith Deposit will be used for expenses that may be incurred by the Lender prior to the initial advance of the Loan with the remaining balance, if any, to be credited towards the Lender's Fee at the time of the initial advance of the Loan. The Borrower acknowledges that the Good Faith Deposit is a reasonable estimate of the Lender's cost incurred in sourcing, investigating, underwriting and preparing the Loan and holding monies available to fund the Loan and that the same may be retained by the Lender should the Loan not be funded as a result of non-performance by the Borrower.
13. **Extension Option**: Provided that no Event of Default as defined in the Mortgage and referred to in this Commitment Letter as an "**Event of Default**" has occurred which is continuing and subject to the consent of the Lender, in its sole, absolute and unfettered discretion, the Lender shall permit an extension of the Term by two extensions of three months each to the Maturity Date (each an "**Extension Option**"). The exercise of each Extension Option is subject to delivery of a written request from the Borrower to the Lender at least 30 days prior to the Maturity Date and payment of the Extension Fee.
14. **Extension Fee**: \$87,500 (0.25% of the Loan Amount) extension fee earned by the Lender upon the exercise of each Extension Option (the "**Extension Fee**") and payable on or before the date which is ten days prior to the Maturity Date. Should any Extension Option not be granted by the Lender, the Lender will return the applicable Extension Fee to the Borrower, if applicable.
15. **Monthly Payments**: Monthly payments of interest only are required to be made by the Borrower to the Lender in connection with the Loan at the Interest Rate and subject to the Interest Reserve provisions of this Commitment Letter (the "**Monthly Payments**").

Monthly Payments are to be made on the first calendar day of every month commencing on the Interest Adjustment Date until the principal balance of the Loan outstanding together with all accrued and unpaid interest thereon and all other costs secured by the Security is repaid in full. Non-Sufficient Fund payments will be subject to an administration fee of \$500.

16. **Interest Reserve**: Provided an Event of Default has not occurred which is continuing, monthly interest shall be capitalized to the outstanding principal balance of the Loan until the earlier of repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest thereon and all other costs secured by the Security in full or the capitalization of a total of \$5,000,000 (the "**Interest Reserve**"). At such time as the Loan is in default or upon full utilization of the Interest Reserve, the Borrower shall be required to make Monthly Payments from its own financial resources and not from the Interest Reserve.
17. **Prepayment**: This Loan is closed for prepayment from the date of the initial advance of the Loan until the date which is 12 months after the Interest Adjustment Date. The Loan will be open thereafter for prepayment, in whole but not in part, without penalty subject to a minimum of 30 days prior written notice to the Lender.
18. **Mortgage Discharge**: The Lender shall charge a one-time administrative fee of \$1,000 for ongoing administration of the Loan including, but not limited to, providing a full discharge of the Security (the "**Administration Fee**"). The Administration Fee is earned by the Lender upon the Borrower's execution of this Commitment Letter and payable by the Borrower to the Lender on the Maturity Date. The Borrower's legal counsel shall prepare all documentation reasonably required to discharge the Security for review by the Lender and its legal counsel. Discharge statements will be provided to the Borrower within three business days after receipt of a written request for same.
19. **Permitted Encumbrances**: The Borrower shall be permitted to register on title to the Property easements in favour of governmental authorities and/or public utilities, and development agreements, site plan agreements, subdivision agreements, or other similar agreements with local governmental authorities and may also request the Lender to provide postponements of the Security as may be required for such instruments (the "**Permitted Encumbrances**"). The Lender will review and approve any requested postponements on a case-by-case basis.
20. **No Further Encumbrances**: Additional financing (prior or subsequent) of the Property, secured or unsecured, or the registration of any other encumbrance save and except for Permitted Encumbrances is not permitted in connection with the Property, as it may relate to any financing, without the prior written consent of the Lender, which consent may be arbitrarily withheld, delayed and/or conditioned by the Lender.
21. **Costs and Expenses**: The Borrower shall bear all costs and expenses incurred by the Lender from time to time in connection with the Loan regardless of whether or not the Loan Amount is ever advanced and, such costs may include, but shall not be limited to, legal fees, payment of property taxes as a protective disbursement, environmental site assessment reports, appraisal reports, building condition reports, insurance consulting reviews, reliance letters, title insurance, out-of-pocket expenses for property inspections and any applicable sales taxes related to all such costs and expenses. The Lender shall

apply the Good Faith Deposit in payment of the costs and expenses listed under this Section.

B. SECURITY

The Loan shall be secured by security set forth below which, prior to any advance under the Loan, shall be delivered by the Borrower and the Guarantor, (collectively, the "**Loan Parties**") to the extent party thereto, to the Lender in form, scope and substance satisfactory to the Lender and its legal counsel in its sole, absolute and unfettered discretion (collectively, the "**Security**" and together with this Commitment Letter and the other documentation delivered in connection with this Commitment Letter and the Security, collectively, the "**Loan Documents**").

1. **Mortgage**: A \$43,750,000 mortgage/charge on the Property (~125% of the Loan Amount) granted by the Borrower, including, without limitation, a negative pledge by the Borrower not to repay any shareholder loans, redeem shares, pay out dividends, or to otherwise compensate the Loan's sponsors or other non-arm's length parties until such time as the principal balance of the Loan outstanding together with all accrued and unpaid interest thereon and all other costs secured by the Security has been repaid in full.
2. **General Assignment of Rents**: A general assignment of leases and rents granted by the Borrower.
3. **General Security Agreement**: A general security agreement granted by the Borrower and/or the Nominee, as applicable, creating a first ranking security interest over all presently held and hereafter acquired personal property situated on, used in connection with or derived from the Property.
4. **General Assignment of Material Contracts**: A general assignment of all current and future material contracts for the Property granted by the Borrower and/or the Nominee, as applicable, provided that upon the request of the Lender the Borrower and/or the Nominee, as applicable, shall grant a specific assignment of any current or future material contract for the Property which shall be acknowledged and consented to in writing by all counterparties to such material contract.
5. **Specific Assignment of Property Management Agreement**: To the extent that such an agreement is in place for the Property with a third party property manager, a specific assignment of the commercial or residential property management contract granted by the Borrower and/or the Nominee, as applicable, pursuant to which the Lender may assume or terminate, at its option, the rights of the Borrower and/or the Nominee, as applicable, under the same if an Event of Default has occurred or the Lender has made demand for repayment of the Loan which specific assignment shall be acknowledged and consented to in writing by the property manager.
6. **Assignment of Insurance**: An assignment of insurance granted by the Borrower and/or the Nominee, as applicable, with respect to any and all insurance proceeds arising in connection with all insurance for the Property maintained or cause to be maintained by the Borrower in accordance with the requirements set forth on Schedule A.
7. **Fraud, Misrepresentation and Environmental Indemnity**: A fraud, misrepresentation and environmental indemnity granted by the Loan Parties.

8. **Beneficial Security Agreement:** An acknowledgement, direction and security agreement, if applicable, whereby the Borrower acknowledges, consents to and directs the Nominee to provide all of the Security to which the Nominee is a party to the Lender.
9. **Guarantee:** An unlimited corporate guarantee granted by the Guarantors for 100% of the Borrower's indebtedness to the Lender, including, without limitation, all accrued but unpaid fees, interest, and expenses incurred by the Lender together with a postponement of creditor and shareholder claims against the Borrower and an acknowledgement by the Guarantors that it shall not accept the repayment of any shareholder loans, redemption of shares, payment of dividends, or any other compensation from the Borrower until such time as the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security has been repaid in full.
10. **Pledge Agreement:** A hypothecation and pledge to the Lender of any and all issued and outstanding common shares, preferred shares and limited partnership units of the Borrower (and any and all shares of a general partner of the Borrower), as applicable, by the holders thereof provided that:
 - (a) the Lender's interest in such securities shall be perfected by possession and control by the Lender (or its legal counsel on behalf of the Lender) of the original share and/or unit certificates;
 - (b) if the registered owners of such shares and units are not providing a guarantee of the Borrower's obligations to the Lender hereunder, then such registered owners shall be required to provide a limited recourse guarantee with recourse against such registered owners limited in scope to the pledge of such shares and/or unit certificates; and
 - (c) if the registered owners are different than the beneficial owners of such shares and/or unit certificates then the beneficial owners shall be required to enter into an acknowledgement, direction and security agreement authorizing the registered owner to pledge the shares and/or unit certificates to the Lender.
11. **Limited Corporate Guarantee:** Limited corporate guarantee granted by the Limited Recourse Guarantor, as it relates solely to granting the Collateral Charge.
12. **Collateral Charge:** A \$43,750,000 mortgage/charge on the Collateral Property (~125% of the Loan Amount) granted by the Limited Recourse Guarantor, including, without limitation, a negative pledge by the Limited Recourse Guarantor not to repay any shareholder loans, redeem shares, pay out dividends, or to otherwise compensate the Loan's sponsors or other non-arm's length parties until such time as the principal balance of the Loan outstanding together with all accrued and unpaid interest thereon and all other costs secured by the Security has been repaid in full.
13. **Collateral Property Assignment of Rents:** A general assignment of leases and rents granted by the Limited Recourse Guarantor.
14. **Collateral Property Assignment of Insurance:** An assignment of insurance granted by the Limited Recourse Guarantor with respect to any and all insurance proceeds arising in connection with all insurance for the Collateral Property.

15. **Other**: Such other Security as the Lender and/or its legal counsel may reasonably require.

C. **CONDITIONS PRECEDENT**

The obligation of the Lender to make available the advance of the Loan shall be subject to the pre-funding conditions below (collectively, the "**Conditions Precedent**") which shall be satisfied or waived by the Lender in its sole, absolute, and unfettered discretion at least two business days prior to the advance of the Loan.

1. **Inspection**: The Lender shall have completed an inspection of the Property.
2. **Financial Statements**: The Lender shall have received accountant prepared notice to reader statements for the Borrower and any corporate Guarantor, if applicable and if available, for its last two fiscal year-ends.
3. **Property Agreement of Purchase and Sale**: The Lender shall have received the agreement of purchase and sale for the acquisition of the Property, any amendments thereto, the statement of adjustments and a commission and referral agreement, delivered on closing collectively confirming a minimum aggregate purchase price of \$40,000,000.
4. **Lease Agreements**: The Lender shall have received executed copies of all lease agreements and any amendments or extensions thereto for the CFRB Towers with Astral Media Radio S.E.N.C.
5. **Appraisal**: The Lender shall have received an appraisal report for the Property from an acceptable appraisal firm reporting an "as is" minimum value of \$61,654,255 which appraisal report is to be addressed to the Lender or supported by a letter of transmittal in favour of the Lender.
6. **Third Party Contracts**: The Lender shall have received all third-party operating contracts, including but not limited to landscaping, snow removal, pest removal and the property management contract(s), if applicable. In the event that the property management agreement is non-arm's length, then such property management agreement shall have a termination right in favour of the Lender upon and during the continuance of an Event of Default.
7. **Environmental Site Assessment**: The Lender shall have received a phase I and, if applicable, a phase II environmental site assessment for the Property from an acceptable environmental consultant which environmental site assessment is to be addressed to the Lender or supported by a letter of transmittal in favour of the Lender.
8. **Geotechnical Soil Report**: The Lender shall have received a geotechnical report confirming the feasibility of the proposed construction on the Property under existing soil conditions from an acceptable engineering firm which geotechnical report is to be addressed to the Lender or supported by a letter of transmittal in favour of the Lender.
9. **Planning Approvals**: The Lender shall have received evidence confirming zoning approval to improve the Property.
10. **Delivery of Loan Documents**: The Lender shall have received the following:

- (a) the Loan Documents duly executed by the parties thereto;
 - (b) a request for borrowing delivered in accordance with the provisions of Section D.1;
 - (c) certificates of each corporate Loan Party dated the closing date and executed by an appropriate officer of each such person, as applicable, certifying, among other things, the constating and organizational documents, an organizational chart, incumbency of signing officers and authorizing resolutions;
 - (d) a favourable corporate and enforceability opinion from the Borrower's legal counsel, including, without limitation, existence, power and capacity, authorization, execution and delivery, enforceability, creation of security interest, registration, share capital, and perfection, as applicable; and
 - (e) a favourable title opinion from the Borrower's legal counsel or a loan policy of title insurance in lieu thereof, respecting the ownership of the Property and the ranking of the liens constituted by the Security thereon.
11. **Registration of Security:** All registrations, recordings and filings of or with respect to the Security which in the opinion of the Lender's counsel are necessary to render effective and perfected, or to give notice of, the security intended to be created thereby shall have been completed.
12. **Survey/Title Insurance:** The Lender shall have received either (i) a real property report / survey for the Property and the Collateral Property prepared by an accredited land surveyor confirming no encroachments, easements or rights of way, save those which the Lender may specifically accept, and setting out the relationship of the lands and proposed improvements thereon to public thoroughfares for access purposes, or (ii) survey coverage in a loan policy of title insurance.
13. **Searches/Title Insurance:** The Lender shall have received either (i) all customary off-title searches for properties of similar nature to that of the Property and the Collateral Property including, without limitation, searches for unregistered easements, rights-of-way, property tax status, environmental notices, and executions against all Loan Parties, or (ii) satisfactory coverage in a loan policy of title insurance. If applicable, the off-title searches are to be obtained by the Borrower's legal counsel and forwarded to the Lender's legal counsel for review.
14. **Clean Title:** The Lender shall be satisfied with title to the Property including, without limitation, the absence of liens and other encumbrances.
15. **No Litigation:** There shall exist no judicial, administrative or other proceeding, investigation or litigation affecting the Property or any of the Loan Parties that has, or could reasonably be expected to have, a material adverse effect on (i) the business, operations, property or financial or other condition of any of the Loan Parties which would materially negatively affect the ability of the Loan Parties, taken as a whole, to perform and discharge their obligations under the Loan Documents, (ii) the Property, the Lender's liens on the Property and other Collateral Property pursuant to the Security, or the priority of those liens, or (iii) the Lender's ability to enforce its rights or remedies under any of the Loan Documents.

16. **AML/KYC**: The Lender shall have received all documentation and information in respect of the Loan Parties including each corporate Loan Party's ownership structure, and its respective authorized signing officers, including addresses and verified personal identification, as the Lender may reasonably require in respect of Loan, including in respect of compliance with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.
17. **Insurance**: The Lender shall have received duly executed certificate(s) of insurance evidencing the insurance over the Property in accordance with the requirements set out in Schedule A showing the Lender as mortgagee and loss payee as is interest may appear and showing the Lender as an additional insured under all liability policies relating to the Property, all such insurance coverage and certificate(s) to be acceptable to the Lender's insurance consultant, as confirmed by a report to the Lender from its insurance consultant.
18. **Payout Statement**: Receipt and satisfactory review of a payout statement with respect to any loan secured by an existing mortgage/charge registered against title to the Property.
19. **Levies and Fees**: All levies, impost fees, local improvement charges, property taxes and other charges that are due and payable in connection with the Property shall have been paid to the date of the advance of the Loan.
20. **Notice to Property Tax Authority**: The Borrower shall have executed and delivered the Lender's Notice to Property Tax Authority set forth on Schedule D, which shall permit the Lender to request information from the municipality from time to time regarding the Property's realty taxes.
21. **Pre-Authorized Debit**: The Borrower shall have executed and delivered the Lender's Pre Authorized Debit Form set forth on Schedule E, which shall permit the Lender to debit the Borrower's applicable current account each month for the Monthly Payment should full utilization, suspension or cancelation of the Interest Reserve occur, including, but not limited to any applicable Lender's Fees and Extension Fees.
22. **ESG Survey**: The Borrower shall have completed and delivered the Lender's ESG Survey set forth on Schedule G.
23. **Lender's Approvals**: The Lender shall have received the approval of its investment committee and any other approvals required by the Lender.
24. **Due Diligence**: The Lender shall have completed its business, financial and legal due diligence, including without limitation property level due diligence with respect to the Property.

D. **FUNDING**

The advance of the Loan shall be subject to the Conditions Precedent and be subject to the following funding conditions, as applicable.

1. **Advance of the Loan**: The Loan shall be funded by way of a single advance of \$30,000,000.

2. **Outside Funding Date:** In the event that the initial advance of the Loan has not been made by August 15, 2022, at the exclusive option of the Lender, its obligations under this Commitment Letter shall cease and be at an end and the Lender shall be released from any and all of its present and/or future obligations under this Commitment Letter and the Security including, without limitation, the obligation to make any advances under the Loan. Notwithstanding the foregoing, the Lender shall remain entitled to earn and receive full payment of the Lender's Fee and to fully recover from the Borrower and any Guarantor any expenses incurred by the Lender in connection with this Commitment Letter.

E. **COUNSEL**

1. **Lender's Legal Counsel:**

Bennett Jones LLP (Attention: John van Gent)
3400 One First Canadian Place
Toronto, ON
M5X 1A4

Phone: (416) 777-6522
Fax: (416) 863-1716
Email: vanGentJ@bennettjones.com

2. **Borrower's Legal Counsel:**


Northview Law (Attention: Danny J. McMullen)
1 Cidemill Avenue, Suite 200
Vaughan, Ontario
L4K 4B6


Phone: 905-857-0462
Email: dmcullen@northviewlaw.com

If you are in agreement with the foregoing terms and conditions, please indicate this by signing and returning this Commitment Letter to the Lender's office by 3:00pm Eastern Standard Time on July 6, 2022, failing which this letter shall, at the Lender's option, be deemed null and void.

Yours truly,

KINGSETT MORTGAGE CORPORATION

Per: 
Justin Walton (Jul 5, 2022 14:04 EDT)
Justin Walton
Managing Director, Mortgage
Investments

Per: 
Bryan Salazar (Jul 5, 2022 11:40 EDT)
Bryan Salazar
Managing Director, Mortgage
Underwriting & Funding

ACKNOWLEDGEMENT

I/We hereby accept the terms and conditions of this Commitment Letter and any accompanying Schedules and each person executing this Commitment Letter on behalf of any Borrower or any Guarantor represents and warrants that he/she has the power and authority to bind such entity.

Accepted and agreed as of the 6th day of July, 2022.

BORROWER:

2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP

Per: 
Name: Michael Moldenhauer
Title: Authorized Signing Officer

LIMITED RECOURSE GUARANTOR:

688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP


Name: Michael Moldenhauer
Title: Authorized Signing Officer

GUARANTOR:

South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP.

Per: 
Name: Michael Moldenhauer
Title: Authorized Signing Officer

SCHEDULE A
LAND INSURANCE REQUIREMENTS CHECKLIST

1. All insurance policies/certificates must be forwarded to our insurance consultant for review. The cost of such review shall be for the account of the Borrower.
2. All insurance policies shall be in form and with insurers reasonably acceptable to the Lender and contain the original signatures of the insurers (which may include being signed by certified electronic signature).
3. The Lender must be shown as an Additional Insured under all liability insurance covering the Property with respect to claims arising out of the operations of the Named Insured.
4. The Borrower or the Nominee, as applicable, must be shown as a Named Insured or Additional Named Insured under all policies of insurance in force with respect to the Property.
5. The insurers, policy numbers, policy limits, policy term, applicable reasonable deductibles and the location of the Property as an insured location must be shown on the insurance policies.
6. All policies of insurance must provide the Lender with at least 30 days' prior written notice of adverse material change or cancellation, except for the non-payment of premium, in which case the statutory conditions may apply.
7. There must be evidence of Commercial General Liability insurance, with a minimum limit of **\$5,000,000.00** per occurrence and **\$5,000,000.00** policy aggregate covering the Property. This may be in the form of primary insurance and/or Excess/Umbrella insurance and include Cross Liability, Severability of Interests, Contractual Liability, Non-Owned Automobile Liability, Tenant's Legal Liability, Limited Pollution Liability insurance to cover Sudden & Accidental Pollution (including with a Wording to be the IBC 2313 wording or equivalent) and include Waiver of Subrogation in favour of the Lender.
8. If Excess or Umbrella liability is evidenced, confirmation the Excess/Umbrella Liability ***follows form*** of the underlying Commercial General Liability.
9. The Lender will not accept evidence of insurance on a CSIO form, or an ACORD Form # 25 (or their equivalents), due to the limitation in the wording as to its efficacy, and the restrictive cancellation provisions, unless accompanied with an additional remarks schedule/comments ACORD 101 or CSIO equivalent.
10. Such other insurance as the Lender or the insurance consultant may reasonably require given the nature of the security and that which a prudent owner of similar security would purchase and maintain or cause to be purchased and maintained.

There must be full, original, certified, endorsed copies of the insurance policies provided to the Lender as soon as available from the insurers, which certified policy copies should be available within 60 to 90 days. Signed Certificates or binders of insurance addressing the above will suffice as insurance evidence for closing purposes.

In the instance that any portion of the property insurance coverage described above has expired or cancelled and evidence of adequate and satisfactory insurance coverage has not been provided to the Lender within 45 days (with the certified policy copies provided within 90 days) of the expiration or cancellation date, the Lender will have the option, without obligation, to place adequate and satisfactory insurance (at the Lender's sole, absolute and unfettered discretion) for the Property at the Borrower's expense.

Certificates or Binders of Insurance are not acceptable if they contain the words, *"This certificate is issued as a matter of information only and confers no rights upon the certificate holder"* and the words *"will endeavour to"* and *"but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives"* under the cancellation clause.

-- Insurance Broker contact information and release follows on next page --

SCHEDULE B OTHER CONDITIONS

1. **Prohibition on Sale of Property**: Prior to repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security in full on the Maturity Date or as otherwise contemplated in the Commitment Letter, the Borrower may not sell the Property, in whole or in part, without the Lender's prior written consent, which consent may be arbitrarily withheld, delayed and/or conditioned by the Lender. The assumption of the Loan by a purchaser of the Property, or part thereof, shall be subject to the prior written approval of the Lender, which approval may be arbitrarily withheld, delayed and/or conditioned by the Lender.
2. **Change of Ownership**: A direct or indirect change in ownership of the Borrower shall not be permitted without the Lender's prior written consent, which consent may be arbitrarily withheld, delayed and/or conditioned by the Lender.
3. **Payment of Property Taxes**: The Borrower shall pay when due to the taxing authority or authorities having jurisdiction all property taxes and provide to the Lender evidence of such payment annually or as otherwise requested from time to time by the Lender.
4. **Indemnity**: The Loan Parties shall indemnify and save harmless the Lender and its officers, agents, trustees, employees, contractors, licensees or invitees from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature whatsoever arising out of the provisions of the Loan Documents, any letters of credit or letters of guarantee issued or indemnified, sale or lease of the Property and/or the use or occupation of the Property including, without limitation, those arising from the right to enter the Property from time to time and to carry out the various tests, inspections and other activities permitted by the Loan Documents.
5. **Environmental Liability**: In addition to any liability imposed on any of the Loan Parties under any of the Loan Documents, the Loan Parties shall be jointly and severally liable for any and all of the Lender's costs, expenses, damages or liabilities, including, without limitation, all reasonable legal fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Property of any hazardous or noxious substances. The representations, warranties, covenants and agreements of the Loan Parties set forth in this subparagraph:
 - (a) are separate and distinct obligations from the Loan Parties' other obligations;
 - (b) survive the payment and satisfaction of the Loan Parties other obligations and the discharge of all or any of the Security
 - (c) are not discharged or satisfied by foreclosure against the Property pursuant to the Security; and
 - (d) shall continue in effect after any transfer of the Property including, without limitation, transfers pursuant to foreclosure proceedings (whether judicial or non-judicial) or by any transfer in lieu of foreclosure.

6. **Assignability:** The Loan Documents may not be assigned, transferred or otherwise disposed of by any of the Loan Parties without the Lender's prior written consent, which consent may be arbitrarily withheld, delayed and/or conditioned by the Lender. The Loan, any of the Loan Documents or any interest in the Loan or the Loan Documents may be assigned or participated by the Lender (and its successors and assigns), in whole or in part, without the consent of the Borrower. Except as hereinafter provided, the Borrower consents to the disclosure by the Lender to any such prospective assignee or participant of all information and documents regarding the Loan, the Loan Documents, the Property and any of the Loan Parties within the possession or control of the Lender.
7. **Information:** For purposes of this Commitment Letter, "Information" means all information relating to the Loan Parties and their respective affiliates or any of their respective businesses, other than any such information that is available to the Lender on a non-confidential basis prior to such receipt. Any person required to maintain the confidentiality of Information in accordance with this Commitment Letter shall be considered to have complied with its obligation to do so if such person has exercised the same degree of care to maintain the confidentiality of such Information as such person would accord to its own confidential information. In addition, from time to time the Lender publishes advertisements or announcements of completed transactions which advertisements or announcements include, but are not limited to, press releases, paid advertisements, internally displayed tombstones, social media, investor brochures or information displayed on the internet or on the Lender's intranet. The Loan Parties consent to the publication of an advertisement or announcement of the Loan and agree to allow the Lender to photograph or utilize existing photographs or artistic renderings (for unfinished projects) of the Project for possible use in internal or external marketing programs.
8. **Confidentiality of Information:** The Lender agrees to maintain the confidentiality of the Information, except that Information may be disclosed (a) to it, its affiliates and its and its affiliates' respective partners, directors, officers, employees, agents, advisors and representatives to the extent necessary to administer or enforce any of the Loan Documents, it being understood that the persons to whom such disclosure is made will be informed of the confidential nature of such Information and will be bound and instructed to keep such Information confidential, (b) to the extent requested by any regulatory authority having jurisdiction over it (including any self-regulatory authority), (c) to the extent required by any applicable law or other legal process, (d) to any other party hereto, (e) to the extent reasonable, in connection with the exercise of any remedies under any of the Loan Documents or any action or proceeding relating to any of the Loan Documents or the enforcement of rights thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under the Loan or any of the Loan Documents, (g) with the consent of the Borrower, or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section, or (ii) becomes available to the Lender on a non-confidential basis from a source other than any of the Loan Parties or their respective affiliates and provided such source has not, to the knowledge of the Lender, breached a duty or obligation of confidentiality owed to any of the Loan Parties or their respective affiliates, or the Lender. If the Lender is requested or required to disclose any Information pursuant to or as required by any applicable law or by an subpoena or similar legal process, the Lender shall use its reasonable commercial efforts to provide the Borrower with notice of such requests or obligation in sufficient time so that the Borrower may seek an appropriate protective order

or waive the Lender's compliance with the provisions of this Section, and the Lender shall co-operate with the Borrower in obtaining any such protective order.

9. **Use of Information:** The Lender shall be entitled to use any Information to assess the ability of the Loan Parties to obtain the Loan and to evaluate the ability of the Loan Parties to meet their respective financial obligations which includes, without limitation, disclosing and exchanging Information on an on-going basis with credit bureaus, credit reporting agencies and financial institutions or their agents, or to service providers, in order to determine and verify, on an on-going basis, the continuing eligibility of the Loan Parties for the Loan and the continuing ability of the Loan Parties to meet their respective financial obligations. This use, disclosure and exchange of Information will continue until the principal balance of the Loan outstanding together with all accrued and unpaid interest thereon and all other costs secured by the Security is repaid in full and will help protect the Loan Parties from fraud and will also protect the integrity of the credit-granting system.
10. **Right to Inspect:** Subject at all times to the rights of any tenants of the Property as described in their lease, the Borrower acknowledges that the Lender may inspect the Property at any time at the expense of the Borrower.
11. **Demand and Default:** In the event of any of the Loan Parties failing to pay any amount when due and such non-payment continues for three business days following notice from Lender to the Borrower or being in breach of any covenant, condition or term of any of the Loan Documents, which breach continues beyond any applicable cure period identified in the Loan Documents or if any representation or warranty made by any of the Loan Parties, or any information provided by any of the Loan Parties or their respective agents is found to be untrue or incorrect in any material respect, if any Event of Default has occurred which is continuing, or if in the sole opinion of the Lender, a material adverse change occurs relating to any of the Loan Parties, the Property, or the risk associated with the Loan, then the Borrower shall, at the option of the Lender, be in default of its obligations to the Lender, the Lender may, at its option on notice to the Borrower, demand repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security in full, cease or delay further funding, and/or may exercise any and/or all remedies available to it under the Security, at law and/or in equity. Furthermore, the Lender may, at its option, on notice to the Borrower, declare the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security forthwith due and payable, whereupon the same shall be and become immediately due and payable in full.

Notwithstanding anything to the contrary provided herein, the Lender will not demand repayment of the loan unless there is an Event of Default hereunder, which is continuing.

12. **Remedies Cumulative:** No extension, postponement, forbearance, delay, or failure on the part of the Lender in the exercise of any power, right or remedy under any of the Loan Documents, at law or in equity shall operate as a waiver thereof, nor shall a single or partial exercise of any power, right or remedy preclude other or further exercise thereof or the exercise of any other power, right or remedy. Neither the acceptance of any payment nor the making of any concession by the Lender at any time during the existence of a default shall be construed as a waiver of any continuing default or of any of the Lender's rights or remedies. All of the powers, rights and remedies of the Lender shall be cumulative and may be exercised simultaneously or from time to time in such order or manner as the Lender may elect. No waiver of any condition or covenant of any of the Loan Parties or of

the breach of any such covenant or condition shall be deemed to constitute a waiver of any other covenant or condition or of any subsequent breach of such covenant or condition or justify or constitute a consent to or approval by the Lender of any violation, failure or default by the applicable Loan Party of the same or any other covenant or condition contained under any of the Loan Documents.

13. **Appointment of Receiver**: Upon and during the continuance of an Event of Default, in addition to any other rights which it may have, the Loan Parties each consent to the Lender's appointment of a receiver, or a receiver and manager either privately or by court appointment, to manage the Property and do all things necessary as an owner would be entitled to do.
14. **Severability**: Each of the Loan Parties agrees that if any one or more of the provisions contained in this Commitment Letter shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Lender, not affect any or all other provisions of this Commitment Letter and this Commitment Letter shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
15. **Multiple Parties**: If any of the Loan Parties is comprised of more than one person or corporation, the obligations shall be the joint and several obligations of each such person or corporation unless otherwise specifically stated herein.
16. **Time of the Essence**: Time is of the essence in this Commitment Letter.
17. **Non-Merger**: The representations, warranties, covenants and obligations herein set out in any of the Loan Documents shall not merge or be extinguished by the execution or registration of the Security but shall survive until the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other amounts secured by the Security are repaid in full.
18. **Representations and Warranties**: Each of the Loan Parties will, as applicable, provide the usual representations and warranties in the Loan Documents including, without limitation (a) the accuracy of any financial statements provided to the Lender, (b) that there has been no material adverse change in the financial condition or operations, as reflected in the financial statements used to evaluate this Loan, (c) title to the Property, (d) such Loan Party's power and authority to execute and deliver the Loan Documents to which it is a party, (e) the accuracy of any documentation delivered to the Lender, (f) the accuracy of all representations and warranties made to the Lender in the Loan Documents to which it is a party, (g) that there are no pending adverse claims, no outstanding judgments, no defaults under other agreements relating to the Property, and no undefended material actions, suits or proceedings with respect to such Loan Party or the Property, (h) that such Loan Party is attending to the preservation of its assets, (i) the payment of all taxes, (j) that no consents, approvals or authorizations are necessary in connection with such Loan Party's business, (k) that there are no other encumbrances registered against title to the Property except for those approved by the Lender, (l) that all necessary services are available to the Property, and (m) that no hazardous substances used, stored, discharged or present on the Property other than in accordance with all applicable laws, and will represent and warrant such other reasonable matters as the Lender or its counsel may require.

19. **Payment of Sales Taxes:** The Borrower accepts full responsibility for remittance and payment of any and all applicable sales tax due and the periodic submission and collection of all applicable sales tax claims and credits.
20. **Lender's Sign:** The Lender shall have the right, but shall not be obligated, at the Lender's cost, to place a sign on the Property at any time after execution of this Commitment Letter by the Borrower but prior to repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security in full, which sign shall state that the Lender has assisted with the financing of the Property. The Lender, at the Lender's cost, shall be permitted to take down the sign at any time prior to repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security in full, after which time the Borrower shall be permitted to take down such sign at any time at the Borrower's cost.
21. **Governing Law:** The Loan and the Loan Documents shall be governed by and construed under laws of the Province of Ontario and the federal laws of Canada as applicable therein
22. **Modification:** No term or requirement of any of the Loan Documents may be waived or varied orally or by any course of conduct of the Borrower or anyone acting on his behalf or by any officer, employee or agent of the Lender. Any alteration or amendment to any of the Loan Documents must be in writing and signed by a duly authorized officer of the Lender and accepted by a duly authorized officer of the Borrower
23. **Language:** Any word importing the singular or plural shall include the plural and singular respectively. If any party is comprised of more than one entity, the obligations of each of such entities shall be joint and several. Any word importing persons of either gender or firms or corporations shall include persons of the other gender and firms or corporations were the context so requires.
24. **Headings:** The headings and section numbers appearing in any of the Loan Documents are included only for convenience of reference and in no way define, limit, construe or describe the scope or intent of any provision of any of the Loan Documents.
25. **Counterparts:** Any of the Loan Documents may be executed in several counterparts each of which when so executed shall be deemed to be an original and which counterparts together shall constitute one and the same instrument.
26. **Electronic Execution:** The words "execution," "execute", "signed," "signature," and words of like import in or related to any Loan Documents to be signed in connection with the Loan shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act (Canada)* and the *Electronic Commerce Act, 2000 (Ontario)*, or any other similar laws based on the *Uniform Electronic Commerce Act* of the Uniform Law Conference of Canada.
27. **Calculations:** All interest calculated under this Commitment Letter shall be computed based on the actual number of days elapsed in a year consisting of 365 days.

28. **Paramountcy**: In the event of any inconsistency or conflict between any of the provisions of the Commitment Letter and any provision or provisions of the Security, the provisions of the Commitment Letter will prevail.
29. **Disclosure**: KingSett Mortgage Corporation acted on behalf of 12 lenders in the previous fiscal year.

SCHEDULE C REPORTING

The Borrower shall provide the Lender with copies of the following regarding the Loan Parties and the Property:

1. any and all insurance policy renewals and/or amendments within ten business days of the issuance thereof. The Lender may, in its unfettered discretion, require its insurance consultant to conduct an insurance review at the Borrower's expense;
2. property tax statements supported by proof of payment on a quarterly basis or as otherwise requested by the Lender from time to time;
3. all commercial leases and any and all other agreements (e.g., commercial lease amendments) including offers to lease for any and all material Leases as requested by the Lender from time to time;
4. certified property operating statements, together with a summary of capital expenses at the Property, to the Lender on an annual basis within 90 days of the end of its fiscal years or as otherwise requested by the Lender from time to time;
5. within 90 days of the end of each of its fiscal years, the Borrower shall provide to the Lender:
 - (a) notice to reader financial statements for the Borrower, the Nominee and any Corporate Guarantor, as applicable, including a balance sheet and supporting schedules, a detailed statement of income and expenditures and supporting schedules, and a statement of change in cash flow;
6. at the Lender's request from time to time, the Borrower shall provide the Lender with any other relevant updates regarding the Property.

**SCHEDULE D
NOTICE TO PROPERTY TAX AUTHORITY**

Re: **Borrower:** _____
 Property: _____
 Loan No.: _____

To Whom It May Concern:

Approval is being given to release any information verbally or in writing as requested by our mortgage company, KingSett Mortgage Corporation, regarding all matters related to taxes for the above-noted property. This is including but not limited to taxes outstanding, status of tax account, payments received and/or outstanding or copies of tax statements.

This approval will remain in full force and effect until the mortgage is paid in full.

Dated this _____ day of _____, 20____.

BORROWER:

2226 Royal Windsor GP Inc., in its capacity
as general partner for and on behalf of 2226
Royal Windsor LP

Per: _____
 Name:
 Title:

Property Civic Address:
Roll Number:
(Please complete in full)

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**SCHEDULE E
PRE-AUTHORIZED DEBIT FORM**

I/we authorize KingSett Mortgage Corporation ("**KingSett**") or its affiliates and the financial institution designated (or any other financial institution I/we may authorize at any time) to debit my/our bank account for regular recurring payments and/or one-time payments from time to time, for payment of all monies owing under a mortgage granted to and in favour of KingSett (the "**Mortgage**"). Regular recurring payments will be debited from my/our specified account monthly on the due date specified in the Mortgage. The entry in my/our bank statement will constitute my/our receipt.

I/We acknowledge that the regular recurring payments may vary from time to time in light of changes to realty taxes, interest adjustments, arrears, fees or, if the Mortgage bears a variable interest rate, because of interest rate fluctuations. I/We agree that no prior notification of the amount of each regular recurring payment will be given to me/us and I/we specifically waive any pre-notification requirements in respect of same. KingSett will obtain my/our authorization for any other one-time or sporadic debits.

If there is a change in the bank and/or account numbers from which payments are to be drawn, and if the new account is in my/our name, then only a new personalized cheque marked "**VOID**" will be required for KingSett to draw from the new account.

This authorization may be revoked by the undersigned on 30 days prior written notice. A sample cancellation form and further information on cancellation rights may be obtained from the financial institution noted above or by visiting www.cdnpay.ca.

I/We have certain recourse rights if any debit does not comply with this document. For example, I/we have the right to receive reimbursement for any debit that is not authorized by, or is not consistent with, this document. More information on recourse rights may be obtained from the financial institution noted above or by visiting www.cdnpay.ca.

Borrower Name	
Address	Province
City	Postal Code
Phone #	

FI Name:	Institution #
Account #	Transit #
Address	Province
City	Postal Code

Authorized Signatures(s)	
Name(s)	

SCHEDULE F ESG SURVEY

KingSett Mortgage Investments - ESG Survey – New Mid / High Rise Building

KingSett Capital is committed to integrating best-in-class ESG practices throughout all its investment vehicles. We kindly ask that you complete this questionnaire so that we can track the Environmental, Social and Governance performance of the mortgage investments managed by KingSett Mortgage Corporation.

Date:
Borrower Name:
Property Address:
Completed By:

Please identify any of the following ESG initiatives that apply to your organization and/or the property being financed.

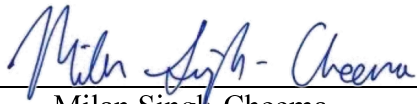
General	Does your organization have an ESG strategy or annual report? If yes, where can we find more information? _____
Environmental Initiatives (please select all that apply to the property being financed)	<input type="checkbox"/> Green building certifications (ex. LEED, BOMA, WELL, TGS Tier 2) _____ <input type="checkbox"/> On-site clean or renewable energy generation or storage (ex. solar, geothermal) <input type="checkbox"/> Stormwater management system (in excess of minimum requirements) <input type="checkbox"/> High performance envelope (ex. triple glazing) <input type="checkbox"/> Does the building connect into a district energy system (ex Enwave, Surrey City Energy) <input type="checkbox"/> Sustainable Building materials (ex Mass timber) <input type="checkbox"/> Green roof, cool roof or green wall <input type="checkbox"/> Electric vehicle chargers on site <input type="checkbox"/> High-efficiency appliances or fixtures (Energy Star) <input type="checkbox"/> Graywater reuse system or rainwater harvesting system. <input type="checkbox"/> Water efficient fixtures <input type="checkbox"/> Drought tolerant plants to reduce irrigation demand <input type="checkbox"/> Construction and demolition waste management (ex recycling metals, drywall, cardboard) <input type="checkbox"/> Are carbon offsets purchased to offset embodied or operational carbon? <input type="checkbox"/> Other _____
Social Impact	<input type="checkbox"/> Does the project create or preserve any affordable housing units? Number of units _____ <input type="checkbox"/> Is there any community space (ex. daycare, arts & culture) in the property? Sq. ft. _____ <input type="checkbox"/> Tenant wellness or community focused programs <input type="checkbox"/> Indoor air quality management <input type="checkbox"/> Other _____
Governance	<input type="checkbox"/> Is your organization a signatory to PRI? <input type="checkbox"/> Does your organization have an ESG strategy or annual report? <input type="checkbox"/> Does your organization have a code of ethics? <input type="checkbox"/> Does your organization have ESG performance targets (ex. emissions reduction, diversity targets)? <input type="checkbox"/> Does your organization have any responsible hiring or contracting policies in place? <input type="checkbox"/> Other _____

Please tell us about any other ESG initiatives not highlighted above:

**T
A
B**

CC

THIS IS **EXHIBIT "CC"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema

A Commissioner for taking Affidavits
(or as may be)

GUARANTEE

THIS GUARANTEE made as of the ___ day of July, 2022.

B E T W E E N:

SOUTH SHORE GP II INC., in its capacity as general partner for and on behalf of **SOUTH SHORE HOLDINGS II LP**

(the "**Guarantor**")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "**Lender**")

OF THE SECOND PART

WHEREAS 2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP (the "**Mortgagor**"), as mortgagor, has granted a first ranking mortgage (the "**Mortgage**") to and in favour of the Lender, as mortgagee, of the lands charged therein (the "**Lands**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS the Guarantor will benefit from extension of the Loan Indebtedness to the Mortgagor and the Lender has stipulated that the Guarantor enter into this Guarantee as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations,

NOW THEREFORE IN CONSIDERATION of the recitals, the Lender extending the Loan Indebtedness and for such other good and valuable consideration received by the Guarantor, the receipt and adequacy of which is acknowledged by the Guarantor, the Guarantor agrees with the Lender as follows:

ARTICLE 1 **DEFINITIONS, INTERPRETATION**

1.1 Definitions

In this Guarantee capitalized terms used but not defined herein shall have the meaning ascribed thereto in the Mortgage. Otherwise, in this Guarantee:

- (a) **"Indebtedness"**, in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
- (b) **"Loan Indebtedness"** means any Indebtedness from time to time of the Mortgagor and any of the other Covenantors to the Lender arising under any of the Loan Documents; and
- (c) **"Loan Obligations"** means the obligations of the Mortgagor and any of the other Covenantors arising under the Loan Documents.

1.2 Interpretation

For the purposes of this Guarantee, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Guarantee, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Guarantee.

ARTICLE 2 **REPRESENTATIONS AND WARRANTIES**

2.1 Representations and Warranties of the Guarantor

The Guarantor makes the following representations and warranties to the Lender which will continue to be true and correct as long as any Loan Indebtedness remains unpaid:

- (a) the Guarantor is executing and delivering this Guarantee at the sole and exclusive request of the Mortgagor;
- (b) the Guarantor has derived or expects to derive financial and other advantage from the Loan Indebtedness;
- (c) the Guarantor has not received or relied on any representation from the Lender or any agreement or undertaking with the Lender or any officer, employee or agent of the Lender, except as expressly set out in this Guarantee;
- (d) the Mortgagor has furnished the Guarantor with all financial and other information and copies of all agreements and documents the Guarantor has requested concerning the Mortgagor, any of the other Covenantors, the Lands, the Loan

Documents, the Loan Indebtedness, the Loan Obligations and the nature and extent of the risk the Guarantor incurs under this Guarantee;

- (e) the Guarantor has established means satisfactory to it of obtaining from the Mortgagor, independently of the Lender, such other information and copies of all agreements and other writings the Guarantor deems desirable concerning the Mortgagor, any of the other Covenantors, the Lands, the Loan Documents, the Loan Indebtedness, the Loan Obligations, the Mortgagor's and any of the other Covenantors' relationship with the Lender and the nature and extent of the risk the Guarantor incurs under this Guarantee;
- (f) the Guarantor:
 - (i) is an entity validly formed and existing under the laws of its jurisdiction of incorporation;
 - (ii) has the legal right and all necessary corporate or other power and authority to own its assets and carry on its business in all material respects;
 - (iii) is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions where it conducts business, except where failure to be so qualified, licensed or registered has not and is not reasonably likely to have a Material Adverse Effect; and
 - (iv) the Guarantor has all requisite power and authority to enter into and perform its obligations under this Guarantee, and to do all acts and things and execute and deliver all other documents and instruments as are required hereunder to be done, observed or performed by it in accordance with the terms hereof;
- (g) the execution and delivery by the Guarantor, and the performance by it of its obligations under, and compliance with the terms, conditions and provisions of, this Guarantee will not conflict with or result in a breach of any of the terms, conditions or provisions of:
 - (i) its articles, by-laws, shareholders' agreements or other organizational documents; as the case may be;
 - (ii) any applicable laws;
 - (iii) any material contracts, material authorizations or material contractual restriction binding on or affecting it or its assets; or
 - (iv) any material judgment, injunction, determination or award which is binding on it in each such case, except to the extent that such breach has not and is not reasonably likely to have a Material Adverse Effect;

- (h) the execution and delivery by the Guarantor of this Guarantee, and the performance by it of its obligations thereunder have been duly authorized by all necessary corporate or other action including, without limitation, the obtaining of all necessary partner, shareholder or other material and relevant consents. No authorization, consent, approval, registration, qualification, designation, declaration or filing with any governmental entity, or other person, is or was necessary in connection with the execution, delivery and performance of the Guarantor's obligations under this Guarantee to which it is a party, except where failure to obtain same would not have or be reasonably likely to have a Material Adverse Effect; and
- (i) this Guarantee has been duly executed and delivered, as the case may be, by the Guarantor, and constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms (except as such enforceability may be limited by the availability of equitable remedies and the effect of bankruptcy, insolvency or similar laws affecting the enforcement of credit's rights generally), is (or will be immediately upon the execution thereof by such person) in full force and effect, and the Guarantor has performed and complied in all material respects with all the terms, provisions, agreements and conditions set forth herein and therein and required to be performed or complied with by the Guarantor.

ARTICLE 3 **COVENANTS**

3.1 Covenants

The Guarantor unconditionally, absolutely and irrevocably covenants and agrees with the Lender:

- (a) in addition to and separate and distinct from its agreements in Subsections 3.1(b) and 3.1(c), to guarantee to the Lender the repayment by the Mortgagor and any Covenantors of the Loan Indebtedness and to guarantee to the Lender the punctual performance of the Loan Obligations;
- (b) in addition to and separate and distinct from its agreements in Subsections 3.1(a) and 3.1(c), to indemnify and save harmless the Lender from and against all loss, damage, expenses, costs and liability whatsoever which shall arise from or be caused by the default or breach by the Mortgagor and any of the other Covenantors with respect to the repayment of the Loan Indebtedness and the performance of the Loan Obligations;
- (c) in addition to and separate and distinct from its agreements in Subsections 3.1(a) and 3.1(b), as primary obligor and not as guarantor, to repay the Loan Indebtedness and to perform the Loan Obligations;
- (d) that it will not accept from the Mortgagor at any time prior to the repayment in full of all Loan Indebtedness; (i) the repayment of any loans (principal or interest) to, (ii) the redeeming or purchase of any of shares, units or partnership interests held

by or on behalf of, (iii) the payment of any compensation, fee or other amount to, or (iv) the payment of any distributions or dividends or return on partnership or shareholder investment to, in each case, the Guarantor or any shareholder, unitholder or partner of the Guarantor; and

- (e) that it will not compensate any person who is a sponsor of the Property, including without limitation any of the other Guarantor, or any other non-arms length parties at any time prior to the repayment in full of all Loan Indebtedness.

3.2 Nature of Obligations of the Guarantor

The Guarantor covenants and agrees with the Lender that:

- (a) except as expressly set out in this Guarantee the obligations and liabilities of the Guarantor under this Guarantee will be irrevocable and as long as any of the Loan Indebtedness remains unpaid, will continue and be of full force and effect and will not be terminated or in any manner affected, and no right of the Lender under this Guarantee will in any manner be prejudiced or impaired by:
 - (i) the dissolution, winding-up or other cessation of existence of the Mortgagor or any of the other Covenantors or the institution of any proceeding relating thereto, any continuance, reorganization or change in the business, directors, management, objects, organization or shareholders of the Mortgagor or any of the other Covenantors, the amalgamation of the Mortgagor or any of the other Covenantors with another corporation, the sale or disposal of or appointment of a liquidator, receiver, receiver-manager, receiver and manager or trustee in respect of any of the assets or undertaking of the Mortgagor or any of the other Covenantors, any distribution of the assets of the Mortgagor or any of the other Covenantors on any arrangement, bankruptcy, composition insolvency, liquidation, receivership, reorganization or other similar proceeding or occurrence, any assignment by the Mortgagor or any of the other Covenantors for the benefit of creditors, any other marshalling of any of the assets of the Mortgagor or any of the other Covenantors or any other act or event which constitutes a novation of any obligation or liability of the Mortgagor or any of the other Covenantors in respect of the Loan Indebtedness and the Loan Obligations, whether by substitution of the obligations or liabilities of any other person in place of those of the Mortgagor or any of the other Covenantors or otherwise;
 - (ii) any obligation or liability of the Mortgagor or any of the other Covenantors, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise, the Guarantor, whether under this Guarantee or otherwise or any agreement or instrument evidencing any such obligation or liability at any time being unenforceable;

- (iii) any defect in, omission from, failure to file or register, or defective filing or registration of any document under which the Lender has taken security for payment of the Loan Indebtedness or for performance of the Loan Obligations, or any failure or loss in respect of any such security of the Lender, whether arising in connection with the fault of the Lender or otherwise;
 - (iv) any issue or levy by any administrative, government, judicial or other authority or arbitrator of any award, execution, injunction, judgment, order, attachment, writ or similar process against the Mortgagor or any of the other Covenantors, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise;
 - (v) any occurrence or non-occurrence of any other act or event which would result in termination, discharge, limitation, merger, novation, reduction or release of the Guarantor or of any of its obligations or liabilities under this Guarantee or which would otherwise prejudice or impair any right of the Lender under this Guarantee; or
 - (vi) any sale, transfer, agreement to sell or other disposition of the Lands by the Mortgagor;
- (b) the obligations and liabilities of the Guarantor under this Guarantee are absolute and independent of and not in consideration of or conditional on any other obligation or liability of the Guarantor, the Mortgagor or any of the other Covenantors, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise, or any prior notice or protest to, demand upon or action, suit or other proceeding against the Mortgagor or any of the other Covenantors. The Lender may bring or prosecute a separate action, suit or other proceeding against the Guarantor whether it is brought or prosecuted against the Mortgagor or any of the other Covenantors or whether the Mortgagor or any of the other Covenantors is joined;
- (c) this Guarantee will be binding in respect of any modification or renewal of the Loan Indebtedness or the Loan Obligations by the Mortgagor, any of the other Covenantors or any subsequent owner of the Lands, whether or not the Guarantor has consented to same and whether or not such modification or renewal constitutes an adverse or material alteration of the Guarantor's obligations under this Guarantee; and
- (d) any part payment by the Mortgagor and/or any of the other Covenantors of any of the Loan Indebtedness or part performance of any of the Loan Obligations that operates to extend any statute of limitations or law of prescription as to the Mortgagor and/or any of the other Covenantors will operate to extend such statute of limitations or law of prescription as to the Guarantor to the extent permitted by applicable law.

3.3 Authorizations

The Guarantor authorizes the Lender, in the sole discretion of the Lender, without notice to or demand on the Guarantor and without in any manner affecting any obligation or liability of the Guarantor under this Guarantee or any security furnished to the Lender by the Guarantor in connection with the Loan Indebtedness and the Loan Obligations or prejudicing or impairing any right of the Lender under this Guarantee, from time to time to:

- (a) adjust, compromise, extend, modify, accelerate, renew or otherwise change the time, form or manner for payment of or any term in respect of the Loan Indebtedness or the Loan Obligations, including, without limitation, increasing or decreasing the rate of interest, changing the method of calculation of interest, extending the term, or altering the periodic payments;
- (b) take any security for payment of the Loan Indebtedness or for performance of the Loan Obligations and enforce, exchange, perfect, release, subordinate, subrogate, substitute, surrender, waive or take advantage of or defer or waive taking, perfecting, enforcing or otherwise taking advantage of any such security and apply such security and direct the manner of sale as the Lender determines in its sole discretion;
- (c) compromise, release, substitute, delay or waive the exercise of any right or remedy against the Mortgagor, the Guarantor or any of the other Covenants liable in respect of the Loan Indebtedness and the Loan Obligations;
- (d) grant any other indulgence to the Mortgagor or any of the other Covenants liable in respect of the Loan Indebtedness and the Loan Obligations and deal with all or any of such persons as the Lender sees fit;
- (e) accept payment of any Loan Indebtedness from the Mortgagor or any of the other Covenants incurred by the Mortgagor or any of the other Covenants after the execution of this Guarantee;
- (f) apply any payment by, recovery from or credit, deposit or offset due to, or any funds realized from any security furnished to the Lender by the Mortgagor, the Guarantor or any of the other Covenants liable in respect of the Loan Indebtedness and the Loan Obligations, to any Indebtedness, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise of the Mortgagor, the Guarantor or any of the other Covenants to the Lender, as the case may be, in such manner and at such times as the Lender in its sole discretion determines;
- (g) otherwise deal with the Mortgagor, the Guarantor or any of the other Covenants or the Loan Indebtedness, the Loan Obligations or any security provided to the Lender by the Mortgagor, the Guarantor or any of the other Covenants as the Lender deems appropriate; and

- (h) impose a lien on or set off any money, security or other property of the Guarantor at any time in the possession of or on deposit with the Lender, whether held in a special account or on deposit or for safekeeping or otherwise, against any payment due from such Guarantor to the Lender under this Guarantee.

3.4 Waiver

Subject to compliance with applicable laws by the Lender, the Guarantor unconditionally waives:

- (a) any right to receive from the Lender any communication with respect to the Loan Indebtedness, the Loan Obligations or any other obligation or liability of the Guarantor under this Guarantee, or of any of the other Covenantors liable in respect of any of the Loan Indebtedness or the Loan Obligations, including, without limitation:
 - (i) any notice of the creation or existence of any Indebtedness, the intention of the Lender to act on or in reliance on any obligation or liability of the Guarantor, whether under this Guarantee or otherwise, or of any of the other Covenantors, or any default by or non-observance of any obligation of the Mortgagor, the Guarantor or any of the other Covenantors;
 - (ii) any communication of any information known by the Lender relating to the financial condition of the Mortgagor or any of the other Covenantors or to any other circumstance bearing upon the risk of non-payment under the Loan Indebtedness or non-performance of any of the Loan Obligations; or
 - (iii) any demand for performance, notice of dishonour, notice of protest, presentment or protest relating to any obligation or liability of the Mortgagor, the Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness or the Loan Obligations;
- (b) any right to require the Lender to:
 - (i) proceed against the Mortgagor, the Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness or the Loan Obligations, including, without limitation, any right or benefit of discussion or division;
 - (ii) proceed against or exhaust any security furnished to the Lender by the Mortgagor, the Guarantor or any of the other Covenantors;
 - (iii) first apply any property or assets of the Mortgagor or any of the other Covenantors to the discharge of the Loan Indebtedness and the Loan Obligations or to marshal in favour of the Guarantor; or
 - (iv) pursue or exercise any other right or remedy of the Lender whatsoever;

- (c) as long as any of the Loan Indebtedness remains unpaid or any of the Loan Obligations have not been performed, any right of subrogation to or any right to enforce any right or remedy of the Lender in respect of the Mortgagor or any of the other Covenantors or any security provided to the Lender by the Mortgagor or any of the other Covenantors or any benefit of or right to participate in any such security; and
- (d) any defence arising out of or in connection with:
 - (i) any absence, impairment or loss of any right of contribution, reimbursement or subrogation or any other right or remedy of the Guarantor in respect of the Mortgagor or any of the other Covenantors;
 - (ii) any disability, incapacity or other defence available to the Mortgagor or any of the other Covenantors liable in respect of the Loan Indebtedness or the Loan Obligations, or any cessation from any cause whatsoever of any obligation or liability of the Mortgagor or any of the other Covenantors in respect of the Loan Indebtedness or the Loan Obligations; or
 - (iii) any other circumstance which might otherwise constitute a defence to any action, suit or other proceeding against the Guarantor, whether under this Guarantee or otherwise.

3.5 Bankruptcy, etc.

In the event of any distribution of any of the assets of the Mortgagor, the Guarantor or any of the other Covenantors, any arrangement, bankruptcy, composition, execution, sale, insolvency, liquidation, receivership, reorganization or other similar proceeding or occurrence, any proceeding for the dissolution, liquidation, winding-up or other cessation of existence of the Mortgagor or any of the other Covenantors, voluntary or involuntary, whether or not involving bankruptcy or insolvency proceedings, any assignment by the Mortgagor or any of the other Covenantors for the benefit of creditors or any other marshalling of any of the assets of any such person:

- (a) no obligation or liability of the Guarantor under this Guarantee will be terminated or in any manner affected and no right of the Lender under this Guarantee will in any manner be prejudiced or impaired by same or by any omission by the Lender to prove its claim or its full claim and the Lender may prove such claim as it sees fit and may refrain from proving any claim and may value or refrain from valuing any security held by the Lender; and
- (b) if any of the Loan Indebtedness is unpaid or if any of the Loan Obligations has not been performed, the Lender has the right to include in any claim made by it all sums paid by the Guarantor, whether under this Guarantee or otherwise, and to prove and rank for and receive dividends in respect of such claim, all right to prove and rank for such sums paid by such Guarantor and to receive the full amount of all dividends in respect thereof, which are hereby assigned and transferred by the Guarantor to the Lender.

ARTICLE 4
SUBORDINATION

4.1 Subordination of Indebtedness

The Guarantor defers, postpones and subordinates in the manner set out in this Article all of the Indebtedness from time to time of the Mortgagor and any of the other Covenantors to the Guarantor, to all of the Loan Indebtedness and the Guarantor assigns and transfers to the Lender every right of the Guarantor relating to the Indebtedness.

4.2 Payment of Indebtedness

Any right of the Guarantor to receive any payment on account of Indebtedness of the Mortgagor and any of the other Covenantors to the Guarantor will be subordinated to any right of the Lender to receive any payment of the Loan Indebtedness and the Guarantor shall not:

- (a) commence any action, take any proceeding, collect or receive any payment upon, by set off or counterclaim or in any other manner, any of the Indebtedness of the Mortgagor and any of the other Covenantors to the Guarantor;
- (b) assign, charge, mortgage, pledge, sell, transfer or otherwise encumber or give a security interest in any of the Indebtedness of the Mortgagor and any of the other Covenantors to the Guarantor;
- (c) enforce or apply any security now or hereafter furnished by the Mortgagor and any of the other Covenantors to the Guarantor; or
- (d) incur any Indebtedness to or receive any loan, advance or gift from the Mortgagor or any of the other Covenantors.

4.3 Payment in Trust

If an Event of Default has occurred which is continuing, and any payment or distribution of assets of the Mortgagor and any of the other Covenantors are made to the Guarantor on account of the Indebtedness to which such Guarantor would be entitled except for this Article 4, such payment or distribution will be received by such Guarantor in trust for the benefit of the Lender, and such Guarantor shall forthwith pay same to the Lender for application to the Loan Indebtedness.

ARTICLE 5
MISCELLANEOUS

5.1 Payments

All payments required to be made by the Guarantor to the Lender under this Guarantee will be made at the address of the Lender set out in Section 5.12 (or at any other place specified

by the Lender by written notice to such Guarantor) in immediately available funds in lawful Canadian currency, without any set off, counter claim or deduction.

5.2 Guarantor to Keep Informed

As long as any of the Loan Indebtedness is unpaid or the Loan Obligations have yet to be performed in full the Guarantor assumes responsibility for keeping itself informed of the financial condition of the Mortgagor and any of the other Covenants and of all other circumstances bearing on the risk it incurs under this Guarantee.

5.3 Lender's Records

The records of the Lender as to the Loan Indebtedness, the Loan Obligations or any failure by the Mortgagor or any of the other Covenants to make full and punctual payment or performance when due are conclusive evidence of the relevant facts without further proof.

5.4 Release

Upon payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations, this Guarantee shall terminate and the Lender shall, upon the receipt of a request in writing from the Guarantor and at the Guarantor's expense, provide such releases and other documents as the Guarantor may reasonably request evidencing the termination of this Guarantee.

5.5 Failure of Indulgence Not Waiver

No extension of time, waiver, or other indulgence given by the Lender to the Guarantor, or anyone claiming under such Guarantor, shall in any way affect or prejudice the rights of the Lender against such Guarantor or any other Covenantor. Each power and right under this Guarantee is cumulative and is in addition to and not in substitution for any other rights and remedies at law, or in equity or otherwise.

5.6 Modification

No modification or waiver of this Guarantee is binding on the Lender unless made in writing and signed by a duly authorized officer of the Lender.

5.7 Entire Agreement

On execution and delivery by the Guarantor, this Guarantee is deemed to be finally executed and delivered by the Guarantor to the Lender and is not subject to or affected by any condition as to the receipt by the Lender of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Lender of any other Loan Documents, nor by any promise or condition affecting the liability of the Guarantor. No agreement, promise, representation or statement by the Lender or any of its officers, employees or agents unless in this Guarantee forms part of this Guarantee, has induced the making of it or affects the liability of the Guarantor and the Mortgagor under it.

5.8 Severability

If any Section or part thereof of this Guarantee is invalid or unenforceable for any reason, then such Section or part thereof will be severable from this Guarantee and will not affect the validity or enforceability of any other part of this Guarantee.

5.9 Non-Merger

The giving of this Guarantee is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default that is continuing, proceedings may be taken under this Guarantee, the Mortgage, or any of the other Security Documents or any one or more of them at the option of the Lender.

5.10 Paramountcy

The provisions of any agreement between the Guarantor and the Lender in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Guarantee except where inconsistent with the provisions hereof. In the case of any inconsistency between this Guarantee and the Mortgage, the provisions of the Mortgage shall prevail.

5.11 Assignability

The Guarantor hereby consents to the Lender assigning, transferring or selling all or any portion of its interest under this Guarantee in connection with the proportionate assignment, transfer or sale of its interest in the Loan Indebtedness and the Loan Obligations. Without limiting the foregoing, the Lender may enter into participation, contending or syndication agreements with other lenders in connection with this Guarantee, the Loan Indebtedness and the Loan Obligations. The Lender may provide information of a financial or other nature to any prospective assignee, transferee, purchaser or other lenders concerning the Guarantor, this Guarantee, the Loan Indebtedness and the Loan Obligations.

5.12 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Guarantee shall be in writing and shall be delivered by personal delivery, prepaid courier service, postage prepaid registered mail or by electronic or digital transmission to the relevant party, addressed:

(a) to the Guarantor:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Guarantor's solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Lender:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered personally or by courier, or transmitted by electronic or digital transmission (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

5.13 Expenses, Fees and Indemnity

The Guarantor will pay to the Lender all costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Lender in connection with the collection of any amount payable under this Guarantee by the Guarantor to the

Lender. The Guarantor shall indemnify the Lender against all claims, loss or damages arising out of or in connection with any breach or default by the Guarantor under this Guarantee.

5.14 Applicable Law

This Guarantee and the rights and obligations of the Guarantor and the Lender under it are governed by and construed according to the laws of the jurisdiction in which the Lands are situate (the "**Province**") and the laws of Canada applicable therein.

5.15 Time of the Essence

Time is of the essence of this Guarantee.

5.16 Execution by the Lender

This Guarantee need not be executed by the Lender to be binding on and to enure to the benefit of the Lender.

5.17 Counterparts

This Guarantee may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document. A signed copy of this Guarantee or a counterpart of it delivered by email, facsimile or other means of electronic or digital transmission or signature is deemed to have the same legal effect as delivery of an original signed copy of this Guarantee.

5.18 Further Assurances

The Guarantor will promptly do all further acts and execute and deliver further documents as may be required to carry out the terms or intent of this Guarantee.

5.19 Successors and Assigns

This Guarantee is binding on and enures to the benefit of the Lender and the Guarantor and their respective executors, administrators, successors and permitted assigns and to any Person to whom the Lender may grant any participation in this Guarantee, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Lender under this Guarantee or any of the Lender's interest herein or in the Loan Indebtedness and the Loan Obligations.

5.20 Multiple Parties


If the Guarantor consists of more than one party, this Agreement will be read with all necessary grammatical changes and each reference to the Guarantor includes each and every such Person or corporation individually. All covenants and agreements herein of the Guarantor are the joint and several covenants and agreements of each such Person or corporation. If the Lender consists of more than one party, this Guarantee will be read with

all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Lender under this Guarantee.

-- signatures follow on next page --

IN WITNESS WHEREOF the Guarantor has executed this Guarantee as of the date and year first written above.

SOUTH SHORE GP II INC., in its capacity
as general partner for and on behalf of **SOUTH
SHORE HOLDINGS II LP**

Per: 
Name: Michael Moldenhauer
Title: Authorized Signing Officer


Per: _____
Name:
Title:

ACCEPTANCE OF SUBORDINATION

The undersigned, for good and valuable consideration (the receipt and sufficiency of which is acknowledged), accepts and consents to the provisions of Article 4 of the Guarantee to which this acceptance is attached and agrees to be bound by its provisions and to recognize all priorities and other rights granted to the Lender and to pay the Lender in accordance therewith.

DATED as of the date of the Guarantee.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

Per: 

Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

LIMITED RECOURSE GUARANTEE

THIS GUARANTEE made as of the ___ day of July, 2022.

B E T W E E N:

SOUTHSHORE 2226 RW GP INC., SOUTHSHORE 2226 RW HOLDINGS LP and 1000237699 ONTARIO INC.

(collectively, the "**Guarantor**")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "**Lender**")

OF THE SECOND PART

WHEREAS 2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP (the "**Mortgagor**"), as mortgagor, has granted a first ranking mortgage (the "**Mortgage**") to and in favour of the Lender, as mortgagee, of the lands charged therein (the "**Lands**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS each Guarantor will benefit from extension of the Loan Indebtedness to the Mortgagor and the Lender has stipulated that the Guarantors enter into this Guarantee as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations;

NOW THEREFORE IN CONSIDERATION of the recitals, the Lender extending the Loan Indebtedness and for such other good and valuable consideration received by the Guarantors, the receipt and adequacy of which is acknowledged by each Guarantor, each Guarantor agrees with the Lender as follows:

ARTICLE 1
DEFINITIONS, INTERPRETATION

1.1 Definitions

In this Guarantee capitalized terms used but not defined herein shall have the meaning ascribed thereto in the Mortgage. Otherwise, in this Guarantee:

- (a) "**Indebtedness**", in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
- (b) "**Loan Indebtedness**" means any Indebtedness from time to time of the Mortgagor and any of the other Covenantors to the Lender arising under any of the Loan Documents; and
- (c) "**Loan Obligations**" means the obligations of the Mortgagor and any of the other Covenantors arising under the Loan Documents.

1.2 Interpretation

For the purposes of this Guarantee, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Guarantee, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Guarantee.

ARTICLE 2 **REPRESENTATIONS AND WARRANTIES**

2.1 Representations and Warranties of Guarantor

Each Guarantor makes the following representations and warranties to the Lender which will continue to be true and correct as long as any Loan Indebtedness remains unpaid:

- (a) each Guarantor is executing and delivering this Guarantee at the sole and exclusive request of the Mortgagor;
- (b) each Guarantor has derived or expects to derive financial and other advantage from the Loan Indebtedness;
- (c) no Guarantor has received or relied on any representation from the Lender or any agreement or undertaking with the Lender or any officer, employee or agent of the Lender, except as expressly set out in this Guarantee;
- (d) the Mortgagor has furnished each Guarantor with all financial and other information and copies of all agreements and documents such Guarantor has requested concerning the Mortgagor, any of the other Covenantors, the Lands, the

Loan Documents, the Loan Indebtedness, the Loan Obligations and the nature and extent of the risk each Guarantor incurs under this Guarantee;

- (e) each Guarantor has established means satisfactory to it of obtaining from the Mortgagor, independently of the Lender, such other information and copies of all agreements and other writings such Guarantor deems desirable concerning the Mortgagor, any of the other Covenantors, the Lands, the Loan Documents, the Loan Indebtedness, the Loan Obligations, the Mortgagor's and any of the other Covenantors' relationship with the Lender and the nature and extent of the risk each Guarantor incurs under this Guarantee;
- (f) each Guarantor:
 - (i) is an entity validly formed and existing under the laws of its jurisdiction of incorporation;
 - (ii) has the legal right and all necessary corporate or other power and authority to own its assets and carry on its business in all material respects;
 - (iii) is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions where it conducts business, except where failure to be so qualified, licensed or registered has not and is not reasonably likely to have a Material Adverse Effect; and
 - (iv) each Guarantor has all requisite power and authority to enter into and perform its obligations under this Guarantee, and to do all acts and things and execute and deliver all other documents and instruments as are required hereunder to be done, observed or performed by it in accordance with the terms hereof;
- (g) the execution and delivery by each Guarantor, and the performance by it of its obligations under, and compliance with the terms, conditions and provisions of, this Guarantee will not conflict with or result in a breach of any of the terms, conditions or provisions of:
 - (i) its articles, by-laws, shareholders' agreements or other organizational documents, as the case may be;
 - (ii) any applicable laws;
 - (iii) any material contracts, material authorizations or material contractual restriction binding on or affecting it or its assets; or
 - (iv) any material judgment, injunction, determination or award which is binding on it in each such case, except to the extent that such breach has not and is not reasonably likely to have a Material Adverse Effect;

- (h) the execution and delivery by each Guarantor of this Guarantee, and the performance by it of its obligations thereunder have been duly authorized by all necessary corporate or other action including, without limitation, the obtaining of all necessary partner, shareholder or other material and relevant consents. No authorization, consent, approval, registration, qualification, designation, declaration or filing with any governmental entity, or other person, is or was necessary in connection with the execution, delivery and performance of each Guarantor's obligations under this Guarantee to which it is a party, except where failure to obtain same would not have or be reasonably likely to have a Material Adverse Effect; and
- (i) this Guarantee has been duly executed and delivered, as the case may be, by each Guarantor, and constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms (except as such enforceability may be limited by the availability of equitable remedies and the effect of bankruptcy, insolvency or similar laws affecting the enforcement of credit's rights generally), is (or will be immediately upon the execution thereof by such person) in full force and effect, and each Guarantor has performed and complied in all material respects with all the terms, provisions, agreements and conditions set forth herein and therein and required to be performed or complied with by each Guarantor.

ARTICLE 3 **COVENANTS**

3.1 Covenants

Each Guarantor unconditionally, absolutely and irrevocably covenants and agrees with the Lender:

- (a) in addition to and separate and distinct from its agreements in Subsections 3.1(b) and 3.1(c), to guarantee to the Lender the repayment by the Mortgagor and any of the other Covenantors of the Loan Indebtedness and to guarantee to the Lender the punctual performance of the Loan Obligations;
- (b) in addition to and separate and distinct from its agreements in Subsections 3.1(a) and 3.1(c), to indemnify and save harmless the Lender from and against all loss, damage, expenses, costs and liability whatsoever which shall arise from or be caused by the default or breach by the Mortgagor and any of the other Covenantors with respect to the repayment of the Loan Indebtedness and the performance of the Loan Obligations;
- (c) in addition to and separate and distinct from its agreements in Subsections 3.1(a) and 3.1(b), as primary obligor and not as guarantor, to repay the Loan Indebtedness and to perform the Loan Obligations; and
- (d) that it will not accept from the Mortgagor at any time prior to the repayment in full of all Loan Indebtedness; (i) the repayment of any loans (principal or interest) to, (ii) the redeeming or purchase of any of shares, units or partnership interests held

by or on behalf of, (iii) the payment of any compensation, fee or other amount to, or (iv) the payment of any distributions or dividends or return on partnership or shareholder investment to, in each case, any Guarantor or any shareholder, unitholder or partner of such Guarantor or any other person not at arms-length to any of the foregoing.

3.2 Nature of Obligations of the Guarantor

Each Guarantor covenants and agrees with the Lender that:

- (a) except as expressly set out in this Guarantee the obligations and liabilities of each Guarantor under this Guarantee will be irrevocable and as long as any of the Loan Indebtedness remains unpaid, will continue and be of full force and effect and will not be terminated or in any manner affected, and no right of the Lender under this Guarantee will in any manner be prejudiced or impaired by:
 - (i) the dissolution, winding-up or other cessation of existence of the Mortgagor or any of the other Covenantors or the institution of any proceeding relating thereto, any continuance, reorganization or change in the business, directors, management, objects, organization or shareholders of the Mortgagor or any of the other Covenantors, the amalgamation of the Mortgagor or any of the other Covenantors with another corporation, the sale or disposal of or appointment of a liquidator, receiver, receiver-manager, receiver and manager or trustee in respect of any of the assets or undertaking of the Mortgagor or any of the other Covenantors, any distribution of the assets of the Mortgagor or any of the other Covenantors on any arrangement, bankruptcy, composition insolvency, liquidation, receivership, reorganization or other similar proceeding or occurrence, any assignment by the Mortgagor or any of the other Covenantors for the benefit of creditors, any other marshalling of any of the assets of the Mortgagor or any of the other Covenantors or any other act or event which constitutes a novation of any obligation or liability of the Mortgagor or any of the other Covenantors in respect of the Loan Indebtedness and the Loan Obligations, whether by substitution of the obligations or liabilities of any other person in place of those of the Mortgagor or any of the other Covenantors or otherwise;
 - (ii) any obligation or liability of the Mortgagor or any of the other Covenantors, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise, any Guarantor, whether under this Guarantee or otherwise or any agreement or instrument evidencing any such obligation or liability at any time being unenforceable;
 - (iii) any defect in, omission from, failure to file or register, or defective filing or registration of any document under which the Lender has taken security for payment of the Loan Indebtedness or for performance of the Loan Obligations, or any failure or loss in respect of any such security of the

Lender, whether arising in connection with the fault of the Lender or otherwise;

- (iv) any issue or levy by any administrative, government, judicial or other authority or arbitrator of any award, execution, injunction, judgment, order, attachment, writ or similar process against the Mortgagor or any of the other Covenantors, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise;
 - (v) any occurrence or non-occurrence of any other act or event which would result in termination, discharge, limitation, merger, novation, reduction or release of any Guarantor or of any of its obligations or liabilities under this Guarantee or which would otherwise prejudice or impair any right of the Lender under this Guarantee; or
 - (vi) any sale, transfer, agreement to sell or other disposition of the Lands by the Mortgagor;
- (b) the obligations and liabilities of each Guarantor under this Guarantee are absolute and independent of and not in consideration of or conditional on any other obligation or liability of any Guarantor, the Mortgagor or any of the other Covenantors, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise, or any prior notice or protest to, demand upon or action, suit or other proceeding against the Mortgagor or any of the other Covenantors. The Lender may bring or prosecute a separate action, suit or other proceeding against any Guarantor whether it is brought or prosecuted against the Mortgagor or any of the other Covenantors or whether the Mortgagor or any of the other Covenantors is joined;
- (c) this Guarantee will be binding in respect of any modification or renewal of the Loan Indebtedness or the Loan Obligations by the Mortgagor, any of the other Covenantors or any subsequent owner of the Lands, whether or not each Guarantor has consented to same and whether or not such modification or renewal constitutes an adverse or material alteration of such Guarantor's obligations under this Guarantee; and
- (d) any part payment by the Mortgagor and/or any of the other Covenantors of any of the Loan Indebtedness or part performance of any of the Loan Obligations that operates to extend any statute of limitations or law of prescription as to the Mortgagor and/or any of the other Covenantors will operate to extend such statute of limitations or law of prescription as to each Guarantor to the extent permitted by applicable law.

3.3 Recourse

It is a condition of this Guarantee, and the Lender hereby agrees that, notwithstanding any other provision of this Guarantee, the Lender's recourse against the Guarantors and the liability of the Guarantors for any indebtedness, liability or obligation to the Lender under this Guarantee shall be limited to the Lender's rights under the pledge agreement dated as

of the date hereof granted by the Guarantors to and in favour of the Lender, in and to the Secured Property (as defined therein), and the Lender shall have no claim against any Guarantor in respect of any deficiency or be entitled to seek recourse against any other asset or property of such Guarantor, provided however nothing herein shall limit the Lender's recourse against the interest of the Guarantors in and to the Pledged Interests as this term is defined in the pledge agreement entered into among the Lender and the Guarantors on the date of this Guarantee.

3.4 Authorizations

Each Guarantor authorizes the Lender, in the sole discretion of the Lender, without notice to or demand on the Guarantors and without in any manner affecting any obligation or liability of any Guarantor under this Guarantee or any security furnished to the Lender by any Guarantor in connection with the Loan Indebtedness and the Loan Obligations or prejudicing or impairing any right of the Lender under this Guarantee, from time to time to:

- (a) adjust, compromise, extend, modify, accelerate, renew or otherwise change the time, form or manner for payment of or any term in respect of the Loan Indebtedness or the Loan Obligations, including, without limitation, increasing or decreasing the rate of interest, changing the method of calculation of interest, extending the term, or altering the periodic payments;
- (b) take any security for payment of the Loan Indebtedness or for performance of the Loan Obligations and enforce, exchange, perfect, release, subordinate, subrogate, substitute, surrender, waive or take advantage of or defer or waive taking, perfecting, enforcing or otherwise taking advantage of any such security and apply such security and direct the manner of sale as the Lender determines in its sole discretion;
- (c) compromise, release, substitute, delay or waive the exercise of any right or remedy against the Mortgagor, any Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness and the Loan Obligations;
- (d) grant any other indulgence to the Mortgagor or any of the other Covenantors liable in respect of the Loan Indebtedness and the Loan Obligations and deal with all or any of such persons as the Lender sees fit;
- (e) accept payment of any Loan Indebtedness from the Mortgagor or any of the other Covenantors incurred by the Mortgagor or any of the other Covenantors after the execution of this Guarantee;
- (f) apply any payment by, recovery from or credit, deposit or offset due to, or any funds realized from any security furnished to the Lender by the Mortgagor, any Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness and the Loan Obligations, to any Indebtedness, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise of the Mortgagor, any

Guarantor or any of the other Covenantors to the Lender, as the case may be, in such manner and at such times as the Lender in its sole discretion determines;

- (g) otherwise deal with the Mortgagor, any Guarantor or any of the other Covenantors or the Loan Indebtedness, the Loan Obligations or any security provided to the Lender by the Mortgagor, any Guarantor or any of the other Covenantors as the Lender deems appropriate; and
- (h) impose a lien on or set off any money, security or other property of any Guarantor at any time in the possession of or on deposit with the Lender, whether held in a special account or on deposit or for safekeeping or otherwise, against any payment due from such Guarantor to the Lender under this Guarantee.

3.5 Waiver

Subject to compliance with applicable laws by the Lender, each Guarantor unconditionally waives:

- (a) any right to receive from the Lender any communication with respect to the Loan Indebtedness, the Loan Obligations or any other obligation or liability of any Guarantor under this Guarantee, or of any of the other Covenantors liable in respect of any of the Loan Indebtedness or the Loan Obligations, including, without limitation:
 - (i) any notice of the creation or existence of any Indebtedness, the intention of the Lender to act on or in reliance on any obligation or liability of the Guarantor, whether under this Guarantee or otherwise, or of any of the other Covenantors, or any default by or non-observance of any obligation of the Mortgagor, any Guarantor or any of the other Covenantors;
 - (ii) any communication of any information known by the Lender relating to the financial condition of the Mortgagor or any of the other Covenantors or to any other circumstance bearing upon the risk of non-payment under the Loan Indebtedness or non-performance of any of the Loan Obligations; or
 - (iii) any demand for performance, notice of dishonour, notice of protest, presentment or protest relating to any obligation or liability of the Mortgagor, any Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness or the Loan Obligations;
- (b) any right to require the Lender to:
 - (i) proceed against the Mortgagor, any Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness or the Loan Obligations, including, without limitation, any right or benefit of discussion or division;

- (ii) proceed against or exhaust any security furnished to the Lender by the Mortgagor, any Guarantor or any of the other Covenantors;
 - (iii) first apply any property or assets of the Mortgagor or any of the other Covenantors to the discharge of the Loan Indebtedness and the Loan Obligations or to marshal in favour of any Guarantor; or
 - (iv) pursue or exercise any other right or remedy of the Lender whatsoever;
- (c) as long as any of the Loan Indebtedness remains unpaid or any of the Loan Obligations have not been performed, any right of subrogation to or any right to enforce any right or remedy of the Lender in respect of the Mortgagor or any of the other Covenantors or any security provided to the Lender by the Mortgagor or any of the other Covenantors or any benefit of or right to participate in any such security; and
- (d) any defence arising out of or in connection with:
- (i) any absence, impairment or loss of any right of contribution, reimbursement or subrogation or any other right or remedy of any Guarantor in respect of the Mortgagor or any of the other Covenantors;
 - (ii) any disability, incapacity or other defence available to the Mortgagor or any of the other Covenantors liable in respect of the Loan Indebtedness or the Loan Obligations, or any cessation from any cause whatsoever of any obligation or liability of the Mortgagor or any of the other Covenantors in respect of the Loan Indebtedness or the Loan Obligations; or
 - (iii) any other circumstance which might otherwise constitute a defence to any action, suit or other proceeding against any Guarantor, whether under this Guarantee or otherwise.

3.6 Bankruptcy, etc.

In the event of any distribution of any of the assets of the Mortgagor, any Guarantor or any of the other Covenantors, any arrangement, bankruptcy, composition, execution, sale, insolvency, liquidation, receivership, reorganization or other similar proceeding or occurrence, any proceeding for the dissolution, liquidation, winding-up or other cessation of existence of the Mortgagor or any of the other Covenantors, voluntary or involuntary, whether or not involving bankruptcy or insolvency proceedings, any assignment by the Mortgagor or any of the other Covenantors for the benefit of creditors or any other marshalling of any of the assets of any such person:

- (a) no obligation or liability of any Guarantor under this Guarantee will be terminated or in any manner affected and no right of the Lender under this Guarantee will in any manner be prejudiced or impaired by same or by any omission by the Lender to prove its claim or its full claim and the Lender may prove such claim as it sees

fit and may refrain from proving any claim and may value or refrain from valuing any security held by the Lender; and

- (b) if any of the Loan Indebtedness is unpaid or if any of the Loan Obligations has not been performed, the Lender has the right to include in any claim made by it all sums paid by any Guarantor, whether under this Guarantee or otherwise, and to prove and rank for and receive dividends in respect of such claim, all right to prove and rank for such sums paid by such Guarantor and to receive the full amount of all dividends in respect thereof, which are hereby assigned and transferred by each Guarantor to the Lender.

ARTICLE 4

SUBORDINATION

4.1 Subordination of Indebtedness

Each Guarantor defers, postpones and subordinates in the manner set out in this Article all of the Indebtedness from time to time of the Mortgagor and any of the other Covenantors to such Guarantor, to all of the Loan Indebtedness and each Guarantor assigns and transfers to the Lender every right of such Guarantor relating to the Indebtedness.

4.2 Payment of Indebtedness

Any right of any Guarantor to receive any payment on account of Indebtedness of the Mortgagor and any of the other Covenantors to any Guarantor will be subordinated to any right of the Lender to receive any payment of the Loan Indebtedness and no Guarantor shall:

- (a) commence any action, take any proceeding, collect or receive any payment upon, by set off or counterclaim or in any other manner, any of the Indebtedness of the Mortgagor and any of the other Covenantors to any Guarantor;
- (b) assign, charge, mortgage, pledge, sell, transfer or otherwise encumber or give a security interest in any of the Indebtedness of the Mortgagor and any of the other Covenantors to any Guarantor;
- (c) enforce or apply any security now or hereafter furnished by the Mortgagor and any of the other Covenantors to any Guarantor; or
- (d) incur any Indebtedness to or receive any loan, advance or gift from the Mortgagor or any of the other Covenantors.

4.3 Payment in Trust

If an Event of Default has occurred which is continuing, and any payment or distribution of assets of the Mortgagor and any of the other Covenantors are made to any Guarantor on account of the Indebtedness to which such Guarantor would be entitled except for this Article 4, such payment or distribution will be received by such Guarantor in trust for the

benefit of the Lender, and such Guarantor shall forthwith pay same to the Lender for application to the Loan Indebtedness.

ARTICLE 5 **MISCELLANEOUS**

5.1 Payments

All payments required to be made by any Guarantor to the Lender under this Guarantee will be made at the address of the Lender set out in Section 5.12 (or at any other place specified by the Lender by written notice to the Guarantors) in immediately available funds in lawful Canadian currency, without any set off, counter claim or deduction.

5.2 Guarantor to Keep Informed

As long as any of the Loan Indebtedness is unpaid or the Loan Obligations have yet to be performed in full each Guarantor assumes responsibility for keeping itself informed of the financial condition of the Mortgagor and any of the other Covenants and of all other circumstances bearing on the risk it incurs under this Guarantee.

5.3 Lender's Records

The records of the Lender as to the Loan Indebtedness, the Loan Obligations or any failure by the Mortgagor or any of the other Covenants to make full and punctual payment or performance when due are conclusive evidence of the relevant facts without further proof.

5.4 Release

Upon payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations, this Guarantee shall terminate and the Lender shall, upon the receipt of a request in writing from the Guarantors and at each Guarantor's expense, provide such releases and other documents as the Guarantors may reasonably request evidencing the termination of this Guarantee.

5.5 Failure of Indulgence Not Waiver

No extension of time, waiver, or other indulgence given by the Lender to any Guarantor, or anyone claiming under such Guarantor, shall in any way affect or prejudice the rights of the Lender against such Guarantor or any other Covenantor. Each power and right under this Guarantee is cumulative and is in addition to and not in substitution for any other rights and remedies at law, or in equity or otherwise.

5.6 Modification

No modification or waiver of this Guarantee is binding on the Lender unless made in writing and signed by a duly authorized officer of the Lender.

5.7 Entire Agreement

On execution and delivery by each Guarantor, this Guarantee is deemed to be finally executed and delivered by each Guarantor to the Lender and is not subject to or affected by any condition as to the receipt by the Lender of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Lender of any other Loan Documents, nor by any promise or condition affecting the liability of any Guarantor. No agreement, promise, representation or statement by the Lender or any of its officers, employees or agents unless in this Guarantee forms part of this Guarantee, has induced the making of it or affects the liability of any Guarantor and the Mortgagor under it.

5.8 Severability

If any Section or part thereof of this Guarantee is invalid or unenforceable for any reason, then such Section or part thereof will be severable from this Guarantee and will not affect the validity or enforceability of any other part of this Guarantee.

5.9 Non-Merger

The giving of this Guarantee is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default that is continuing, proceedings may be taken under this Guarantee, the Mortgage, or any of the other Security Documents or any one or more of them at the option of the Lender.

5.10 Paramountcy

The provisions of any agreement between any Guarantor and the Lender in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Guarantee except where inconsistent with the provisions hereof. In the case of any inconsistency between this Guarantee and the Mortgage, the provisions of the Mortgage shall prevail.

5.11 Assignability

Each Guarantor hereby consents to the Lender assigning, transferring or selling all or any portion of its interest under this Guarantee in connection with the proportionate assignment, transfer or sale of its interest in the Loan Indebtedness and the Loan Obligations. Without limiting the foregoing, the Lender may enter into participation, contending or syndication agreements with other lenders in connection with this Guarantee, the Loan Indebtedness and the Loan Obligations. The Lender may provide information of a financial or other nature to any prospective assignee, transferee, purchaser or other lenders concerning any Guarantor, this Guarantee, the Loan Indebtedness and the Loan Obligations.

5.12 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Guarantee shall be in writing and shall be delivered by personal delivery, prepaid courier service, postage prepaid registered mail or by electronic or digital transmission to the relevant party, addressed:

(a) to the Guarantors:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Guarantors' solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Lender:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered personally or by courier, or transmitted by electronic or digital transmission (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as

aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

5.13 Expenses, Fees and Indemnity

Each Guarantor will pay to the Lender all costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Lender in connection with the collection of any amount payable under this Guarantee by any Guarantor to the Lender. Each Guarantor shall indemnify the Lender against all claims, loss or damages arising out of or in connection with any breach or default by any Guarantor under this Guarantee.

5.14 Applicable Law

This Guarantee and the rights and obligations of the Guarantors and the Lender under it are governed by and construed according to the laws of the jurisdiction in which the Lands are situate and the laws of Canada applicable therein.

5.15 Time of the Essence

Time is of the essence of this Guarantee.

5.16 Execution by the Lender

This Guarantee need not be executed by the Lender to be binding on and to enure to the benefit of the Lender.

5.17 Counterparts

This Guarantee may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document. A signed copy of this Guarantee or a counterpart of it delivered by email, facsimile or other means of electronic or digital transmission or signature is deemed to have the same legal effect as delivery of an original signed copy of this Guarantee.

5.18 Further Assurances

Each Guarantor will promptly do all further acts and execute and deliver further documents as may be required to carry out the terms or intent of this Guarantee.

5.19 Successors and Assigns

This Guarantee is binding on and enures to the benefit of the Lender and the Guarantors and their respective executors, administrators, successors and permitted assigns and to any Person to whom the Lender may grant any participation in this Guarantee, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Lender under this Guarantee or any of the Lender's interest herein or in the Loan Indebtedness and the Loan Obligations.

5.20 Multiple Parties

This Guarantee will be read with all necessary grammatical changes and each reference to the Guarantors includes each and every such Person. All covenants and agreements herein of the Guarantors are the joint and several covenants and agreements of each such Person. If the Lender consists of more than one party, this Guarantee will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Lender under this Guarantee.

-- signatures follow on next page --


IN WITNESS WHEREOF each Guarantor has executed this Guarantee as of the date and year first written above.

SOUTHSHORE 2226 RW GP INC.

Per: 
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

SOUTHSHORE 2226 RW GP INC., in its capacity as general partner for and on behalf of SOUTHSHORE 2226 RW HOLDINGS LP

Per: 
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

1000237699 ONTARIO INC.

Per: 
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

ACCEPTANCE OF SUBORDINATION

The undersigned, for good and valuable consideration (the receipt and sufficiency of which is acknowledged), accepts and consents to the provisions of Article 4 of the Guarantee to which this acceptance is attached and agrees to be bound by its provisions and to recognize all priorities and other rights granted to the Lender and to pay the Lender in accordance therewith.

DATED as of the date of the Guarantee.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

Per: 

Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

LIMITED RECOURSE GUARANTEE

THIS GUARANTEE made as of the 8th day of July, 2022.

B E T W E E N:

688 SOUTHDOWN GP INC., in its capacity as general partner for and on behalf of **688 SOUTHDOWN LP**

(the "**Guarantor**")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "**Lender**")

OF THE SECOND PART

WHEREAS 2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP (the "**Mortgagor**"), as mortgagor, has granted a first ranking mortgage (the "**Mortgage**") to and in favour of the Lender, as mortgagee, of the lands charged therein (the "**Lands**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS the Guarantor will benefit from extension of the Loan Indebtedness to the Mortgagor and the Lender has stipulated that the Guarantor enter into this Guarantee as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations,

NOW THEREFORE IN CONSIDERATION of the recitals, the Lender extending the Loan Indebtedness and for such other good and valuable consideration received by the Guarantor, the receipt and adequacy of which is acknowledged by the Guarantor, the Guarantor agrees with the Lender as follows:

ARTICLE 1
DEFINITIONS, INTERPRETATION

1.1 Definitions

In this Guarantee capitalized terms used but not defined herein shall have the meaning ascribed thereto in the Mortgage. Otherwise, in this Guarantee:

- (a) **"Indebtedness"**, in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
- (b) **"Loan Indebtedness"** means any Indebtedness from time to time of the Mortgagor and any of the other Covenantors to the Lender arising under any of the Loan Documents; and
- (c) **"Loan Obligations"** means the obligations of the Mortgagor and any of the other Covenantors arising under the Loan Documents.

1.2 Interpretation

For the purposes of this Guarantee, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Guarantee, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Guarantee.

ARTICLE 2 **REPRESENTATIONS AND WARRANTIES**

2.1 Representations and Warranties of the Guarantor

The Guarantor makes the following representations and warranties to the Lender which will continue to be true and correct as long as any Loan Indebtedness remains unpaid:

- (a) the Guarantor is executing and delivering this Guarantee at the sole and exclusive request of the Mortgagor;
- (b) the Guarantor has derived or expects to derive financial and other advantage from the Loan Indebtedness;
- (c) the Guarantor has not received or relied on any representation from the Lender or any agreement or undertaking with the Lender or any officer, employee or agent of the Lender, except as expressly set out in this Guarantee;
- (d) the Mortgagor has furnished the Guarantor with all financial and other information and copies of all agreements and documents the Guarantor has requested concerning the Mortgagor, any of the other Covenantors, the Lands, the Loan

Documents, the Loan Indebtedness, the Loan Obligations and the nature and extent of the risk the Guarantor incurs under this Guarantee;

- (e) the Guarantor has established means satisfactory to it of obtaining from the Mortgagor, independently of the Lender, such other information and copies of all agreements and other writings the Guarantor deems desirable concerning the Mortgagor, any of the other Covenantors, the Lands, the Loan Documents, the Loan Indebtedness, the Loan Obligations, the Mortgagor's and any of the other Covenantors' relationship with the Lender and the nature and extent of the risk the Guarantor incurs under this Guarantee;
- (f) the Guarantor:
 - (i) is an entity validly formed and existing under the laws of its jurisdiction of incorporation;
 - (ii) has the legal right and all necessary corporate or other power and authority to own its assets and carry on its business in all material respects;
 - (iii) is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions where it conducts business, except where failure to be so qualified, licensed or registered has not and is not reasonably likely to have a Material Adverse Effect; and
 - (iv) the Guarantor has all requisite power and authority to enter into and perform its obligations under this Guarantee, and to do all acts and things and execute and deliver all other documents and instruments as are required hereunder to be done, observed or performed by it in accordance with the terms hereof;
- (g) the execution and delivery by the Guarantor, and the performance by it of its obligations under, and compliance with the terms, conditions and provisions of, this Guarantee will not conflict with or result in a breach of any of the terms, conditions or provisions of:
 - (i) its articles, by-laws, shareholders' agreements or other organizational documents; as the case may be;
 - (ii) any applicable laws;
 - (iii) any material contracts, material authorizations or material contractual restriction binding on or affecting it or its assets; or
 - (iv) any material judgment, injunction, determination or award which is binding on it in each such case, except to the extent that such breach has not and is not reasonably likely to have a Material Adverse Effect;

- (h) the execution and delivery by the Guarantor of this Guarantee, and the performance by it of its obligations thereunder have been duly authorized by all necessary corporate or other action including, without limitation, the obtaining of all necessary partner, shareholder or other material and relevant consents. No authorization, consent, approval, registration, qualification, designation, declaration or filing with any governmental entity, or other person, is or was necessary in connection with the execution, delivery and performance of the Guarantor's obligations under this Guarantee to which it is a party, except where failure to obtain same would not have or be reasonably likely to have a Material Adverse Effect; and
- (i) this Guarantee has been duly executed and delivered, as the case may be, by the Guarantor, and constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms (except as such enforceability may be limited by the availability of equitable remedies and the effect of bankruptcy, insolvency or similar laws affecting the enforcement of credit's rights generally), is (or will be immediately upon the execution thereof by such person) in full force and effect, and the Guarantor has performed and complied in all material respects with all the terms, provisions, agreements and conditions set forth herein and therein and required to be performed or complied with by the Guarantor.

ARTICLE 3 **COVENANTS**

3.1 Covenants

The Guarantor unconditionally, absolutely and irrevocably covenants and agrees with the Lender:

- (a) in addition to and separate and distinct from its agreements in Subsections 3.1(b) and 3.1(c), to guarantee to the Lender the repayment by the Mortgagor and any Covenantors of the Loan Indebtedness and to guarantee to the Lender the punctual performance of the Loan Obligations;
- (b) in addition to and separate and distinct from its agreements in Subsections 3.1(a) and 3.1(c), to indemnify and save harmless the Lender from and against all loss, damage, expenses, costs and liability whatsoever which shall arise from or be caused by the default or breach by the Mortgagor and any of the other Covenantors with respect to the repayment of the Loan Indebtedness and the performance of the Loan Obligations;
- (c) in addition to and separate and distinct from its agreements in Subsections 3.1(a) and 3.1(b), as primary obligor and not as guarantor, to repay the Loan Indebtedness and to perform the Loan Obligations;
- (d) that it will not accept from the Mortgagor at any time prior to the repayment in full of all Loan Indebtedness; (i) the repayment of any loans (principal or interest) to, (ii) the redeeming or purchase of any of shares, units or partnership interests held

by or on behalf of, (iii) the payment of any compensation, fee or other amount to, or (iv) the payment of any distributions or dividends or return on partnership or shareholder investment to, in each case, the Guarantor or any shareholder, unitholder or partner of the Guarantor; and

- (e) that it will not compensate any person who is a sponsor of the Property, including without limitation any of the other Guarantor, or any other non-arms length parties at any time prior to the repayment in full of all Loan Indebtedness.

3.2 Nature of Obligations of the Guarantor

The Guarantor covenants and agrees with the Lender that:

- (a) except as expressly set out in this Guarantee the obligations and liabilities of the Guarantor under this Guarantee will be irrevocable and as long as any of the Loan Indebtedness remains unpaid, will continue and be of full force and effect and will not be terminated or in any manner affected, and no right of the Lender under this Guarantee will in any manner be prejudiced or impaired by:
 - (i) the dissolution, winding-up or other cessation of existence of the Mortgagor or any of the other Covenantors or the institution of any proceeding relating thereto, any continuance, reorganization or change in the business, directors, management, objects, organization or shareholders of the Mortgagor or any of the other Covenantors, the amalgamation of the Mortgagor or any of the other Covenantors with another corporation, the sale or disposal of or appointment of a liquidator, receiver, receiver-manager, receiver and manager or trustee in respect of any of the assets or undertaking of the Mortgagor or any of the other Covenantors, any distribution of the assets of the Mortgagor or any of the other Covenantors on any arrangement, bankruptcy, composition insolvency, liquidation, receivership, reorganization or other similar proceeding or occurrence, any assignment by the Mortgagor or any of the other Covenantors for the benefit of creditors, any other marshalling of any of the assets of the Mortgagor or any of the other Covenantors or any other act or event which constitutes a novation of any obligation or liability of the Mortgagor or any of the other Covenantors in respect of the Loan Indebtedness and the Loan Obligations, whether by substitution of the obligations or liabilities of any other person in place of those of the Mortgagor or any of the other Covenantors or otherwise;
 - (ii) any obligation or liability of the Mortgagor or any of the other Covenantors, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise, the Guarantor, whether under this Guarantee or otherwise or any agreement or instrument evidencing any such obligation or liability at any time being unenforceable;

- (iii) any defect in, omission from, failure to file or register, or defective filing or registration of any document under which the Lender has taken security for payment of the Loan Indebtedness or for performance of the Loan Obligations, or any failure or loss in respect of any such security of the Lender, whether arising in connection with the fault of the Lender or otherwise;
 - (iv) any issue or levy by any administrative, government, judicial or other authority or arbitrator of any award, execution, injunction, judgment, order, attachment, writ or similar process against the Mortgagor or any of the other Covenantors, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise;
 - (v) any occurrence or non-occurrence of any other act or event which would result in termination, discharge, limitation, merger, novation, reduction or release of the Guarantor or of any of its obligations or liabilities under this Guarantee or which would otherwise prejudice or impair any right of the Lender under this Guarantee; or
 - (vi) any sale, transfer, agreement to sell or other disposition of the Lands by the Mortgagor;
- (b) the obligations and liabilities of the Guarantor under this Guarantee are absolute and independent of and not in consideration of or conditional on any other obligation or liability of the Guarantor, the Mortgagor or any of the other Covenantors, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise, or any prior notice or protest to, demand upon or action, suit or other proceeding against the Mortgagor or any of the other Covenantors. The Lender may bring or prosecute a separate action, suit or other proceeding against the Guarantor whether it is brought or prosecuted against the Mortgagor or any of the other Covenantors or whether the Mortgagor or any of the other Covenantors is joined;
- (c) this Guarantee will be binding in respect of any modification or renewal of the Loan Indebtedness or the Loan Obligations by the Mortgagor, any of the other Covenantors or any subsequent owner of the Lands, whether or not the Guarantor has consented to same and whether or not such modification or renewal constitutes an adverse or material alteration of the Guarantor's obligations under this Guarantee; and
- (d) any part payment by the Mortgagor and/or any of the other Covenantors of any of the Loan Indebtedness or part performance of any of the Loan Obligations that operates to extend any statute of limitations or law of prescription as to the Mortgagor and/or any of the other Covenantors will operate to extend such statute of limitations or law of prescription as to the Guarantor to the extent permitted by applicable law.

3.3 Recourse

It is a condition of this Guarantee, and the Lender hereby agrees that, notwithstanding any other provision of this Guarantee, the Lender's recourse against the Guarantor and the liability of the Guarantor for any indebtedness, liability or obligation to the Lender under this Guarantee shall be limited to the Guarantor's interest in the Southdown Lands notwithstanding that the amount of the Loan Indebtedness may exceed such amount.

3.4 Authorizations

The Guarantor authorizes the Lender, in the sole discretion of the Lender, without notice to or demand on the Guarantor and without in any manner affecting any obligation or liability of the Guarantor under this Guarantee or any security furnished to the Lender by the Guarantor in connection with the Loan Indebtedness and the Loan Obligations or prejudicing or impairing any right of the Lender under this Guarantee, from time to time to:

- (a) adjust, compromise, extend, modify, accelerate, renew or otherwise change the time, form or manner for payment of or any term in respect of the Loan Indebtedness or the Loan Obligations, including, without limitation, increasing or decreasing the rate of interest, changing the method of calculation of interest, extending the term, or altering the periodic payments;
- (b) take any security for payment of the Loan Indebtedness or for performance of the Loan Obligations and enforce, exchange, perfect, release, subordinate, subrogate, substitute, surrender, waive or take advantage of or defer or waive taking, perfecting, enforcing or otherwise taking advantage of any such security and apply such security and direct the manner of sale as the Lender determines in its sole discretion;
- (c) compromise, release, substitute, delay or waive the exercise of any right or remedy against the Mortgagor, the Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness and the Loan Obligations;
- (d) grant any other indulgence to the Mortgagor or any of the other Covenantors liable in respect of the Loan Indebtedness and the Loan Obligations and deal with all or any of such persons as the Lender sees fit;
- (e) accept payment of any Loan Indebtedness from the Mortgagor or any of the other Covenantors incurred by the Mortgagor or any of the other Covenantors after the execution of this Guarantee;
- (f) apply any payment by, recovery from or credit, deposit or offset due to, or any funds realized from any security furnished to the Lender by the Mortgagor, the Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness and the Loan Obligations, to any Indebtedness, whether in respect of the Loan Indebtedness, the Loan Obligations or otherwise of the Mortgagor, the

Guarantor or any of the other Covenantors to the Lender, as the case may be, in such manner and at such times as the Lender in its sole discretion determines;

- (g) otherwise deal with the Mortgagor, the Guarantor or any of the other Covenantors or the Loan Indebtedness, the Loan Obligations or any security provided to the Lender by the Mortgagor, the Guarantor or any of the other Covenantors as the Lender deems appropriate; and
- (h) impose a lien on or set off any money, security or other property of the Guarantor at any time in the possession of or on deposit with the Lender, whether held in a special account or on deposit or for safekeeping or otherwise, against any payment due from such Guarantor to the Lender under this Guarantee.

3.5 Waiver

Subject to compliance with applicable laws by the Lender, the Guarantor unconditionally waives:

- (a) any right to receive from the Lender any communication with respect to the Loan Indebtedness, the Loan Obligations or any other obligation or liability of the Guarantor under this Guarantee, or of any of the other Covenantors liable in respect of any of the Loan Indebtedness or the Loan Obligations, including, without limitation:
 - (i) any notice of the creation or existence of any Indebtedness, the intention of the Lender to act on or in reliance on any obligation or liability of the Guarantor, whether under this Guarantee or otherwise, or of any of the other Covenantors, or any default by or non-observance of any obligation of the Mortgagor, the Guarantor or any of the other Covenantors;
 - (ii) any communication of any information known by the Lender relating to the financial condition of the Mortgagor or any of the other Covenantors or to any other circumstance bearing upon the risk of non-payment under the Loan Indebtedness or non-performance of any of the Loan Obligations; or
 - (iii) any demand for performance, notice of dishonour, notice of protest, presentment or protest relating to any obligation or liability of the Mortgagor, the Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness or the Loan Obligations;
- (b) any right to require the Lender to:
 - (i) proceed against the Mortgagor, the Guarantor or any of the other Covenantors liable in respect of the Loan Indebtedness or the Loan Obligations, including, without limitation, any right or benefit of discussion or division;

- (ii) proceed against or exhaust any security furnished to the Lender by the Mortgagor, the Guarantor or any of the other Covenantors;
 - (iii) first apply any property or assets of the Mortgagor or any of the other Covenantors to the discharge of the Loan Indebtedness and the Loan Obligations or to marshal in favour of the Guarantor; or
 - (iv) pursue or exercise any other right or remedy of the Lender whatsoever;
- (c) as long as any of the Loan Indebtedness remains unpaid or any of the Loan Obligations have not been performed, any right of subrogation to or any right to enforce any right or remedy of the Lender in respect of the Mortgagor or any of the other Covenantors or any security provided to the Lender by the Mortgagor or any of the other Covenantors or any benefit of or right to participate in any such security; and
- (d) any defence arising out of or in connection with:
- (i) any absence, impairment or loss of any right of contribution, reimbursement or subrogation or any other right or remedy of the Guarantor in respect of the Mortgagor or any of the other Covenantors;
 - (ii) any disability, incapacity or other defence available to the Mortgagor or any of the other Covenantors liable in respect of the Loan Indebtedness or the Loan Obligations, or any cessation from any cause whatsoever of any obligation or liability of the Mortgagor or any of the other Covenantors in respect of the Loan Indebtedness or the Loan Obligations; or
 - (iii) any other circumstance which might otherwise constitute a defence to any action, suit or other proceeding against the Guarantor, whether under this Guarantee or otherwise.

3.6 Bankruptcy, etc.

In the event of any distribution of any of the assets of the Mortgagor, the Guarantor or any of the other Covenantors, any arrangement, bankruptcy, composition, execution, sale, insolvency, liquidation, receivership, reorganization or other similar proceeding or occurrence, any proceeding for the dissolution, liquidation, winding-up or other cessation of existence of the Mortgagor or any of the other Covenantors, voluntary or involuntary, whether or not involving bankruptcy or insolvency proceedings, any assignment by the Mortgagor or any of the other Covenantors for the benefit of creditors or any other marshalling of any of the assets of any such person:

- (a) no obligation or liability of the Guarantor under this Guarantee will be terminated or in any manner affected and no right of the Lender under this Guarantee will in any manner be prejudiced or impaired by same or by any omission by the Lender to prove its claim or its full claim and the Lender may prove such claim as it sees

fit and may refrain from proving any claim and may value or refrain from valuing any security held by the Lender; and

- (b) if any of the Loan Indebtedness is unpaid or if any of the Loan Obligations has not been performed, the Lender has the right to include in any claim made by it all sums paid by the Guarantor, whether under this Guarantee or otherwise, and to prove and rank for and receive dividends in respect of such claim, all right to prove and rank for such sums paid by such Guarantor and to receive the full amount of all dividends in respect thereof, which are hereby assigned and transferred by the Guarantor to the Lender.

ARTICLE 4

SUBORDINATION

4.1 Subordination of Indebtedness

The Guarantor defers, postpones and subordinates in the manner set out in this Article all of the Indebtedness from time to time of the Mortgagor and any of the other Covenantors to the Guarantor, to all of the Loan Indebtedness and the Guarantor assigns and transfers to the Lender every right of the Guarantor relating to the Indebtedness.

4.2 Payment of Indebtedness

Any right of the Guarantor to receive any payment on account of Indebtedness of the Mortgagor and any of the other Covenantors to the Guarantor will be subordinated to any right of the Lender to receive any payment of the Loan Indebtedness and the Guarantor shall not:

- (a) commence any action, take any proceeding, collect or receive any payment upon, by set off or counterclaim or in any other manner, any of the Indebtedness of the Mortgagor and any of the other Covenantors to the Guarantor;
- (b) assign, charge, mortgage, pledge, sell, transfer or otherwise encumber or give a security interest in any of the Indebtedness of the Mortgagor and any of the other Covenantors to the Guarantor;
- (c) enforce or apply any security now or hereafter furnished by the Mortgagor and any of the other Covenantors to the Guarantor; or
- (d) incur any Indebtedness to or receive any loan, advance or gift from the Mortgagor or any of the other Covenantors.

4.3 Payment in Trust

If an Event of Default has occurred which is continuing, and any payment or distribution of assets of the Mortgagor and any of the other Covenantors are made to the Guarantor on account of the Indebtedness to which such Guarantor would be entitled except for this Article 4, such payment or distribution will be received by such Guarantor in trust for the

benefit of the Lender, and such Guarantor shall forthwith pay same to the Lender for application to the Loan Indebtedness.

ARTICLE 5 **MISCELLANEOUS**

5.1 Payments

All payments required to be made by the Guarantor to the Lender under this Guarantee will be made at the address of the Lender set out in Section 5.12 (or at any other place specified by the Lender by written notice to such Guarantor) in immediately available funds in lawful Canadian currency, without any set off, counter claim or deduction.

5.2 Guarantor to Keep Informed

As long as any of the Loan Indebtedness is unpaid or the Loan Obligations have yet to be performed in full the Guarantor assumes responsibility for keeping itself informed of the financial condition of the Mortgagor and any of the other Covenants and of all other circumstances bearing on the risk it incurs under this Guarantee.

5.3 Lender's Records

The records of the Lender as to the Loan Indebtedness, the Loan Obligations or any failure by the Mortgagor or any of the other Covenants to make full and punctual payment or performance when due are conclusive evidence of the relevant facts without further proof.

5.4 Release

Upon payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations, this Guarantee shall terminate and the Lender shall, upon the receipt of a request in writing from the Guarantor and at the Guarantor's expense, provide such releases and other documents as the Guarantor may reasonably request evidencing the termination of this Guarantee.

5.5 Failure of Indulgence Not Waiver

No extension of time, waiver, or other indulgence given by the Lender to the Guarantor, or anyone claiming under such Guarantor, shall in any way affect or prejudice the rights of the Lender against such Guarantor or any other Covenantor. Each power and right under this Guarantee is cumulative and is in addition to and not in substitution for any other rights and remedies at law, or in equity or otherwise.

5.6 Modification

No modification or waiver of this Guarantee is binding on the Lender unless made in writing and signed by a duly authorized officer of the Lender.

5.7 Entire Agreement

On execution and delivery by the Guarantor, this Guarantee is deemed to be finally executed and delivered by the Guarantor to the Lender and is not subject to or affected by any condition as to the receipt by the Lender of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Lender of any other Loan Documents, nor by any promise or condition affecting the liability of the Guarantor. No agreement, promise, representation or statement by the Lender or any of its officers, employees or agents unless in this Guarantee forms part of this Guarantee, has induced the making of it or affects the liability of the Guarantor and the Mortgagor under it.

5.8 Severability

If any Section or part thereof of this Guarantee is invalid or unenforceable for any reason, then such Section or part thereof will be severable from this Guarantee and will not affect the validity or enforceability of any other part of this Guarantee.

5.9 Non-Merger

The giving of this Guarantee is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default that is continuing, proceedings may be taken under this Guarantee, the Mortgage, or any of the other Security Documents or any one or more of them at the option of the Lender.

5.10 Paramountcy

The provisions of any agreement between the Guarantor and the Lender in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Guarantee except where inconsistent with the provisions hereof. In the case of any inconsistency between this Guarantee and the Mortgage, the provisions of the Mortgage shall prevail.

5.11 Assignability

The Guarantor hereby consents to the Lender assigning, transferring or selling all or any portion of its interest under this Guarantee in connection with the proportionate assignment, transfer or sale of its interest in the Loan Indebtedness and the Loan Obligations. Without limiting the foregoing, the Lender may enter into participation, contending or syndication agreements with other lenders in connection with this Guarantee, the Loan Indebtedness and the Loan Obligations. The Lender may provide information of a financial or other nature to any prospective assignee, transferee, purchaser or other lenders concerning the Guarantor, this Guarantee, the Loan Indebtedness and the Loan Obligations.

5.12 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Guarantee shall be in writing and shall be delivered by personal delivery, prepaid courier service, postage prepaid registered mail or by electronic or digital transmission to the relevant party, addressed:

(a) to the Guarantor:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Guarantor's solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Lender:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered personally or by courier, or transmitted by electronic or digital transmission (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as

aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

5.13 Expenses, Fees and Indemnity

The Guarantor will pay to the Lender all costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Lender in connection with the collection of any amount payable under this Guarantee by the Guarantor to the Lender. The Guarantor shall indemnify the Lender against all claims, loss or damages arising out of or in connection with any breach or default by the Guarantor under this Guarantee.

5.14 Applicable Law

This Guarantee and the rights and obligations of the Guarantor and the Lender under it are governed by and construed according to the laws of the jurisdiction in which the Lands are situate (the "**Province**") and the laws of Canada applicable therein.

5.15 Time of the Essence

Time is of the essence of this Guarantee.

5.16 Execution by the Lender

This Guarantee need not be executed by the Lender to be binding on and to enure to the benefit of the Lender.

5.17 Counterparts

This Guarantee may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document. A signed copy of this Guarantee or a counterpart of it delivered by email, facsimile or other means of electronic or digital transmission or signature is deemed to have the same legal effect as delivery of an original signed copy of this Guarantee.

5.18 Further Assurances

The Guarantor will promptly do all further acts and execute and deliver further documents as may be required to carry out the terms or intent of this Guarantee.

5.19 Successors and Assigns

This Guarantee is binding on and enures to the benefit of the Lender and the Guarantor and their respective executors, administrators, successors and permitted assigns and to any Person to whom the Lender may grant any participation in this Guarantee, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Lender under this Guarantee or any of the Lender's interest herein or in the Loan Indebtedness and the Loan Obligations.

5.20 Multiple Parties

If the Guarantor consists of more than one party, this Agreement will be read with all necessary grammatical changes and each reference to the Guarantor includes each and every such Person or corporation individually. All covenants and agreements herein of the Guarantor are the joint and several covenants and agreements of each such Person or corporation. If the Lender consists of more than one party, this Guarantee will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Lender under this Guarantee.

-- signatures follow on next page --

IN WITNESS WHEREOF the Guarantor has executed this Guarantee as of the date and year first written above.

688 SOUTHDOWN GP INC., in its capacity
as general partner for and on behalf of **688**
SOUTHDOWN LP

Per: 
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

ACCEPTANCE OF SUBORDINATION

The undersigned, for good and valuable consideration (the receipt and sufficiency of which is acknowledged), accepts and consents to the provisions of Article 4 of the Guarantee to which this acceptance is attached and agrees to be bound by its provisions and to recognize all priorities and other rights granted to the Lender and to pay the Lender in accordance therewith.

DATED as of the date of the Guarantee.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

Per: 

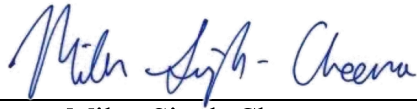
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

**T
A
B**

DD

THIS IS **EXHIBIT "DD"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

MORTGAGE

2226 ROYAL WINDSOR GP INC., in its capacity as general partner for and on behalf of 2226 ROYAL WINDSOR LP, having an office at 2680 Royal Windsor Drive, Mississauga, Ontario L5J 1K7 (hereinafter referred to as the "**Mortgagor**") being registered as owner of an estate in fee simple in possession of the Property;

IN CONSIDERATION of the sum of \$43,750,000.00 of lawful money of Canada, (the "**Principal Amount**"), or any portion thereof, lent to the Mortgagor by KINGSETT MORTGAGE CORPORATION, having an office at Scotia Plaza, 40 King Street West, Suite 3700, Toronto, Ontario M5H 3Y2 (hereinafter referred to as the "**Mortgagee**"), the Mortgagor **HEREBY COVENANTS WITH** the Mortgagee as follows:

DEFINITIONS

1. The terms defined below shall have the indicated meanings unless the context expressly or by necessary implication requires otherwise:
 - (a) "**Closed Prepayment Period**" has the meaning ascribed thereto in Section 8;
 - (b) "**Commitment Letter**" means the mortgage commitment letter dated as of June 28, 2022 between, inter *alios*, the Mortgagor and the Mortgagee, as amended, varied, supplemented, restated, renewed or replaced at any time and from time to time;
 - (c) "**Control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise;
 - (d) "**Covenantors**" means, collectively, the Mortgagor or any joint debtor or any obligor to the Mortgagee in connection with repayment of the Loan Indebtedness or the performance of the Loan Obligations;
 - (e) "**Event of Default**" has the meaning ascribed thereto in Section 29;
 - (f) "**Extension Fee**" means a \$87,500.00 (0.25% of the Maximum Loan Amount) fee;
 - (g) "**Governmental Authority**" means the government of Canada or any other nation, or of any political subdivision thereof, whether state/provincial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including any supra-national bodies such as the European Union or the European Central Bank and including a Minister of the Crown, Superintendent of Financial Institutions or other comparable authority or agency;
 - (h) "**Hazardous Substance**" means any radioactive materials, asbestos materials, urea formaldehyde, underground or aboveground tanks, pollutants, contaminants, liquid waste, industrial waste, hauled liquid waste, deleterious substances, corrosive or toxic substances, hazardous wastes, hazardous materials, hazardous substances, special waste or waste of any kind or any other substance, the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is now or hereafter prohibited, controlled or regulated under any applicable environmental law;
 - (i) "**Indebtedness**", in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
 - (j) "**Interest Adjustment Date**" means the first day of the calendar month following the calendar month in which the initial advance of all or any portion of the Loan Indebtedness is made, unless such initial advance takes place on the first day of a

calendar month, in which case the interest adjustment date shall be the date of such initial advance;

- (k) **"Interest Rate"** means:
 - (i) from the date of the initial advance of all or any portion of the Loan Indebtedness until the end of the 24th month after the Interest Adjustment Date, the RBC Prime Rate plus 4.80% per annum (with a floor rate of 8.50%), calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement with respect to the Loan Indebtedness; and
 - (ii) in the 25th month after the Interest Adjustment Date and every month thereafter, 14.50% per annum calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement with respect to the Loan Indebtedness;
- (l) **"Lands"** means those lands and premises more particularly described in Schedule "A" attached hereto;
- (m) **"Lease Benefits"** means, collectively, the benefit of all covenants and obligations of lessees, tenants, licensees, or occupants as well as all other rights, privileges, advantages and benefits contained in any of the Leases, including without limitation, all rights and benefits of any guarantees thereof, the right to demand, sue for, collect, recover and receive all Rents, to enforce the Mortgagor's rights under any Lease, and generally any collateral advantage or benefit to be derived from the Leases or any of them;
- (n) **"Leases"** means, collectively, all present and future leases, subleases, licenses, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Mortgagor or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Property, and including all agreements collateral thereto;
- (o) **"Lien"** means, collectively, any: (i) lien, charge, mortgage, pledge, security interest or conditional sale agreement; (ii) assignment, lease, consignment, trust or deemed trust that secures payment or performance of an obligation; (iii) garnishment; (iv) other encumbrance of any kind; and (v) any commitment or agreement to enter into or grant any of the foregoing;
- (p) **"Loan Documents"** means, collectively, the Commitment Letter, this Mortgage, the Security Documents and all certificates, instruments, agreements and other documents delivered, or to be delivered, to the Mortgagee under, pursuant to or in connection with this Mortgage or any of the other Loan Documents, each as amended, varied, supplemented, restated, renewed or replaced at any time and from time to time and, when used in relation to any Person, the term **"Loan Documents"** means the Loan Documents executed and delivered by such Person.
- (q) **"Loan Indebtedness"** means any Indebtedness from time to time of the Mortgagor or any of the other Covenantors to the Mortgagee arising under any of the Loan Documents;
- (r) **"Loan Obligations"** means the obligations from time to time of the Mortgagor or any of the other Covenantors arising under the Loan Documents;
- (s) **"Material Adverse Effect"** means a material adverse effect on:
 - (i) the Property or the economic viability thereof;
 - (ii) the business, operations, property or financial condition of any of the Covenantors which would materially impact the ability of the Covenantors, taken as a whole, to repay the Loan Indebtedness and to perform and discharge the Loan Obligations;

- (iii) the validity or enforceability of this Mortgage or any of the other Loan Documents; or
- (iv) the Mortgagee's ability to enforce its rights or remedies under this Mortgage or any of the other Loan Documents, including with respect to the Mortgagee's security position;
- (t) "**Maturity Date**" means twenty-five (25) months after the Interest Adjustment Date as may be extended in accordance with the Commitment Letter;
- (u) "**Maximum Loan Amount**" means, notwithstanding the Principal Amount, the amount of \$35,000,000.00;
- (v) "**Mortgaged Premises**" means every building, structure, improvement and fixture (including those more fully set out in Section 18 hereof), including replacements therefor, on or which may hereafter be erected or placed on the Lands, including all plate glass, plant, equipment, apparatus and machinery of every kind now or hereafter located therein, thereon or used in connection therewith, and all personal property including, contents thereof to the extent that they are the property of the Mortgagor;
- (w) "**Mortgagee**" means KingSett Mortgage Corporation;
- (x) "**Mortgagor**" means 2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP;
- (y) "**Other Obligations**" has the meaning ascribed thereto in Section 38;
- (z) "**Permitted Encumbrances**" mean, collectively:
 - (i) any Lien in respect of any property or assets of the Mortgagor created by or arising pursuant to any applicable legislation in favour of any Person (such as but not limited to a Governmental Authority), including a Lien for the purpose of securing the Mortgagor's obligation to deduct and remit employee source deductions and goods and services tax pursuant to the *Income Tax Act* (Canada), the *Excise Tax Act* (Canada), the *Canada Pension Plan* (Canada), the *Employment Insurance Act* (Canada) and any legislation in any jurisdiction similar to or enacted in replacement of the foregoing from time to time (each individually a "**Statutory Lien**") in respect of any amount which is not at the time due;
 - (ii) any Statutory Lien in respect of any amount which may be due but the validity of which is being contested in good faith and in respect of which reserves have been established as reasonably required by the Mortgagee;
 - (iii) in respect of the Property: (A) any registered agreement (or unregistered agreement that is required in connection with the further development of the Property) with any Governmental Authority and any public utilities or private suppliers of services, including site plan agreements, subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements, which has not and is not reasonably likely to have a Material Adverse Effect, provided the same is complied with in all material respects; (B) any registered easement for the supply of utilities or telephone services to the Property and for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services and all licences, easements, rights-of-way, rights in the nature of easements and agreements with respect thereto not registered on title to the Property, including agreements, easements, licences, rights-of-way and interests in the nature of easements for sidewalks, public ways, sewers, drains, utilities, gas, steam and water mains or electric light and power, or telephone telegraphic conduits, poles, wires and cables, which has not and is not reasonably likely to have a Material Adverse Effect; (C) any registered easement or right-of-way for the passage, ingress and egress of Persons and vehicles over parts of the Lands, which has not and is not reasonably likely to have a Material Adverse Effect; (D) any registered or

unregistered easement, rights-of-way, agreement or other unregistered interest or claims not disclosed by registered title which has not and is not reasonably likely to have a Material Adverse Effect; (E) any zoning, land use and building restriction, bylaw, regulation and ordinance of any Governmental Authority, including municipal by-laws and regulations and airport zoning regulations, which has not any is not reasonably likely to have a Material Adverse Effect; (F) any obligation with respect to any permit required in connection with the construction and use of the Property provided such permit is in good standing and has not and is not reasonably likely to have a Material Adverse Effect; and (G) any minor defect in title which has not and is not reasonably likely to have a Material Adverse Effect;

- (iv) any reservation, limitation, proviso, condition, restriction and exception (including royalties, reservation of mines, mineral rights, access to navigable waters and similar rights) expressed in the letters patent or grant from the Crown, as varied by statute, of the lands of which the Lands form a part and any statutory limitation, exception, reservation and qualification, provided same has been complied with in all material respects;
 - (v) any Lien incurred or deposit made or pledged to secure any obligation under workers' compensation legislation or similar legislation, or in connection with contracts, bids, tenders or expropriation proceedings, or surety, performance or appeal bonds in connection with construction of the further development of the Property;
 - (vi) security given to a public utility or any Governmental Authority to secure obligations incurred to such utility, Governmental Authority or other authority in the ordinary course of business and not at the time overdue;
 - (vii) any inchoate Lien (statutory or otherwise) arising in connection with the construction or improvement of the Property or arising out of the furnishing of materials or supplies therefor, provided that such Lien secures moneys not at the time overdue (or if overdue, the validity of which is being contested in good faith and in respect of which and reserves have been established as reasonably required by the Mortgagee), notice of such Lien has not been given to the Mortgagee and such Lien has not been registered against title to the Property;
 - (viii) purchase-money security interests incurred or assumed in connection with the purchase, leasing or acquisition of capital equipment in the ordinary course of business, provided that the aggregate amount of the Mortgagor's liability thereunder is not at any time greater than one million (\$1,000,000.00) dollars;
 - (ix) any present and future lease, offer to lease, sublease, concession, licence or other contract or agreement by which the use, enjoyment or occupancy of the Property or any portion thereof is granted which has not and is not reasonably likely to have a Material Adverse Effect;
 - (x) this Mortgage and the other Security Documents;
 - (xi) the Prior Permitted Encumbrances; and
 - (xii) any Subsequent Encumbrances with the express prior written consent of the Mortgagee in its sole, absolute and unfettered discretion;
- (aa) "**Person**" means, and includes, natural persons, corporations, limited liability companies, limited partnerships, limited liability partnerships, general partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and governments and agencies and political subdivisions thereof and their respective permitted successors and assigns (or in the case of a governmental person, the successor functional equivalent of such Person);

- (bb) "**Principal Amount**" has the meaning ascribed thereto in the preamble to this Mortgage;
- (cc) "**Prior Permitted Encumbrances**" means those encumbrances registered against title to the Property in priority to this Mortgage on the date of the registration of this Mortgage against title to the Lands and which the Mortgagee has agreed to accept in its sole, absolute and unfettered discretion;
- (dd) "**Property**" means, collectively, the Lands and the Mortgaged Premises;
- (ee) "**RBC Prime Rate**" means, for any day, the rate of interest per annum established and published from time to time by Royal Bank of Canada as the reference rate of interest for the determination of interest rates that Royal Bank of Canada will charge its customers of varying degrees of creditworthiness in Canada for Canadian Dollar demand loans made by the Royal Bank of Canada in Toronto, Ontario;
- (ff) "**Rents**" means, collectively, all rents, issues and profits now due or to become due under or derived from the Leases and/or the Property;
- (gg) "**Security Documents**" means, collectively, the Loan Documents creating Liens on the undertaking, property and assets of the Covenantors in favour of the Mortgagee, and all other instruments, agreements and documents which have been or may hereafter from time to time be executed in connection therewith, in each case as the same may be hereafter amended, modified, supplemented or restated in accordance with the terms thereof;
- (hh) "**Southdown First Mortgage Charge**" means a first charge/mortgage granted by 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP, to and in favour of the Mortgagee which was registered September 15, 2021 in the Land Registry Office for the Land Titles Division of Peel (No. 43) against title to the Southdown Lands as Instrument No. PR3909580;
- (ii) "**Southdown Lands**" means the lands and premises municipally known as 759 Winston Churchill Boulevard, Mississauga, Ontario;
- (jj) "**Statutory Lien**" has the meaning ascribed thereto in Section 1(z)(i);
- (kk) "**Subsequent Encumbrances**" means, collectively, encumbrances registered against title to the Lands subsequent in priority to this Mortgage with the prior consent of the Mortgagee, which consent shall be granted in the Mortgagee's sole, absolute and unfettered discretion;
- (ll) "**Taxes**" means all present or future taxes, rates, liens, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto; and
- (mm) "**Title Agreements**" has the meaning ascribed thereto in Section 49;

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise: (i) any definition of or reference to any agreement, instrument or other document herein (including this Mortgage) shall be construed as referring to such agreement, instrument or other document amended, varied, supplemented, restated, renewed or replaced at any time and from time to time (subject to any restrictions on such amendments, variations, supplements, restatements, renewals or replacements set forth herein); (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns; (iii) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Mortgage in its entirety and not to any particular provision hereof; (iv) unless otherwise expressly stated, all references in this Mortgage to Sections, Exhibits and Schedules shall be construed to refer to Sections of, and Exhibits and Schedules to, this Mortgage, and

references to a Section, means such Section or an enumerated sub-Section thereof, as applicable; (v) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, varied, supplemented, restated, renewed or replaced at any time and from time to time; and (vii) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

PROMISE TO PAY AND FULFIL OBLIGATIONS

2. The Mortgagor will pay or cause to be paid to the Mortgagee in lawful money of Canada the full amount of the Loan Indebtedness in the manner of payment provided by this Mortgage before as well as after maturity, both before and after default, and both before and after judgment on this Mortgage, without any deduction or abatement, and shall do, observe, perform, fulfil and keep all of the Loan Obligations.

PAYMENTS

3. The Loan Indebtedness shall be repaid as follows:
 - (a) interest on the Loan Indebtedness advanced and remaining unpaid from time to time at the fixed rate per annum equal at all times to the Interest Rate, calculated daily not in advance, before as well as after maturity, default and judgment, on the basis of the actual number of days elapsed in a year of 365 days or 366 days, as the case may be, and compounded monthly not in advance and computed from and including the respective dates of such advances;
 - (b) subject to Section 3(d)(iii), interest, at the Interest Rate, shall become due and be paid on the Interest Adjustment Date and thereafter in monthly instalments on the first business day of the month which is one month after the Interest Adjustment Date and continuing on the first business day of each and every month which is one month after the date of each such payment, and in addition, at the option of the Mortgagee, may be deducted from advances of moneys under this Mortgage, and the balance, if any, of the aforesaid interest on advances shall become due and be paid at the same time as is hereinafter provided for payment in full of the Loan Indebtedness;
 - (c) the Loan Indebtedness shall become due and be paid in full on the Maturity Date;
 - (d) it is acknowledged and agreed that:
 - (i) notwithstanding the Principal Amount, the maximum amount to be advanced by the Mortgagee from time to time in respect of the Loan Indebtedness shall not exceed the Maximum Loan Amount;
 - (ii) an initial and subsequent advances of Loan Indebtedness representing advances from time to time of the Loan may be made by the Mortgagee, subject to and in accordance with the Commitment Letter and the conditions precedent and other provisions set out therein;
 - (iii) beginning on the Interest Adjustment Date, the amount of monthly interest, at the Interest Rate, shall, provided no Event of Default has occurred hereunder which is continuing, be capitalized monthly to the Loan Indebtedness advanced hereunder until the earlier of:
 - A. such capitalized interest, at the Interest Rate, reaching in the aggregate the amount of \$5,000,000.00;
 - B. the sum of such capitalized interest and all other amounts advanced hereunder reaching, in the aggregate, the Maximum Loan Amount;
 - C. repayment of all amounts outstanding hereunder; and
 - D. any Event of Default or a default by any of the Covenantors under any of the Loan Documents; and

- (iv) in the event that amounts are no longer available in accordance with the provisions of Section 3(d)(iii), any additional interest payments shall not be capitalized and shall be required to be paid by the Mortgagor from sources other than subsequent advances of moneys under this Mortgage.

CHARGE

- 4. **THE MORTGAGOR HEREBY** grants, mortgages and charges to and in favour of the Mortgagee all right, title and interest of the Mortgagor in and to the Property as security for the payment of the Loan Indebtedness and performance of the Loan Obligations by the Mortgagee.

COMPOUND INTEREST

- 5. It is hereby agreed that in case default shall be made in payment of any sum to become due for interest, at the Interest Rate, at any time appointed for payment thereof as aforesaid, compound interest shall be payable and the sum in arrears for interest from time to time, before as well as after maturity, shall bear interest, at the Interest Rate, and in case the interest and compound interest are not paid within the next thirty (30) days, compound interest, at the Interest Rate, shall be payable on the aggregate amount then due of outstanding interest and compound interest, before as well as after maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the Property.

INTEREST RATE

- 6. Notwithstanding the provisions hereof in no event shall the aggregate "**interest**" (as that term is defined in Section 347 of the *Criminal Code* (Canada)) exceed the effective annual rate of interest on the "**credit advanced**" (as defined therein) lawfully permitted under that section. The effective annual rate of interest shall be determined in accordance with generally accepted actuarial practices and principles from the date of the initial advance of the Loan Indebtedness until the Maturity Date and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Mortgagee will be conclusive for the purposes of such determination. If any provision of the Mortgage would obligate the Mortgagor to make any payment of interest or other amount payable to the Mortgagee in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Mortgagee of interest at a criminal rate, then notwithstanding that provision, that 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 result in a receipt by the Mortgagee of interest at a criminal rate, the adjustment to be effected, to the extent necessary, as follows:
 - (a) first, by reducing the amount or rate of interest required to be paid to the Mortgagee under this Mortgage; and
 - (b) thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to the Mortgagee which would constitute "**interest**" (as that term is defined in Section 347 of the *Criminal Code* (Canada)).

RENEWALS AND NON-REVOLVING NATURE OF LOAN

- 7. That:
 - (a) in the event that this Mortgage shall be renewed or extended pursuant to Section 7(b) or by written agreement executed by the Mortgagor and the Mortgagee, such renewal or extension (and the rate of interest, term, instalment and other stipulations of such renewal or extension) shall be binding upon Subsequent Encumbrances, the Mortgagor and the Mortgagee, its successors in title and assigns, and all Subsequent Encumbrances, and shall take full priority over all Subsequent Encumbrances, whether or not the said renewal, extension or notice thereof is registered, filed or recorded by caveat at the applicable Land Titles Office and whether or not the rate of interest payable or payment amortization period applicable during the renewal or extension term is greater than or less than the rate or amortization stipulated in this Mortgage. The Mortgagor shall, forthwith on request therefor by the Mortgagee, provide to the Mortgagee, at the Mortgagor's expense, all such

postponements and other assurances as the Mortgagee may require to ensure the foregoing binding effect and priority. All renewals (if any) shall be done at the Mortgagor's expense (including without limitation payment of the Mortgagee's reasonable legal expenses on a solicitor and his own client basis). In the event the within Mortgagor is a corporation, no such renewal or extension, even if made by a successor in title to the Mortgagor named herein and whether or not the Mortgagor shall consent thereto, shall in any way release or abrogate or render unenforceable the covenants or obligations of the Mortgagor named herein, which shall continue notwithstanding such renewal or extension and shall apply to this Mortgage as renewed or extended.

- (b) the Mortgagor has the option, subject to the prior consent of the Mortgagee, not to be unreasonably withheld, to extend the Maturity Date by up to two (2) extensions with each extension being for a period of three (3) months on the terms and conditions set out in Section A.13 and Section A.14 of the Commitment Letter, and provided that in connection with each extension option:
 - (i) the Mortgagor pays to the Mortgagee an Extension Fee, which shall be deemed earned by the Mortgagee upon receipt of notice requesting an extension of the Maturity Date, and payable on or before the date which is ten (10) days prior to the Maturity Date, provided that if such extension is not granted by the Mortgagee, the Mortgagee will return such amount to the Mortgagor;
 - (ii) the Mortgagor or any other Covenantor delivering at least 30 days' written notice prior to the Maturity Date to the Mortgagee requesting each extension; and
 - (iii) no Event of Default has occurred which is continuing;
- (c) Other than the extension right set forth in Section 7(b), there are no further rights to renew or extend this Mortgage; and
- (d) no amount that is borrowed or advanced hereunder may, if repaid or prepaid, be reborrowed at any time, it being acknowledged and agreed that this Mortgage creates a non-revolving loan.

PREPAYMENT

- 8. This Mortgage will be closed for prepayment from the initial advance of the Loan until twelve (12) months after the Interest Adjustment Date (the "**Closed Prepayment Period**"). From and after the Closed Prepayment Period, the Loan Indebtedness will be open for prepayment, in whole but not in part, with a minimum of thirty (30) days' prior written notice to the Mortgagee without any fee, bonus or penalty.

TAXES

- 9. Subject as hereinafter in this Section 9 provided, the Mortgagor will pay when and as the same fall due all Taxes; provided that in respect of municipal taxes, school taxes, local improvements charges and all taxes and levies made or assessed in lieu of real property taxes, the Mortgagor shall provide the Mortgagee with a paid receipted tax bill within fifteen (15) days after the payment deadline of each such tax bill, and in the event the Mortgagor should default in payment of same and such default continues for more than three (3) business days following written notice to the Mortgagee, the Mortgagee shall have the right to implement any of the following:
 - (a) the Mortgagee may deduct from time to time, from advances of moneys under this Mortgage, amounts sufficient to pay the Taxes which have become due and payable or will have become due and payable and are unpaid from time to time as advances are made;
 - (b) the Mortgagor shall in each year during the currency hereof at the request of the Mortgagee pay to the Mortgagee in equal monthly instalments, such amounts as the Mortgagee may estimate as being the annual Taxes next becoming due and payable, the said monthly instalments to be paid in addition to the payments required under

Section 2, and the Mortgagor shall also pay to the Mortgagee before the due date of the current annual Taxes such additional sums as may be requisite to enable the Mortgagee to pay out of such monthly instalments and additional payments, the whole amount of the annual Taxes on or before the due date thereof, provided, however, that the exercise of the foregoing right shall be subject to the rights and obligations of the Mortgagor and the Mortgagee under all Permitted Encumbrances;

- (c) so long as there is not an Event of Default that has occurred and is continuing, the Mortgagee shall apply such deduction and payments on the Taxes as they become due, but nothing herein contained shall obligate the Mortgagee to apply such payments on account of Taxes more often than yearly, nor to pay the same in advance of the due date for payment of the same. Provided however, that if (before any sum or sums so paid to the Mortgagee shall have been so applied) an Event of Default shall have occurred which is continuing, the Mortgagee may, at its option, apply such sum or sums in or towards payment of the Loan Indebtedness;
- (d) in the event that there is default in the payment by the Mortgagor of moneys for Taxes as aforesaid, then the Mortgagee may pay such Taxes and, in addition, upon providing the Mortgagor with ten (10) days' prior written notice, the Mortgagee may pay any and all liens, charges and encumbrances which may be charged against the Property which are not otherwise first paid by the Mortgagor. All moneys expended by the Mortgagee for any of such purposes together with interest thereon at the Interest Rate shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default;
- (e) if the Property or any part thereof becomes subject to sale or forfeiture for non-payment of Taxes while any Loan Indebtedness remains outstanding, then, subject to all applicable laws, the Mortgagee may acquire title and rights of the purchaser at any sale, or the rights of any other Person or corporation becoming entitled on or under any such forfeiture, or the Mortgagee may pay, either in its own name or in the Mortgagor's name or on the Mortgagor's behalf, any and all sums necessary to be paid to redeem the Property so sold or forfeited, and to re-vest the Property in the Mortgagor, and the Mortgagor hereby nominates and appoints the Mortgagee agent of the Mortgagor to pay such moneys on the Mortgagor's behalf and in the Mortgagor's name, and any moneys so expended by the Mortgagee together with interest thereon at the Interest Rate shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default, or, in the alternative, the Mortgagee shall have the right to bid on and purchase the Property at any tax sale of the same and shall thereupon become the absolute owner thereof; and
- (f) the Mortgagor shall transmit to the Mortgagee evidence, satisfactory to the Mortgagee acting reasonably, of the payment of all Taxes affecting the Property to the Mortgagee at least quarterly or as otherwise reasonably requested by the Mortgagee from time to time, and the Mortgagor authorizes the Mortgagee to obtain any tax or assessment information concerning the Property directly from the municipal taxing authority having jurisdiction over the Property.

INSURANCE

10. That:

- (a) the Mortgagor will, at the Mortgagor's expense, forthwith insure or cause to be insured, and during the continuance of this security keep insured in favour of the Mortgagee, the Property on an all risks basis, or as otherwise allowed by the Mortgagee, including coverage for course of construction, earthquake, flood and such other risks or perils as the Mortgagee may require or consider expedient and satisfactory to the Mortgagee, acting reasonably, including and pursuant to the following coverages, provisions and conditions:

- (i) the Mortgagee must be shown as a named insured, or an additional named insured, and mortgagee and loss payee as the Mortgagee's interest may appear;
 - (ii) the limit of insurance shall not be less than one hundred (100%) percent of new replacement cost including recurring soft costs and costs of foundations and all parts below ground level including confirmation that the "same or adjacent site" clause has been deleted from the replacement cost wording;
 - (iii) any co-insurance clause contained in the policy shall be a stated amount co-insurance clause;
 - (iv) the policy shall include an Insurance Bureau of Canada standard mortgage clause or its equivalent;
 - (v) losses shall be made payable to the Mortgagee according to its interest;
 - (vi) rental income coverage on an "all risks" basis sufficient to cover one hundred (100%) percent of the gross annual revenues, including Rents and if leases are on a net-net basis, the equivalent gross revenues, including rentals for a period of not less than twelve (12) months; or if the property is owner-occupied, business interruption coverage;
- (b) the Mortgagor will maintain liability insurance coverage, including without limitation earthquake, flood and sewer back-up insurance at least equivalent in scope to a Commercial General Liability form, such insurance to be in the minimum amount of five million (\$5,000,000.00) dollars per occurrence, to include all required extensions of liability and naming the Mortgagee as co-insured;
 - (c) the Mortgagor will cause its contractors to maintain contractors liability insurance coverage, and wrap-up liability insurance coverage, in each instance to be in the minimum amount of five million (\$5,000,000.00) dollars per occurrence, to include all required extensions of liability and naming the Mortgagor as an additional named insured, but only with respect to claims arising out of the operations of the named insured;
 - (d) as applicable, the Mortgagor will maintain builders "all risks" or "broad form" insurance, subject to the latest CCDC policy wording and will include:
 - (i) coverage sufficient to cover one hundred (100%) percent of the projected hard costs and not less than twenty-five (25%) percent of the projected recurring soft costs;
 - (ii) a "permission to occupy" clause, "delayed rental income / soft costs" insurance to cover the anticipated loss of revenue for one (1) year, which may be incurred in the event of an insured loss, during construction;
 - (iii) coverage for the installation, testing and commissioning, of machinery and equipment; and
 - (iv) the Mortgagee as loss payee and as mortgagee as its interest appears, pursuant to a standard mortgage clause satisfactory to the Mortgagee;
 - (e) the Mortgagor will maintain boiler and machinery insurance covering all central HVAC and miscellaneous electrical equipment (and production machinery where applicable) for explosion, electrical and mechanical breakdown;
 - (f) promptly upon written request, the Mortgagor will deliver to the Mortgagee and directly to its insurance consultants all policy binders of insurance together with all applicable certificates of insurance or such other evidence of insurance as the Mortgagee may reasonably require, and, prior to their due date, proof of payment of the premiums and renewal premiums therefor;
 - (g) all policies shall be with insurers and subject to terms and conditions reasonably satisfactory to the Mortgagee. Any deviation from these requirements shall be approved in writing by the Mortgagee acting reasonably. The policies must provide

for thirty (30) days' written notice to the Mortgagee of material alteration, if available, and cancellation and must be signed by the insurer(s) or their authorized representative(s);

- (h) if the Mortgagor shall neglect to keep the Property insured as aforesaid, or to deliver all policy binders of insurance together with all applicable certificates of insurance or such other evidence of insurance as the Mortgagee may reasonably require and evidence proving payment of premiums or renewal premiums when reasonably requested by the Mortgagee, or to produce to the Mortgagee at least forty-five (45) days' before the termination of such insurance evidence of the renewal thereof, the Mortgagee shall, without reference to the Mortgagor, be entitled (but shall not be obliged) to insure the Property, or any part thereof, as set forth above, and the amount of any premiums paid by the Mortgagor together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default;
- (i) promptly upon the occurrence of any loss or damage, the Mortgagor at its own expense will furnish all necessary proof and do all necessary acts to enable the Mortgagee to obtain payment of the insurance moneys, subject to the rights of creditors of the Mortgagor in accordance with Prior Permitted Encumbrances;
- (j) subject to the rights of creditors of the Mortgagor in accordance with Prior Permitted Encumbrances, if any cheque issued by an insurer in complete or partial settlement of an insurance claim pursuant to the coverages above, other than the coverage for general public liability insurance, is given, sent or delivered to the Mortgagor or the solicitor or agent of the Mortgagor, then the Mortgagor shall cause such cheque to be delivered to the Mortgagee forthwith and if any such cheque is made payable to the Mortgagor alone or jointly to the Mortgagor and another or others, then the Mortgagor shall forthwith endorse and deliver such cheque over to the Mortgagee, and the Mortgagor does hereby constitute the Mortgagee as the Mortgagor's true and lawful attorney to receive and endorse any such cheque for an on behalf of the Mortgagor; and
- (k) subject to the rights of creditors of the Mortgagor in accordance with Prior Permitted Encumbrances, all monies received by virtue of such policy or policies of insurance may at the option of the Mortgagee either be applied in or towards substantially rebuilding, reinstating or repairing the Property or towards the payment of the Loan Indebtedness, interest and other amounts secured hereby, whether or not the same are then due, in such manner as the Mortgagee shall from time to time determine, or may be paid in full or in part to the Mortgagor or its assigns, or may be applied or paid partly in one way and partly in another, as the Mortgagee may determine.

PAYMENT METHOD

- 11. The Mortgagor shall from time to time as required by the Mortgagee, provide a signed pre-authorized withdrawal form /or forms directed to the bank or financial institution at which the Mortgagor regularly keeps a chequing account, in such form and manner so as to enable the Mortgagee to receive payments from time to time of the monthly instalments payable hereunder and/or the Mortgagee's estimate of the monthly instalment for property Taxes, if applicable, from the Mortgagor's account with such bank or financial institution. Any payments received by the Mortgagee which are payable on a non-business day in the Province of Ontario or are received after 2 p.m. (Toronto time) on any business day in the Province of Ontario on or after receipt thereof, shall be credited to the mortgage account on the next business day thereafter.

INSPECTION

- 12. The Mortgagee, at such time or times as it may deem necessary, acting reasonably, and without the concurrence of any other Person but upon reasonable prior notice except, upon and during the continuance of an Event of Default when no notice shall be required, and in all cases subject to the rights of tenants at the Property, may send its inspector or agent to

report upon the value, state and condition of the Property and, upon the occurrence of an Event of Default which is continuing, make arrangements for the improving, repairing, finishing and putting in order of the Property which may be reasonably required, and for leasing, collecting the Rents of and managing generally the Property, and may expend money, for any and all the purposes aforesaid, as it may deem expedient, and all moneys reasonably expended, costs, charges and out-of-pocket expenses together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing.

RESTRICTION ON TRANSFER, ENCUMBRANCES ETC.

13. The Mortgagor shall not convey, transfer, mortgage, alienate, or otherwise encumber all or any part of the Property or any direct or indirect interest therein (including as a result of a direct or indirect change in Control of the Mortgagor) nor allow all or any part of the Property or any direct or indirect interest therein to be encumbered without the prior written consent of the Mortgagee, in its absolute discretion, provided that, notwithstanding the forgoing, the Permitted Encumbrances shall be permitted to encumber the Property and that the Mortgagee shall act reasonably in providing its consent to any non-arm's length transfer. In the event that the Mortgagor breaches this Section 13 and has not first or contemporaneously prepaid the loan secured hereby in full in compliance with Section 8 hereof, then the entire Loan Indebtedness (but with interest at the Interest Rate calculated and compounded to the Maturity Date), shall immediately be due and payable.

ADVANCES

14. Neither the execution nor the registration nor the acceptance of this Mortgage, nor the advance of part of the Loan Indebtedness, shall bind the Mortgagee to make an advance of moneys under this Mortgage or any unadvanced portion thereof notwithstanding the provisions of the Commitment Letter, this Mortgage or any of the other Loan Documents, but nevertheless this Mortgage shall take effect forthwith on the execution of these presents, and if any Loan Indebtedness shall not be advanced at the date hereof, the Mortgagee may advance the same in one or more sums to or on behalf of the Mortgagor at any future date or dates, and the amount of such advances then so made together with interest at the Interest Rate shall be secured hereby.

SUBROGATION

15. In the event that the moneys advanced hereunder or any part thereof are applied to the payment of any charge or encumbrance, the Mortgagee shall be subrogated to all the rights and stand in the position of and be entitled to all the equities of the party so paid off whether such charge or encumbrance has or has not been discharged; and the decision of the Mortgagee as to the validity or amount of any advance or disbursement made under this Mortgage or of any claim so paid off, shall be final and binding on the Mortgagor.

WASTE

16. Subject to the provisions of Section 18, the Mortgagor will not commit any act of waste on the Property or do any other thing by which the value of the Property shall, in the opinion of the Mortgagee, be diminished and will at all times remain in actual possession of the said Property. The Mortgagor will take good and reasonable care of the Property and without cost and expense to the Mortgagee manage, operate, maintain and keep or cause the same to be kept in good order, repair and condition throughout, both exterior and interior, structural or otherwise, and promptly make all required or necessary repairs and replacements thereto, including without limitation, the roof, walls, foundations and appurtenances, pipes and mains, and all other fixtures, machinery, facilities and equipment that belong to or are used in connection with the Property, all of the foregoing to the extent that a prudent owner would do. Notwithstanding the foregoing, the Mortgagor shall not be obligated to repair any damage caused by reasonable wear and tear which does not affect the use and enjoyment of the improvements beyond the extent to which they would ordinarily be repaired by a prudent owner. If, in the opinion of the Mortgagee, acting reasonably, the Property is not at any time in a proper state of repair, the Mortgagee may serve notice upon the Mortgagor to make such repairs or replacements as the Mortgagee,

acting reasonably, deems proper within a period of thirty (30) days and in the event of the Mortgagor not having complied or not being in the process of diligently complying with such requisition, the Mortgagee may authorize the making of such repairs or replacements by its agents, employees or contractors and they may enter upon the Property for the purpose of doing such work with or without the Mortgagor's concurrence, but in all cases subject to the rights of tenants at the Property, and the cost thereof, together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid, shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing.

FIXTURES

17. All erections, buildings, fences, improvements, machinery, plant, furnaces, boilers, electric light fixtures, plumbing and heating equipment, arials, incinerators, radiators and covers, fixed mirrors, fitted blinds and drapes, window screens, doors, storm windows and storm doors, shutters and awnings, floor coverings, air conditioning, ventilating, water heating equipment, partitions, elevators, and all component parts of any of the foregoing, fixed or otherwise now on or in or hereafter put on or in the Property (and also in all cases where the Mortgaged Premises are units rented in whole or in part, all refrigeration equipment, gas and electric stoves, ovens, washers, dryers, garburators, garbage compactors, microwave ovens and dishwashers whether affixed or not, and provided that same are owned by the Mortgagor) are and shall in addition to other fixtures thereon be and become fixtures and form part of the realty and of the security and are included in the expression the "Mortgaged Premises", and that the Mortgagor will not commit any act of waste thereon, and that the Mortgagor will at all times during the continuance of the security granted by this Mortgage, repair, maintain, restore, amend, keep, make good, finish, add to and put in order, the Property and in the event of any loss or damage thereto or destruction thereof which has had or is reasonably likely to have a Material Adverse Effect, the Mortgagee may give notice to the Mortgagor to repair, rebuild, or reinstate the same, and upon the Mortgagor failing so to repair, rebuild, or reinstate within such time such failure shall constitute a breach of covenant hereunder and thereupon the Loan Indebtedness shall, at the sole option of the Mortgagee, become immediately due and payable and without any demand by the Mortgagee upon the Mortgagor, provided that the Mortgagee may (but shall not be obligated to) repair, rebuild or reinstate the Property and the cost thereof, together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid, shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing. This provision shall be in addition to any statutory covenants implied in this Mortgage.

ALTERATIONS

18. The Mortgagor shall not make or permit to be made, any additions or alterations to the Property without the prior written consent of the Mortgagee acting reasonably and except as may be permitted or required under the Permitted Encumbrances (including any leases which are Permitted Encumbrances), and the Mortgagor shall not use the Property nor permit the Property to be used, without the written consent of the Mortgagee, for a purpose not approved by the Mortgagee acting reasonably. Notwithstanding the foregoing:
 - (a) the Mortgagor, its agents, employees and parties authorized by it may conduct building operations, construction and development on the Property including, without limitation, grading and excavation operations, installation of services and all other acts incidental to the development of the Property without the same being deemed acts of waste or requiring the prior written consent of the Mortgagee in accordance with this Section 18; and
 - (b) the Mortgagee shall, upon reasonable notice, promptly execute:
 - (i) such plans, agreements, documents, easements, rights-of-way and consents as may be required to facilitate the development of the Property;

- (ii) such partial discharges as may be required to convey to any Governmental Authority or public utility such portion of interest in the Property as may be required for municipal or governmental purposes and for which the Mortgagor receives no financial compensation, provided that in each case the Mortgagee's security is not adversely affected thereby (as determined by the Mortgagee, acting reasonably); and
- (iii) applications, documents and plans for rezoning, development review, site plan approval, land titles registration, subdivision plan registration, severance consents and other related development matters required by the Mortgagor,

provided that the Mortgagee's reasonable legal fees and disbursements and out-of-pocket expenses in connection with the review and execution of the forgoing together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing. In addition to the forgoing, the Mortgagor hereby indemnifies and agrees to hold the Mortgagee harmless with respect to the payment of any such reasonable legal fees and disbursements and out-of-pocket expenses in connection with the review and execution of the forgoing.

PLACE OF PAYMENT

- 19. All moneys reflecting Loan Indebtedness shall be payable, in lawful money of Canada, to the Mortgagee at its address hereinbefore stated, or such other place as may be designated by the Mortgagee from time to time.

CROSS-DEFAULT

- 20. The occurrence of an Event of Default hereunder shall constitute default under the other Security Documents and default, beyond any applicable cure or notice periods, under any of the other Security Documents shall constitute and Event of Default hereunder. The Mortgagee may, upon and during the continuance of an Event of Default or a default under the other Security Documents, pursue its remedies separately under any of the Security Documents, including without limitation, this Mortgage, or jointly all together, or jointly one with any one or more of the Security Documents, without any of the rights and remedies of the Mortgagee not so pursued merging therewith or with any action or judgment with respect thereto.

RELEASE OF SECURITY

- 21. Subject to the provisions in Section 40, the Mortgagee may (but shall have no obligation to) at any time release any part or parts of the Property or any of the Covenants from any of the Security Documents, or may release the Mortgagor or any other Covenantor from any covenant or other liability to pay any of the Loan Indebtedness or perform any of the Loan Obligations, either with or without any consideration therefor, without being accountable for the value of any such consideration or for any moneys except those actually received by the Mortgagee, and without thereby releasing any other part of the Property or any of the other Covenants from any of the Security Documents, it being specifically agreed that notwithstanding any such release, the Property, securities and covenants remaining unreleased shall stand charged with the whole of the Loan Indebtedness, and no Person shall have the right to require that any of the Loan Indebtedness be apportioned.

WAIVER

- 22. No extension of time, waiver, or other indulgence given by the Mortgagee to the Mortgagor, or anyone claiming under the Mortgagor, shall in any way affect or prejudice the rights of the Mortgagee against the Mortgagor, any guarantor, or any other Person liable for payment of the moneys hereby secured.

USE OF MONEY

23. The Mortgagee shall not be charged with any moneys receivable or collectible out of the Property or otherwise, except those actually received; and all revenue of the Property received or collected by the Mortgagee from any source other than payment by the Mortgagor may, provided an Event of Default has occurred which is continuing, at the option of the Mortgagee, be used in maintaining or insuring or improving the Property, or in payment of Taxes or other charges against the Property, or applied on the mortgage account, and the Mortgagee may (at its option) retain such moneys received or collected, in suspense account; and the Mortgagee shall not, by reason of the collection of any moneys receivable or collectible out of the Property, be deemed to be a mortgagee in possession.

LIABILITY OF MORTGAGOR

24. No sale or other dealings by the Mortgagee or any receiver with the Property or any part thereof, shall in any way change the liability of the Mortgagor or in any way alter the rights of the Mortgagee as against the Mortgagor or any other Person liable for payment of the moneys hereby secured.

ATTORNMENT

25. For better securing the punctual payment of the said mortgage moneys, the Mortgagor hereby attorns and becomes tenant to the Mortgagee of the Property at a monthly rental equivalent to the monthly instalments secured hereby, the same to be paid on such day appointed for the payment of instalments; and if any judgment, execution or attachment shall be issued against any of the goods or lands of the Mortgagor or if the Mortgagor shall become insolvent or bankrupt or commit an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act of Canada* as amended, or shall take the benefit of any statute relating to bankruptcy or insolvent debtors, then such rental shall, if not already payable, be payable immediately thereafter. The legal relation of landlord and tenant is hereby constituted between the Mortgagee and the Mortgagor, but neither this Section 25 nor anything done by virtue hereof, shall render the Mortgagee a mortgagee in possession or accountable for any moneys except those actually received. The Mortgagee may at any time after default hereunder enter upon the Property, or any part thereof, and determine the tenancy hereby created without giving the Mortgagor any notice to quit.

RECORDS

26. The Mortgagor will maintain full and correct books and records showing in detail the earnings and expenses of the Property, and will permit the Mortgagee and its representatives to examine the said books and records and all supporting vouchers and data at any time and from time to time upon reasonable prior request by the Mortgagee, and at any time and from time to time will furnish the Mortgagee at its request within thirty (30) days of such request, a statement showing in detail reasonably satisfactory to the Mortgagee all such earnings and expenses since the last such statement, certified by an officer of the Mortgagor.

ASSIGNMENT OF LEASE RIGHTS AND BENEFITS

27. The Mortgagor:
- (a) hereby assigns, transfers and sets over unto the Mortgagee, all of the Mortgagor's right, title and interest, both at law and in equity, in and to the Leases, the Rents and the Lease Benefits, to hold and receive the same unto the Mortgagee with full power and authority to demand, collect, sue for, recover and receive and give receipts for Rents and to enforce payment of the same and enforce performance of obligations under the Leases, including without limitation, the Lease Benefits, assigned in accordance with and subject to the terms of this Mortgage, to have and to hold unto the Mortgagee until payment in full of the Loan Indebtedness and performance of all of the Loan Obligations, provided that the Mortgagor may, subject to any other terms contained in any of the other Security Documents which restrict the Mortgagor's ability to deal with the Leases, collect the Rents and deal with the Leases from time to time as would a prudent landlord so long as an Event of Default does not exist, and upon the occurrence of an Event of Default which is continuing, the Mortgagee shall be entitled to:

- (i) demand, collect and receive the Rents or any part thereof and to give acquittances therefor, and to take from time to time, in the name of the Mortgagor, any proceeding which may be, in the opinion of the Mortgagee or its counsel, expedient for the purpose of collecting Rents or for securing the payment thereof or for enforcing any of the Mortgagor's rights under the Leases, and the Mortgagor hereby grants to the Mortgagee irrevocable authority to join the Mortgagor in any such proceedings or actions, whether judicial or extra-judicial;
 - (ii) to compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rent, and any settlement arrived at shall be binding upon the Mortgagor;
 - (iii) to enter upon the Property by its officers, agents or employees for the purpose of collecting the Rents and to manage, operate and maintain its interest in the Property including without limitation, the making of repairs or replacements to maintain the Mortgaged Premises;
 - (iv) to receive, enjoy or otherwise avail itself of the Lease Benefits;
 - (v) to appoint and dismiss such agents or employees as may be necessary or desirable for exercise of the Mortgagee's rights hereunder;
 - (vi) to alter, modify, amend or change the terms of Leases; to enter into new Leases; to give consents, concessions or waivers of any rights or provisions of Leases; to accept surrenders of Leases; to give consents to assignment of or subletting under Leases;
 - (vii) to send or employ any inspector or agent to inspect and report upon the value, state and condition of the Property and to employ a solicitor to examine and report upon title to the same and the lease documentation pertaining to same;
 - (viii) to appoint a receiver or a receiver and manager in accordance with the provisions of the Mortgage which are hereby incorporated by reference into this Agreement; and
 - (ix) to generally perform all such acts as may in the reasonable opinion of the Mortgagee be necessary or desirable for the proper operation and maintenance of the Property, which acts may be performed in the name of the Mortgagor, or in the name of the Mortgagee;
- (b) whenever any and all Events of Default have been cured after the exercise by the Mortgagee of its rights under this Section 29, may resume collection of the rentals until a further Event of Default has occurred, whereupon the Mortgagee may re-exercise its rights hereunder, and thereafter at any time any Event of Default occurs;
- (c) shall not at any time during the existence of this Mortgage assign, pledge or hypothecate any of the Leases or the Rents or revenues due or to become due thereunder, or any part thereof, other than to the Mortgagee or pursuant to a Permitted Encumbrance nor shall the Mortgagor grant any general assignment of book debts which would cover such rentals, except pursuant to a Permitted Encumbrance;
- (d) shall not collect more than two (2) month's rental in advance;
- (e) acknowledges and agrees that neither the taking of this assignment nor anything done in pursuance hereof shall make the Mortgagee liable in any way, as landlord or otherwise, for the performance of any covenants, obligations and liabilities under the Leases or any of them; and
- (f) acknowledges and agrees that the exercise of this Section 27 or of any collateral security with respect to Rents shall not entitle the Mortgagor to redeem this mortgage.

EVENT OF DEFAULT

28. Any one or more of the following events shall constitute an event of default under the provisions of this Mortgage (an "**Event of Default**"), whether such Event of Default shall be voluntary or involuntary or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or other rule or regulation of any Governmental Authority:
- (a) any of the Covenantors fail to pay on the date upon which the same is due and payable any monies payable hereunder or under any of the other Loan Documents with respect to principal secured hereunder;
 - (b) any of the Covenantors fail to pay on the date upon which the same is due and payable any monies payable hereunder or under any of the other Loan Documents (other than on account of principal), and such failure is not remedied within three (3) business days written notice to the Mortgagor;
 - (c) any of the Covenantors fail to perform or observe any of the terms and conditions contained in this Mortgage or any of the other Loan Documents, and such failure is not remedied within thirty (30) days of written notice to the Mortgagor (but for greater certainty, there shall be no grace or cure period in respect of any Event of Default expressly enumerated hereunder, except as otherwise provided in respect of such Event of Default);
 - (d) any funds secured under this Mortgage are used for any purpose other than as set forth in the Commitment Letter;
 - (e) the occurrence of an event of default under the Southdown First Mortgage Charge which is continuing;
 - (f) any representation or warranty by any of the Covenantors that is contained in this Mortgage or any of the other Loan Documents furnished to the Mortgagee in connection herewith or therewith shall prove at any time to be untrue or incorrect as of the date made in any material respect;
 - (g) a resolution is passed or an order is made for the dissolution, liquidation or winding-up of any of the Covenantors or other cancellation or suspension of its incorporation or termination of its existence or if a petition is filed for the winding-up of the any of the Covenantors;
 - (h) any of the Covenantors is found to be insolvent or bankrupt by a court of competent jurisdiction or makes an authorized assignment or bulk sale of its assets or a compromise or arrangement for the benefit of its creditors, makes a proposal to its creditors under the *Bankruptcy and Insolvency Act* (Canada), seeks relief under the *Companies Creditors Arrangement Act* (Canada), or any other bankruptcy, insolvency or analogous law, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian or other Person with similar powers over all or any substantial portion of its assets, files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditor's rights or consents to, or acquiesces in, the filing of such a petition; or if a petition in bankruptcy is filed or presented against any of the Covenantors;
 - (i) an encumbrancer takes possession of the property of any of the Covenantors which has had or is reasonably likely to have a Material Adverse Effect, or any distress or analogous process is levied upon any of the Covenantors provided that this Section 30(i) shall not apply to any judgment, court order for the payment of money, execution, sequestration, extant or other process that is being contested in good faith if reserves deemed by the Mortgagee to be adequate therefor have been set aside with the Mortgagee or insurance coverage acceptable to the Mortgagee is held, as the case may be, and if there is no Material Adverse Effect regarding the Mortgagee's security position;

- (j) any of the Covenantors permit any sum which has been admitted as due or which is not disputed to be due and which forms or is capable of forming a charge, Lien the Property in priority to or *pari passu* with the charge or security interest created by this Mortgage and any of the other Security Documents, to remain unpaid after proceedings have been taken to enforce the same as a Lien upon the Property has been vacated or discharged within ten (10) business days of such proceedings having been taken;
- (k) the occurrence of a default under: (i) any other security or agreement (including any Permitted Encumbrance) made or assumed by any of the Covenantors (or by which it is bound) in favour of any Person in connection with the Property, to the extent such default has had or is reasonably likely to have a Material Adverse Effect; and (ii) any other security or agreement made or assumed by any of the Covenantors (or by which it is bound) in favour of the Mortgagee whether or not such security or agreement is in connection with the Property; and in each case if not remedied within the applicable cure or notice period provided for in such security or agreement;
- (l) the Mortgagor does not comply within a reasonable period with any work order issued by a municipal or provincial authority;
- (m) a receiver, receiver-manager or receiver and manager of the any of the Covenantors of any material part of its properties, assets or undertakings is appointed, or if a monitor is appointed in respect of any of the Covenantors;
- (n) any writ of execution, distress, attachment or other similar process is issued or levied against any of the Covenantors or all or any part of its assets, or attachment or other similar process is issued or levied against any of the Covenantors by a court of competent jurisdiction and, in the opinion of the Mortgagee, such judgement or order would materially and adversely affect the ability of any of the Covenantors to fulfil its obligations to the Mortgagee hereunder or under any of the other Loan Documents;
- (o) any part of the Property is condemned or expropriated and, in the opinion of the Mortgagee in respect of any expropriation, such expropriation materially impairs the value of the Property, the validity, enforceability or priority of the security of this Mortgage, or the ability of the Mortgagor to pay the Loan Indebtedness or to perform any of the Loan Obligations;
- (p) any direct or indirect change (i) in the ownership of (A) the Property; or (B) any Covenantor; or (ii) any change of Control of any of the Covenantors, in each case without the consent of the Mortgagee in its sole, absolute and unfettered discretion;
- (q) if a Material Adverse Effect occurs; or
- (r) the occurrence of a cross-default pursuant to Section 20.

RECEIVER

29. Upon the occurrence of an Event of Default which is continuing, the Mortgagee may at such time and from time to time and with or without entry into possession of the Property or any part thereof, appoint a receiver (which term includes a receiver or a manager or a receiver and manager) of the Property or any part thereof and of the Rents and profits thereof and with or without security, and may from time to time remove any receiver and appoint another in his stead and that, in making any such appointment or removal, the Mortgagee shall be deemed to be acting as the agent or attorney for the Mortgagor and not of the Mortgagee. Such appointment may be made at any time either before or after the Mortgagee shall have entered into or taken possession of the Property or any part thereof. Upon the appointment of any such receiver or receivers from time to time, the following provisions shall apply, subject to compliance with applicable laws:
- (a) the statutory declaration of an officer of the Mortgagee as to the Event of Default under the provisions of this Mortgage, shall be conclusive evidence thereof;

- (b) every such receiver shall be the irrevocable agent or attorney of the Mortgagor for the collection of all Rents falling due in respect of the Property or any part thereof, whether in respect of any tenancies created in priority to these presents or subsequent thereto;
- (c) every such receiver may, in the discretion of the Mortgagee and by writing under its corporate seal, be vested with all or any of the powers and discretions of the Mortgagee;
- (d) the Mortgagee may from time to time, by such writing fix the remuneration of every such receiver who shall be entitled to deduct the same out of the Rents from the Property or from the proceeds of the judicial sale of the Property;
- (e) every such receiver shall, so far as concerns responsibility for his acts or omissions, be deemed the agent or attorney of the Mortgagor and in no event the agent of the Mortgagee, and the Mortgagee shall not in any way be responsible for any acts or omissions (including negligence, misconduct or misfeasance) on the part of any such receiver;
- (f) the appointment of every such receiver by the Mortgagee shall not create any liability on the part of the Mortgagee to the receiver in any respect, and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Mortgagee a mortgagee in possession in respect of the Property or any part thereof;
- (g) every such receiver shall from time to time have the power to rent any portion of the Property which may become vacant, for such term and subject to such provisions as he may deem advisable or expedient, and in so doing every such receiver shall act as the attorney or agent of the Mortgagor and he shall have authority to execute under seal any lease of such portion of the Property in the name of and on behalf of the Mortgagor, and the Mortgagor undertakes to ratify and confirm whatever any such receiver may do in respect of the Property;
- (h) every such receiver shall have full power to complete any unfinished construction upon the Property with the intent that the Mortgaged Premises when so completed shall be a complete structure;
- (i) every such receiver shall have full power to manage, operate, amend, repair, alter or extend the Property or any part thereof in the name of the Mortgagor for the purpose of securing the payment of rental from the Property or any part thereof;
- (j) no such receiver shall be liable to the Mortgagor to account for moneys or damages other than cash received by him in respect of the Property or any part thereof, and out of such cash so received every such receiver shall, subject to the approval of the Mortgagee, in the following order, pay:
 - (i) his remuneration aforesaid;
 - (ii) all payments including, without limitation, costs as between solicitor and his own client made or incurred by him in connection with the management, operation, amendment, repair, alteration or extension of the Property or any part thereof;
 - (iii) interest, principal and other moneys which may from time to time, be or become charged upon the Property in priority to these presents, and all Taxes, insurance premiums and every other proper expenditure made or incurred by him in respect to the Property or any part thereof;
 - (iv) to the Mortgagee, all interest due or falling due under these presents and the balance to be applied upon principal due and payable and secured by these presents;

- (v) into a reserve account in the name of the receiver, an appropriate sum of money as a reserve fund for unusual, emergency or lump sum payments or expenses with respect to the Property; and
- (vi) any surplus thereafter remaining in the hands of every such receiver after payments made as aforesaid, to the Mortgagor;
- (k) save as to claims for an accounting under Section 29(j) above, the Mortgagor hereby releases and discharges every such receiver from every claim of every nature which may arise or accrue to the Mortgagor or any Person claiming through or under the Mortgagor by reason or as a result of anything done by any such receiver under the provisions of this Section 29, unless such claim by the direct and proximate result of gross negligence or wilful misconduct;
- (l) the power of sale, foreclosure and any other remedies of the Mortgagee may be exercised either before, concurrent with, during, or after the appointment of any receiver hereunder.

RIGHTS OF MORTGAGEE

30. The Mortgagor further covenants and agrees with the Mortgagee upon the occurrence of an Event of Default which is continuing:
- (a) the Mortgagee may and when and to such extent as the Mortgagee deems advisable, observe and perform or cause to be observed and performed such covenants, agreements, provisos or stipulations and the costs incurred by the Mortgagee in connection therewith, together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing;
 - (b) the Mortgagee may at such time or times as the Mortgagee may deem necessary and without the concurrency of any Person, enter upon the Property and may make such arrangements for completing the construction, repairing or putting in order of the Mortgaged Premises, or for inspecting, taking care of, leasing, collecting the Rents of and managing generally the Property as the Mortgagee may deem expedient; all reasonable costs, charges and expenses, including allowances for the time and services of any employee of the Mortgagee or other Person appointed for the above purposes, together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing;
 - (c) the Mortgagee may send or employ an inspector or agent to inspect and report upon the value, state and condition of the Property, and a solicitor to examine and report upon the title to the same;
 - (d) the Mortgagee or agent of the Mortgagee may enter into possession of the Property and whether in or out of possession collect the Rents and profits thereof, and make any demise or lease of the Property, or any part thereof, for such terms and periods and at such Rents as the Mortgagee shall think proper; and the power of sale hereunder may be exercised either before or after and subject to any such demise or lease;
 - (e) it shall and may be lawful for and the Mortgagor does hereby grant full power, right and license to the Mortgagee to enter, seize and distrain upon the Property, or any part thereof, and by distress warrant to recover by way of rent reserved as in the case of demise of the Property or any part thereof, as much of the mortgage moneys as shall from time to time be or remain in arrears and unpaid, together with costs, charges and expenses attending such levy or distress, as in like cases of distress for rent;

- (f) the Mortgagee shall be entitled forthwith to take such proceedings to obtain repayment of the moneys and interest payable to the Mortgagee hereunder and to realize on its security under this Mortgage by foreclosing the same or by whatever other action it may by law be entitled to do, it being acknowledged that nothing herein shall limit such recourse to the Property only;
- (g) subject to applicable law, the Mortgagee shall be entitled to sell and dispose of the Property with or without entering into possession of the same and with or without notice to the Mortgagor or any party interested in the Property; and all remedies competent may be resorted to; and all the rights, powers and privileges granted to or conferred upon the Mortgagee under and by virtue of any statute or by this Mortgage may be exercised; and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made of the Property hereunder, and the Mortgagee may sell, transfer and convey any part of the Property on such terms of credit, or part cash and part credit, secured by contract or agreement for sale or mortgage, or otherwise, as shall in the opinion of the Mortgagee be most advantageous, and for such price as can reasonably be obtained therefor; and in the event of a sale on credit, or part cash and part credit, whether by way of contract for sale or by conveyance or transfer and mortgage, the Mortgagee is not to be accountable for or charged with any moneys until the same shall be actually received in cash; and the sales may be made from time to time of any portion or portions of the Property to satisfy interest or parts of the principal overdue, leaving the principal or parts thereof to run with interest payable as aforesaid; and the Mortgagee may make stipulations as to the title or evidences or commencement of title or otherwise as the Mortgagee shall deem proper; and the Mortgagee may buy in or rescind or vary any contract for sale of the Property and any resale thereof; and on any sale or release, the Mortgagee shall not be answerable for loss occasioned thereby; and for any of such purposes the Mortgagee may make and execute all agreements and assurances that the Mortgagee shall deem advisable or necessary; and in case any sale held by the Mortgagee under and by virtue of the laws of the Province of Ontario under the power of sale herein contained should prove abortive the Mortgagee may take foreclosure proceedings in respect of the Property in accordance with the provisions of the laws of the Province of Ontario; and in the event of any deficiency on account of the moneys secured by this Mortgage remaining due to the Mortgagee after realizing all the Property, then Mortgagor will pay to the Mortgagee on demand the amount of such deficiency with interest at the Interest Rate both before and after judgment; and in the exercise of any of the foregoing powers, the Mortgagor hereby appoints the Mortgagee the attorney of the Mortgagor for the purpose of making any agreements and assurances on behalf of the Mortgagor as the Mortgagee may deem necessary which power of attorney is coupled with an interest; and the proceeds of any sale hereunder shall be applied as above provided for or in payment of moneys payable under this Mortgage and costs on a solicitor and his own client basis, the balance, if any, to be paid to the Mortgagor;
- (h) the whole of the mortgage moneys shall, at the option of the Mortgagee, become due and payable;
- (i) the Mortgagee may exercise each of the foregoing powers without notice to the Mortgagor.

COVENANTOR MISREPRESENTATION

- 31. Notwithstanding any other provision in this Mortgage, the Mortgagee may demand repayment of all Loan Indebtedness and exercise all of its rights hereunder, including without limitation pursuant to Sections titled "**Receiver**" and "**Rights of Mortgagee**" if any of the Covenantors, any agent of any of the Covenantors or any officers or director of any of the Covenantors shall have made any material misrepresentation in any of the Loan Documents.

ATTORNEY

- 32. As further assurance to the rights and remedies granted by the Mortgagor to the Mortgagee herein, the Mortgagor, as the owner of the Property hereby irrevocably appoints the Mortgagee on its own behalf or any receiver or manager or receiver and manager appointed

by the Mortgagee attorney on behalf of the Mortgagor to sell, lease, mortgage, transfer or convey the Property in accordance with the provisions of this Mortgage and to execute all instruments, and do all acts, matters and things that may be necessary for carrying out the powers hereby given and for the recovery of all Rents and Lease Benefits and sums of money that may become or are now due or owing to the Mortgagor in respect of the Property, and for the enforcement of all contracts, covenants or conditions binding on any lessee or occupier of the Property or on any other Person in respect of it, and for the taking and maintaining possession of the Property, and for protecting it from waste, damage, or trespass, in all cases only following an Event of Default which is continuing. Such power of attorney is coupled with an interest.

JUDGMENT

33. The taking of a judgment on any of the covenants or agreements herein contained shall not operate as a merger thereof or affect the Mortgagee's rights to interest to the Maturity Date at the Interest Rate and at the times herein provided. Further, any and all such judgments shall provide for interest thereon to be computed at the Interest Rate and in the same manner as herein provided to the Maturity Date shall have been fully paid and satisfied and, without limiting the generality of the foregoing, the Mortgagee shall be entitled to receive interest at the Interest Rate to the Maturity Date on all moneys payable to the Mortgagee under this Mortgage, after any judgment has been rendered with respect to this Mortgage.

EXPENSES

34. All expenses, fees, charges or payments incurred, expended or paid by the Mortgagee, acting reasonably and without duplication, (whether with the knowledge, consent, concurrence or acquiescence of the Mortgagor or otherwise) with respect to the following matters:
- (a) all reasonable solicitors', inspectors', valuator's and surveyors' fees and expenses for drawing and registering this Mortgage and for examining the Property and the title thereto, and for making or maintaining this Mortgage a good and valid charge and mortgage (subject only to the Prior Permitted Encumbrances);
 - (b) all sums which the Mortgagee may advance for insurance premiums, Taxes, or rates;
 - (c) any unpaid amount due to the Mortgagee for the Lender's Fee, and, if applicable, the Extension Fee and the Administration Fee;
 - (d) all sums which the Mortgagee may expend in payment of prior liens, charges, encumbrances or claims charged or to be charged against the Property or on this Mortgage or against the Mortgagee in respect of this Mortgage;
 - (e) all sums which the Mortgagee may expend in maintaining, repairing, restoring or completing the construction on the Property pursuant to the terms of this Mortgage;
 - (f) the cost of inspecting, leasing, managing or improving the Property, including the price or value of any goods of any sort or description supplied for use on the Property pursuant to the terms of this Mortgage;
 - (g) all sums paid to a receiver of the Property;
 - (h) the cost of exercising or enforcing or attempting to exercise or enforce any right, power, remedy or purpose hereunder provided or implied, and including an allowance for the time, work and expenses of the Mortgagee or any agent or employee of the Mortgagee, for any purpose provided for herein; and
 - (i) the Mortgagee's reasonable solicitors' costs as between solicitor and his own client incurred or paid by the Mortgagee as a result of any Event of Default, or of endeavouring to collect (with or without suit) any money payable hereunder, or of taking, recovering or keeping possession of the Property, and generally in any other proceedings, matter or thing taken or done to protect or realize this security or any other security for payment of the Loan Indebtedness and performance of the Loan Obligations;

together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing.

COVENANTS AND REPRESENTATIONS

35. The Mortgagor:

- (a) further represents and warrants to the Mortgagee that:
 - (i) the Mortgagor:
 - (A) is a corporation incorporated formed and existing under the laws of its jurisdiction of incorporation;
 - (B) has the legal right and all necessary corporate or other power and authority to own its assets, possess a freehold interest in the Property, and carry on its business in all material respects; and
 - (C) is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions where it conducts business, except where failure to be so qualified, licensed or registered has not and is not reasonably likely to have a Material Adverse Effect;
 - (ii) the Mortgagor has all requisite corporate power and authority to enter into and perform its obligations under this Mortgage and the other Loan Documents, and to do all acts and things and execute and deliver all other documents and instruments as are required hereunder and thereunder to be done, observed or performed by it in accordance with the terms hereof and thereof;
 - (iii) the execution and delivery by the Mortgagor, and the performance by it of its obligations under, and compliance with the terms, conditions and provisions of, this Mortgage and the other Loan Documents will not conflict with or result in a breach of any of the terms, conditions or provisions of:
 - (A) its articles, by-laws, shareholders' agreements or other organizational documents; as the case may be;
 - (B) any applicable laws;
 - (C) any material contracts, material authorizations or material contractual restriction binding on or affecting it or its assets, including without limitation, the Property; or
 - (D) any material judgment, injunction, determination or award which is binding on it in each such case, except to the extent that such breach has not and is not reasonably likely to have a Material Adverse Effect;
 - (iv) the execution and delivery by the Mortgagor of this Mortgage and the other Loan Documents, and the performance by it of its Loan Obligations have been duly authorized by all necessary corporate or other action including, without limitation, the obtaining of all necessary partner, shareholder or other material and relevant consents. No authorization, consent, approval, registration, qualification, designation, declaration or filing with any Governmental Authority, or other Person, is or was necessary in connection with the execution, delivery and performance of the Mortgagor's obligations under this Mortgage the other Loan Documents, except where failure to obtain same would not have or be reasonably likely to have a Material Adverse Effect;

- (v) this Mortgage and the other Loan Documents have been duly executed and delivered, as the case may be, by the Mortgagor, and constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms (except as such enforceability may be limited by the availability of equitable remedies and the effect of bankruptcy, insolvency or similar laws affecting the enforcement of credit's rights generally), is (or will be immediately upon the execution thereof by such Person) in full force and effect, and the Mortgagor has performed and complied in all material respects with all the terms, provisions, agreements and conditions set forth herein and therein and required to be performed or complied with by the Mortgagor;
- (vi) the Mortgagor is not a non-resident within the meaning of the *Income Tax Act* (Canada);
- (vii) there is not now pending or, to the knowledge of the Mortgagor, threatened in writing, against the Mortgagor, any litigation, action, suit, investigation (to the knowledge of the Mortgagor) or other proceeding by or before any Governmental Authority or before any arbitrator which has had or is reasonably likely to have a Material Adverse Effect;
- (viii) as of the date hereof, the written information heretofore supplied by any of the Covenantors (other than information or reports prepared by third parties) to the Mortgagee is true and accurate in all material respects as at the date thereof;
- (ix) all financial statements delivered to the Mortgagee as of the date hereof pursuant to Section 49 present fairly and in all material respects the financial position of any of the Covenantors as of the date thereof and for the fiscal years or financial quarters, as the case may be, then ended;
- (x) since the later of the date hereof and the date of the most recent financial statements delivered to the Mortgagee, there has been no change regarding the financial condition or operations, of any of the Covenantors as reflected in such financial statements or Personal net worth statements, as applicable which has had or is reasonably likely to have a Material Adverse Effect;
- (xi) there is no Event of Default under this Mortgage, nor has the Mortgagor done or omitted to do anything which constitutes an Event of Default which has not been waived or cured. None of the Covenantors is in default under any agreement, guarantee, indenture or instrument to which it is a party or by which it is bound, the breach of which has had or is reasonably likely to have a Material Adverse Effect;
- (xii) as of the date hereof, there are no outstanding judgments, orders, writs, injunctions or decrees that have not been stayed or of which enforcement has not been suspended, against the Mortgagor or any of its assets, including without limitation the Property, which would reasonably be expected to result in a Material Adverse Effect regarding the financial condition or operations of the Mortgagor;
- (xiii) the Mortgagor is the legal owner of a freehold interest in the Property with good and marketable title thereto, and any other real and personal property of the Mortgagor of any nature which is part of the Property, in each case free and clear of all encumbrances, except Permitted Encumbrances, and no Person has any agreement or right to acquire an interest in the Property except as previously disclosed to the Mortgagee in writing by the Mortgagor or permitted in connection with the Permitted Encumbrances;
- (xiv) the Mortgagor has not received notice of any proposed rezoning of all or any part of the Property which has had or is reasonably likely to have a Material Adverse Effect;
- (xv) the Mortgagor has not received notice of any expropriation of all or any part of the Property;

- (xvi) the Mortgagor has the right to mortgage the Property;
 - (xvii) upon the enforcement of its remedies under this Mortgage the Mortgagee shall have quiet possession of the Property, free from all encumbrances, other than Permitted Encumbrances;
 - (xviii) the Mortgagor, and the operation of its business and assets, including without limitation, the Property, are in compliance in all material respects with all applicable laws (including any environmental laws), except where any non-compliance is not reasonably likely to have a Material Adverse Effect; and
 - (xix) the Mortgagor has filed all tax returns which are required to be filed, other than such tax returns the failure of which to file has had or is reasonably likely to have a Material Adverse Effect, and has paid all Taxes, interest and penalties, if any, which have become due pursuant to such returns or pursuant to any assessment received by it and adequate provision for payment has been made for Taxes not yet due except any such payment of which the concerned party is contesting in good faith by appropriate proceedings and for which appropriate reserves have been provided on its books and as to which no foreclosure, distraint, seizure, attachment, sale or other similar proceedings have been commenced or the non-payment of which would not reasonable be excepted to result in a Material Adverse Effect regarding the financial condition or operations of the Mortgagor;
- (b) to the extent within the control of the Mortgagor, covenants to cause the forgoing representations and warranties to be true and correct in all material respects until the Loan Indebtedness is repaid in full and the Loan Obligations are fully performed;
 - (c) acknowledges and agrees that all representations and warranties of the Mortgagor made in this Mortgage or in any of the other Loan Documents are material, shall survive and shall not merge upon the execution and delivery of this Mortgage and shall continue in full force and effect. The Mortgagee shall be deemed to have relied upon such representations and warranties notwithstanding any investigation made by or on behalf of the Mortgagee at any time;
 - (d) shall not, at any time prior to the repayment in full of the Loan Indebtedness and the performance of all of the Loan Obligations:
 - (i) repay any loans (principal or interest) to;
 - (ii) redeem or purchase any shares or units or partnership interests held by or on behalf of;
 - (iii) pay any compensation, fee or other amount to; or
 - (iv) pay any distributions or dividends or return on partnership or shareholder investment to,in each case, any of the Covenantors or any other shareholder, unitholder or partner of any Covenantor, or any other Person not at arms-length to any of the foregoing;
 - (e) acknowledges and agrees that any third party property manager of the Property and each property management agreement will be subject to the prior written approval of the Mortgagee, acting reasonably; and
 - (f) acknowledges and agrees that each new Lease of the Property, including each renewal or extension of an existing Lease (other than any extension or renewal of an existing Lease which is exercised pursuant to, and the terms of which are governed by, such existing Lease), must:
 - (i) be a commercially reasonable arm's length transaction made in the ordinary course of business and in accordance with prudent property management and leasing standards and practices; and

- (ii) provide for rental rates and other terms and conditions consistent with prevailing market rates, terms and conditions.

EXPROPRIATION

36. Subject to the rights of creditors of the Mortgagor in accordance with Prior Permitted Encumbrances, the Mortgagor hereby assigns to the Mortgagee, that portion of any proceeds which may become due and payable to the Mortgagor by an expropriating authority upon an expropriation of the Property or the proceeds of any condemnation, eminent domain or like proceeding or the sale in lieu of or in reasonable anticipation thereof of the whole or any part of the Property or any portion thereof, not to exceed the balance outstanding under the Mortgage, provided that the Mortgagee shall permit the Mortgagor to use such portion of any proceeds as reasonably necessary to pay the cost to repair any damage resulting from such expropriation. The Mortgagor shall forward to the Mortgagee, copies of any documentation relating to an expropriation or a proposed expropriation of the Property or any portion thereof, forthwith upon receipt of the said documentation by it and shall execute and deliver any further or additional documentation which the Mortgagee in its sole discretion deems necessary to effect the above assignment or which is requested by the expropriating authority. Notwithstanding anything to the contrary contained herein, if the Mortgagor or the Mortgagee receives a notice of intention to expropriate in relation to the Property, or any portion thereof, that has had or is reasonably likely to have a Material Adverse Effect, at the option of the Mortgagee, the whole of the outstanding balance secured under this Mortgage at the date of the expropriation, shall immediately become due and payable in like manner and to all intents and purposes as if the time for payment of the said balance had fully come and expired. If any or all of the Property is expropriated, it is agreed that the proceeds from any such expropriation up to the amount outstanding under this Mortgage shall be paid directly to the Mortgagee in priority to the claims of any other party, except such creditors of the Mortgagor and other parties with priority to collect such proceeds pursuant to any Prior Permitted Encumbrances. Service of a copy of this Mortgage on the expropriating authority shall be sufficient authority for the expropriating authority to deliver proceeds to the Mortgagee, in accordance with the terms of the assignment contained herein.

PERMITTED ENCUMBRANCES AND OTHER OBLIGATIONS

37. The Mortgagor hereby covenants to perform and observe and satisfy all the terms, covenants and conditions to be performed and observed by the Mortgagor under the terms of any Prior Permitted Encumbrances and the Leases (hereinafter called the "**Other Obligations**"). It is expressly agreed and understood by the Mortgagor that in the event of default by the Mortgagor under any of the terms of any Other Obligations, beyond any applicable notice or cure periods, then at the option of the Mortgagee an Event of Default shall have occurred hereunder. The Mortgagee may at its option make any payment or cure any default under the any Prior Permitted Encumbrance and any amount or amounts so paid together with all costs, charges, expenses and outlays of the Mortgagee thereby incurred together with interest thereon at the Interest Rate shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing.

SEVERABILITY

38. In the event any Section or part thereof or any Section or part thereof is invalid and not enforceable for any reason, then such Section or part thereof or such Section or part thereof shall be severable from this Mortgage and not affect the validity or enforceability of any other part of this Mortgage.

SUCCESSORS AND ASSIGNS

39. When the context makes it possible, the word "**Mortgagee**" wherever it occurs in this Mortgage, shall include the successors and assigns of the Mortgagee, and the word "**Mortgagor**" shall include heirs, executors, administrators, successors and permitted assigns of the Mortgagor; and that words in the singular include the plural, and that words in plural include the singular, and words importing the masculine gender include the feminine; and that if there is more than one entity comprising the Mortgagor all covenants

herein contained and implied are to be construed as joint and several; and that heirs, executors, administrators, successors and assigns of any party executing this Mortgage are jointly and severally bound by the covenants, provisos and agreements herein contained or implied. The Documents, including without limitation this Mortgage, together with the Loan Indebtedness and the Loan Obligations may be assigned by the Mortgagee, provided that the Mortgagee shall provide the Mortgagor and the Covenantors with written notice of any such assignment and obtain the Mortgagor's consent to the assignment, which consent shall not be unreasonably withheld, conditioned or delayed.

DISCHARGE

40. The Mortgagee shall upon payment and performance of all indebtedness and obligations secured hereby in full deliver an executed discharge of this Mortgage; it being agreed that the Mortgagor's solicitor shall be responsible for preparing the mortgage discharge document for review by the Mortgagee and its counsel at least seven (7) days prior to payment, and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Mortgagee; and all reasonable legal and other expenses and Taxes thereon, if any, for the preparation and execution of such discharge shall be borne by the Mortgagor.

LAW

41. This Mortgage is made pursuant to the *Land Titles Act* (Ontario) and any amendments thereto.

COMMITMENT LETTER

42. The parties agree that the accepted terms and conditions of the Commitment Letter, shall survive the initial advance of monies by the Mortgagee to the Mortgagor as contemplated hereunder and continue to be in full force and effect after said initial advance. In the event there is a direct conflict between the terms and conditions of this Mortgage and the Commitment Letter, then the Commitment Letter shall prevail to the extent necessary to resolve the conflict. In the event there is a direct conflict between the terms and conditions of this Mortgage and any other Loan Document (other than the Commitment Letter), the terms and conditions of this Mortgage shall prevail to the extent necessary to resolve the conflict.

HAZARDOUS MATERIALS

43. The Mortgagor,
- (a) except as disclosed to the Mortgagee prior to the date hereof, has not nor, to the best knowledge of the Mortgagor, has any other Person ever caused or permitted any hazardous materials to be placed, held, located or disposed of on, under or at the Property and that its business and assets are operated in compliance with applicable laws intended to protect the environment (including, without limitation, laws respecting the disposal or emission of hazardous materials) and that no enforcement actions in respect thereof are threatened or pending.
 - (b) covenants and agrees that it will at all times during the continuance of this Mortgage, operate the Property in compliance with applicable laws intended to protect the environment (including, without limitation, laws respecting the disposal or emission of hazardous materials) and shall, subject to the rights of tenants under the Leases, permit the Mortgagee to conduct inspections and appraisals of all or any of its records, business and assets at any time or from time to time upon reasonable prior notice to ensure such compliance.
 - (c) in addition to the representations and warranties contained in Section 35, hereby represents, warrants and agrees that,
 - (i) to the best of the knowledge of the Mortgagor, the condition and use of the Property is, and will continue to be in compliance with all applicable environmental laws and standards; all necessary licenses and permits relating to the release of contaminants, production of dangerous materials and carrying on of hazardous activities have been obtained and are being

complied with; there are no outstanding orders against the Mortgagor from any Governmental Authority responsible for protecting the environment;

- (ii) to the best of the knowledge of the Mortgagor, the Property is not being subjected to environmental damage or contamination and to the best of the Mortgagor's knowledge, the Property incurred no such damage or contamination prior to the Mortgagor's control;
- (iii) the Mortgagor will use commercially reasonable efforts to use the Property and conduct its business thereon so as not to cause environmental damage and that the use of the Property will not change without the Mortgagee's approval, acting reasonably;
- (iv) to the best of the knowledge of the Mortgagor, the terms of any past credit arrangement have not been altered, cancelled or not renewed due to environmental risk considerations;
- (v) all legally required remedial action will be taken with respect to violations of environmental laws, and spills or other contaminations;
- (vi) the Mortgagor will give notice to the Mortgagee of any contamination of which the Mortgagor has or acquires knowledge of, or any pending or threatened government enforcement action or civil suit arising out of alleged environmental damage of which the Mortgagor has or acquires knowledge of;
- (vii) in accordance with Section 12 above, the Mortgagor will permit the Mortgagee and its agents to enter onto the Property at any time to conduct an environmental inspection and to permit the Mortgagee to take such action as it deems reasonably necessary to remedy any environmental damage or breach of law which the Mortgagor fails to take, subject to the rights of tenants under the Leases;
- (viii) the Mortgagor will provide copies of its own internal/external environmental audits to the Mortgagee upon request;
- (ix) subject to the terms of the existing Leases, the Mortgagor will use commercially reasonable efforts to cause any other occupants or Persons in control of the Property to comply with the foregoing covenants;
- (x) the Mortgagor will defend and indemnify the Mortgagee, its directors, officers, employees and agents against all costs, etc., arising out of any environmental damage caused by the Mortgagor's activities or by contamination of or from the Property (unless caused by the Mortgagee or those for whom in law it is responsible); and
- (xi) if the Mortgagor fails to perform any of the foregoing covenants beyond any applicable notice or cure periods, the Mortgagee may do so and any money expended by the Mortgagee shall be paid by the Mortgagor out of any funds coming into the Mortgagee's possession in priority to the Loan.

DUE ON SALE

44. The Loan Indebtedness shall, at the election of the Mortgagee, immediately become due and payable in full without notice by nor demand from the Mortgagee if the Property or any part thereof or interest therein is, without the prior consent in writing of the Mortgagee sold, transferred, conveyed, foreclosed, exchanged, assigned, mortgaged, or otherwise disposed of, or if the Mortgagor enters into an agreement to effect any of the foregoing whether by registered or unregistered instrument and whether for valuable or nominal consideration (and if the Mortgagor is a corporation, any change in Control of the Mortgagor or any other Covenantor shall constitute a default under this Section 44), in all cases except as specifically permitted in this Mortgage or in the Commitment Letter; provided however that nothing herein shall be construed as permitting the Mortgagor to prepay this Mortgage in whole or in part except in accordance with Section 8 hereof; and provided further that the acceptance by the Mortgagee of any instalment payment or other

payment under this Mortgage from any entity other than the Mortgagor shall not constitute a waiver by the Mortgagee of its rights under this Section 44, nor a consent by the Mortgagee of any such sale or disposal of the Property as above described.

SUBSEQUENT FINANCING

45. The Loan Indebtedness shall, at the election of the Mortgagee, become due and payable in full if the Property or any part thereof or interest therein is, without the prior consent in writing of the Mortgagee acting reasonably, mortgaged or similarly charged, except as may be specifically permitted in this Mortgage, the Commitment Letter or under a Permitted Encumbrance; provided however that nothing herein shall be construed as permitting the Mortgagor to repay this Mortgage in whole or in part except in accordance with Section 8 hereof.

PROHIBITED BUSINESSES

46. The Mortgagor agrees not to operate, nor allow any tenant to operate a business on the Property that:
- (a) is sexually exploitive or that is inconsistent with generally accepted community standards of conduct and propriety, including those that feature sexually explicit entertainment, products or services; or
 - (b) are engaged in or associated with illegal activities.

FINANCIAL STATEMENTS AND REPORTS

47. The Mortgagor shall deliver or cause to be delivered the following documentation to the Mortgagee:
- (a) any and all insurance certificate renewals and/or amendments within ten (10) business days of the issuance thereof. In the event of any change to the insurance held by the Mortgagor, the Mortgagee may, in its unfettered discretion, require its insurance consultant to conduct an insurance review at the Mortgagor's expense;
 - (b) property tax statements supported by proof of payment on a quarterly basis or as otherwise requested by the Mortgagee from time to time;
 - (c) all commercial leases and any and all other agreements related to any of the Rents, income, and profits arising from or in connection with the Property as requested by the Mortgagee from time to time;
 - (d) certified property operating statements, together with a summary of capital expenses at the Property, to the Mortgagee on an annual basis within ninety (90) days of the Mortgagor's fiscal year end or as otherwise requested by the Mortgagee from time to time;
 - (e) each year, or more often if requested by the Mortgagee, within ninety (90) days of the Mortgagor's fiscal year end, notice to reader financial statements of the Mortgagor and of any corporate Covenantor, including a balance sheet and supporting schedules, a detailed statement of income and expenditures and supporting schedules, and a statement of change in cash flow; and
 - (f) at the request of the Mortgagee from time to time any other relevant updates regarding the Property.

BENEFIT OF EASEMENTS

48. As additional security for the indebtedness and other obligations secured hereunder and interest thereon and the due performance of the Mortgagor's obligations hereunder and under any collateral security the Mortgagor hereby assigns, transfers, mortgages, charges and sets over to and in favour of the Mortgagee as and by way of a specific assignment, mortgage and charge all of the right, title and interest of the Mortgagor in and with respect to any and all easements, restrictive covenants, rights of way, party wall agreements and encroachment agreements benefiting the Property (the "**Title Agreements**") and all of the benefit, power and advantage of the Mortgagor to be derived therefrom (including without

limitation the benefit of any positive covenants) and otherwise to enforce the rights of the Mortgagor under the Title Agreements in the name of the Mortgagor. Nothing herein contained shall render the Mortgagee liable to any Person for the fulfilment or non-fulfilment of the obligations covered in any of the Title Agreements, including, but not limited to, the payment of any moneys thereunder or in respect thereto and the Mortgagor hereby indemnifies and agrees to save and hold harmless the Mortgagee from and against any and all claims, demands, actions, causes of action, losses, suits, damages and costs whatsoever arising directly or indirectly from or out of any of the Title Agreements. The Mortgagor covenants and agrees with the Mortgagee that the Mortgagor shall not surrender, alter, amend or modify any of the Title Agreements or any of the terms or conditions thereof except with the prior written consent of the Mortgagee or as required to complete the project, if applicable, as determined by the Mortgagor, acting as a prudent owner.

INDEMNITY

49. The Mortgagor shall indemnify and save harmless the Mortgagee and its officers, agents, trustees, employees, contractors, licensees or invitees from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature whatsoever in connection with any breach or default by the Mortgagor under this Mortgage and any of the other Loan Documents.


GENERAL

50. This Mortgage shall be construed in accordance with and governed under the laws of the Province of Ontario and the federal laws of Canada applicable therein.
51. The Mortgagor agrees with the Mortgagee as follows:
- (a) to comply with the terms and conditions of this Mortgage and the other Loan Documents at all times;
 - (b) to maintain the Property in a sound state of repair at all times as would other prudent owners of similar property;
 - (c) to allow the Mortgagee and its appointees to have access to the property at all reasonable times upon reasonable prior notice, subject to the rights of tenants at the Property; and
 - (d) at the Mortgagee's request, acting reasonably, to promptly deliver or cause to be delivered to the Mortgagee promptly such information about the financial condition and operation with respect to the Property as the Mortgagee may request from time to time.
52. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Commitment Letter.
53. Notwithstanding anything in this Mortgage, in dealing with enforcing and realizing on this Mortgage, the Mortgagee shall not claim hereunder any greater amount in the aggregate than the amounts advanced by the Mortgagee that remain unpaid, together with all accrued and unpaid interest, and any other amounts unpaid hereunder.

-- signatures follow on next page --

IN WITNESS WHEREOF the Mortgagor has hereunto affixed its corporate seal attested to by the duly authorized officers in that behalf this ___ day of July, 2022.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

Per: 
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

SCHEDULE "A"

DESCRIPTION OF THE LANDS

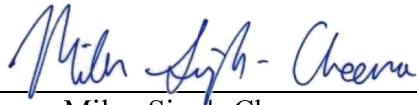
PIN: 13493-0190 (LT)

PT LT 31,32 CON 3 SDS DES PTS 1,2 PL 43R11375 SAVE & EXCEPT PTS 1,2,3 PL 43R21957, EXCEPT PT 1 43R22260, EXCEPT PT 1 43R25470, EXCEPT PTS 1, 2, 3 PL 43R25635, EXCEPT PT 1 PL 43R28305 MISSISSAUGA.S/T EASEMENT IN FAVOUR OF INTERPROVINCIAL PIPE LINE COMPANY OVER PT LT 32 CON 3 SDS DES PT 2 PL 43R11375 EXCEPT PT 2 PL 43R21957 AS IN TT102320, TT104152.T/W EASEMENT OVER PT LT 32 CON 3 SDS DES PT 3 PL 43R21957 AS IN LT1712946

**T
A
B**

EE

THIS IS **EXHIBIT "EE"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

GENERAL ASSIGNMENT OF LEASES AND RENTS

THIS AGREEMENT made as of the ___ day of July, 2022.

B E T W E E N:

2226 ROYAL WINDSOR GP INC., in its capacity as general partner for
and on behalf of **2226 ROYAL WINDSOR LP**

(the "**Assignor**")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "**Assignee**")

OF THE SECOND PART

WHEREAS the Assignor, as mortgagor, has granted a first ranking mortgage (the "**Mortgage**") to and in favour of the Assignee, as mortgagee, of the lands and premises charged therein (the "**Property**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS as a condition for receiving the Loan Indebtedness, the Assignor agreed to assign to the Assignee, its successors and assigns, as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, in all of the Assignor's right, title and interest in and to:

- (a) all present and future leases, subleases, licenses, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Assignor or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Property, and including all agreements collateral thereto (collectively, the "**Leases**");
- (b) all rents, issues, profits and other monies now due or accruing due or to become due and payable under or derived from the Leases or receivable by the Assignor pursuant to the Leases or the Property (collectively, the "**Rents**"); and
- (c) the benefit of all covenants and obligations of lessees, tenants, licensees, or occupants as well as all other rights, privileges, advantages and benefits contained in any of the Leases, including without limitation, all rights and benefits of any present and future guarantees or indemnities thereof, with full power and authority to demand, sue for, collect, recover and receive all Rents, to enforce the Assignor's

rights under any Lease, and generally any collateral advantage or benefit to be derived from the Leases or any of them together with the full benefit of all security in support of any guarantees or indemnities (collectively, the "**Lease Benefits**" and together with the Leases and the Rents, collectively, the "**Assigned Rights and Benefits**");

NOW THEREFORE IN CONSIDERATION of the recitals, the Assignee extending the Loan Indebtedness and for such other good and valuable consideration received by the Assignor, the receipt and adequacy of which is acknowledged by the Assignor, the Assignor agrees with the Assignee as follows:

ARTICLE 1 **DEFINITIONS, INTERPRETATION**

1.1 Definitions

Capitalized terms that are not defined herein have the meanings set out in the Mortgage. Otherwise, in this Agreement:

- (a) "**Excluded Lease**" has the meaning ascribed to it in Section 2.3;
- (b) "**Indebtedness**", in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
- (c) "**Loan Indebtedness**" means any Indebtedness from time to time of the Assignor or any of the other Covenantors to the Assignee arising under any of the Loan Documents;
- (d) "**Loan Obligations**" means the obligations of the Assignor or any of the other Covenantors arising under the Loan Documents;
- (e) "**Other Parties**" has the meaning ascribed to it in Section 2.13(a); and
- (f) "**Receiver**" has the meaning ascribed to it in Section 2.12(a).

1.2 Interpretation

For the purposes of this Agreement, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Agreement, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Agreement.

ARTICLE 2 **AGREEMENT**

2.1 Assignment

As continuing collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations, the Assignor hereby assigns, transfers and sets over unto the Assignee and grants to the Assignee a security interest in all of the Assignor's right, title, estate, interest and benefit, both at law and in equity, in and to the Assigned Rights and Benefits, to hold and receive the same unto the Assignee with full power and authority to demand, sue for, collect, recover and receive and give receipts for the Rents and to enforce the payment of the Rents and the payment and performance of all Assigned Rights and Benefits, assigned in accordance with and subject to the terms of this Agreement.

2.2 Last Day of Term

This Agreement shall not extend or apply to the last day of the term, or the last day of any extended or renewed term, of any of the Leases provided that if this Agreement is enforced by the Assignee, the Assignor shall stand possessed of each such last day and shall hold same in trust and if this Agreement is enforced by the Assignee, to assign at the direction of the Assignee or any Person who may acquire any such term or renewal term or who in the course of enforcement hereof may be entitled to so direct.

2.3 Excluded Leases

Nothing in this Agreement shall constitute an assignment or attempted assignment of any of the right, title, estate, interest and benefit of the Assignor in any Assigned Rights and Benefits which require the consent of a third party to assignment unless such consent has been obtained (an "**Excluded Lease**"). The Assignor shall, upon request, obtain the required consent of any third party to the assignment of any Excluded Lease under this Agreement and to its further assignment by the Assignee to any third party as a result of the exercise by the Assignee of its remedies hereunder after an Event of Default. Upon consent being obtained, this Agreement shall apply to the applicable Excluded Lease without regard to this Section and without the necessity of any further assurance to effect assignment under this Agreement. Until consent to assignment is obtained, the Assignor shall, to the extent it may do so at law or pursuant to the provisions of the Excluded Lease and without giving rise to any default or penalty under the Excluded Lease, hold all right, title, estate, interest and benefit to be derived from the Excluded Lease in trust for the Assignee as additional security for the payment of the Loan Indebtedness and performance of the Loan Obligations as if this Agreement applied.

2.4 Representations and Warranties

The Assignor represents and warrants to and in favour of the Assignee that:

- (a) each of the Leases is in existence, and is in full force and effect, and there is currently no default by any party to any Lease under any term, condition or covenant required to be performed by it under the Assigned Rights and Benefits and there exists no event or circumstance, which would with the passage of time or the giving of notice or both constitute a default or an event of default under any of the Assigned Rights and Benefits;
- (b) there is no outstanding dispute under any Lease by any of the parties to it and no lessee under any Lease is entitled to any set off or defense against the payment of Rent under the Lease; and
- (c) the Assignor has good right, full power and absolute authority to assign the Assigned Rights and Benefits in the manner aforesaid, and has not performed any act or executed any other instrument which might prevent the Assignee from operating under the terms and conditions of this Agreement or which would limit the Assignee in such operation.

2.5 Covenants

The Assignor hereby covenants with the Assignee:

- (a) that it will at all times perform or cause to be performed all of the covenants and obligations on the part of lessor contained in the Leases as would a prudent landlord (except to the extent that the same have been expressly waived by the Other Parties to the Leases);
- (b) to maintain or cause to be maintained the Leases in good standing and not to do, permit to be done or omit to do, anything which may impair the enforceability of the Leases;
- (c) that in respect of all of the Leases, save for the deposits for the first and last month rentals, not to accept Rents more than one month in advance of the dates when Rents fall due;
- (d) except as provided for in Section 2.7 below, all offers to lease and all tenancy agreements, leases or subleases entered into with lessees of the Property shall be on the standard forms previously approved by the Assignee to be used in connection with the Property, amended as deemed appropriate in the circumstances by the Assignor, acting reasonably, to give effect to the arrangements made with each lessee or, if not on a pre-approved standard form, then in all cases in form and substance acceptable to the Assignee acting reasonably;

- (e) upon and during the continuance of an Event of Default, to facilitate in all ways the Assignee's exercise of its rights hereunder, including without limitation, upon request of the Assignee:
 - (i) to deliver to the Assignee up-to-date rent rolls and true copies of all then outstanding Leases and any other document giving rise to any of the Lease Benefits;
 - (ii) to permit access by the Assignee or its agent during regular business hours, upon reasonable notice to the Assignor, to all records pertaining to the Property, wherever held; and
 - (iii) to provide written notices to the lessees or any Other Parties, directing them to make payment of Rents to the Assignee or as it may direct; and
- (f) to obtain estoppel certificates from the lessees under the Leases (provided that the lessees are obliged to do so pursuant to their Lease) when and as reasonably required by the Assignee, or if any of such estoppel certificate is not forthcoming, to furnish a certificate of a senior officer of the Assignor in lieu thereof attesting (to the extent within the Assignor's knowledge and without Personal liability) to the information which would have been provided in such estoppel certificate.

2.6 Right to Deal

Until the occurrence of an Event of Default which is continuing, and subject to Section 2.5, the Assignor is permitted to enjoy the benefits of and deal with the Assigned Rights and Benefits, and may demand, receive, collect and enjoy the Rents, but only as the same fall due and payable according to the terms of each of the Leases and any of the documents giving rise to any of the Lease Benefits, and not more than one month in advance (except for prepayment of the last month of the term if so provided in the Lease) as would a prudent landlord. Upon the occurrence of an Event of Default which is continuing, the Assignee may, in addition to any other rights and remedies it may have, deliver a written notice to any lessee or any Other Party directing it to deal with the Assignee and to pay the Rents payable under its Lease to the Assignee, and such notice shall be good and sufficient authority for so doing.

2.7 No Dealings with Leases

The Assignor shall not, without the prior written consent of the Assignee:

- (a) do any act or thing or omit to do any act or thing that would materially adversely change the obligations of the Assignor under that Lease, other than as permitted by the Mortgage (except where the provisions of the Lease require the landlord to do so); or
- (b) enter into any Lease, including each renewal or extension of an existing Lease (other than any extension or renewal of an existing Lease which is exercised pursuant to, and the terms of which are governed by, such existing Lease), unless:

- (i) it is a commercially reasonable arm's length transaction made in the ordinary course of business and in accordance with prudent property management and leasing standards and practices;
 - (ii) it provides for rental rates and other terms and conditions consistent with prevailing market rates, terms and conditions; and
 - (iii) the Assignor has notified the Assignee of the proposed Lease and provided a copy of it to the Assignee; and
- (c) upon the Assignee delivering a written notice to the Assignor notifying the Assignor that the Assignee has elected to exercise its rights under this Section, enter into any Lease unless the Assignee has approved, acting reasonably, the form and content thereof.

Whenever the Assignee's consent is required hereunder, the Assignee shall act in a commercially reasonable manner as would a prudent owner of similar real estate and the Assignee shall communicate its consent or non-consent within ten (10) Business Days of any written request (unless otherwise indicated herein), failing which the Assignee shall be deemed to have given its consent.

The Assignor covenants to specifically assign any future Lease to the Assignee upon the Assignee's request in a form satisfactory to the Assignee. In such event, the Assignor further covenants that it will use its commercially reasonable efforts to have the lessee of all such future Leases, covenant to attorn to the Assignee on request.

2.8 Assigned Rights and Benefits Not Impaired

The within assignment to the Assignee of the Assigned Rights and Benefits shall remain in full force and effect without regard to, and the obligations of the lessees under the Leases shall not be affected or impaired by:

- (a) any amendment, modification, renewal or replacement of or addition or supplement to any of the other Loan Documents or the loan secured by the Security Documents; or
- (b) any exercise or non-exercise of any right, remedy, power or privilege in respect of this Agreement or any of the other Security Documents; or
- (c) any waiver, consent, extension, indulgence or other action, inaction or omission under or in respect of this Agreement or any of the other Security Documents; or
- (d) any insolvency, bankruptcy, liquidation, reorganization, arrangement, composition, winding-up, dissolution or similar proceeding involving or affecting the Assignor or any of the lessees under any of the Leases.

2.9 Power of Attorney

So long as the Loan Indebtedness and the Loan Obligations, or any portion thereof, remains outstanding:

- (a) the Assignor hereby irrevocably appoints the Assignee, or any Receiver appointed by the Assignee as provided for in this Agreement, to be the attorney of the Assignor with full power of substitution, and with full authority in the place of the Assignor and in the name of the Assignor or otherwise, from time to time in the Assignee's discretion, to do all acts, matters and things that may be necessary for, incidental to, or advisable for, carrying out the powers given to the Assignee under this Agreement and the Mortgage upon the occurrence of any Event of Default which is continuing (but the Assignee is not obligated to take such action and will have no liability to the Assignor or any third party for failure to take any action). This power of attorney is given for valuable consideration, is coupled with an interest, and is irrevocable until registration of a complete discharge of the Mortgage; and
- (b) in the event any action is brought by the Assignee to enforce any rights under the Assigned Rights and Benefits, the Assignor agrees to cooperate fully with and assist the Assignee in the prosecution thereof.

2.10 Acceleration

Upon the occurrence of an Event of Default which is continuing all of the Loan Indebtedness shall, at the Assignee's option and without notice to the Assignor, become immediately due and payable and the Assignee may, in its sole, absolute and unfettered discretion, exercise its rights in respect of the Assigned Rights and Benefits in addition to all other rights and remedies afforded by applicable law, in equity or otherwise. The Assignee shall have the right to enforce one or more remedies successively or concurrently in accordance with applicable law and the Assignee expressly retains all rights and remedies not inconsistent with the provisions in this Agreement including any rights it may have under the PPSA. The provisions of this clause do not and are not intended to affect in any way any rights of the Assignee with respect to any Loan Obligations or any Loan Indebtedness which may now or hereafter be payable on demand.

2.11 Enforcement

Upon the occurrence of and during the continuance of an Event of Default, the security hereby constituted will, at the option of the Assignee, immediately become enforceable.

2.12 Assignee's Rights and Remedies

In addition to the Assignee's rights under the Mortgage, the Assignee may, at its option and without any obligation or liability therefor and in addition to any other remedy in respect of the Assigned Rights and Benefits to which it is entitled under any of the Loan Documents, upon the occurrence of any Event of Default which is continuing and to the extent permitted by applicable law, enforce and realize on the security constituted by this

Agreement and take any action permitted by law or in equity, as it may deem expedient, and in particular, but without limiting the generality of the foregoing, the Assignee may do the following:

- (a) appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of the Assignee or not, to be a receiver or receivers, or may institute proceedings in any court of competent jurisdiction for the appointment of a receiver (the "**Receiver**", which term includes a receiver or a manager or a receiver and manager) of the Assigned Rights and Benefits and may remove any appointed Receiver and appoint a replacement. Any Receiver shall, so far as concerns responsibility for its acts, be deemed the agent of the Assignor and not of the Assignee, and the Assignee shall not in any way be responsible for any misconduct, negligence, or nonfeasance on the part of any Receiver, the Receiver's servants, agents or employees. Subject to the provisions of the instrument appointing it, any Receiver shall be vested with all or any of the rights, powers and discretions of the Assignee. Except as may be otherwise directed by the Assignee all monies received from time to time by the Receiver in carrying out its appointment shall be received in trust for and paid over to the Assignee for the benefit of the Assignee;
- (b) compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rents or any other matter relating to the Assigned Rights and Benefits, and any settlement arrived at shall be binding upon the Assignor and any Other Parties;
- (c) at its option and without notice to the Assignor, take possession of or enter upon the Property by its officers, agents or employees for the purpose of collecting the Rents and any and all amounts which may be or become due or payable or remain unpaid at any time to the Assignor pursuant to the Assigned Rights and Benefits and give acquittances for them and to manage, operate and maintain its interest in the Property including without limitation, the making of repairs or replacements to maintain the Property;
- (d) receive, enjoy or otherwise avail itself of the Lease Benefits;
- (e) appoint and dismiss such agents or employees as may be necessary or desirable to exercise the Assignee's rights hereunder;
- (f) alter, modify, amend or change the terms of Leases; enter into new Leases; give consents, concessions or waivers of any rights or provisions of Leases; accept surrenders of Leases; give consents to assignment of or subletting under Leases;
- (g) send or employ any inspector or agent to inspect and report upon the value, state and condition of the Property and employ a solicitor to examine and report upon title to the same and the lease documentation pertaining to same;
- (h) in the Assignor's name, perform, at the Assignor's expense, any and all of the Assignor's obligations or covenants relating to the Assigned Rights and Benefits

and enforce performance by any Other Parties of their obligations in relation to the Assigned Rights and Benefits and settle any disputes with Other Parties upon terms that the Assignee deems appropriate, in its discretion;

- (i) make payment of or cure any default under any Permitted Encumbrance or any Liens or other claims that may exist or be threatened against the Assigned Rights and Benefits, and any amount so paid together with costs, charges and expenses incurred together with interest at the Interest Rate shall be added to the Loan Indebtedness;
- (j) if the proceeds of realization are insufficient to pay all of the Loan Indebtedness, the Assignor shall forthwith pay or cause to be paid to the Assignee any deficiency and the Assignee may sue the Assignor to collect the amount of such deficiency;
- (k) subject to applicable law, seize, collect, realize, borrow money on the security of, release to third parties, sell (by way of public or private sale), lease or otherwise deal with the Assigned Rights and Benefits in such manner, upon such terms and conditions, at such time or times and place or places and for such consideration as may seem to the Assignee advisable and without notice to the Assignor. The Assignee may charge on its own behalf and pay to others sums for expenses incurred and for services rendered (expressly including legal, consulting, broker, management, receivership and accounting fees) in or in connection with seizing, collecting, realizing, borrowing on the security of, selling or obtaining payment of the Assigned Rights and Benefits and may add all such sums to the Loan Indebtedness;
- (l) perform all such acts as may in the reasonable opinion of the Assignee be necessary or desirable for the proper operation and maintenance of the Property, which acts may be performed in the name of the Assignor or in the name of the Assignee and the Assignor hereby grants to the Assignee irrevocable authority to join the Assignor in any proceedings or actions relating to the Assigned Rights and Benefits whether judicial or extra-judicial; and
- (m) waive any Event of Default, and any waiver of an Event of Default shall not extend to any subsequent Event of Default, nor shall the Assignee be bound to serve any notice on any lessees or any Other Parties on the happening of any Event of Default.

2.13 Assignee's Dealings with Other Parties

The Assignor and the Assignee hereby covenant and agree that:

- (a) the Assignee may at any time upon the occurrence of an Event of Default which is continuing, with respect to any and all Assigned Rights and Benefits, give to any lessee or other Person from whom the Assignor would have been entitled to receive or claim any benefit under the Assigned Rights and Benefits in question (the "**Other Parties**" or "**Other Party**") upon written notice to it by the Assignee to pay the Rents directly to the Assignee and such notice shall be good and sufficient notice for doing so. Without limiting the foregoing the Assignee may, after giving

such notice, deal with the Other Party or Other Parties in respect of the Assigned Rights and Benefits without reference to or consent of the Assignor while the Event of Default is continuing;

- (b) this Agreement constitutes an irrevocable direction and authorization of the Assignor to any Other Party to pay Rents to the Assignee and otherwise honour the rights of the Assignee under this Agreement;
- (c) any Other Party may rely upon any notice given by the Assignee or on its behalf and the Assignor hereby waives as against any Other Party any claims they might otherwise have by reason of the Other Party acting on such notice;
- (d) in the event all Events of Defaults are subsequently cured, the Assignee shall upon request of the Assignor, and at the Assignor's expense, execute and deliver to the Assignor directions and authorizations to any Other Party who received notice of this Agreement in connection with the Events of Default so cured as aforesaid, authorizing and directing such Other Party to resume payment of Rents to the Assignor until such time as a further written notice is delivered by the Assignee pursuant to the terms of this Agreement;
- (e) all receipts given by the Assignee to any lessee under the Leases after delivery of a written notice pursuant to Section 2.13(a) and prior to the delivery of a notice pursuant to Section 2.13(d) on account of any Rents paid to the Assignee in accordance with the terms of this Agreement shall constitute a good and valid discharge therefor to each such lessee; and
- (f) the Assignee shall not be required or obligated in any manner to make any demand or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or take any other action to collect or enforce the payment of any amounts which may have been assigned to the Assignee or to which the Assignee may be entitled hereunder at any time or times.

2.14 Assignee's Obligations and Limitation on Liabilities

It is expressly acknowledged and agreed by the Assignor and the Assignee that:

- (a) nothing herein contained shall oblige the Assignee to assume or perform any obligation of the Assignor to any Other Party in respect of or arising out of the Assigned Rights and Benefits or any of them. The Assignee may, however, after the occurrence of an Event of Default which is continuing, at its option assume or perform any such obligations as the Assignee considers necessary or desirable to obtain the benefit of the Assigned Rights and Benefits free of any set-off, deduction or abatement, and any money expended by the Assignee in this regard shall form part of and be deemed to form part of the Loan Indebtedness and bear interest at the maximum rate stipulated in the Mortgage;
- (b) the Assignee shall only be liable to account for such moneys as shall actually be received by the Assignee by virtue of this Agreement at the address provided

herein, less reasonable collection charges and costs (including, without limitation, legal costs on a solicitor and client basis) and other reasonable expenses to which the Assignee may be put, and the Assignee shall not be responsible for any act or default of any agent employed by the Assignee for the collection of any such amounts. Such moneys when so received by the Assignee shall be applied in accordance with the provisions of the Mortgage and the Assignee shall not be responsible for diligence in the collection of any monies as contemplated herein. No credit shall be given for any Rent received by the Assignee after it obtains ownership of the Property under court order or by operation of law;

- (c) exercise by the Assignee of its rights under this Agreement or the assumption of certain obligations of the Assignor upon the occurrence of an Event Default as referred to in Section 2.14(a) shall not constitute or have the effect of making the Assignee a mortgagee in possession nor shall the entering into of this Agreement or anything done in pursuance of it make the Assignee liable in any way, as landlord or otherwise, for the performance of any covenants, obligations and liabilities under any of the Leases;
- (d) care, control and management of the Property shall remain and be deemed to be with the Assignor, in the absence of clear and unequivocal action by the Assignee depriving the Assignor of such care, control and management and the assumption thereof by the Assignee;
- (e) the Assignee's obligations as to any Rents or other amounts actually collected (including, without limitation, those arising from the Lease Benefits) shall be discharged by application of such Rents or other amounts (including, without limitation, those arising from the Lease Benefits) against the Loan Indebtedness or for any of the other purposes described in this Agreement; and
- (f) the Assignee shall not be:
 - (i) liable for and no credit shall be given in respect of any uncollected Rents or other uncollected amounts;
 - (ii) liable to any lessee for the return of any security deposit made under any Lease unless the Assignee shall have actually received such security deposit; and
 - (iii) by reason of this Agreement or the exercise of any right granted herein, responsible for any act committed by the Assignor or any breach or failure to perform by the Assignor with respect to any of the Assigned Rights and Benefits.

2.15 Continuing Security

Notwithstanding any variation of the terms of the Mortgage or any of the other Security Documents, or any extension of time for payment or any release of any security, this Agreement shall continue as general and collateral security for the Loan Indebtedness and

observance and performance of all of the Loan Obligations. This Agreement and the assignments granted hereby are in addition to and not in substitution for any other security now or hereafter held by the Assignee and this Agreement will remain in full force and effect until registration of a complete discharge of the Mortgage by the Assignee, which discharge shall be deemed to be a reassignment of this Agreement and the Assigned Rights and Benefits in favour of the Assignor. On the complete discharge of the Mortgage, the Assignee will, at the request and at the sole cost and expense of the Assignor, execute and deliver to the Assignor such instruments in registrable form as may be necessary to evidence the termination of this Agreement and the reassignment to the Assignor of the Assigned Rights and Benefits.

2.16 Reassignment/Discharge

The Assignee may, at any time and whether or not an Event of Default has occurred, without further request or agreement by the Assignor, reassign to the Assignor, its successors and assigns, the Assigned Rights and Benefits or any part or parts thereof, by an instrument of reassignment in writing executed by the Assignee delivered to the Assignor, its successors and assigns, at the address for notice herein provided. Such instrument upon delivery shall constitute a good and sufficient reassignment of all of the Assignee's right, title and interest in and benefit of the Assigned Rights and Benefits to which it pertains and a good and valid release and termination of obligations (if any) of the Assignee with respect thereto. Such reassignment shall not expressly or impliedly constitute any representation or warranty by the Assignee to the Assignor as to the Assigned Rights and Benefits or anything related thereto.

ARTICLE 3 MISCELLANEOUS

3.1 Payments

All payments required to be made by the Assignor to the Assignee under this Agreement will be made at the address of the Assignee set out in Section 3.9 (or at any other place specified by the Assignee by written notice to the Assignor) in immediately available funds in lawful Canadian currency, without any set off, counter claim or deduction.

3.2 Failure of Indulgence Not Waiver

No extension of time, waiver, or other indulgence given by the Assignee to the Assignor, or anyone claiming under the Assignor, shall in any way affect or prejudice the rights of the Assignee against the Assignor or any Covenantor unless explicitly set forth in writing and signed by the waiving party. No failure to exercise or delay in exercising any right, remedy, power or privilege arising from this Agreement will operate or be construed as a waiver thereof, nor will any single or partial exercise of any right, remedy, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Each power and right under this Agreement is cumulative and is in addition to and not in substitution for any other rights and remedies at law, or in equity or otherwise.

3.3 Modification

No modification or waiver of this Agreement is binding on the Assignee unless made in writing and signed by a duly authorized officer of the Assignee.

3.4 Entire Agreement

On execution and delivery by the Assignor, this Agreement is deemed to be finally executed and delivered by the Assignor to the Assignee and is not subject to or affected by any condition as to the receipt by the Assignee of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Assignee of any other Loan Documents, nor by any promise or condition affecting the liability of the Assignor. No agreement, promise, representation or statement by the Assignee or any of its officers, employees or agents unless in this Agreement forms part of this Agreement, has induced the making of it or affects the liability of the Assignor or any Covenantor under it.

3.5 Severability

If any Section or part thereof of this Agreement is invalid or unenforceable for any reason, then such Section or part thereof will be severable from this Agreement and will not affect the validity or enforceability of any other part of this Agreement.

3.6 Non-Merger

The giving of this Agreement is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default that is continuing, proceedings may be taken under this Agreement, the Mortgage, or any of the other Security Documents or any one or more of them at the option of the Assignee.

3.7 Paramountcy

The provisions of any agreement between the Assignor and the Assignee in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Agreement except where inconsistent with the provisions hereof. In the case of any inconsistency between this Agreement and the Mortgage, the provisions of the Mortgage, as the case may be, shall prevail.

3.8 Assignability

The Assignor hereby consents to the Assignee assigning, transferring or selling all or any portion of its interest under this Agreement in connection with the proportionate assignment, transfer or sale of its interest in the Loan Indebtedness and the Loan Obligations. Without limiting the foregoing, the Assignee may enter into participation, contending or syndication agreements with other lenders in connection with this

Agreement, the Loan Indebtedness and the Loan Obligations. The Assignee may provide information of a financial or other nature to any prospective assignee or transferee or other lenders concerning the Assignor, this Agreement, the Loan Indebtedness and the Loan Obligations.

3.9 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Agreement shall be in writing and shall be delivered by personal delivery, prepaid courier service, postage prepaid registered mail or by electronic or digital transmission to the relevant party, addressed:

(a) to the Assignor:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Assignor's solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Assignee:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business

day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

3.10 Expenses, Fees and Indemnity

The Assignor will pay to the Assignee all costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Assignee in connection with the collection of any amount payable under this Agreement by the Assignor to the Assignee. The Assignor shall indemnify the Assignee against all claims, loss or damages arising out of or in connection with any breach or default by the Assignor under this Agreement.

3.11 Applicable Law

This Agreement and the rights and obligations of the Assignor and the Assignee under it are governed by and construed according to the laws of the jurisdiction in which the Property is situate and the laws of Canada applicable therein.

3.12 Time of the Essence

Time is of the essence of this Agreement.

3.13 Execution by the Assignee

This Agreement need not be executed by the Assignee to be binding on and to enure to the benefit of the Assignee.

3.14 Counterparts

This Agreement may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document. A signed copy of this Agreement or a counterpart of it delivered by email, facsimile or other means of electronic or digital transmission or signature is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

3.15 Further Assurances

The Assignor will promptly do all further acts and execute and deliver such further documents as the Assignee considers necessary or advisable to carry out the terms or intent of this Agreement.

3.16 Successors and Assigns

This Agreement is binding on and enures to the benefit of the Assignee and the Assignor, and their respective executors, administrators, successors and assigns and to any Person to whom the Assignee may grant any participation in this Agreement, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Assignee under this Agreement or any of the Assignee's interest herein or in the Loan Indebtedness and the Loan Obligations.


3.17 Multiple Parties

If the Assignor consists of more than one party, this Agreement will be read with all necessary grammatical changes and each reference to the Assignor includes each and every such Person individually. All covenants and agreements herein of the Assignor are the joint and several covenants and agreements of each such Person or corporation. If the Assignee consists of more than one party, this Agreement will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Assignee under this Agreement.

-- signatures follow on next page --

IN WITNESS WHEREOF the Assignor has executed this Agreement as of the date and year first written above.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

Per: 

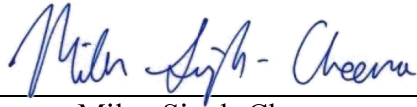
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

**T
A
B**

FF

THIS IS **EXHIBIT "FF"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

ASSIGNMENT OF INSURANCE

THIS AGREEMENT made as of the ___ day of July, 2022.

B E T W E E N:

2226 ROYAL WINDSOR GP INC., in its capacity as general partner for
and on behalf of **2226 ROYAL WINDSOR LP**

(the "Assignor")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "Assignee")

OF THE SECOND PART

WHEREAS the Assignor, as mortgagor, has granted a first ranking mortgage (the "**Mortgage**") to and in favour of the Assignee, as mortgagee, of the lands and premises charged therein (the "**Property**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS as a condition for receiving the Loan Indebtedness, the Assignor agreed to assign to the Assignee, its successors and assigns, as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, all of the Assignor's right, title and interest in and to the Policies;

NOW THEREFORE IN CONSIDERATION of the recitals, the Assignee extending the Loan Indebtedness and for such other good and valuable consideration received by the Assignor, the receipt and adequacy of which is acknowledged by the Assignor, the Assignor agrees with the Assignee as follows:

ARTICLE 1 **DEFINITIONS, INTERPRETATION**

1.1 Definitions

Capitalized terms that are not defined herein have the meanings set out in the Mortgage. Otherwise, in this Agreement:

- (a) "**Indebtedness**", in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time

assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;

- (b) "**Loan Indebtedness**" means any Indebtedness from time to time of the Assignor or any of the other Covenantors to the Assignee arising under any of the Loan Documents;
- (c) "**Loan Obligations**" means the obligations of the Assignor or any of the other Covenantors arising under the Loan Documents;
- (d) "**Policies**" means any and all insurance policies maintained by the Assignor in respect of the Property, including without limitation, those Policies reflected in the certificates attached in Schedule "A" hereto, as they may be amended, restated, modified, supplemented, renewed or replaced from time to time.

1.2 Interpretation

For the purposes of this Agreement, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Agreement, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Agreement.

ARTICLE 2 **AGREEMENT**

2.1 Assignment

The Assignor does hereby assign, transfer and set over unto the Assignee, as additional insured and loss payee as the Assignee's interest may appear, all of the Assignor's right, title and interest, in the entire amount of proceeds from time to time payable to the Assignor with respect to the Property under any and all Policies, whether now or hereafter existing, in each case subject to the terms and conditions of the Permitted Encumbrances, and the rights of the creditors of the Assignor and other parties with, in each case, priority to collect such proceeds, and with full power, following the occurrence of an Event of Default which is continuing, to receive all money payable, held or accumulated as aforesaid with respect to such Policies, and to grant receipts thereof which shall effectually discharge the issuing insurance companies thereof (the "**Insurers**") and exonerate the Insurers from seeing to the application of the money therein acknowledged to have been received and from being accountable for any disposition thereof or dealing therewith. Without restricting the generality of the foregoing, all of the Assignor's rights and benefits under the Policies are hereby vested in the Assignee, including the right to bring action to recover monies under the Policies. Provided however that nothing contained in this Agreement shall be construed

so as to oblige the Assignee to pay any premiums owing under the policies or to otherwise maintain the Policies in good standing.

2.2 Covenants

So long as the Loan Indebtedness and the Loan Obligations, or any portion thereof, remains outstanding, the Assignor shall:

- (a) keep and maintain insurance on the Property in accordance with the requirements of the Assignee as set forth in the Loan Documents;
- (b) pay all premiums owing in respect of the Policies as the same become due;
- (c) refrain from committing or omitting any acts which could or would affect the validity or enforceability of the Policies; and
- (d) from time to time, at the reasonable request of the Assignee, provide the Assignee with evidence that the Policies have been obtained and are in good standing.

2.3 Power of Attorney

Effective upon, and during the continuance of, an Event of Default, the Assignor hereby constitutes and appoints any officer or director of the Assignee from time to time, or any receiver appointed of the Assignor, the true and lawful attorney of the Assignor irrevocably with full power of substitution to do, make and execute all such documents, acts, matters or things with the right to use the name of the Assignor whenever and wherever it may be deemed necessary or expedient in connection with the exercise of its rights and remedies set forth in this Agreement. The Assignor hereby declares that the irrevocable power of attorney granted hereby, being coupled with an interest, is given for valuable consideration.

2.4 Reassignment/Discharge

The Assignee may, at any time and whether or not an Event of Default has occurred, without further request or agreement by the Assignor, reassign to the Assignor, its successors and assigns, all or any of the Policies by an instrument of reassignment in writing executed by the Assignee delivered to the Assignor, its successors and assigns, at the address for notice herein provided. Such instrument upon delivery shall constitute a good and sufficient reassignment of all of the Assignee's right, title and interest in and benefit of the Policies to which it pertains and a good and valid release and termination of obligations (if any) of the Assignee with respect thereto. Such reassignment shall not expressly or impliedly constitute any representation or warranty by the Assignee to the Assignor as to the Policies or anything related thereto. Upon registration of a discharge of the Mortgage, this Agreement shall thereupon become and be of no force or effect. At such time as the Mortgage has been discharged, the Assignee will, upon the request of the Assignor, and at the sole cost and expense of the Assignor, execute and deliver to the Assignor such instruments as may be necessary or effective, in registrable form, to evidence the termination of this Agreement and/or the reassignment to the Assignor of the Policies.

ARTICLE 3
MISCELLANEOUS

3.1 Payments

All payments required to be made by the Assignor to the Assignee under this Agreement will be made at the address of the Assignee set out in Section 3.9 (or at any other place specified by the Assignee by written notice to the Assignor) in immediately available funds in lawful Canadian currency, without any set off counter claim or deduction.

3.2 Failure of Indulgence Not Waiver

No failure or delay by the Assignee in the exercise of any power or right under this Agreement constitutes a waiver thereof, nor does any exercise of any such power or right preclude any other exercise of same. Each power and right under this Agreement is cumulative with, and not exclusive of, any power or right otherwise available.

3.3 Modification

No modification or waiver of this Agreement is binding on the Assignee unless made in writing and signed by a duly authorized officer of the Assignee.

3.4 Entire Agreement

On the execution and delivery by the Assignor, this Agreement is deemed to be finally executed and delivered by the Assignor to the Assignee and is not subject to or affected by any condition as to the receipt by the Assignee of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Assignee of any other Loan Documents, nor by any promise or condition affecting the liability of the Assignor. No agreement, promise, representation or statement by the Assignee or any of its officers, employees or agents unless in this Agreement forms part of this Agreement, has induced the making of it or affects the liability of the Assignor and any Covenantor under it.

3.5 Severability

If any part or provision of this Agreement is determined to be invalid, illegal or unenforceable, it will be severable from this Agreement and the remainder of this Agreement will be construed as if such invalid, illegal or unenforceable provision or part had been deleted.

3.6 Non-Merger

The giving of this Agreement is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default

that is continuing, proceedings may be taken under this Agreement, the Mortgage, or any of the other Security Documents or any one or more of them at the option of the Assignee.

3.7 Paramountcy

The provisions of any agreement between the Assignor and the Assignee in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Agreement except where inconsistent with the provisions hereof. In the case of any inconsistency between this Agreement and the Mortgage, the provisions of the Mortgage shall prevail.

3.8 Assignability

The Assignor hereby consents to the Assignee assigning, transferring or selling all or any portion of its interest under this Agreement, the Loan Indebtedness and the Loan Obligations and without limiting the foregoing, the Assignee may enter into participation, contending or syndication agreements with other lenders in connection with this Agreement, the Loan Indebtedness and the Loan Obligations. The Assignee may provide information of a financial or other nature to any prospective assignee, transferee, purchaser or other lenders concerning the Assignor, this Agreement, the Loan Indebtedness and the Loan Obligations.

3.9 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Agreement shall be in writing and shall be delivered in Person, transmitted by e-mail or similar means of recorded electronic communication or sent by registered mail, charges pre-paid, addressed:

(a) to the Assignor:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Assignor's solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Assignee:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

3.10 Expenses, Fees and Indemnity

The Assignor will pay to the Assignee all reasonable costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Assignee in connection with the collection of any amount payable under this Agreement by the Assignor to the Assignee. The Assignor shall indemnify the Assignee against all claims, loss or damages arising out of or in connection with any breach or default by the Assignor under this Agreement.

3.11 Applicable Law

This Agreement and the rights and obligations of the Assignor and the Assignee under it are governed by and construed according to the laws of the jurisdiction in which the Property are situate (the "**Province**") and the laws of Canada applicable therein.

3.12 Time of the Essence

Time is of the essence of this Agreement.

3.13 Jurisdiction

Any legal action or proceeding with respect to this Agreement may be brought, in the discretion of the Assignee, in the courts of the Province or in such other courts as the

Assignee in its sole discretion elects and the Assignor irrevocably submits to each such jurisdiction.

3.14 Execution by the Assignee

This Agreement need not be executed by the Assignee to be binding on and to enure to the benefit of the Assignee.

3.15 Counterparts

This Agreement may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document, and such will not affect the obligations of the Assignor under this Agreement. This Agreement or counterparts hereof may be executed by fax or email PDF, and the parties shall adopt any signatures provided or received by fax or email PDF as original signatures of the applicable party or parties, provided that any party providing its signature by fax or email PDF shall promptly forward to the other party a copy of this Agreement with an original signature.

3.16 Further Assurances

The Assignor will promptly do all further acts and execute and deliver further documents as the Assignee considers necessary or advisable to carry out the terms or intent of this Agreement.

3.17 Successors and Assigns

This Agreement is binding on and enures to the benefit of the Assignee and the Assignor, and their respective executors, administrators, successors and assigns and to any Person to whom the Assignee may grant any participation in this Agreement, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Assignee under this Agreement or any of the Assignee's interest herein or in the Loan Indebtedness and the Loan Obligations.

3.18 Multiple Parties

If the Assignor consists of more than one party, this Agreement will be read with all necessary grammatical changes and each reference to the Assignor includes each and every such Person or corporation individually. All covenants and agreements herein of the Assignor are the joint and several covenants and agreements of each such Person or corporation. If the Assignee consists of more than one party, this Agreement will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Assignee under this Agreement.

-- signatures follow on next page --

IN WITNESS WHEREOF the Assignor has executed this Agreement as of the date and year first written above.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

Per: 

Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

SCHEDULE "A"
INSURANCE CERTIFICATE

Please see attached.



CERTIFICATE OF LIABILITY INSURANCE

This certificate is issued as a matter of information only and confers no rights upon the certificate holder and imposes no liability on the insurer. This certificate does not amend, extend or alter the coverage afforded by the policies below.

1. CERTIFICATE HOLDER - NAME AND MAILING ADDRESS		2. INSURED'S FULL NAME AND MAILING ADDRESS	
KingSett Mortgage Corporation		2226 Royal Windsor LP by its general partner 2226 Royal Windsor GP Inc.	
Scotia Plaza, 40 King Street West		2226 Royal Windsor Drive	
Suite 3700, PO Box 110			
Toronto	ON	POSTAL CODE M5H 3Y2	Mississauga Ontario POSTAL CODE L5J 1K6

3. DESCRIPTION OF OPERATIONS/LOCATIONS/AUTOMOBILES/SPECIAL ITEMS TO WHICH THIS CERTIFICATE APPLIES (but only with respect to the operations of the Named Insured)
KingSett Mortgage Corporation (as their interest may appear)

4. COVERAGES
This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated notwithstanding any requirements, terms or conditions of any contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all terms, exclusions and conditions of such policies.

LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

TYPE OF INSURANCE	INSURANCE COMPANY AND POLICY NUMBER	EFFECTIVE DATE YYYY/MM/DD	EXPIRY DATE YYYY/MM/DD	LIMITS OF LIABILITY (Canadian dollars unless indicated otherwise)		
				COVERAGE	DED.	AMOUNT OF INSURANCE
COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE OR <input checked="" type="checkbox"/> OCCURRENCE <input checked="" type="checkbox"/> PRODUCTS AND / OR COMPLETED OPERATIONS <input type="checkbox"/> EMPLOYER'S LIABILITY <input checked="" type="checkbox"/> CROSS LIABILITY <input type="checkbox"/> WAIVER OF SUBROGATION <input checked="" type="checkbox"/> TENANTS LEGAL LIABILITY <input type="checkbox"/> POLLUTION LIABILITY EXTENSION <input checked="" type="checkbox"/> Vacant Land <input checked="" type="checkbox"/> Limited Pollution	Northbridge Insurance - 2226R-1(Binder)	2022/07/08	2023/07/08	COMMERCIAL GENERAL LIABILITY BODILY INJURY AND PROPERTY DAMAGE LIABILITY - GENERAL AGGREGATE	\$1,000	\$5,000,000
				- EACH OCCURRENCE		\$5,000,000
				PRODUCTS AND COMPLETED OPERATIONS AGGREGATE		\$5,000,000
				<input type="checkbox"/> PERSONAL INJURY LIABILITY OR <input checked="" type="checkbox"/> PERSONAL AND ADVERTISING INJURY LIABILITY		\$5,000,000
				MEDICAL PAYMENTS		\$25,000
				TENANTS LEGAL LIABILITY	\$1,000	\$500,000
				POLLUTION LIABILITY EXTENSION		
					\$1,000	\$5,000,000
					\$2,500	\$1,000,000
						\$5,000,000
<input checked="" type="checkbox"/> NON-OWNED AUTOMOBILES	Northbridge Insurance -	2022/07/08	2023/07/08	NON-OWNED AUTOMOBILES		\$5,000,000
<input checked="" type="checkbox"/> HIRED AUTOMOBILES	Northbridge Insurance -	2022/07/08	2023/07/08	HIRED AUTOMOBILES		
AUTOMOBILE LIABILITY <input type="checkbox"/> DESCRIBED AUTOMOBILES <input type="checkbox"/> ALL OWNED AUTOMOBILES <input type="checkbox"/> LEASED AUTOMOBILES ** ** ALL AUTOMOBILES LEASED IN EXCESS OF 30 DAYS WHERE THE INSURED IS REQUIRED TO PROVIDE INSURANCE				BODILY INJURY AND PROPERTY DAMAGE COMBINED		
				BODILY INJURY (PER PERSON)		
				BODILY INJURY (PER ACCIDENT)		
				PROPERTY DAMAGE		
				EACH OCCURRENCE		
EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/>				AGGREGATE		
OTHER LIABILITY (SPECIFY) <input type="checkbox"/>						
<input type="checkbox"/>						

5. CANCELLATION
Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavour to mail 30 days written notice to the certificate holder named above, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

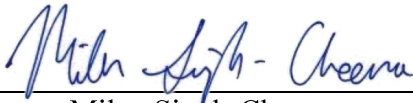
6. BROKERAGE/AGENCY FULL NAME AND MAILING ADDRESS		7. ADDITIONAL INSURED NAME AND MAILING ADDRESS (Commercial General Liability- but only with respect to the operations of the Named Insured)	
KRGinsure 2450 Victoria Park Avenue Suite 700		KingSett Mortgage Corporation Scotia Plaza, 40 King Street West Suite 3700, PO Box 110	
Toronto	ON	POSTAL CODE M2J 4A2	
BROKER CLIENT ID: 2226R-1		Toronto	ON POSTAL CODE M5H 3Y2

8. CERTIFICATE AUTHORIZATION		CONTACT NUMBER(S)	
ISSUER KRGinsure	AUTHORIZED REPRESENTATIVE Carmelina Garofalo	TYPE Main NO. (416) 636-4544	TYPE Fax NO. (416) 636-5555
SIGNATURE OF AUTHORIZED REPRESENTATIVE		TYPE NO.	TYPE NO.
		DATE July 04, 2022	EMAIL ADDRESS Carmelina@KRG.com

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GG

THIS IS **EXHIBIT "GG"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line underneath it.

Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

GENERAL ASSIGNMENT OF MATERIAL CONTRACTS

THIS AGREEMENT made as of the ____ day of July, 2022.

B E T W E E N:

2226 ROYAL WINDSOR GP INC., in its capacity as general partner for
and on behalf of **2226 ROYAL WINDSOR LP**

(the "**Assignor**")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "**Assignee**")

OF THE SECOND PART

WHEREAS the Assignor, as mortgagor, has granted a first ranking mortgage (the "**Mortgage**") to and in favour of the Assignee, as mortgagee, of the lands and premises charged therein (the "**Property**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS as a condition for receiving the Loan Indebtedness, the Assignor agreed to assign to the Assignee, its successors and assigns, as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, all of the Assignor's right, title and interest in and to the Material Contracts;

NOW THEREFORE IN CONSIDERATION of the recitals, the Assignee extending the Loan Indebtedness and for such other good and valuable consideration received by the Assignor, the receipt and adequacy of which is acknowledged by the Assignor, the Assignor agrees with the Assignee as follows:

ARTICLE 1
DEFINITIONS, INTERPRETATION

1.1 Definitions

Capitalized terms that are not defined herein have the meanings set out in the Mortgage. Otherwise, in this Agreement:

- (a) "**Effective Date**" has the meaning ascribed to it in Section 2.7;
- (b) "**Enforcement Notice**" has the meaning ascribed to it in Section 2.7;

- (c) "**Indebtedness**", in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
- (d) "**Loan Indebtedness**" means any Indebtedness from time to time of the Assignor or any of the other Covenantors to the Assignee arising under any of the Loan Documents;
- (e) "**Loan Obligations**" means the obligations of the Assignor or any of the other Covenantors arising under the Loan Documents;
- (f) "**Material Contracts**" means, collectively, all of the Assignor's right, title and interest in and to all contracts, agreements, permits, and licenses, material or significant to the ownership, management, development, construction or operation of the Property, as applicable, and which the Assignee designates from time to time as material to the Property, including, without limitation, the contracts relating to engineering specifications and drawings, architectural specifications and drawings, all other specifications and drawings related to the Project, plans, construction contracts, licenses and permits (including without limitation any and all building and development permits), as the same may be amended, restated, modified, supplemented, assigned and/or assumed from time to time, including without limitation, the benefits of and advantages under all undertakings given to the Assignor in connection with its acquisition of the Property; and
- (g) "**Other Party**" means a Person from whom the Assignor would have been entitled to receive or claim any benefit under a Material Contract.

1.2 Interpretation

For the purposes of this Agreement, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Agreement, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Agreement.

ARTICLE 2 **AGREEMENT**

2.1 Assignment

As continuing collateral security for the payment of the Loan Indebtedness and performance of the Loan Obligations, the Assignor hereby assigns, transfers and sets over

unto the Assignee, its successors and assigns, and grants a security interest in all of the Assignor's right, title and interest, both at law and in equity, in and to the Material Contracts (to the extent assignable), including, without limitation: (i) the benefit of all representations, warranties, conditions, terms and covenants made or contained in the Material Contracts or implied or expressed by law in relation thereto; (ii) all moneys due or accruing due or at any time hereafter to become due under the Material Contracts, as applicable; and (iii) all rights, benefits and advantages derived from the Material Contracts and any and all present and future guarantees or indemnities of all or any of the obligations under the Material Contracts, as applicable, together with the full benefit of all security in support of such guarantees or indemnities.

2.2 Default and Power of Attorney

So long as the Loan Indebtedness and the Loan Obligations, or any portion thereof, remains outstanding:

- (a) the Assignor hereby irrevocably appoints the Assignee, or any receiver appointed by the Assignee pursuant to any of the Loan Documents, to be the attorney of the Assignor with full power of substitution, and with full authority in the place of the Assignor and in the name of the Assignor or otherwise, from time to time in the Assignee's discretion, to do all acts and things that may be necessary for, incidental to, or advisable for, carrying out the powers given to the Assignee under this Agreement upon the occurrence of any Event of Default which is continuing. This power of attorney is given for valuable consideration, is coupled with an interest, and is irrevocable until registration of a complete discharge of the Mortgage;
- (b) in the event any action is brought by the Assignee to enforce any rights under any of the Material Contract, the Assignor agrees to cooperate fully with and assist the Assignee in the prosecution thereof;
- (c) without limiting any other provision of this Agreement, upon and during the continuance of an Event of Default, the Assignor hereby specifically authorizes and directs each Other Party upon written notice to it by the Assignee to make all payments due under or arising under the Material Contracts directly to the Assignee and hereby irrevocably authorizes and empowers the Assignee after an Event of Default and for so long as it is continuing to request, demand, receive, and give acquittance for any and all amounts which may be or become due or payable or remain unpaid at any time to the Assignor under and pursuant any Material Contract, and to endorse any cheques, drafts or other orders for the payment of money payable to the Assignor in payment thereof, and in the Assignee's discretion, to file any claims or take any action or proceeding, either in its own name or in the name of the Assignor or otherwise, which the Assignee may deem necessary or desirable in its sole discretion; and
- (d) the Assignee shall not be required or obligated in any manner to make any demand or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or take any other action to collect or enforce the payment of any amounts which may have been assigned to the Assignee or to which the Assignee may be entitled hereunder at any time or times.

2.3 Consent; Limitation on Assignment

Nothing in this Agreement shall constitute an assignment or attempted assignment of any of the Material Contracts which by its provisions or by applicable law is not assignable, which would result in the termination of or a breach under such Material Contract, or which requires the consent of any Other Party to its assignment unless such consent has been obtained. With respect to any Material Contract which the Assignee reasonably determines to be material, the Assignor shall attempt to obtain the consent of any necessary Other Party to its assignment under this Agreement and to its further assignment by the Assignee to any Other Party as a result of the exercise by the Assignee of remedies after demand. Upon such consent being obtained or waived, this Agreement shall apply to the applicable Material Contract without regard to this section and without the necessity of any further assurance to effect such assignment. Unless and until the consent to assignment is obtained as provided above, the Assignor shall, to the extent it may do so at law or pursuant to the provisions of such Material Contract or interest in question, hold all benefit to be derived from such Material Contract in trust for the Assignee (including the Assignor's beneficial interest in any such Material Contract which may be held in trust for the Assignee by a third party), as additional security for the payment of the Loan Indebtedness and performance of the Loan Obligations.

2.4 Representations and Warranties

The Assignor represents and warrants to and in favour of the Assignee that:

- (a) the Assignor has good right, full power and absolute authority to assign the Material Contracts in the manner aforesaid, and has not performed any act or executed any other instrument which might prevent the Assignee from operating under the terms and conditions of this Agreement or which would limit the Assignee in such operation;
- (b) each Material Contract is in existence, is unamended, and is in full force and effect, and there is no existing dispute under any of them;
- (c) there is currently no default by any Other Party to a Material Contract under any term, condition or covenant required to be performed by it under any Material Contract;
- (d) the copies of any Material Contracts delivered to the Assignee are true and complete copies of those Material Contracts; and
- (e) the Assignor has observed and performed all of its obligations under the Material Contracts and will, in all material aspects, continue hereafter to observe and perform all of its obligations under the Material Contracts.

2.5 Right to Deal

Until the occurrence of an Event of Default which is continuing, the Assignor is permitted to enjoy the benefits of and deal with the Material Contracts and to enforce or sue in respect of any representation, warranty, condition, term or covenant under any Material Contract,

and any Other Party shall be entitled to deal with the Assignor until receipt of written notice from the Assignee stating that they should no longer deal with the Assignor.

2.6 Continuing Security

Notwithstanding any variation of the terms of the Mortgage or any of the other Security Documents, or any extension of time for payment or any release of any security, this Agreement shall continue as collateral security until the payment in full of the Loan Indebtedness and observance and performance of all of the Loan Obligations.

2.7 Enforcement

The Assignee, upon the occurrence of an Event of Default and for so long as it is continuing may, but shall not be bound to enforce its rights and remedies under this Agreement. Upon the Assignee's election to enforce its rights and remedies under this Agreement, the Assignee or its agent shall give written notice (the "**Enforcement Notice**") concurrently to the Assignor and the affected Other Party or Parties advising that the Assignee has elected to: (i) terminate their Material Contract effective as of the date set out in the Enforcement Notice, which date shall be five (5) Business Days after the date of the Enforcement Notice (the "**Effective Date**"); or (ii) enforce its rights and remedies under this Agreement and requiring the Other Party or Parties, to deal directly with the Assignee (subject to the provisions of Section 2.10), and the Assignor covenants and agrees, at the request of the Assignee, to join with the Assignee in such notice and hereby irrevocably appoints the Assignee as its attorney to join the Assignor in such notice.

2.8 Waiver of Event of Default

The Assignee may waive any Event of Default or breach of covenant and shall not be bound to exercise its rights hereunder or to serve the Enforcement Notice upon any Other Party upon the happening of any Event of Default but any such waiver shall not extend to any subsequent Event of Default.

2.9 Negative Covenants of the Assignor

That the Assignor shall not, without the consent in writing of the Assignee:

- (a) assign, pledge, or hypothecate the Material Contracts other than to the Assignee or to the holder of any Prior Permitted Encumbrance and shall not do or omit to do or permit any act to be done which either directly or indirectly has the effect of waiving, releasing, reducing or abating any rights, remedies or obligations of any party thereunder or in connection therewith, other than as permitted under the Loan Documents; and
- (b) terminate, accept a surrender of, or agree to any modification or amendment to the Material Contracts which would materially adversely change the obligations of the Assignor thereunder, other than as permitted under the Loan Documents.

2.10 Assignee's Obligations and Limitation on Liabilities

It is expressly acknowledged and agreed by the Assignor and the Assignee that:

- (a) effective from and after the Effective Date, the Assignee shall be entitled to enforce all of the rights and remedies granted to it hereunder on the condition that the Assignee, from and after the Effective Date, assumes responsibility for the performance of all of the covenants, provisions, stipulations, terms and conditions under the Material Contracts on the part of the Assignor to be performed. Notwithstanding the foregoing, the Assignee shall not be liable to cure any defaults of the Assignor then existing under the Material Contracts;
- (b) nothing herein contained shall oblige the Assignee to assume or perform any obligation of the Assignor to any Other Party in respect of or arising out of the Material Contracts. The Assignee may, however, after the occurrence of an Event of Default which is continuing, at its option, assume or perform any such obligations as the Assignee considers necessary or desirable to obtain the benefit of the Material Contracts, free of any set-off, deduction or abatement, and any money expended by the Assignee in this regard shall form part of and be deemed to form part of the Loan Indebtedness and bear interest at the Interest Rate;
- (c) exercise by the Assignee of its rights under this Agreement or the assumption of certain obligations of the Assignor upon the occurrence of an Event Default as referred to in Subsection 2.10(a) shall not constitute or have the effect of making the Assignee a mortgagee in possession; and
- (d) the Assignee shall not be by reason of this Agreement or the exercise of any right granted herein, responsible for any act committed by the Assignor or any breach or failure to perform by the Assignor with respect to any Material Contract.

2.11 Reassignment/Discharge

The Assignee may, at any time and whether or not an Event of Default has occurred, without further request or agreement by the Assignor, reassign to the Assignor, its successors and assigns, all or any of the Material Contracts by an instrument of reassignment in writing executed by the Assignee delivered to the Assignor, its successors and assigns, at the address for notice herein provided. Such instrument upon delivery shall constitute a good and sufficient reassignment of all of the Assignee's right, title and interest in and benefit of the Material Contracts to which it pertains and a good and valid release and termination of obligations (if any) of the Assignee with respect thereto. Such reassignment shall not expressly or impliedly constitute any representation or warranty by the Assignee to the Assignor as to any Material Contract or anything related thereto. Upon registration of a discharge of the Mortgage, this Agreement shall thereupon become and be of no force or effect. At such time as the Mortgage has been discharged, the Assignee will, upon the request of the Assignor, and at the sole cost and expense of the Assignor, execute and deliver to the Assignor such instruments as may be necessary or effective, in registrable form, to evidence the termination of this Agreement and the reassignment to the Assignor of the Material Contracts.

ARTICLE 3
MISCELLANEOUS

3.1 Payments

All payments required to be made by the Assignor to the Assignee under this Agreement will be made at the address of the Assignee set out in Section 3.9 (or at any other place specified by the Assignee by written notice to the Assignor) in immediately available funds in lawful Canadian currency, without any set off, counter claim or deduction.

3.2 Failure of Indulgence Not Waiver

No extension of time, waiver, or other indulgence given by the Assignee to the Assignor, or anyone claiming under the Assignor, shall in any way affect or prejudice the rights of the Assignee against the Assignor, or any other Covenantor. Each power and right under this Agreement is cumulative and is in addition to and not in substitution for any other rights and remedies at law, or in equity or otherwise.

3.3 Modification

No modification or waiver of this Agreement is binding on the Assignee unless made in writing and signed by a duly authorized officer of the Assignee.

3.4 Entire Agreement

On execution and delivery by the Assignor, this Agreement is deemed to be finally executed and delivered by the Assignor to the Assignee and is not subject to or affected by any condition as to the receipt by the Assignee of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Assignee of any other Loan Documents, nor by any promise or condition affecting the liability of the Assignor. No agreement, promise, representation or statement by the Assignee or any of its officers, employees or agents unless in this Agreement forms part of this Agreement, has induced the making of it or affects the liability of the Assignor or any Covenantor under it.

3.5 Severability

If any Section or part thereof of this Agreement is invalid or unenforceable for any reason, then such Section or part thereof will be severable from this Agreement and will not affect the validity or enforceability of any other part of this Agreement.

3.6 Non-Merger

The giving of this Agreement is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default that is continuing, proceedings may be taken under this Agreement, the Mortgage, or any of the other Security Documents or any one or more of them at the option of the Assignee.

3.7 Paramountcy

The provisions of any agreement between the Assignor and the Assignee in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Agreement except where inconsistent with the provisions hereof. In the case of any inconsistency between this Agreement and the Mortgage, the provisions of the Mortgage shall prevail.

3.8 Assignability

The Assignor hereby consents to the Assignee assigning, transferring or selling all or any portion of its interest under this Agreement in connection with the proportionate assignment, transfer or sale of its interest in the Loan Indebtedness and the Loan Obligations. Without limiting the foregoing, the Assignee may enter into participation, contending or syndication agreements with other lenders in connection with this Agreement, the Loan Indebtedness and the Loan Obligations. The Assignee may provide information of a financial or other nature to any prospective assignee, transferee, purchaser or other lenders concerning the Assignor, this Agreement, the Loan Indebtedness and the Loan Obligations.

3.9 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Agreement shall be in writing and shall be delivered by personal delivery, prepaid courier service, postage prepaid registered mail or by electronic or digital transmission to the relevant party, addressed:

(a) to the Assignor:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Assignor's solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Assignee:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

3.10 Expenses, Fees and Indemnity

The Assignor will pay to the Assignee all costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Assignee in connection with the collection of any amount payable under this Agreement by the Assignor to the Assignee. The Assignor shall indemnify the Assignee against all claims, loss or damages arising out of or in connection with any breach or default by the Assignor under this Agreement.

3.11 Applicable Law

This Agreement and the rights and obligations of the Assignor and the Assignee under it are governed by and construed according to the laws of the jurisdiction in which the Property are situate and the laws of Canada applicable therein.

3.12 Time of the Essence

Time is of the essence of this Agreement.

3.13 Execution by the Assignee

This Agreement need not be executed by the Assignee to be binding on and to enure to the benefit of the Assignee.

3.14 Counterparts

This Agreement may be executed (including by DocuSign or other electronic means) in any number of counterparts and delivered (including by DocuSign or other electronic

means) in any number of counterparts, each of which (including any electronic transmission of an executed signature page), is deemed to be an original, and such counterparts together constitute one and the same agreement.

3.15 Further Assurances

The Assignor will promptly do all further acts and execute and deliver further documents as may be required to carry out the terms or intent of this Agreement.

3.16 Successors and Assigns

This Agreement is binding on and enures to the benefit of the Assignee and the Assignor, and their respective executors, administrators, successors and permitted assigns and to any Person to whom the Assignee may grant any participation in this Agreement, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Assignee under this Agreement or any of the Assignee's interest herein or in the Loan Indebtedness and the Loan Obligations.


3.17 Multiple Parties

If the Assignor consists of more than one party, this Agreement will be read with all necessary grammatical changes and each reference to the Assignor includes each and every such Person individually. All covenants and agreements herein of the Assignor are the joint and several covenants and agreements of each such Person. If the Assignee consists of more than one party, this Agreement will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Assignee under this Agreement.

-- signatures follow on next page --

IN WITNESS WHEREOF the Assignor has executed this Agreement as of the date and year first written above.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

Per: 

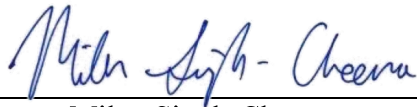
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

**T
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B**

HH

THIS IS **EXHIBIT "HH"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

GENERAL SECURITY AGREEMENT

THIS AGREEMENT (the "**General Security Agreement**") is dated as of the ____ day of July, 2022.

BETWEEN:

2226 ROYAL WINDSOR GP INC., in its capacity as general partner for and on behalf of **2226 ROYAL WINDSOR LP**

(the "**Grantor**")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "**Grantee**")

OF THE SECOND PART

WHEREAS the Grantor, as mortgagor, has granted a first ranking mortgage (the "**Mortgage**") to and in favour of the Grantee, as mortgagee, of the lands charged therein (the "**Property**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS as a condition for receiving the Loan Indebtedness, the Grantor agreed to create and to grant to the Grantee, its successors and assigns, as further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, the collateral security constituted by this General Security Agreement;

NOW THEREFORE IN CONSIDERATION of the recitals, the Grantee extending the Loan Indebtedness and for such other good and valuable consideration received by the Grantor, the receipt and adequacy of which is acknowledged by the Grantor, the Grantor agrees with the Grantee as follows:

ARTICLE 1
DEFINITIONS, INTERPRETATION

1.1 Definitions

Capitalized terms that are not defined herein have the meanings set out in the Mortgage. Unless otherwise defined herein or in the Mortgage, capitalized terms used herein that are defined in the *Personal Property Security Act*, as amended or replaced from time to time (the "**PPSA**"), of the province where the Collateral is situate (the "**Province**") or in the

Securities Transfer Act of the Province as amended or replaced from time to time (the "STA") shall have the meanings set out in the PPSA or the STA, respectively, unless the context otherwise requires. Otherwise, in this General Security Agreement:

- (a) "**Account Borrower**" has the meaning ascribed to it in Section 3.1(h);
- (b) "**Account Debtor**" means any Person who is or becomes obligated to the Grantor under, with respect to, or on account of an account;
- (c) "**Collateral**" has the meaning ascribed to it in Section 2.1, and any reference to Collateral shall, unless the context otherwise requires, be deemed a reference to "Collateral or any part thereof";
- (d) "**Contract**" means any contracts, agreements, indentures, licenses, permits, commitments, entitlements, engagements or other arrangements, including any investment with or interest in any Person, which does not constitute Chattel Paper, Investment Property or Instruments, whether written or unwritten, to which the Grantor is now or subsequently becomes a party or has a benefit, right, or in which the Grantor now has or subsequently acquires an interest;
- (e) "**Control Agreement**" means:
 - (i) with respect to any Uncertificated Security included in the Collateral, an agreement between the issuer of such Uncertificated Securities and another Person whereby such issuer agrees to comply with instructions that are originated by such Person in respect of such Uncertificated Security, without the further consent of the Grantor; and
 - (ii) with respect to any Securities Accounts or Security Entitlements included in the Collateral, an agreement between the Securities Intermediary in respect of such Securities Accounts or Security Entitlements to comply with any Entitlement Orders with respect to such Securities Accounts or Security Entitlements that are originated by the Grantee without the further consent of the Grantor;
- (f) "**Debts**" has the meaning ascribed to it in Section 2.1(c);
- (g) "**Encumbrances**" has the meaning ascribed to it in Section 3.1(f);
- (h) "**Future Purchase Agreements**" has the meaning ascribed to it in Section 2.1(q);
- (i) "**Indebtedness**", in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;

- (j) "**Loan Indebtedness**" means any Indebtedness from time to time of the Grantor or any of the other Covenantors to the Grantee arising under any of the Loan Documents;
- (k) "**Loan Obligations**" means the obligations from time to time of the Grantor or any of the other Covenantors arising under the Loan Documents;
- (l) "**Receiver**" has the meaning ascribed to it in Section 5.3(a);
- (m) "**Secured Obligations**" has the meaning ascribed to it in Section 2.5; and
- (n) "**Security Interest**" has the meaning ascribed to it in Section 2.1.

1.2 Interpretation

For the purposes of this General Security Agreement, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa. If more than one Grantor executes this General Security Agreement, this General Security Agreement shall apply and be binding upon each of them jointly and severally and all obligations hereunder shall be joint and several.

1.3 Headings

In this General Security Agreement, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this General Security Agreement.

ARTICLE 2

SECURITY INTERESTS

2.1 Grant of Security

As general and continuing collateral security for the payment of the Loan Indebtedness and performance of the Loan Obligations, the Grantor hereby grants to the Grantee by way of mortgage, charge, assignment and transfer, a security interest in and to all right, title and interest of the Grantor in all presently owned or held and hereafter acquired or held, by way of amalgamation or otherwise, personal property of whatsoever nature and kind pertaining to the Property, and in all Proceeds thereof and therefrom, renewals thereof, Accessions thereto and substitutions therefor (all of which are herein collectively called the "**Collateral**") (the "**Security Interest**"), including, without limiting the generality of the foregoing:

- (a) all Inventory of whatever kind (whether or not supplied or sold by the Grantee to the Grantor) including, without limiting the generality of the foregoing, all goods held for sale or lease or that have been leased or that are to be furnished or have been furnished under contracts for service, or that are raw materials, works in process, or materials used or consumed in the business of the Grantor;

- (b) Equipment (other than Inventory) of whatsoever nature and kind, including, without limitation, all machinery, tools, apparatus, plant, furniture, fixtures and vehicles of whatsoever nature and kind;
- (c) book accounts and book debts and generally all Accounts (excluding Investment Property), debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including but not limited to Instruments, Chattel Paper, and letters of guarantee, which are now due, owing or accruing or growing due to or owned by or which may hereafter become due, owing or accruing or growing due to or owned by the Grantor (all of which are herein collectively called the "**Debts**");
- (d) all warehouse receipts, bills of lading and other documents of title, whether negotiable or not;
- (e) all Investment Property, including but not limited to shares, stock, warrants, bonds, debentures, debenture stock and other Securities (whether evidenced by a Security Certificate or being an Uncertificated Security), Security Entitlements, Securities Accounts, Futures Contracts and Futures Accounts and Financial Assets;
- (f) all coins or bills or other medium of exchange adopted for use as part of the currency of Canada or of any foreign government;
- (g) all deeds, documents, writings, papers, books of account and other books relating to or being records of Accounts, Debts, Chattel Paper or Documents of Title or by which such are or may hereafter be secured, evidenced, acknowledged or made payable;
- (h) all contractual rights, insurance claims, insurance proceeds and all goodwill, patents, trademarks, copyrights, and other intellectual property;
- (i) all construction, supply, consulting, architect, engineer, construction manager, marketing agent or other like contracts of any nature for construction or supply of materials in connection with the construction or maintenance of the Mortgaged Premises, whether those contracts exist as of the date hereof or at any time in the future;
- (j) all licenses, permits, in the possession, control or name of the Grantor now or at any time in the future with respect to all chattels which are required to be inspected, approved or licensed;
- (k) all of the necessary licenses and permits (including building/development permits) required for the construction of all of the Mortgaged Premises and for the conduct and operation of the Grantor's intended use thereof issued by any government, statutory or other authority having jurisdiction over same, and all monies paid thereunder;

- (l) all plans, conceptual specifications and drawings, architects' and engineers' drawings, technical specifications, building permit drawings, building permits (including all interest in monies paid thereunder), surveyors' drawings, quantity specifications, and all similar items related to the construction of all of the Mortgaged Premises;
- (m) all outstanding guarantees, warranties and indemnities obtained for the benefit of the Grantor;
- (n) all surviving rights under any agreement(s) of purchase and sale (including all amendments, waivers and other agreements related thereto) or any delivery or agreement entered into pursuant thereto and all interests and benefits to be derived therein and thereunder, including all rights to commence actions or enforce rights thereunder, and without limiting the generality of the foregoing, all amounts (whether cash, instruments or other consideration) which, pursuant to the terms of the foregoing agreements, are withheld at any time by or on behalf of the Grantor from the payment of the purchase price;
- (o) all monies and cash, including any held in a cash collateral account, and all cash held as collateral security for outstanding letters of credit or letters of guarantee, including deposits from purchasers on the sale of units, parking and storage lockers which may be held in a solicitor's deposit trust account (other than trust monies lawfully belonging to others);
- (p) all other personal property now or hereafter owned by the Grantor, including all personal property otherwise described in any schedule now or hereafter annexed hereto;
- (q) all right, title and interest of the Grantor in and to any purchase agreement for the sale of real or personal property and all agreements delivered to the Grantor pursuant thereto or in connection therewith (collectively, "**Future Purchase Agreements**"), and all interests and benefits to be derived therein and thereunder, including all rights to commence actions or enforce rights thereunder, and without limiting the generality of the foregoing, all amounts (whether cash, instruments or other consideration) which, pursuant to the terms of the foregoing agreements, are received by the Grantor on account of the purchase price under the Future Purchase Agreement; and
- (r) all of the Grantor's right, title and interest, both present and future, in and to all of its presently owned or held and after acquired or held property which:
 - (i) is or hereafter becomes a fixture, or
 - (ii) constitutes a license, quota, permit or other similar right or benefit or crops;

and all proceeds and products of the property described above including, without limiting the generality of the foregoing, all personal property in any form or fixtures derived directly or

indirectly from any dealing with such property or the proceeds therefrom and any payment that indemnifies or compensates for the loss of or damage to such property or the proceeds therefrom.

2.2 Exceptions

The Security Interest granted hereby shall not extend or apply to and the Collateral shall not extend to or include:

- (a) Consumer Goods; and
- (b) the last day of the term created by any real property lease or sublease, or agreement to lease real property or sublease now held or hereafter acquired by the Grantor, but the Grantor shall stand possessed of the reversion thereby remaining upon trust to assign and dispose thereof to any third party as the Grantee shall direct.

2.3 Value and Attachment

The Grantor acknowledges that value has been given and that the Grantor has rights in the Collateral. The Grantee and the Grantor have not agreed to postpone the time for attachment of the Security Interest created by this General Security Agreement and the Grantor and the Grantee intend that the Security Interest shall attach to presently owned or held Collateral upon execution of this General Security Agreement and shall attach to each item of hereafter acquired Collateral upon acquisition of any right, title and interest of the Grantor in that Collateral.

2.4 Consent; Limitation on grant of Security Interest

Nothing in this General Security Agreement shall constitute an assignment or attempted assignment of any Contract which by its provisions or by applicable law is not assignable, which would result in the termination of or a breach under such Contract, or which requires the consent of a third party to its assignment unless such consent has been obtained. With respect to any Contract which the Grantee reasonably determines to be material, the Grantor shall promptly, upon written request by the Grantee, attempt to obtain the consent of any necessary third party to its assignment under this General Security Agreement and to its further assignment by the Grantee to any third party as a result of the exercise by the Grantee of remedies after demand. Upon such consent being obtained or waived, this General Security Agreement shall apply to the applicable Contract without regard to this section and without the necessity of any further assurance to effect such assignment. Unless and until the consent to assignment is obtained as provided above, the Grantor shall, to the extent it may do so at law or pursuant to the provisions of the Contract or interest in question hold all benefit to be derived from such Contract in trust for the Grantee (including the Grantor's beneficial interest in any Contract which may be held in trust for the Grantee by a third party), as additional security for the payment of the Loan Indebtedness and performance of the Loan Obligations.

2.5 Secured Obligations

The Collateral secures the payment of the Loan Indebtedness and the performance of all Loan Obligations including without limitation, all present and future obligations of the Grantor arising under the Mortgage, this General Security Agreement and the Loan Documents, whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, whether the Loan Indebtedness is reduced and thereafter increased or entirely extinguished and thereafter incurred again, whether incurred by the Grantor alone or with another or others and whether as a principal or surety, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise together with all fees, costs, lawyers' fees and disbursements, reimbursement obligations, contract causes of action, expenses and indemnities related thereto (all such obligations, covenants, duties, debts, liabilities, sums and expenses being herein collectively called the "**Secured Obligations**").

2.6 Perfection

The Grantor shall from time to time as may be required by the Grantee with respect to the Collateral take all actions as may be requested by the Grantee to perfect the Security Interest at the expense of the Grantor.

ARTICLE 3 **REPRESENTATIONS, WARRANTIES AND COVENANTS**

3.1 Representations and Warranties

The Grantor represents and warrants that, and, so long as this General Security Agreement remains in effect, the Grantor shall be deemed to continuously represent and warrant that:

- (a) the Grantor:
 - (i) is a corporation incorporated, formed and existing under the laws of its jurisdiction of incorporation;
 - (ii) has the legal right and all necessary corporate or other power and authority to own its assets, possess an interest in the Collateral, and carry on its business in all material respects; and
 - (iii) is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions where it conducts business, except where failure to be so qualified, licensed or registered has not and is not reasonably likely to have a Material Adverse Effect;
- (b) the Grantor has all requisite corporate power and authority to enter into and perform its obligations under this General Security Agreement, and to do all acts and things and execute and deliver all other documents and instruments as are required hereunder to be done, observed or performed by it in accordance with the terms hereof;

- (c) the execution and delivery by the Grantor, and the performance by it of its obligations under, and compliance with the terms, conditions and provisions of, this General Security Agreement will not conflict with or result in a breach of any of the terms, conditions or provisions of:
 - (i) its articles, by-laws, shareholders' agreements or other organizational documents, as the case may be;
 - (ii) any applicable laws;
 - (iii) any material contracts, material authorizations or material contractual restrictions binding on or affecting it or its assets, including without limitation, the Collateral; or
 - (iv) any material judgment, injunction, determination or award which is binding on it in each such case, except to the extent that such breach has not and is not reasonably likely to have a Material Adverse Effect;
- (d) the execution and delivery by the Grantor of this General Security Agreement, and the performance by it of its obligations hereunder have been duly authorized by all necessary corporate or other action including, without limitation, the obtaining of all necessary partner, shareholder or other material and relevant consents. No authorization, consent, approval, registration, qualification, designation, declaration or filing with any Governmental Authority, or other Person, is or was necessary in connection with the execution, delivery and performance of the Grantor's obligations under this General Security Agreement except where failure to obtain same would not have or be reasonably likely to have a Material Adverse Effect;
- (e) this General Security Agreement has been duly executed and delivered by the Grantor, and constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms (except as such enforceability may be limited by the availability of equitable remedies and the effect of bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally), is (or will be immediately upon the execution thereof by the Grantor) in full force and effect, and the Grantor has performed and complied in all material respects with all the terms, provisions, agreements and conditions set forth herein and required to be performed or complied with by the Grantor;
- (f) the Collateral is genuine and is owned by the Grantor or the Grantor has rights in the Collateral, free of all security interests, mortgages, liens, claims, charges and other encumbrances (herein collectively called "**Encumbrances**"), save for the security constituted by this General Security Agreement, the security constituted by or granted in connection with any Permitted Encumbrances;
- (g) the Grantor has good and lawful authority to create the security interests in the Collateral constituted by this General Security Agreement;

- (h) each Debt included in Collateral is enforceable in accordance with its terms against the party obligated to pay the same (the "**Account Borrower**"), and the amount represented by the Grantor to the Grantee from time to time as owing by each Account Borrower or by all Account Borrowers will be the correct amount actually and unconditionally owing by such Account Borrower or Account Borrowers, except for normal cash discounts where applicable, and no Account Borrower will have any defense, set off, claim or counterclaim against the Grantor which can be asserted against the Grantee, whether in any proceeding to enforce the Collateral or otherwise;
- (i) the Grantor is not in breach or default of any agreement to which it is a party;
- (j) the Grantor has not consented to the entering into of a Control Agreement by: (A) any issuer of any Uncertificated Securities included in or relating to the Collateral; or (B) any Securities Intermediary for any Securities Accounts or Security Entitlements included in or relating to the Collateral, other than, in either case, the Grantee;
- (k) 2226 Royal Windsor GP Inc. is the full legal name of the general partner of 2226 Royal Windsor LP which is its full legal name. There are no French forms of name or trade names for either 2226 Royal Windsor GP Inc. or 2226 Royal Windsor LP; and
- (l) the registered office, the principal place of business of the Grantor, and the location of all books and records evidencing the Debts is 1111 Clarkson Road, North, Mississauga, Ontario L5J 2W1 (the "**Grantor's Head Office**").

3.2 Survival

All representations and warranties of the Grantor made in this General Security Agreement or in any of the other Loan Documents are material, shall survive and shall not merge upon the execution and delivery of this General Security Agreement and shall continue in full force and effect. The Grantee shall be deemed to have relied upon the representations and warranties notwithstanding any investigation made by or on behalf of the Grantee at any time.

3.3 Covenants

The Grantor covenants and agrees that at all times while this General Security Agreement remains in effect the Grantor:

- (a) will (i) maintain its corporate or other existence in good standing under the laws of its jurisdiction of incorporation or organization; (ii) continue to conduct its business substantially as now conducted; and (iii) do, or cause to be done, all things necessary to keep in full force and effect all permits and all properties, rights, franchises, licenses and qualifications to carry on its business in all jurisdictions where such business is currently being carried on;

- (b) will not, without the prior written consent of the Grantee, change its legal name, jurisdiction of formation and organization, address of its registered office, head office, principal place of business or chief executive office, corporate structure, province or territory in which its registered office, head office, principal place of business or chief executive office is located. The Grantor will, prior to any change described in the preceding sentence, take all actions requested by the Grantee to maintain the perfection and priority of the Grantee's security interest in the Collateral;
- (c) will keep the Collateral, to the extent not delivered to the Grantee, at the Property or the Grantor's Head Office and, except for Inventory sold or leased in the ordinary course of business, the Grantor will not remove the Collateral from those locations without obtaining the Grantee's prior written consent. The Grantor will, prior to any change described in the preceding sentence, take all actions requested by the Grantee to maintain the perfection and priority of the Grantee's security interest in the Collateral;
- (d) will defend the Collateral for the benefit of the Grantee against the claims and demands of all other Persons;
- (e) will not, without the prior written consent of the Grantee:
 - (i) create or permit to exist any Encumbrance against any of the Collateral which ranks or could in any event rank in priority to or *pari passu* with the security constituted by this General Security Agreement, save for those Encumbrances relating to Prior Permitted Encumbrances, if any; and
 - (ii) grant, sell, exchange, transfer, assign, lease or otherwise dispose of any of the Collateral;except as expressly provided in the Mortgage, in the ordinary course of business or with the prior written consent of the Grantee, and provided always that, until an Event of Default and then only so long as same continues, the foregoing restriction shall not prevent the Grantor from, in the ordinary course of the Grantor's business, selling or leasing or disposing or otherwise deal with any part of the Collateral from time to time including without limitation using monies available to the Grantor. This provision is not paramount to any restrictions on dealings with Collateral otherwise provided for in the Mortgage or any of the other Security Documents;
- (f) will fully and effectively maintain and keep maintained, valid and effective the Security Interests constituted by this General Security Agreement;
- (g) will take such steps as the Grantee requires to enable the Grantee to obtain control of any Investment Property, including but not limited to arranging for any Securities Intermediary or Futures Intermediary to enter into an agreement satisfactory to the Grantee to enable the Grantee to obtain control of such Investment Property;
- (h) will notify the Grantee promptly of:

- (i) any change in the information contained herein relating to the Grantor, the Grantor's name, or the Grantor's business;
 - (ii) the details of any claims or affecting the Grantor or the Collateral;
 - (iii) any loss or damage to the Collateral; and
 - (iv) any material failure of any Account Debtor in the payment or performance of obligations due to the Grantor;
- (i) will keep the Collateral in good order, condition and repair (in such locations as may be reasonable), subject to reasonable wear and tear, and not use the Collateral in material violation of the provisions of this General Security Agreement or any other agreement relating to the Collateral or any policy insuring the Collateral or any applicable statute, law, by-law, rule, regulation or ordinance;
 - (j) will carry on and conduct the business of the Grantor in a proper manner and shall comply with all applicable laws in the conduct of its business including those relating to quotas, licensing, privacy, employment and labour matters, pension and environmental laws, and obtain all required permits and authorizations required in the conduct of its business and maintain them and all material contracts in good standing;
 - (k) will forthwith pay:
 - (i) all obligations to its employees and all obligations to others which relate to its employees when due, including, without limitation, all taxes, duties, levies, government fees, claims and dues related to its employees;
 - (ii) all taxes, assessments, rates, duties, levies, government fees, claims and dues lawfully levied, assessed or imposed upon it or the Collateral when due, unless the Grantor shall in good faith contest its obligations so to pay and shall furnish such security as the Grantee may require; and
 - (iii) all Encumbrances which rank or could in any event rank in priority to or *pari passu* with the security constituted by this General Security Agreement, other than the Encumbrances relating to Prior Permitted Encumbrances, if any, and those approved in writing by the Grantee;
 - (l) will prevent the Collateral, save Inventory sold or leased as permitted hereby, from being or becoming an Accession to other property not covered by this General Security Agreement;
 - (m) will insure the Collateral for such periods, in such amounts, on such terms and against loss or damage by fire and such other risks as the Grantee shall reasonably direct (but in any event in accordance with prudent business practice and in accordance with the Mortgage) with loss payable to the Grantee and the Grantor,

as insureds, as their respective interests may appear, and to pay all premiums for such insurance;

- (n) will deliver to the Grantee from time to time promptly upon request:
 - (i) any Documents of Title, Instruments, Securities and Chattel Paper comprised in or relating to the Collateral;
 - (ii) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to the Collateral for the purpose of inspecting, auditing or copying the same;
 - (iii) all financial statements prepared by or for the Grantor regarding the Grantor's business, subject to the provisions of the Mortgage;
 - (iv) all policies and certificates of insurance relating to the Collateral;
 - (v) copies of all Contracts and consents relating to the Collateral and the Grantor's business; and
 - (vi) such information concerning the Collateral, the Grantor and Grantor's business and affairs as the Grantee may reasonably require;
- (o) will forthwith pay all costs, charges, expenses and legal fees and disbursements (on an indemnity basis) which may be incurred by the Grantee in:
 - (i) perfecting and registering this General Security Agreement and other documents, whether or not relating to this General Security Agreement;
 - (ii) taking, recovering, keeping possession of and insuring the Collateral;
 - (iii) connection with any disclosure requirements under the PPSA; and
 - (iv) all other actions and proceedings taken in connection with the preservation of the Collateral and the confirmation, perfection and enforcement of this General Security Agreement and of any other security held by the Grantee as security for the payment of the Loan Indebtedness and performance of the Loan Obligations;
- (p) will, at the Grantee's request at any time and from time to time execute and deliver such further and other documents and instruments and do all other acts and things as the Grantee reasonably requires in order to give effect to this General Security Agreement or to confirm and perfect, and maintain perfection of, the security constituted by this General Security Agreement in favour of the Grantee; and
- (q) will not enter into any corporate transaction (or series of transactions) whether by way of reconstruction, arrangement, reorganization, consolidation, amalgamation, wind-up, liquidation, dissolution, merger or otherwise, whereby any other Person

would become the owner of all or substantially all of the undertaking and assets of the Grantor and it shall not do any act or thing that would materially adversely affect its business, property, prospects or financial condition and shall not permit any corporation of which it is the majority shareholder to do any of the foregoing;

- (r) authorizes the Grantee, (if Collateral at any time includes Investment Property) to transfer the same or any part thereof into its own name or that of its nominee(s) so that the Grantee or its nominee(s) may appear on record as the sole owner thereof; provided that, until an Event of Default has occurred which is continuing, the Grantee shall deliver promptly to the Grantor all notices or other communications received by it or its nominee(s) as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to the Grantor or its order a proxy to vote and take all action with respect to such Investment Property. After default, the Grantor waives all rights to receive any notices or communications received by the Grantee or its nominee(s) as such registered owner and agrees that no proxy issued by the Grantee to the Grantor or its order as aforesaid shall thereafter be effective;
- (s) will ensure that, to the extent that Investment Property includes an interest in or unit certificates in a partnership or a limited liability company, the terms of any interest in such partnership or limited liability company provide that such interest is a "**security**" for the purposes of the STA and in the event that the terms of any interest in a partnership or limited liability company does not so provide, the Grantor agrees to amend the terms with respect to such partnership or limited liability company to expressly provide that such interest is a "**security**" for the purposes of the STA;
- (t) will not consent to:
 - (i) the entering into by any issuer of any Uncertificated Securities included in or relating to the Collateral of a Control Agreement in respect of such Uncertificated Securities with any Person other than the Grantee or such nominee or agent as it may direct; or
 - (ii) the entering into by any Securities Intermediary for any Securities Accounts or Security Entitlements included in or relating to the Collateral of a Control Agreement with respect to such Securities Accounts or Securities Entitlements with any Person other than the Grantee or such nominee or agent as it may direct;
- (u) will promptly, upon request from time to time by the Grantee:
 - (i) enter into and use reasonable commercial efforts to cause any Securities Intermediary for any Securities Accounts or Security Entitlements included in or relating to the Collateral to enter into a Control Agreement with the Grantee with respect to such Securities Accounts or Security Entitlements as the Grantee requires in form and substance satisfactory to the Grantee; and

- (ii) enter into and use reasonable commercial efforts to cause any issuer of any Uncertificated Securities included in or relating to the Collateral to enter into a Control Agreement with the Grantee with respect to such Uncertificated Securities as the Grantee requires in form and substance satisfactory to the Grantee; and
- (v) permit the Grantee and its representatives, at all reasonable times, access to and the right to examine the books of accounts, financial records and reports of the Grantor wherever and however such data may be stored and to have temporary custody of, make copies of and take extracts from such books, records and reports, and to examine the Collateral and review and copy any and all information and data relating to the Collateral, or to any related transactions, wherever and however such information and data may be stored.

ARTICLE 4 **RIGHT TO DEAL**

4.1 Rights before Default

Until the occurrence of an Event of Default which is continuing the Grantor is entitled to deal with the Collateral in the ordinary course of business, provided that no such action shall be taken which would impair the effectiveness of the Security Interests or the value of the Collateral or which would be inconsistent with or violate the provisions of this General Security Agreement, the Mortgage or any of the other Security Documents.

4.2 Rights after Default

Upon the occurrence of an Event of Default which is continuing all of the Grantor's rights pursuant to this Article 4 shall cease and the Grantor will not request or receive any money constituting income from, proceeds of, or interest on Collateral and if the Grantor receives any such money in any event, the Grantor shall hold such money in trust for the Grantee and will pay the same promptly to the Grantee.

ARTICLE 5 **ACCELERATION AND REMEDIES**

5.1 Acceleration

Upon the occurrence of an Event of Default which is continuing all of the Loan Indebtedness shall, at the Grantee's option and without notice to the Grantor, become immediately due and payable and the Grantee may, in its sole, absolute and unfettered discretion, exercise its rights in respect of the Collateral (including the notification and collection of same from any of the Account Borrowers) in addition to all other rights and remedies afforded by applicable law, in equity or otherwise. The Grantee shall have the right to enforce one or more remedies successively or concurrently in accordance with applicable law and the Grantee expressly retains all rights and remedies not inconsistent with the provisions in this General Security Agreement including all the rights it may have under the PPSA. The provisions of this clause do not and are not intended to affect in any

way any rights of the Grantee with respect to any Loan Indebtedness which may now or hereafter be payable on demand.

5.2 Enforcement

Upon the occurrence of and during the continuance of an Event of Default, the security hereby constituted will, at the option of the Grantee, immediately become enforceable.

5.3 Grantee's Rights and Remedies

The Grantee may, upon the occurrence of any Event of Default which is continuing and to the extent permitted by applicable law, enforce and realize on the security constituted by this General Security Agreement and take any action permitted by law or in equity, as it may deem expedient, and in particular, but without limiting the generality of the foregoing, the Grantee may do any of the following:

- (a) appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of the Grantee or not, to be a receiver or receivers, or may institute proceedings in any court of competent jurisdiction for the appointment of a receiver (hereinafter called a "**Receiver**", which term when used herein shall include a receiver or a manager or a receiver and manager) of the Collateral (including any interest, income or profits therefrom) and may remove any appointed Receiver and appoint a replacement. Any Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Grantor and not of the Grantee, and the Grantee shall not in any way be responsible for any misconduct, negligence, or non-feasance on the part of any Receiver, the Receiver's servants, agents or employees. Subject to the provisions of the instrument appointing him, any Receiver shall be vested with all or any of the rights, powers and discretions of the Grantee under this Section 5.3. Except as may be otherwise directed by the Grantee all monies received from time to time by the Receiver in carrying out its appointment shall be received in trust for and paid over to the Grantee for the benefit of the Grantee;
- (b) either directly or through its agents or nominees, exercise any or all of the powers and rights given to a Receiver by virtue of Subsection 5.3(a);
- (c) immediately and without notice enter the Grantor's premises (including, without limitation, the Property) and repossess, disable or remove the Collateral, and whether in or out of possession of the Property, collect the Rents and profits which form part of the Collateral, from the Property;
- (d) take possession of the Collateral, to preserve the Collateral or its value, to retain and administer the Collateral in the Grantee's sole, absolute and unfettered discretion, which discretion the Grantor acknowledges is commercially reasonable;
- (e) carry on or concur in carrying on all or any part of the business of the Grantor, including, without limitation, the right to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of the Collateral. To facilitate the

foregoing powers, the Grantee may, to the exclusion of all others, including the Grantor, enter upon, use and occupy all premises (which shall include fixtures) of the Grantor owned or occupied by the Grantor wherein Collateral may be situate, maintain Collateral upon the premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on the Grantor's business or as security for loans or advances to enable the Grantee to carry on the Grantor's business or otherwise, as the Grantee shall, in its discretion, determine. The Grantee shall not be liable to the Grantor for any neglect in so doing or in respect of any related rent, costs, charges, depreciation or damages;

- (f) dispose of any Collateral by public auction, private tender or private contract with or without notice, advertising or any other formality, all of which are waived by the Grantor to the extent permitted by applicable law. The Grantee may, to the extent permitted by applicable law, at its discretion, establish the terms of such disposition, including terms and conditions as to credit, upset, reserve bid or price. All payments made pursuant to such dispositions shall be credited against the Loan Indebtedness only as they are actually received. The Grantee may, to the extent permitted by applicable law, enter into, rescind or vary any contract for the disposition of any Collateral and may dispose of any Collateral again without being answerable for any related loss. Any such disposition may take place whether or not the Grantee has taken possession of the Collateral;
- (g) file proofs of claims or other documents as may be necessary or desirable to have the Grantee's claim lodged in any bankruptcy, winding-up, liquidation, arrangement, dissolution or other proceedings (voluntary or otherwise) relating to the Grantor;
- (h) in the Grantor's name, perform, at the Grantor's expense, any and all of the Grantor's obligations or covenants relating to the Collateral and enforce performance by any other parties of their obligations in relation to the Collateral and settle any disputes with other parties upon terms that the Grantee deems appropriate, in its discretion;
- (i) notify all or any Account Borrowers of the security constituted by this General Security Agreement and direct such Account Borrowers to make all payments to the Grantee and the Grantee shall have the right, at any time, to hold all amounts acquired from any Account Borrowers as part of the Collateral. Upon the occurrence of an Event of Default which is continuing, any payments received by the Grantor from any Account Borrowers shall be held by the Grantor in trust for the Grantee in the same medium in which received, shall not be commingled with any assets of the Grantor and shall, at the request of the Grantee, be turned over to the Grantee not later than the next Business Day following the day of receipt;
- (j) make payment of or cure any default under any Permitted Encumbrance or any Liens or other claims that may exist or be threatened against the Collateral, and any amount so paid together with costs, charges and expenses incurred together with interest at the Interest Rate shall be added to the Loan Indebtedness;

- (k) if the proceeds of realization are insufficient to pay all of the Loan Indebtedness, the Grantor shall forthwith pay or cause to be paid to the Grantee any deficiency and the Grantee may sue the Grantor to collect the amount of such deficiency;
- (l) subject to applicable law, seize, collect, realize, borrow money on the security of, release to third parties, sell (by way of public or private sale), lease or otherwise deal with the Collateral in such manner, upon such terms and conditions, at such time or times and place or places and for such consideration as may seem to the Grantee advisable and without notice to the Grantor. The Grantee may charge on its own behalf and pay to others sums for expenses incurred and for services rendered (expressly including legal, consulting, broker, management, receivership and accounting fees) in or in connection with seizing, collecting, realizing, borrowing on the security of, selling or obtaining payment of the Collateral and may add all such sums to the Loan Indebtedness;
- (m) enforce its rights under any agreement, to which the Grantee and the Grantor are parties, with any Securities Intermediary or Futures Intermediary; or
- (n) exercise all of the rights and remedies of a secured party under the PPSA and the STA.

5.4 Allocation of proceeds

Subject to applicable law and the claims, if any, of the creditors of the Grantor under Prior Permitted Encumbrances, the Grantee shall apply the proceeds of any collection, sale or other realization of all or any part of the Collateral, including any Collateral consisting of cash, to such part or parts of the Loan Indebtedness as the Grantee may see fit, and the Grantee shall at all times and from time to time have the right to change any appropriation as the Grantee sees fit.

5.5 Waivers and Extensions

The Grantee may waive default or any breach by the Grantor of any of the provisions contained in this General Security Agreement. No waiver shall extend to a subsequent breach or default, whether or not the same as or similar to the breach or default waived and no act or omission of the Grantee shall extend to or be taken in any manner whatsoever to affect any subsequent breach or default of the Grantor or the rights of the Grantee resulting therefrom. Any such waiver must be in writing and signed by the Grantee to be effective. The Grantee may also grant extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges, release the Collateral to third parties and otherwise deal with the Grantor's guarantors or sureties and others and with the Collateral and other securities as the Grantee may see fit without prejudice to the liability of the Grantor to the Grantee, or the Grantee's rights, remedies and powers under this General Security Agreement. No extension of time, forbearance, indulgence or other accommodation now, heretofore or hereafter given by the Grantee to the Grantor shall operate as a waiver, alteration or amendment of the rights of the Grantee or otherwise preclude the Grantee from enforcing such rights.

5.6 Remedies Cumulative and Waivers

The rights and remedies of the Grantee under this General Security Agreement are cumulative and are in addition to and not in substitution for any rights or remedies provided by applicable law or equity; and any single or partial exercise by the Grantee of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this General Security Agreement shall not be deemed to be a waiver of, or to alter, affect or prejudice, any other right or remedy to which the Grantee may be lawfully entitled for such default or breach. Any waiver by the Grantee of the strict observance, performance or compliance with any term, covenant, condition or other matter contained in this General Security Agreement and any indulgence granted, either expressly or by course of conduct by the Grantee shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any right or remedy of the Grantee under this General Security Agreement as a result of any other default or breach under this General Security Agreement.

5.7 Grantee's Fees and Expenses; Indemnification

Any costs, charges and expenses (including legal fees and disbursements on an indemnity basis) incurred by the Grantee acting reasonably and without duplication, in connection with or incidental to:

- (a) the exercise by the Grantee of all or any of the powers granted to it pursuant to this General Security Agreement, the Mortgage or pursuant to applicable law or equity; and
- (b) the appointment of the Receiver and the exercise by the Receiver of all or any of the powers granted to the Receiver pursuant to this General Security Agreement, including the Receiver's reasonable remuneration and all outgoings properly payable by the Receiver;

shall be payable by the Grantor to the Grantee forthwith with interest until paid at the Interest Rate and such amounts shall form part of the Loan Indebtedness and constitute a charge upon the Collateral in favour of the Grantee prior to all claims subsequent to this General Security Agreement.

ARTICLE 6 **APPOINTMENT OF ATTORNEY**

6.1 Grant

The Grantor hereby irrevocably appoints the Grantee to be the attorney of the Grantor or the Receiver, as the case may be, with full power of substitution, and with full authority in the place of the Grantor and in the name of the Grantor or otherwise, from time to time in the Grantee's discretion, to do all acts, matters and things that may be necessary for, incidental to, or advisable for, carrying out the powers given to the Grantee under this General Security Agreement, upon the occurrence of any Event of Default which is continuing (but the Grantee is not obligated to take such action and will have no liability

to the Grantor or any third party for failure to take any action). This power of attorney is coupled with an interest and is irrevocable until the discharge of the Security Interests created by this General Security Agreement.

ARTICLE 7
LIABILITY OF THE MORTGAGEE

7.1 Liability of the Grantee

Other than for its own gross negligence or wilful misconduct, the Grantee shall not be:

- (a) responsible or liable for any debts contracted by it, for damages to persons or property or for salaries or non-fulfilment of contracts during any period when the Grantee shall manage the Collateral upon entry or manage the business of the Grantor, as herein provided, nor shall the Grantee be liable to account as mortgagee in possession or for anything except actual receipts or be liable for any loss or realization or for any default or omission for which a mortgagee in possession may be liable;
- (b) bound to do, observe or perform or to see to the observance or performance by the Grantor of any obligations or covenants imposed upon the Grantor nor shall the Grantee, in the case of Securities, Instruments or Chattel Paper, be obliged to reserve rights against other persons, nor shall the Grantee be obliged to keep any of the Collateral identifiable; and
- (c) obliged to inquire into the right of any Person purporting to be entitled under the PPSA to information and materials from the Grantee by making a demand upon the Grantee for such information and materials and the Grantee shall be entitled to comply with such demand and shall not be liable for having complied with such demand notwithstanding that such Person may in fact not be entitled to make such demand.

7.2 Indemnity by Grantor

The Grantor will indemnify the Grantee and hold the Grantee harmless from and against any and all claims, costs, losses, demands, actions, causes of action, lawsuits, damages, penalties, judgments and liabilities of whatsoever nature and kind in connection with or arising out of any representation or warranty given by the Grantor, being untrue, the breach of any term, condition, proviso, agreement or covenant to the Grantee hereunder, or the exercise of any of the rights and or remedies of the Grantee hereunder, or any transaction contemplated in this General Security Agreement.

ARTICLE 8
SATISFACTION AND DISCHARGE

8.1 Partial Payment

Any partial payment of the Loan Indebtedness or partial satisfaction of the Loan Obligations, or any ceasing by the Grantor to be indebted to the Grantee, shall be deemed not to be redemption or discharge of the security constituted by this General Security Agreement.

8.2 Release and Discharge

Upon registration of a discharge of the Mortgage, this General Security Agreement shall become of no force or effect. At such time as the Mortgage has been discharged, the Grantee will, upon the request of the Grantor, and at the sole cost and expense of the Grantor, execute and deliver to the Grantor such instruments as may be necessary or effective, in registrable form, to evidence the termination of the Security Interests pursuant to this General Security Agreement.

ARTICLE 9
MISCELLANEOUS

9.1 Demand Obligations

The fact that this General Security Agreement provides for Events of Default and rights of acceleration shall not derogate from the nature of any Loan Indebtedness which is payable on demand.

9.2 Filings

The Grantor hereby authorizes the Grantee to file such financing statements and other documents and do such acts, matters and things (including completing and adding schedules hereto identifying the Collateral or any Permitted Encumbrances affecting the Collateral or identifying the locations at which the Grantor's business is carried on and the Collateral and records relating thereto are situate) as the Grantee may deem appropriate to perfect and continue the security constituted hereby, to protect and preserve the Collateral and to realize upon the security constituted hereby.

9.3 Liability to Advance

None of the preparation, execution, perfection and registration of this General Security Agreement or the advance of any monies shall bind the Grantee to make any advance or loan or further advance or loan, or renew any note or extend any time for payment of any indebtedness or liability of the Grantor to the Grantee or extend any term for performance or satisfaction of any obligation of the Grantor to the Grantee.

9.4 Copy of Agreement and Financing Statement

The Grantor hereby:

- (a) acknowledges receiving a copy of this General Security Agreement; and
- (b) waives all rights to receive from the Grantee a copy of any financing statement, financing change statement or verification statement filed at any time or from time to time in respect of this General Security Agreement.

9.5 Statutory Waivers

To the fullest extent permitted by law, the Grantor waives all of the rights, benefits and protections given by the provisions of any existing or future statute which imposes limitations upon the powers, rights or remedies of the Grantee or upon the methods of realization of security including, without limitation, those which impose higher or greater obligations upon the Grantee than provided in this General Security Agreement.

9.6 Payments

All payments required to be made by the Grantor to the Grantee under this General Security Agreement will be made at the address of the Grantee set out in Section 9.13 (or at any other place specified by the Grantee by written notice to the Grantor and the Covenantors) in immediately available funds in lawful Canadian currency, without any set off, counter claim or deduction.

9.7 Modification

No modification or waiver of this General Security Agreement is binding on the Grantee unless made in writing and signed by a duly authorized officer of the Grantee.

9.8 Entire Agreement

On the execution and delivery by the Grantor, this General Security Agreement is deemed to be finally executed and delivered by the Grantor to the Grantee and is not subject to or affected by any condition as to the receipt by the Grantee of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Grantee of any other Loan Documents, nor by any promise or condition affecting the liability of the Grantor. No agreement, promise, representation or statement by the Grantee or any of its officers, employees or agents unless in this General Security Agreement forms part of this General Security Agreement, has induced the making of it or affects the liability of the Grantor or any Covenantor.

9.9 Severability

If any Section or part thereof of this General Security Agreement is invalid or unenforceable for any reason, then such Section or any part thereof will be severable from

this General Security Agreement and will not affect the validity or enforceability of any other part of this General Security Agreement.

9.10 Non-Merger

The giving of this General Security Agreement is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage, or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default that is continuing, proceedings may be taken under this General Security Agreement, the Mortgage, or any of the other Security Documents or any one or more of them at the option of the Grantee.

9.11 Paramountcy

The provisions of any agreement between the Grantor and the Grantee in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage, and all of the other Loan Documents, shall form part of this General Security Agreement except where inconsistent with the provisions hereof. In the case of any inconsistency between this General Security Agreement and the Mortgage, the provisions of the Mortgage shall prevail.

9.12 Assignability

The Grantor hereby consents to the Grantee assigning, transferring or selling all or any portion of its interest under this General Security Agreement in connection with the proportionate assignment, transfer or sale of its interest in the Loan Indebtedness and the Loan Obligations. Without limiting the foregoing, the Grantee may enter into participation, contending or syndication agreements with other Grantees in connection with this General Security Agreement, the Loan Indebtedness and the Loan Obligations. The Grantee may provide information of a financial or other nature to any prospective assignee, or transferee or other Grantees concerning the Grantor, this General Security Agreement, the Loan Indebtedness and the Loan Obligations.

9.13 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this General Security Agreement shall be in writing and shall be delivered by personal delivery, prepaid courier service, postage prepaid registered mail or by electronic or digital transmission to the relevant party, transmitted by e-mail or similar means of recorded electronic communication or sent by registered mail, addressed:

(a) to the Grantor:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Grantor's solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Grantee:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered personally or by courier or transmitted by electronic or digital transmission (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third business day following the date of mailing; provided, however, that if at the time of mailing or within three business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

9.14 Expenses, Fees and Indemnity

The Grantor will pay to the Grantee all costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Grantee in connection with the collection of any amount payable under this General Security Agreement by the

Grantor to the Grantee. The Grantor shall indemnify the Grantee against all claims, loss or damages arising out of or in connection with any breach or default by the Grantor under this General Security Agreement.

9.15 Applicable Law

This General Security Agreement and the rights and obligations of the Grantor and the Grantee under it are governed by and construed according to the laws of the Province and the laws of Canada applicable therein.

9.16 Time of the Essence

Time is of the essence of this General Security Agreement.

9.17 Execution by the Grantee

This General Security Agreement need not be executed by the Grantee to be binding on and to enure to the benefit of the Grantee.

9.18 Counterparts

This General Security Agreement may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document. A signed copy of this General Security Agreement or a counterpart of it delivered by email, facsimile or other means of electronic or digital transmission or signature is deemed to have the same legal effect as delivery of an original signed copy of this General Security Agreement.

9.19 Further Assurances

The Grantor will promptly do all further acts and execute and deliver further documents as may be required to carry out the terms or intent of this General Security Agreement.

9.20 Successors and Assigns

This General Security Agreement is binding on and enures to the benefit of the Grantee and the Grantor, and their respective executors, administrators, successors and permitted assigns and to any Person to whom the Grantee may grant any participation in this General Security Agreement, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Grantee under this General Security Agreement or any of the Grantee's interest herein or in the Loan Indebtedness and the Loan Obligations.


9.21 Multiple Parties

If the Grantor consists of more than one party, this General Security Agreement will be read with all necessary grammatical changes and each reference to the Grantor includes each and every such Person individually. All covenants and agreements herein of the Grantor are the joint and several covenants and agreements of each such Person. If the Grantee consists of more than one party, this General Security Agreement will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Grantee under this General Security Agreement.

-- signatures follow on next page --

IN WITNESS WHEREOF the Grantor has executed this General Security Agreement as of the date and year first written above.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

Per: 

Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

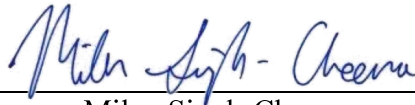
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THIS IS **EXHIBIT "II"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

MORTGAGE

688 SOUTHDOWN GP INC., in its capacity as general partner for and on behalf of **688 SOUTHDOWN LP**, having an office at 2680 Royal Windsor Drive, Mississauga, Ontario L5J 1K7 (hereinafter referred to as the "**Mortgagor**") being registered as owner of an estate in fee simple in possession of the Property;

IN CONSIDERATION of the sum of \$43,750,000.00 of lawful money of Canada, (the "**Principal Amount**"), or any portion thereof, lent to the Mortgagor by **KINGSETT MORTGAGE CORPORATION**, having an office at Scotia Plaza, 40 King Street West, Suite 3700, Toronto, Ontario M5H 3Y2 (hereinafter referred to as the "**Mortgagee**"), the Mortgagor **HEREBY COVENANTS WITH** the Mortgagee as follows:

DEFINITIONS

1. The terms defined below shall have the indicated meanings unless the context expressly or by necessary implication requires otherwise:
 - (a) "**Borrower**" means 2226 Royal Windsor LP;
 - (b) "**Closed Prepayment Period**" has the meaning ascribed thereto in Section 8;
 - (c) "**Commitment Letter**" means the mortgage commitment letter dated as of June 28, 2022 between, inter *alios*, the Borrower and the Mortgagee, as amended, varied, supplemented, restated, renewed or replaced at any time and from time to time;
 - (d) "**Control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise;
 - (e) "**Covenantors**" means, collectively, the Mortgagor or any joint debtor or any obligor to the Mortgagee in connection with repayment of the Loan Indebtedness or the performance of the Loan Obligations;
 - (f) "**Event of Default**" has the meaning ascribed thereto in Section 29;
 - (g) "**Extension Fee**" means a \$87,500.00 (0.25% of the Maximum Loan Amount) fee;
 - (h) "**Governmental Authority**" means the government of Canada or any other nation, or of any political subdivision thereof, whether state/provincial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including any supra-national bodies such as the European Union or the European Central Bank and including a Minister of the Crown, Superintendent of Financial Institutions or other comparable authority or agency;
 - (i) "**Hazardous Substance**" means any radioactive materials, asbestos materials, urea formaldehyde, underground or aboveground tanks, pollutants, contaminants, liquid waste, industrial waste, hauled liquid waste, deleterious substances, corrosive or toxic substances, hazardous wastes, hazardous materials, hazardous substances, special waste or waste of any kind or any other substance, the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is now or hereafter prohibited, controlled or regulated under any applicable environmental law;
 - (j) "**Indebtedness**", in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
 - (k) "**Interest Adjustment Date**" means the first day of the calendar month following the calendar month in which the initial advance of all or any portion of the Loan

Indebtedness is made, unless such initial advance takes place on the first day of a calendar month, in which case the interest adjustment date shall be the date of such initial advance;

- (l) **"Interest Rate"** means:
 - (i) from the date of the initial advance of all or any portion of the Loan Indebtedness until the end of the 24th month after the Interest Adjustment Date, the RBC Prime Rate plus 4.80% per annum (with a floor rate of 8.50%), calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement with respect to the Loan Indebtedness; and
 - (ii) in the 25th month after the Interest Adjustment Date and every month thereafter, 14.50% per annum calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement with respect to the Loan Indebtedness;
- (m) **"Lands"** means those lands and premises more particularly described in Schedule "A" attached hereto;
- (n) **"Lease Benefits"** means, collectively, the benefit of all covenants and obligations of lessees, tenants, licensees, or occupants as well as all other rights, privileges, advantages and benefits contained in any of the Leases, including without limitation, all rights and benefits of any guarantees thereof, the right to demand, sue for, collect, recover and receive all Rents, to enforce the Mortgagor's rights under any Lease, and generally any collateral advantage or benefit to be derived from the Leases or any of them;
- (o) **"Leases"** means, collectively, all present and future leases, subleases, licenses, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Mortgagor or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Property, and including all agreements collateral thereto;
- (p) **"Lien"** means, collectively, any: (i) lien, charge, mortgage, pledge, security interest or conditional sale agreement; (ii) assignment, lease, consignment, trust or deemed trust that secures payment or performance of an obligation; (iii) garnishment; (iv) other encumbrance of any kind; and (v) any commitment or agreement to enter into or grant any of the foregoing;
- (q) **"Loan Documents"** means, collectively, the Commitment Letter, this Mortgage, the Security Documents and all certificates, instruments, agreements and other documents delivered, or to be delivered, to the Mortgagee under, pursuant to or in connection with this Mortgage or any of the other Loan Documents, each as amended, varied, supplemented, restated, renewed or replaced at any time and from time to time and, when used in relation to any Person, the term **"Loan Documents"** means the Loan Documents executed and delivered by such Person.
- (r) **"Loan Indebtedness"** means any Indebtedness from time to time of the Mortgagor or any of the other Covenantors to the Mortgagee arising under any of the Loan Documents;
- (s) **"Loan Obligations"** means the obligations from time to time of the Mortgagor or any of the other Covenantors arising under the Loan Documents;
- (t) **"Material Adverse Effect"** means a material adverse effect on:
 - (i) the Property or the economic viability thereof;
 - (ii) the business, operations, property or financial condition of any of the Covenantors which would materially impact the ability of the Covenantors, taken as a whole, to repay the Loan Indebtedness and to perform and discharge the Loan Obligations;

- (iii) the validity or enforceability of this Mortgage or any of the other Loan Documents; or
- (iv) the Mortgagee's ability to enforce its rights or remedies under this Mortgage or any of the other Loan Documents, including with respect to the Mortgagee's security position;
- (u) "**Maturity Date**" means twenty-five (25) months after the Interest Adjustment Date as may be extended in accordance with the Commitment Letter;
- (v) "**Maximum Loan Amount**" means, notwithstanding the Principal Amount, the amount of \$35,000,000.00;
- (w) "**Mortgaged Premises**" means every building, structure, improvement and fixture (including those more fully set out in Section 18 hereof), including replacements therefor, on or which may hereafter be erected or placed on the Lands, including all plate glass, plant, equipment, apparatus and machinery of every kind now or hereafter located therein, thereon or used in connection therewith, and all personal property including, contents thereof to the extent that they are the property of the Mortgagor;
- (x) "**Mortgagee**" means KingSett Mortgage Corporation;
- (y) "**Mortgagor**" means 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP;
- (z) "**Other Obligations**" has the meaning ascribed thereto in Section 38;
- (aa) "**Permitted Encumbrances**" mean, collectively:
 - (i) any Lien in respect of any property or assets of the Mortgagor created by or arising pursuant to any applicable legislation in favour of any Person (such as but not limited to a Governmental Authority), including a Lien for the purpose of securing the Mortgagor's obligation to deduct and remit employee source deductions and goods and services tax pursuant to the *Income Tax Act* (Canada), the *Excise Tax Act* (Canada), the *Canada Pension Plan* (Canada), the *Employment Insurance Act* (Canada) and any legislation in any jurisdiction similar to or enacted in replacement of the foregoing from time to time (each individually a "**Statutory Lien**") in respect of any amount which is not at the time due;
 - (ii) any Statutory Lien in respect of any amount which may be due but the validity of which is being contested in good faith and in respect of which reserves have been established as reasonably required by the Mortgagee;
 - (iii) in respect of the Property: (A) any registered agreement (or unregistered agreement that is required in connection with the further development of the Property) with any Governmental Authority and any public utilities or private suppliers of services, including site plan agreements, subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements, which has not and is not reasonably likely to have a Material Adverse Effect, provided the same is complied with in all material respects; (B) any registered easement for the supply of utilities or telephone services to the Property and for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services and all licences, easements, rights-of-way, rights in the nature of easements and agreements with respect thereto not registered on title to the Property, including agreements, easements, licences, rights-of-way and interests in the nature of easements for sidewalks, public ways, sewers, drains, utilities, gas, steam and water mains or electric light and power, or telephone telegraphic conduits, poles, wires and cables, which has not and is not reasonably likely to have a Material Adverse Effect; (C) any registered easement or right-of-way for the passage, ingress and egress of Persons and vehicles over parts of the Lands, which has not and is not reasonably likely to have a Material Adverse Effect; (D) any registered or

unregistered easement, rights-of-way, agreement or other unregistered interest or claims not disclosed by registered title which has not and is not reasonably likely to have a Material Adverse Effect; (E) any zoning, land use and building restriction, bylaw, regulation and ordinance of any Governmental Authority, including municipal by-laws and regulations and airport zoning regulations, which has not any is not reasonably likely to have a Material Adverse Effect; (F) any obligation with respect to any permit required in connection with the construction and use of the Property provided such permit is in good standing and has not and is not reasonably likely to have a Material Adverse Effect; and (G) any minor defect in title which has not and is not reasonably likely to have a Material Adverse Effect;

- (iv) any reservation, limitation, proviso, condition, restriction and exception (including royalties, reservation of mines, mineral rights, access to navigable waters and similar rights) expressed in the letters patent or grant from the Crown, as varied by statute, of the lands of which the Lands form a part and any statutory limitation, exception, reservation and qualification, provided same has been complied with in all material respects;
 - (v) any Lien incurred or deposit made or pledged to secure any obligation under workers' compensation legislation or similar legislation, or in connection with contracts, bids, tenders or expropriation proceedings, or surety, performance or appeal bonds in connection with construction of the further development of the Property;
 - (vi) security given to a public utility or any Governmental Authority to secure obligations incurred to such utility, Governmental Authority or other authority in the ordinary course of business and not at the time overdue;
 - (vii) any inchoate Lien (statutory or otherwise) arising in connection with the construction or improvement of the Property or arising out of the furnishing of materials or supplies therefor, provided that such Lien secures moneys not at the time overdue (or if overdue, the validity of which is being contested in good faith and in respect of which and reserves have been established as reasonably required by the Mortgagee), notice of such Lien has not been given to the Mortgagee and such Lien has not been registered against title to the Property;
 - (viii) purchase-money security interests incurred or assumed in connection with the purchase, leasing or acquisition of capital equipment in the ordinary course of business, provided that the aggregate amount of the Mortgagor's liability thereunder is not at any time greater than one million (\$1,000,000.00) dollars;
 - (ix) any present and future lease, offer to lease, sublease, concession, licence or other contract or agreement by which the use, enjoyment or occupancy of the Property or any portion thereof is granted which has not and is not reasonably likely to have a Material Adverse Effect;
 - (x) this Mortgage and the other Security Documents;
 - (xi) the Prior Permitted Encumbrances; and
 - (xii) any Subsequent Encumbrances with the express prior written consent of the Mortgagee in its sole, absolute and unfettered discretion;
- (bb) "**Person**" means, and includes, natural persons, corporations, limited liability companies, limited partnerships, limited liability partnerships, general partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and governments and agencies and political subdivisions thereof and their respective permitted successors and assigns (or in the case of a governmental person, the successor functional equivalent of such Person);

- (cc) "**Principal Amount**" has the meaning ascribed thereto in the preamble to this Mortgage;
- (dd) "**Prior Permitted Encumbrances**" means those encumbrances registered against title to the Property in priority to this Mortgage on the date of the registration of this Mortgage against title to the Lands and which the Mortgagee has agreed to accept in its sole, absolute and unfettered discretion;
- (ee) "**Property**" means, collectively, the Lands and the Mortgaged Premises;
- (ff) "**RBC Prime Rate**" means, for any day, the rate of interest per annum established and published from time to time by Royal Bank of Canada as the reference rate of interest for the determination of interest rates that Royal Bank of Canada will charge its customers of varying degrees of creditworthiness in Canada for Canadian Dollar demand loans made by the Royal Bank of Canada in Toronto, Ontario;
- (gg) "**Rents**" means, collectively, all rents, issues and profits now due or to become due under or derived from the Leases and/or the Property;
- (hh) "**Security Documents**" means, collectively, the Loan Documents creating Liens on the undertaking, property and assets of the Covenantors in favour of the Mortgagee, and all other instruments, agreements and documents which have been or may hereafter from time to time be executed in connection therewith, in each case as the same may be hereafter amended, modified, supplemented or restated in accordance with the terms thereof;
- (ii) "**Southdown First Mortgage Charge**" means a first charge/mortgage granted by the Mortgagor to and in favour of the Mortgagee which was registered September 15, 2021 in the Land Registry Office for the Land Titles Division of Peel (No. 43) against title to Lands as Instrument No. PR3909580;
- (jj) "**Statutory Lien**" has the meaning ascribed thereto in Section 1(aa)(i);
- (kk) "**Subsequent Encumbrances**" means, collectively, encumbrances registered against title to the Lands subsequent in priority to this Mortgage with the prior consent of the Mortgagee, which consent shall be granted in the Mortgagee's sole, absolute and unfettered discretion;
- (ll) "**Taxes**" means all present or future taxes, rates, liens, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto; and
- (mm) "**Title Agreements**" has the meaning ascribed thereto in Section 49;

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise: (i) any definition of or reference to any agreement, instrument or other document herein (including this Mortgage) shall be construed as referring to such agreement, instrument or other document amended, varied, supplemented, restated, renewed or replaced at any time and from time to time (subject to any restrictions on such amendments, variations, supplements, restatements, renewals or replacements set forth herein); (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns; (iii) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Mortgage in its entirety and not to any particular provision hereof; (iv) unless otherwise expressly stated, all references in this Mortgage to Sections, Exhibits and Schedules shall be construed to refer to Sections of, and Exhibits and Schedules to, this Mortgage, and references to a Section, means such Section or an enumerated sub-Section thereof, as applicable; (v) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, varied, supplemented, restated, renewed or replaced at any time and from time to time; and (vii) the words "asset" and

"property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

PROMISE TO PAY AND FULFIL OBLIGATIONS

2. The Mortgagor will pay or cause to be paid to the Mortgagee in lawful money of Canada the full amount of the Loan Indebtedness in the manner of payment provided by this Mortgage before as well as after maturity, both before and after default, and both before and after judgment on this Mortgage, without any deduction or abatement, and shall do, observe, perform, fulfil and keep all of the Loan Obligations.

PAYMENTS

3. The Loan Indebtedness shall be repaid as follows:
 - (a) interest on the Loan Indebtedness advanced and remaining unpaid from time to time at the fixed rate per annum equal at all times to the Interest Rate, calculated daily not in advance, before as well as after maturity, default and judgment, on the basis of the actual number of days elapsed in a year of 365 days or 366 days, as the case may be, and compounded monthly not in advance and computed from and including the respective dates of such advances;
 - (b) subject to Section 3(d)(iii), interest, at the Interest Rate, shall become due and be paid on the Interest Adjustment Date and thereafter in monthly instalments on the first business day of the month which is one month after the Interest Adjustment Date and continuing on the first business day of each and every month which is one month after the date of each such payment, and in addition, at the option of the Mortgagee, may be deducted from advances of moneys under this Mortgage, and the balance, if any, of the aforesaid interest on advances shall become due and be paid at the same time as is hereinafter provided for payment in full of the Loan Indebtedness;
 - (c) the Loan Indebtedness shall become due and be paid in full on the Maturity Date;
 - (d) it is acknowledged and agreed that:
 - (i) notwithstanding the Principal Amount, the maximum amount to be advanced by the Mortgagee from time to time in respect of the Loan Indebtedness shall not exceed the Maximum Loan Amount;
 - (ii) an initial and subsequent advances of Loan Indebtedness representing advances from time to time of the Loan may be made by the Mortgagee, subject to and in accordance with the Commitment Letter and the conditions precedent and other provisions set out therein;
 - (iii) beginning on the Interest Adjustment Date, the amount of monthly interest, at the Interest Rate, shall, provided no Event of Default has occurred hereunder which is continuing, be capitalized monthly to the Loan Indebtedness advanced hereunder until the earlier of:
 - A. such capitalized interest, at the Interest Rate, reaching in the aggregate the amount of \$5,000,000.00;
 - B. the sum of such capitalized interest and all other amounts advanced hereunder reaching, in the aggregate, the Maximum Loan Amount;
 - C. repayment of all amounts outstanding hereunder; and
 - D. any Event of Default or a default by any of the Covenantors under any of the Loan Documents; and
 - (iv) in the event that amounts are no longer available in accordance with the provisions of Section 3(d)(iii), any additional interest payments shall not be capitalized and shall be required to be paid by the Mortgagor from sources other than subsequent advances of moneys under this Mortgage.

CHARGE

4. **THE MORTGAGOR HEREBY** grants, mortgages and charges to and in favour of the Mortgagee all right, title and interest of the Mortgagor in and to the Property as security for the payment of the Loan Indebtedness and performance of the Loan Obligations by the Mortgagee arising pursuant to the guarantee dated as of the date hereof granted by the Mortgagor to and in favour of the Mortgagee.

COMPOUND INTEREST

5. It is hereby agreed that in case default shall be made in payment of any sum to become due for interest, at the Interest Rate, at any time appointed for payment thereof as aforesaid, compound interest shall be payable and the sum in arrears for interest from time to time, before as well as after maturity, shall bear interest, at the Interest Rate, and in case the interest and compound interest are not paid within the next thirty (30) days, compound interest, at the Interest Rate, shall be payable on the aggregate amount then due of outstanding interest and compound interest, before as well as after maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the Property.

INTEREST RATE

6. Notwithstanding the provisions hereof in no event shall the aggregate "**interest**" (as that term is defined in Section 347 of the *Criminal Code* (Canada)) exceed the effective annual rate of interest on the "**credit advanced**" (as defined therein) lawfully permitted under that section. The effective annual rate of interest shall be determined in accordance with generally accepted actuarial practices and principles from the date of the initial advance of the Loan Indebtedness until the Maturity Date and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Mortgagee will be conclusive for the purposes of such determination. If any provision of the Mortgage would obligate the Mortgagor to make any payment of interest or other amount payable to the Mortgagee in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Mortgagee of interest at a criminal rate, then notwithstanding that provision, that 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 result in a receipt by the Mortgagee of interest at a criminal rate, the adjustment to be effected, to the extent necessary, as follows:
 - (a) first, by reducing the amount or rate of interest required to be paid to the Mortgagee under this Mortgage; and
 - (b) thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to the Mortgagee which would constitute "**interest**" (as that term is defined in Section 347 of the *Criminal Code* (Canada)).

RENEWALS AND NON-REVOLVING NATURE OF LOAN

7. That:
 - (a) in the event that this Mortgage shall be renewed or extended pursuant to Section 7(b) or by written agreement executed by the Mortgagor and the Mortgagee, such renewal or extension (and the rate of interest, term, instalment and other stipulations of such renewal or extension) shall be binding upon Subsequent Encumbrances, the Mortgagor and the Mortgagee, its successors in title and assigns, and all Subsequent Encumbrances, and shall take full priority over all Subsequent Encumbrances, whether or not the said renewal, extension or notice thereof is registered, filed or recorded by caveat at the applicable Land Titles Office and whether or not the rate of interest payable or payment amortization period applicable during the renewal or extension term is greater than or less than the rate or amortization stipulated in this Mortgage. The Mortgagor shall, forthwith on request therefor by the Mortgagee, provide to the Mortgagee, at the Mortgagor's expense, all such postponements and other assurances as the Mortgagee may require to ensure the foregoing binding effect and priority. All renewals (if any) shall be done at the Mortgagor's expense (including without limitation payment of the Mortgagee's reasonable legal expenses on a solicitor and his own client basis). In the event the

within Mortgagor is a corporation, no such renewal or extension, even if made by a successor in title to the Mortgagor named herein and whether or not the Mortgagor shall consent thereto, shall in any way release or abrogate or render unenforceable the covenants or obligations of the Mortgagor named herein, which shall continue notwithstanding such renewal or extension and shall apply to this Mortgage as renewed or extended.

- (b) the Mortgagor has the option, subject to the prior consent of the Mortgagee, not to be unreasonably withheld, to extend the Maturity Date by up to two (2) extensions with each extension being for a period of three (3) months on the terms and conditions set out in Section A.13 and Section A.14 of the Commitment Letter, and provided that in connection with each extension option:
 - (i) the Mortgagor pays to the Mortgagee an Extension Fee, which shall be deemed earned by the Mortgagee upon receipt of notice requesting an extension of the Maturity Date, and payable on or before the date which is ten (10) days prior to the Maturity Date, provided that if such extension is not granted by the Mortgagee, the Mortgagee will return such amount to the Mortgagor;
 - (ii) the Mortgagor or any other Covenantor delivering at least 30 days' written notice prior to the Maturity Date to the Mortgagee requesting each extension; and
 - (iii) no Event of Default has occurred which is continuing;
- (c) Other than the extension right set forth in Section 7(b), there are no further rights to renew or extend this Mortgage; and
- (d) no amount that is borrowed or advanced hereunder may, if repaid or prepaid, be reborrowed at any time, it being acknowledged and agreed that this Mortgage creates a non-revolving loan.

PREPAYMENT

- 8. This Mortgage will be closed for prepayment from the initial advance of the Loan until twelve (12) months after the Interest Adjustment Date (the "**Closed Prepayment Period**"). From and after the Closed Prepayment Period, the Loan Indebtedness will be open for prepayment, in whole but not in part, with a minimum of thirty (30) days' prior written notice to the Mortgagee without any fee, bonus or penalty.

TAXES

- 9. Subject as hereinafter in this Section 9 provided, the Mortgagor will pay when and as the same fall due all Taxes; provided that in respect of municipal taxes, school taxes, local improvements charges and all taxes and levies made or assessed in lieu of real property taxes, the Mortgagor shall provide the Mortgagee with a paid receipted tax bill within fifteen (15) days after the payment deadline of each such tax bill, and in the event the Mortgagor should default in payment of same and such default continues for more than three (3) business days following written notice to the Mortgagor, the Mortgagee shall have the right to implement any of the following:
 - (a) the Mortgagee may deduct from time to time, from advances of moneys under this Mortgage, amounts sufficient to pay the Taxes which have become due and payable or will have become due and payable and are unpaid from time to time as advances are made;
 - (b) the Mortgagor shall in each year during the currency hereof at the request of the Mortgagee pay to the Mortgagee in equal monthly instalments, such amounts as the Mortgagee may estimate as being the annual Taxes next becoming due and payable, the said monthly instalments to be paid in addition to the payments required under Section 2, and the Mortgagor shall also pay to the Mortgagee before the due date of the current annual Taxes such additional sums as may be requisite to enable the Mortgagee to pay out of such monthly instalments and additional payments, the whole amount of the annual Taxes on or before the due date thereof, provided,

however, that the exercise of the foregoing right shall be subject to the rights and obligations of the Mortgagor and the Mortgagee under all Permitted Encumbrances;

- (c) so long as there is not an Event of Default that has occurred and is continuing, the Mortgagee shall apply such deduction and payments on the Taxes as they become due, but nothing herein contained shall obligate the Mortgagee to apply such payments on account of Taxes more often than yearly, nor to pay the same in advance of the due date for payment of the same. Provided however, that if (before any sum or sums so paid to the Mortgagee shall have been so applied) an Event of Default shall have occurred which is continuing, the Mortgagee may, at its option, apply such sum or sums in or towards payment of the Loan Indebtedness;
- (d) in the event that there is default in the payment by the Mortgagor of moneys for Taxes as aforesaid, then the Mortgagee may pay such Taxes and, in addition, upon providing the Mortgagor with ten (10) days' prior written notice, the Mortgagee may pay any and all liens, charges and encumbrances which may be charged against the Property which are not otherwise first paid by the Mortgagor. All moneys expended by the Mortgagee for any of such purposes together with interest thereon at the Interest Rate shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default;
- (e) if the Property or any part thereof becomes subject to sale or forfeiture for non-payment of Taxes while any Loan Indebtedness remains outstanding, then, subject to all applicable laws, the Mortgagee may acquire title and rights of the purchaser at any sale, or the rights of any other Person or corporation becoming entitled on or under any such forfeiture, or the Mortgagee may pay, either in its own name or in the Mortgagor's name or on the Mortgagor's behalf, any and all sums necessary to be paid to redeem the Property so sold or forfeited, and to re-vest the Property in the Mortgagor, and the Mortgagor hereby nominates and appoints the Mortgagee agent of the Mortgagor to pay such moneys on the Mortgagor's behalf and in the Mortgagor's name, and any moneys so expended by the Mortgagee together with interest thereon at the Interest Rate shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default, or, in the alternative, the Mortgagee shall have the right to bid on and purchase the Property at any tax sale of the same and shall thereupon become the absolute owner thereof; and
- (f) the Mortgagor shall transmit to the Mortgagee evidence, satisfactory to the Mortgagee acting reasonably, of the payment of all Taxes affecting the Property to the Mortgagee at least quarterly or as otherwise reasonably requested by the Mortgagee from time to time, and the Mortgagor authorizes the Mortgagee to obtain any tax or assessment information concerning the Property directly from the municipal taxing authority having jurisdiction over the Property.

INSURANCE

10. That:

- (a) the Mortgagor will, at the Mortgagor's expense, forthwith insure or cause to be insured, and during the continuance of this security keep insured in favour of the Mortgagee, the Property on an all risks basis, or as otherwise allowed by the Mortgagee, including coverage for course of construction, earthquake, flood and such other risks or perils as the Mortgagee may require or consider expedient and satisfactory to the Mortgagee, acting reasonably, including and pursuant to the following coverages, provisions and conditions:
 - (i) the Mortgagee must be shown as a named insured, or an additional named insured, and mortgagee and loss payee as the Mortgagee's interest may appear;

- (ii) the limit of insurance shall not be less than one hundred (100%) percent of new replacement cost including recurring soft costs and costs of foundations and all parts below ground level including confirmation that the "same or adjacent site" clause has been deleted from the replacement cost wording;
 - (iii) any co-insurance clause contained in the policy shall be a stated amount co-insurance clause;
 - (iv) the policy shall include an Insurance Bureau of Canada standard mortgage clause or its equivalent;
 - (v) losses shall be made payable to the Mortgagee according to its interest;
 - (vi) rental income coverage on an "all risks" basis sufficient to cover one hundred (100%) percent of the gross annual revenues, including Rents and if leases are on a net-net basis, the equivalent gross revenues, including rentals for a period of not less than twelve (12) months; or if the property is owner-occupied, business interruption coverage;
- (b) the Mortgagor will maintain liability insurance coverage, including without limitation earthquake, flood and sewer back-up insurance at least equivalent in scope to a Commercial General Liability form, such insurance to be in the minimum amount of five million (\$5,000,000.00) dollars per occurrence, to include all required extensions of liability and naming the Mortgagee as co-insured;
 - (c) the Mortgagor will cause its contractors to maintain contractors liability insurance coverage, and wrap-up liability insurance coverage, in each instance to be in the minimum amount of five million (\$5,000,000.00) dollars per occurrence, to include all required extensions of liability and naming the Mortgagor as an additional named insured, but only with respect to claims arising out of the operations of the named insured;
 - (d) as applicable, the Mortgagor will maintain builders "all risks" or "broad form" insurance, subject to the latest CCDC policy wording and will include:
 - (i) coverage sufficient to cover one hundred (100%) percent of the projected hard costs and not less than twenty-five (25%) percent of the projected recurring soft costs;
 - (ii) a "permission to occupy" clause, "delayed rental income / soft costs" insurance to cover the anticipated loss of revenue for one (1) year, which may be incurred in the event of an insured loss, during construction;
 - (iii) coverage for the installation, testing and commissioning, of machinery and equipment; and
 - (iv) the Mortgagee as loss payee and as mortgagee as its interest appears, pursuant to a standard mortgage clause satisfactory to the Mortgagee;
 - (e) the Mortgagor will maintain boiler and machinery insurance covering all central HVAC and miscellaneous electrical equipment (and production machinery where applicable) for explosion, electrical and mechanical breakdown;
 - (f) promptly upon written request, the Mortgagor will deliver to the Mortgagee and directly to its insurance consultants all policy binders of insurance together with all applicable certificates of insurance or such other evidence of insurance as the Mortgagee may reasonably require, and, prior to their due date, proof of payment of the premiums and renewal premiums therefor;
 - (g) all policies shall be with insurers and subject to terms and conditions reasonably satisfactory to the Mortgagee. Any deviation from these requirements shall be approved in writing by the Mortgagee acting reasonably. The policies must provide for thirty (30) days' written notice to the Mortgagee of material alteration, if available, and cancellation and must be signed by the insurer(s) or their authorized representative(s);

- (h) if the Mortgagor shall neglect to keep the Property insured as aforesaid, or to deliver all policy binders of insurance together with all applicable certificates of insurance or such other evidence of insurance as the Mortgagee may reasonably require and evidence proving payment of premiums or renewal premiums when reasonably requested by the Mortgagee, or to produce to the Mortgagee at least forty-five (45) days' before the termination of such insurance evidence of the renewal thereof, the Mortgagee shall, without reference to the Mortgagor, be entitled (but shall not be obliged) to insure the Property, or any part thereof, as set forth above, and the amount of any premiums paid by the Mortgagee together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default;
- (i) promptly upon the occurrence of any loss or damage, the Mortgagor at its own expense will furnish all necessary proof and do all necessary acts to enable the Mortgagee to obtain payment of the insurance moneys, subject to the rights of creditors of the Mortgagor in accordance with Prior Permitted Encumbrances;
- (j) subject to the rights of creditors of the Mortgagor in accordance with Prior Permitted Encumbrances, if any cheque issued by an insurer in complete or partial settlement of an insurance claim pursuant to the coverages above, other than the coverage for general public liability insurance, is given, sent or delivered to the Mortgagor or the solicitor or agent of the Mortgagor, then the Mortgagor shall cause such cheque to be delivered to the Mortgagee forthwith and if any such cheque is made payable to the Mortgagor alone or jointly to the Mortgagor and another or others, then the Mortgagor shall forthwith endorse and deliver such cheque over to the Mortgagee, and the Mortgagor does hereby constitute the Mortgagee as the Mortgagor's true and lawful attorney to receive and endorse any such cheque for an on behalf of the Mortgagor; and
- (k) subject to the rights of creditors of the Mortgagor in accordance with Prior Permitted Encumbrances, all monies received by virtue of such policy or policies of insurance may at the option of the Mortgagee either be applied in or towards substantially rebuilding, reinstating or repairing the Property or towards the payment of the Loan Indebtedness, interest and other amounts secured hereby, whether or not the same are then due, in such manner as the Mortgagee shall from time to time determine, or may be paid in full or in part to the Mortgagor or its assigns, or may be applied or paid partly in one way and partly in another, as the Mortgagee may determine.

PAYMENT METHOD

- 11. The Mortgagor shall from time to time as required by the Mortgagee, provide a signed pre-authorized withdrawal form /or forms directed to the bank or financial institution at which the Mortgagor regularly keeps a chequing account, in such form and manner so as to enable the Mortgagee to receive payments from time to time of the monthly instalments payable hereunder and/or the Mortgagee's estimate of the monthly instalment for property Taxes, if applicable, from the Mortgagor's account with such bank or financial institution. Any payments received by the Mortgagee which are payable on a non-business day in the Province of Ontario or are received after 2 p.m. (Toronto time) on any business day in the Province of Ontario on or after receipt thereof, shall be credited to the mortgage account on the next business day thereafter.

INSPECTION

- 12. The Mortgagee, at such time or times as it may deem necessary, acting reasonably, and without the concurrence of any other Person but upon reasonable prior notice except, upon and during the continuance of an Event of Default when no notice shall be required, and in all cases subject to the rights of tenants at the Property, may send its inspector or agent to report upon the value, state and condition of the Property and, upon the occurrence of an Event of Default which is continuing, make arrangements for the improving, repairing, finishing and putting in order of the Property which may be reasonably required, and for leasing, collecting the Rents of and managing generally the Property, and may expend

money, for any and all the purposes aforesaid, as it may deem expedient, and all moneys reasonably expended, costs, charges and out-of-pocket expenses together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing.

RESTRICTION ON TRANSFER, ENCUMBRANCES ETC.

13. The Mortgagor shall not convey, transfer, mortgage, alienate, or otherwise encumber all or any part of the Property or any direct or indirect interest therein (including as a result of a direct or indirect change in Control of the Mortgagor) nor allow all or any part of the Property or any direct or indirect interest therein to be encumbered without the prior written consent of the Mortgagee, in its absolute discretion, provided that, notwithstanding the forgoing, the Permitted Encumbrances shall be permitted to encumber the Property and that the Mortgagee shall act reasonably in providing its consent to any non-arm's length transfer. In the event that the Mortgagor breaches this Section 13 and has not first or contemporaneously prepaid the loan secured hereby in full in compliance with Section 8 hereof, then the entire Loan Indebtedness (but with interest at the Interest Rate calculated and compounded to the Maturity Date), shall immediately be due and payable.

ADVANCES

14. Neither the execution nor the registration nor the acceptance of this Mortgage, nor the advance of part of the Loan Indebtedness, shall bind the Mortgagee to make an advance of moneys under this Mortgage or any unadvanced portion thereof notwithstanding the provisions of the Commitment Letter, this Mortgage or any of the other Loan Documents, but nevertheless this Mortgage shall take effect forthwith on the execution of these presents, and if any Loan Indebtedness shall not be advanced at the date hereof, the Mortgagee may advance the same in one or more sums to or on behalf of the Mortgagor at any future date or dates, and the amount of such advances then so made together with interest at the Interest Rate shall be secured hereby.

SUBROGATION

15. In the event that the moneys advanced hereunder or any part thereof are applied to the payment of any charge or encumbrance, the Mortgagee shall be subrogated to all the rights and stand in the position of and be entitled to all the equities of the party so paid off whether such charge or encumbrance has or has not been discharged; and the decision of the Mortgagee as to the validity or amount of any advance or disbursement made under this Mortgage or of any claim so paid off, shall be final and binding on the Mortgagor.

WASTE

16. Subject to the provisions of Section 18, the Mortgagor will not commit any act of waste on the Property or do any other thing by which the value of the Property shall, in the opinion of the Mortgagee, be diminished and will at all times remain in actual possession of the said Property. The Mortgagor will take good and reasonable care of the Property and without cost and expense to the Mortgagee manage, operate, maintain and keep or cause the same to be kept in good order, repair and condition throughout, both exterior and interior, structural or otherwise, and promptly make all required or necessary repairs and replacements thereto, including without limitation, the roof, walls, foundations and appurtenances, pipes and mains, and all other fixtures, machinery, facilities and equipment that belong to or are used in connection with the Property, all of the foregoing to the extent that a prudent owner would do. Notwithstanding the foregoing, the Mortgagor shall not be obligated to repair any damage caused by reasonable wear and tear which does not affect the use and enjoyment of the improvements beyond the extent to which they would ordinarily be repaired by a prudent owner. If, in the opinion of the Mortgagee, acting reasonably, the Property is not at any time in a proper state of repair, the Mortgagee may serve notice upon the Mortgagor to make such repairs or replacements as the Mortgagee, acting reasonably, deems proper within a period of thirty (30) days and in the event of the Mortgagor not having complied or not being in the process of diligently complying with such requisition, the Mortgagee may authorize the making of such repairs or replacements by its agents, employees or contractors and they may enter upon the Property for the

purpose of doing such work with or without the Mortgagor's concurrence, but in all cases subject to the rights of tenants at the Property, and the cost thereof, together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid, shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing.

FIXTURES

17. All erections, buildings, fences, improvements, machinery, plant, furnaces, boilers, electric light fixtures, plumbing and heating equipment, aerials, incinerators, radiators and covers, fixed mirrors, fitted blinds and drapes, window screens, doors, storm windows and storm doors, shutters and awnings, floor coverings, air conditioning, ventilating, water heating equipment, partitions, elevators, and all component parts of any of the foregoing, fixed or otherwise now on or in or hereafter put on or in the Property (and also in all cases where the Mortgaged Premises are units rented in whole or in part, all refrigeration equipment, gas and electric stoves, ovens, washers, dryers, garburators, garbage compactors, microwave ovens and dishwashers whether affixed or not, and provided that same are owned by the Mortgagor) are and shall in addition to other fixtures thereon be and become fixtures and form part of the realty and of the security and are included in the expression the "Mortgaged Premises", and that the Mortgagor will not commit any act of waste thereon, and that the Mortgagor will at all times during the continuance of the security granted by this Mortgage, repair, maintain, restore, amend, keep, make good, finish, add to and put in order, the Property and in the event of any loss or damage thereto or destruction thereof which has had or is reasonably likely to have a Material Adverse Effect, the Mortgagee may give notice to the Mortgagor to repair, rebuild, or reinstate the same, and upon the Mortgagor failing so to repair, rebuild, or reinstate within such time such failure shall constitute a breach of covenant hereunder and thereupon the Loan Indebtedness shall, at the sole option of the Mortgagee, become immediately due and payable and without any demand by the Mortgagee upon the Mortgagor, provided that the Mortgagee may (but shall not be obligated to) repair, rebuild or reinstate the Property and the cost thereof, together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid, shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing. This provision shall be in addition to any statutory covenants implied in this Mortgage.

ALTERATIONS

18. The Mortgagor shall not make or permit to be made, any additions or alterations to the Property without the prior written consent of the Mortgagee acting reasonably and except as may be permitted or required under the Permitted Encumbrances (including any leases which are Permitted Encumbrances), and the Mortgagor shall not use the Property nor permit the Property to be used, without the written consent of the Mortgagee, for a purpose not approved by the Mortgagee acting reasonably. Notwithstanding the foregoing:
- (a) the Mortgagor, its agents, employees and parties authorized by it may conduct building operations, construction and development on the Property including, without limitation, grading and excavation operations, installation of services and all other acts incidental to the development of the Property without the same being deemed acts of waste or requiring the prior written consent of the Mortgagee in accordance with this Section 18; and
 - (b) the Mortgagee shall, upon reasonable notice, promptly execute:
 - (i) such plans, agreements, documents, easements, rights-of-way and consents as may be required to facilitate the development of the Property;
 - (ii) such partial discharges as may be required to convey to any Governmental Authority or public utility such portion of interest in the Property as may be required for municipal or governmental purposes and for which the Mortgagor receives no financial compensation, provided that in each case

the Mortgagee's security is not adversely affected thereby (as determined by the Mortgagee, acting reasonably); and

- (iii) applications, documents and plans for rezoning, development review, site plan approval, land titles registration, subdivision plan registration, severance consents and other related development matters required by the Mortgagor,

provided that the Mortgagee's reasonable legal fees and disbursements and out-of-pocket expenses in connection with the review and execution of the forgoing together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing. In addition to the forgoing, the Mortgagor hereby indemnifies and agrees to hold the Mortgagee harmless with respect to the payment of any such reasonable legal fees and disbursements and out-of-pocket expenses in connection with the review and execution of the forgoing.

PLACE OF PAYMENT

- 19. All moneys reflecting Loan Indebtedness shall be payable, in lawful money of Canada, to the Mortgagee at its address hereinbefore stated, or such other place as may be designated by the Mortgagee from time to time.

CROSS-DEFAULT

- 20. The occurrence of an Event of Default hereunder shall constitute default under the other Security Documents and default, beyond any applicable cure or notice periods, under any of the other Security Documents shall constitute and Event of Default hereunder. The Mortgagee may, upon and during the continuance of an Event of Default or a default under the other Security Documents, pursue its remedies separately under any of the Security Documents, including without limitation, this Mortgage, or jointly all together, or jointly one with any one or more of the Security Documents, without any of the rights and remedies of the Mortgagee not so pursued merging therewith or with any action or judgment with respect thereto.

RELEASE OF SECURITY

- 21. Subject to the provisions in Section 40, the Mortgagee may (but shall have no obligation to) at any time release any part or parts of the Property or any of the Covenantors from any of the Security Documents, or may release the Mortgagor or any other Covenantor from any covenant or other liability to pay any of the Loan Indebtedness or perform any of the Loan Obligations, either with or without any consideration therefor, without being accountable for the value of any such consideration or for any moneys except those actually received by the Mortgagee, and without thereby releasing any other part of the Property or any of the other Covenantors from any of the Security Documents, it being specifically agreed that notwithstanding any such release, the Property, securities and covenants remaining unreleased shall stand charged with the whole of the Loan Indebtedness, and no Person shall have the right to require that any of the Loan Indebtedness be apportioned.

WAIVER

- 22. No extension of time, waiver, or other indulgence given by the Mortgagee to the Mortgagor, or anyone claiming under the Mortgagor, shall in any way affect or prejudice the rights of the Mortgagee against the Mortgagor, any guarantor, or any other Person liable for payment of the moneys hereby secured.

USE OF MONEY

- 23. The Mortgagee shall not be charged with any moneys receivable or collectible out of the Property or otherwise, except those actually received; and all revenue of the Property received or collected by the Mortgagee from any source other than payment by the Mortgagor may, provided an Event of Default has occurred which is continuing, at the

option of the Mortgagee, be used in maintaining or insuring or improving the Property, or in payment of Taxes or other charges against the Property, or applied on the mortgage account, and the Mortgagee may (at its option) retain such moneys received or collected, in suspense account; and the Mortgagee shall not, by reason of the collection of any moneys receivable or collectible out of the Property, be deemed to be a mortgagee in possession.

LIABILITY OF MORTGAGOR

24. No sale or other dealings by the Mortgagee or any receiver with the Property or any part thereof, shall in any way change the liability of the Mortgagor or in any way alter the rights of the Mortgagee as against the Mortgagor or any other Person liable for payment of the moneys hereby secured.

ATTORNMENT

25. For better securing the punctual payment of the said mortgage moneys, the Mortgagor hereby attorns and becomes tenant to the Mortgagee of the Property at a monthly rental equivalent to the monthly instalments secured hereby, the same to be paid on such day appointed for the payment of instalments; and if any judgment, execution or attachment shall be issued against any of the goods or lands of the Mortgagor or if the Mortgagor shall become insolvent or bankrupt or commit an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act of Canada* as amended, or shall take the benefit of any statute relating to bankruptcy or insolvent debtors, then such rental shall, if not already payable, be payable immediately thereafter. The legal relation of landlord and tenant is hereby constituted between the Mortgagee and the Mortgagor, but neither this Section 25 nor anything done by virtue hereof, shall render the Mortgagee a mortgagee in possession or accountable for any moneys except those actually received. The Mortgagee may at any time after default hereunder enter upon the Property, or any part thereof, and determine the tenancy hereby created without giving the Mortgagor any notice to quit.

RECORDS

26. The Mortgagor will maintain full and correct books and records showing in detail the earnings and expenses of the Property, and will permit the Mortgagee and its representatives to examine the said books and records and all supporting vouchers and data at any time and from time to time upon reasonable prior request by the Mortgagee, and at any time and from time to time will furnish the Mortgagee at its request within thirty (30) days of such request, a statement showing in detail reasonably satisfactory to the Mortgagee all such earnings and expenses since the last such statement, certified by an officer of the Mortgagor.

ASSIGNMENT OF LEASE RIGHTS AND BENEFITS

27. The Mortgagor:
- (a) hereby assigns, transfers and sets over unto the Mortgagee, all of the Mortgagor's right, title and interest, both at law and in equity, in and to the Leases, the Rents and the Lease Benefits, to hold and receive the same unto the Mortgagee with full power and authority to demand, collect, sue for, recover and receive and give receipts for Rents and to enforce payment of the same and enforce performance of obligations under the Leases, including without limitation, the Lease Benefits, assigned in accordance with and subject to the terms of this Mortgage, to have and to hold unto the Mortgagee until payment in full of the Loan Indebtedness and performance of all of the Loan Obligations, provided that the Mortgagor may, subject to any other terms contained in any of the other Security Documents which restrict the Mortgagor's ability to deal with the Leases, collect the Rents and deal with the Leases from time to time as would a prudent landlord so long as an Event of Default does not exist, and upon the occurrence of an Event of Default which is continuing, the Mortgagee shall be entitled to:
 - (i) demand, collect and receive the Rents or any part thereof and to give acquittances therefor, and to take from time to time, in the name of the Mortgagor, any proceeding which may be, in the opinion of the Mortgagee or its counsel, expedient for the purpose of collecting Rents or for securing the payment thereof or for enforcing any of the Mortgagor's rights under

the Leases, and the Mortgagor hereby grants to the Mortgagee irrevocable authority to join the Mortgagor in any such proceedings or actions, whether judicial or extra-judicial;

- (ii) to compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rent, and any settlement arrived at shall be binding upon the Mortgagor;
 - (iii) to enter upon the Property by its officers, agents or employees for the purpose of collecting the Rents and to manage, operate and maintain its interest in the Property including without limitation, the making of repairs or replacements to maintain the Mortgaged Premises;
 - (iv) to receive, enjoy or otherwise avail itself of the Lease Benefits;
 - (v) to appoint and dismiss such agents or employees as may be necessary or desirable for exercise of the Mortgagee's rights hereunder;
 - (vi) to alter, modify, amend or change the terms of Leases; to enter into new Leases; to give consents, concessions or waivers of any rights or provisions of Leases; to accept surrenders of Leases; to give consents to assignment of or subletting under Leases;
 - (vii) to send or employ any inspector or agent to inspect and report upon the value, state and condition of the Property and to employ a solicitor to examine and report upon title to the same and the lease documentation pertaining to same;
 - (viii) to appoint a receiver or a receiver and manager in accordance with the provisions of the Mortgage which are hereby incorporated by reference into this Agreement; and
 - (ix) to generally perform all such acts as may in the reasonable opinion of the Mortgagee be necessary or desirable for the proper operation and maintenance of the Property, which acts may be performed in the name of the Mortgagor, or in the name of the Mortgagee;
- (b) whenever any and all Events of Default have been cured after the exercise by the Mortgagee of its rights under this Section 29, may resume collection of the rentals until a further Event of Default has occurred, whereupon the Mortgagee may re-exercise its rights hereunder, and thereafter at any time any Event of Default occurs;
- (c) shall not at any time during the existence of this Mortgage assign, pledge or hypothecate any of the Leases or the Rents or revenues due or to become due thereunder, or any part thereof, other than to the Mortgagee or pursuant to a Permitted Encumbrance nor shall the Mortgagor grant any general assignment of book debts which would cover such rentals, except pursuant to a Permitted Encumbrance;
- (d) shall not collect more than two (2) month's rental in advance;
- (e) acknowledges and agrees that neither the taking of this assignment nor anything done in pursuance hereof shall make the Mortgagee liable in any way, as landlord or otherwise, for the performance of any covenants, obligations and liabilities under the Leases or any of them; and
- (f) acknowledges and agrees that the exercise of this Section 27 or of any collateral security with respect to Rents shall not entitle the Mortgagor to redeem this mortgage.

EVENT OF DEFAULT

28. Any one or more of the following events shall constitute an event of default under the provisions of this Mortgage (an "**Event of Default**"), whether such Event of Default shall be voluntary or involuntary or be effected by operation of law or pursuant to or in

compliance with any judgment, decree or order of any court or other rule or regulation of any Governmental Authority:

- (a) any of the Covenantors fail to pay on the date upon which the same is due and payable any monies payable hereunder or under any of the other Loan Documents with respect to principal secured hereunder;
- (b) any of the Covenantors fail to pay on the date upon which the same is due and payable any monies payable hereunder or under any of the other Loan Documents (other than on account of principal), and such failure is not remedied within three (3) business days written notice to the Mortgagor;
- (c) any of the Covenantors fail to perform or observe any of the terms and conditions contained in this Mortgage or any of the other Loan Documents, and such failure is not remedied within thirty (30) days of written notice to the Mortgagor (but for greater certainty, there shall be no grace or cure period in respect of any Event of Default expressly enumerated hereunder, except as otherwise provided in respect of such Event of Default);
- (d) any funds secured under this Mortgage are used for any purpose other than as set forth in the Commitment Letter;
- (e) the occurrence of an event of default under the Southdown First Mortgage Charge which is continuing;
- (f) any representation or warranty by any of the Covenantors that is contained in this Mortgage or any of the other Loan Documents furnished to the Mortgagee in connection herewith or therewith shall prove at any time to be untrue or incorrect as of the date made in any material respect;
- (g) a resolution is passed or an order is made for the dissolution, liquidation or winding-up of any of the Covenantors or other cancellation or suspension of its incorporation or termination of its existence or if a petition is filed for the winding-up of the any of the Covenantors;
- (h) any of the Covenantors is found to be insolvent or bankrupt by a court of competent jurisdiction or makes an authorized assignment or bulk sale of its assets or a compromise or arrangement for the benefit of its creditors, makes a proposal to its creditors under the *Bankruptcy and Insolvency Act* (Canada), seeks relief under the *Companies Creditors Arrangement Act* (Canada), or any other bankruptcy, insolvency or analogous law, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian or other Person with similar powers over all or any substantial portion of its assets, files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditor's rights or consents to, or acquiesces in, the filing of such a petition; or if a petition in bankruptcy is filed or presented against any of the Covenantors;
- (i) an encumbrancer takes possession of the property of any of the Covenantors which has had or is reasonably likely to have a Material Adverse Effect, or any distress or analogous process is levied upon any of the Covenantors provided that this Section 30(i) shall not apply to any judgment, court order for the payment of money, execution, sequestration, extant or other process that is being contested in good faith if reserves deemed by the Mortgagee to be adequate therefor have been set aside with the Mortgagee or insurance coverage acceptable to the Mortgagee is held, as the case may be, and if there is no Material Adverse Effect regarding the Mortgagee's security position;
- (j) any of the Covenantors permit any sum which has been admitted as due or which is not disputed to be due and which forms or is capable of forming a charge, Lien the Property in priority to or *pari passu* with the charge or security interest created by this Mortgage and any of the other Security Documents, to remain unpaid after proceedings have been taken to enforce the same as a Lien upon the Property has

been vacated or discharged within ten (10) business days of such proceedings having been taken;

- (k) the occurrence of a default under: (i) any other security or agreement (including any Permitted Encumbrance) made or assumed by any of the Covenantors (or by which it is bound) in favour of any Person in connection with the Property, to the extent such default has had or is reasonably likely to have a Material Adverse Effect; and (ii) any other security or agreement made or assumed by any of the Covenantors (or by which it is bound) in favour of the Mortgagee whether or not such security or agreement is in connection with the Property; and in each case if not remedied within the applicable cure or notice period provided for in such security or agreement;
- (l) the Mortgagor does not comply within a reasonable period with any work order issued by a municipal or provincial authority;
- (m) a receiver, receiver-manager or receiver and manager of the any of the Covenantors of any material part of its properties, assets or undertakings is appointed, or if a monitor is appointed in respect of any of the Covenantors;
- (n) any writ of execution, distress, attachment or other similar process is issued or levied against any of the Covenantors or all or any part of its assets, or attachment or other similar process is issued or levied against any of the Covenantors by a court of competent jurisdiction and, in the opinion of the Mortgagee, such judgement or order would materially and adversely affect the ability of any of the Covenantors to fulfil its obligations to the Mortgagee hereunder or under any of the other Loan Documents;
- (o) any part of the Property is condemned or expropriated and, in the opinion of the Mortgagee in respect of any expropriation, such expropriation materially impairs the value of the Property, the validity, enforceability or priority of the security of this Mortgage, or the ability of the Mortgagor to pay the Loan Indebtedness or to perform any of the Loan Obligations;
- (p) any direct or indirect change (i) in the ownership of (A) the Property; or (B) any Covenantor; or (ii) any change of Control of any of the Covenantors, in each case without the consent of the Mortgagee in its sole, absolute and unfettered discretion;
- (q) if a Material Adverse Effect occurs; or
- (r) the occurrence of a cross-default pursuant to Section 20.

RECEIVER

29. Upon the occurrence of an Event of Default which is continuing, the Mortgagee may at such time and from time to time and with or without entry into possession of the Property or any part thereof, appoint a receiver (which term includes a receiver or a manager or a receiver and manager) of the Property or any part thereof and of the Rents and profits thereof and with or without security, and may from time to time remove any receiver and appoint another in his stead and that, in making any such appointment or removal, the Mortgagee shall be deemed to be acting as the agent or attorney for the Mortgagor and not of the Mortgagee. Such appointment may be made at any time either before or after the Mortgagee shall have entered into or taken possession of the Property or any part thereof. Upon the appointment of any such receiver or receivers from time to time, the following provisions shall apply, subject to compliance with applicable laws:

- (a) the statutory declaration of an officer of the Mortgagee as to the Event of Default under the provisions of this Mortgage, shall be conclusive evidence thereof;
- (b) every such receiver shall be the irrevocable agent or attorney of the Mortgagor for the collection of all Rents falling due in respect of the Property or any part thereof, whether in respect of any tenancies created in priority to these presents or subsequent thereto;

- (c) every such receiver may, in the discretion of the Mortgagee and by writing under its corporate seal, be vested with all or any of the powers and discretions of the Mortgagee;
- (d) the Mortgagee may from time to time, by such writing fix the remuneration of every such receiver who shall be entitled to deduct the same out of the Rents from the Property or from the proceeds of the judicial sale of the Property;
- (e) every such receiver shall, so far as concerns responsibility for his acts or omissions, be deemed the agent or attorney of the Mortgagor and in no event the agent of the Mortgagee, and the Mortgagee shall not in any way be responsible for any acts or omissions (including negligence, misconduct or misfeasance) on the part of any such receiver;
- (f) the appointment of every such receiver by the Mortgagee shall not create any liability on the part of the Mortgagee to the receiver in any respect, and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Mortgagee a mortgagee in possession in respect of the Property or any part thereof;
- (g) every such receiver shall from time to time have the power to rent any portion of the Property which may become vacant, for such term and subject to such provisions as he may deem advisable or expedient, and in so doing every such receiver shall act as the attorney or agent of the Mortgagor and he shall have authority to execute under seal any lease of such portion of the Property in the name of and on behalf of the Mortgagor, and the Mortgagor undertakes to ratify and confirm whatever any such receiver may do in respect of the Property;
- (h) every such receiver shall have full power to complete any unfinished construction upon the Property with the intent that the Mortgaged Premises when so completed shall be a complete structure;
- (i) every such receiver shall have full power to manage, operate, amend, repair, alter or extend the Property or any part thereof in the name of the Mortgagor for the purpose of securing the payment of rental from the Property or any part thereof;
- (j) no such receiver shall be liable to the Mortgagor to account for moneys or damages other than cash received by him in respect of the Property or any part thereof, and out of such cash so received every such receiver shall, subject to the approval of the Mortgagee, in the following order, pay:
 - (i) his remuneration aforesaid;
 - (ii) all payments including, without limitation, costs as between solicitor and his own client made or incurred by him in connection with the management, operation, amendment, repair, alteration or extension of the Property or any part thereof;
 - (iii) interest, principal and other moneys which may from time to time, be or become charged upon the Property in priority to these presents, and all Taxes, insurance premiums and every other proper expenditure made or incurred by him in respect to the Property or any part thereof;
 - (iv) to the Mortgagee, all interest due or falling due under these presents and the balance to be applied upon principal due and payable and secured by these presents;
 - (v) into a reserve account in the name of the receiver, an appropriate sum of money as a reserve fund for unusual, emergency or lump sum payments or expenses with respect to the Property; and
 - (vi) any surplus thereafter remaining in the hands of every such receiver after payments made as aforesaid, to the Mortgagor;

- (k) save as to claims for an accounting under Section 29(j) above, the Mortgagor hereby releases and discharges every such receiver from every claim of every nature which may arise or accrue to the Mortgagor or any Person claiming through or under the Mortgagor by reason or as a result of anything done by any such receiver under the provisions of this Section 29, unless such claim by the direct and proximate result of gross negligence or wilful misconduct;
- (l) the power of sale, foreclosure and any other remedies of the Mortgagee may be exercised either before, concurrent with, during, or after the appointment of any receiver hereunder.

RIGHTS OF MORTGAGEE

- 30. The Mortgagor further covenants and agrees with the Mortgagee upon the occurrence of an Event of Default which is continuing:
 - (a) the Mortgagee may and when and to such extent as the Mortgagee deems advisable, observe and perform or cause to be observed and performed such covenants, agreements, provisos or stipulations and the costs incurred by the Mortgagee in connection therewith, together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing;
 - (b) the Mortgagee may at such time or times as the Mortgagee may deem necessary and without the concurrency of any Person, enter upon the Property and may make such arrangements for completing the construction, repairing or putting in order of the Mortgaged Premises, or for inspecting, taking care of, leasing, collecting the Rents of and managing generally the Property as the Mortgagee may deem expedient; all reasonable costs, charges and expenses, including allowances for the time and services of any employee of the Mortgagee or other Person appointed for the above purposes, together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing;
 - (c) the Mortgagee may send or employ an inspector or agent to inspect and report upon the value, state and condition of the Property, and a solicitor to examine and report upon the title to the same;
 - (d) the Mortgagee or agent of the Mortgagee may enter into possession of the Property and whether in or out of possession collect the Rents and profits thereof, and make any demise or lease of the Property, or any part thereof, for such terms and periods and at such Rents as the Mortgagee shall think proper; and the power of sale hereunder may be exercised either before or after and subject to any such demise or lease;
 - (e) it shall and may be lawful for and the Mortgagor does hereby grant full power, right and license to the Mortgagee to enter, seize and distrain upon the Property, or any part thereof, and by distress warrant to recover by way of rent reserved as in the case of demise of the Property or any part thereof, as much of the mortgage moneys as shall from time to time be or remain in arrears and unpaid, together with costs, charges and expenses attending such levy or distress, as in like cases of distress for rent;
 - (f) the Mortgagee shall be entitled forthwith to take such proceedings to obtain repayment of the moneys and interest payable to the Mortgagee hereunder and to realize on its security under this Mortgage by foreclosing the same or by whatever other action it may by law be entitled to do, it being acknowledged that nothing herein shall limit such recourse to the Property only;

- (g) subject to applicable law, the Mortgagee shall be entitled to sell and dispose of the Property with or without entering into possession of the same and with or without notice to the Mortgagor or any party interested in the Property; and all remedies competent may be resorted to; and all the rights, powers and privileges granted to or conferred upon the Mortgagee under and by virtue of any statute or by this Mortgage may be exercised; and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made of the Property hereunder, and the Mortgagee may sell, transfer and convey any part of the Property on such terms of credit, or part cash and part credit, secured by contract or agreement for sale or mortgage, or otherwise, as shall in the opinion of the Mortgagee be most advantageous, and for such price as can reasonably be obtained therefor; and in the event of a sale on credit, or part cash and part credit, whether by way of contract for sale or by conveyance or transfer and mortgage, the Mortgagee is not to be accountable for or charged with any moneys until the same shall be actually received in cash; and the sales may be made from time to time of any portion or portions of the Property to satisfy interest or parts of the principal overdue, leaving the principal or parts thereof to run with interest payable as aforesaid; and the Mortgagee may make stipulations as to the title or evidences or commencement of title or otherwise as the Mortgagee shall deem proper; and the Mortgagee may buy in or rescind or vary any contract for sale of the Property and any resale thereof; and on any sale or release, the Mortgagee shall not be answerable for loss occasioned thereby; and for any of such purposes the Mortgagee may make and execute all agreements and assurances that the Mortgagee shall deem advisable or necessary; and in case any sale held by the Mortgagee under and by virtue of the laws of the Province of Ontario under the power of sale herein contained should prove abortive the Mortgagee may take foreclosure proceedings in respect of the Property in accordance with the provisions of the laws of the Province of Ontario; and in the event of any deficiency on account of the moneys secured by this Mortgage remaining due to the Mortgagee after realizing all the Property, then Mortgagor will pay to the Mortgagee on demand the amount of such deficiency with interest at the Interest Rate both before and after judgment; and in the exercise of any of the foregoing powers, the Mortgagor hereby appoints the Mortgagee the attorney of the Mortgagor for the purpose of making any agreements and assurances on behalf of the Mortgagor as the Mortgagee may deem necessary which power of attorney is coupled with an interest; and the proceeds of any sale hereunder shall be applied as above provided for or in payment of moneys payable under this Mortgage and costs on a solicitor and his own client basis, the balance, if any, to be paid to the Mortgagor;
- (h) the whole of the mortgage moneys shall, at the option of the Mortgagee, become due and payable;
- (i) the Mortgagee may exercise each of the foregoing powers without notice to the Mortgagor.

COVENANTOR MISREPRESENTATION

31. Notwithstanding any other provision in this Mortgage, the Mortgagee may demand repayment of all Loan Indebtedness and exercise all of its rights hereunder, including without limitation pursuant to Sections titled "**Receiver**" and "**Rights of Mortgagee**" if any of the Covenantors, any agent of any of the Covenantors or any officers or director of any of the Covenantors shall have made any material misrepresentation in any of the Loan Documents.

ATTORNEY

32. As further assurance to the rights and remedies granted by the Mortgagor to the Mortgagee herein, the Mortgagor, as the owner of the Property hereby irrevocably appoints the Mortgagee on its own behalf or any receiver or manager or receiver and manager appointed by the Mortgagee attorney on behalf of the Mortgagor to sell, lease, mortgage, transfer or convey the Property in accordance with the provisions of this Mortgage and to execute all instruments, and do all acts, matters and things that may be necessary for carrying out the powers hereby given and for the recovery of all Rents and Lease Benefits and sums of money that may become or are now due or owing to the Mortgagor in respect of the

Property, and for the enforcement of all contracts, covenants or conditions binding on any lessee or occupier of the Property or on any other Person in respect of it, and for the taking and maintaining possession of the Property, and for protecting it from waste, damage, or trespass, in all cases only following an Event of Default which is continuing. Such power of attorney is coupled with an interest.

JUDGMENT

33. The taking of a judgment on any of the covenants or agreements herein contained shall not operate as a merger thereof or affect the Mortgagee's rights to interest to the Maturity Date at the Interest Rate and at the times herein provided. Further, any and all such judgments shall provide for interest thereon to be computed at the Interest Rate and in the same manner as herein provided to the Maturity Date shall have been fully paid and satisfied and, without limiting the generality of the foregoing, the Mortgagee shall be entitled to receive interest at the Interest Rate to the Maturity Date on all moneys payable to the Mortgagee under this Mortgage, after any judgment has been rendered with respect to this Mortgage.

EXPENSES

34. All expenses, fees, charges or payments incurred, expended or paid by the Mortgagee, acting reasonably and without duplication, (whether with the knowledge, consent, concurrence or acquiescence of the Mortgagor or otherwise) with respect to the following matters:

- (a) all reasonable solicitors', inspectors', valuator's and surveyors' fees and expenses for drawing and registering this Mortgage and for examining the Property and the title thereto, and for making or maintaining this Mortgage a good and valid charge and mortgage (subject only to the Prior Permitted Encumbrances);
- (b) all sums which the Mortgagee may advance for insurance premiums, Taxes, or rates;
- (c) any unpaid amount due to the Mortgagee for the Lender's Fee, and, if applicable, the Extension Fee and the Administration Fee;
- (d) all sums which the Mortgagee may expend in payment of prior liens, charges, encumbrances or claims charged or to be charged against the Property or on this Mortgage or against the Mortgagee in respect of this Mortgage;
- (e) all sums which the Mortgagee may expend in maintaining, repairing, restoring or completing the construction on the Property pursuant to the terms of this Mortgage;
- (f) the cost of inspecting, leasing, managing or improving the Property, including the price or value of any goods of any sort or description supplied for use on the Property pursuant to the terms of this Mortgage;
- (g) all sums paid to a receiver of the Property;
- (h) the cost of exercising or enforcing or attempting to exercise or enforce any right, power, remedy or purpose hereunder provided or implied, and including an allowance for the time, work and expenses of the Mortgagee or any agent or employee of the Mortgagee, for any purpose provided for herein; and
- (i) the Mortgagee's reasonable solicitors' costs as between solicitor and his own client incurred or paid by the Mortgagee as a result of any Event of Default, or of endeavouring to collect (with or without suit) any money payable hereunder, or of taking, recovering or keeping possession of the Property, and generally in any other proceedings, matter or thing taken or done to protect or realize this security or any other security for payment of the Loan Indebtedness and performance of the Loan Obligations;

together with interest thereon, at the Interest Rate, shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights

and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing.

COVENANTS AND REPRESENTATIONS

35. The Mortgagor:

- (a) further represents and warrants to the Mortgagee that:
 - (i) the Mortgagor:
 - (A) is a corporation incorporated formed and existing under the laws of its jurisdiction of incorporation;
 - (B) has the legal right and all necessary corporate or other power and authority to own its assets, possess a freehold interest in the Property, and carry on its business in all material respects; and
 - (C) is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions where it conducts business, except where failure to be so qualified, licensed or registered has not and is not reasonably likely to have a Material Adverse Effect;
 - (ii) the Mortgagor has all requisite corporate power and authority to enter into and perform its obligations under this Mortgage and the other Loan Documents, and to do all acts and things and execute and deliver all other documents and instruments as are required hereunder and thereunder to be done, observed or performed by it in accordance with the terms hereof and thereof;
 - (iii) the execution and delivery by the Mortgagor, and the performance by it of its obligations under, and compliance with the terms, conditions and provisions of, this Mortgage and the other Loan Documents will not conflict with or result in a breach of any of the terms, conditions or provisions of:
 - (A) its articles, by-laws, shareholders' agreements or other organizational documents; as the case may be;
 - (B) any applicable laws;
 - (C) any material contracts, material authorizations or material contractual restriction binding on or affecting it or its assets, including without limitation, the Property; or
 - (D) any material judgment, injunction, determination or award which is binding on it in each such case, except to the extent that such breach has not and is not reasonably likely to have a Material Adverse Effect;
 - (iv) the execution and delivery by the Mortgagor of this Mortgage and the other Loan Documents, and the performance by it of its Loan Obligations have been duly authorized by all necessary corporate or other action including, without limitation, the obtaining of all necessary partner, shareholder or other material and relevant consents. No authorization, consent, approval, registration, qualification, designation, declaration or filing with any Governmental Authority, or other Person, is or was necessary in connection with the execution, delivery and performance of the Mortgagor's obligations under this Mortgage the other Loan Documents, except where failure to obtain same would not have or be reasonably likely to have a Material Adverse Effect;
 - (v) this Mortgage and the other Loan Documents have been duly executed and delivered, as the case may be, by the Mortgagor, and constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms (except as such enforceability may be limited by the availability of

equitable remedies and the effect of bankruptcy, insolvency or similar laws affecting the enforcement of credit's rights generally), is (or will be immediately upon the execution thereof by such Person) in full force and effect, and the Mortgagor has performed and complied in all material respects with all the terms, provisions, agreements and conditions set forth herein and therein and required to be performed or complied with by the Mortgagor;

- (vi) the Mortgagor is not a non-resident within the meaning of the *Income Tax Act* (Canada);
- (vii) there is not now pending or, to the knowledge of the Mortgagor, threatened in writing, against the Mortgagor, any litigation, action, suit, investigation (to the knowledge of the Mortgagor) or other proceeding by or before any Governmental Authority or before any arbitrator which has had or is reasonably likely to have a Material Adverse Effect;
- (viii) as of the date hereof, the written information heretofore supplied by any of the Covenantors (other than information or reports prepared by third parties) to the Mortgagee is true and accurate in all material respects as at the date thereof;
- (ix) all financial statements delivered to the Mortgagee as of the date hereof pursuant to Section 49 present fairly and in all material respects the financial position of any of the Covenantors as of the date thereof and for the fiscal years or financial quarters, as the case may be, then ended;
- (x) since the later of the date hereof and the date of the most recent financial statements delivered to the Mortgagee, there has been no change regarding the financial condition or operations, of any of the Covenantors as reflected in such financial statements or Personal net worth statements, as applicable which has had or is reasonably likely to have a Material Adverse Effect;
- (xi) there is no Event of Default under this Mortgage, nor has the Mortgagor done or omitted to do anything which constitutes an Event of Default which has not been waived or cured. None of the Covenantors is in default under any agreement, guarantee, indenture or instrument to which it is a party or by which it is bound, the breach of which has had or is reasonably likely to have a Material Adverse Effect;
- (xii) as of the date hereof, there are no outstanding judgments, orders, writs, injunctions or decrees that have not been stayed or of which enforcement has not been suspended, against the Mortgagor or any of its assets, including without limitation the Property, which would reasonably be expected to result in a Material Adverse Effect regarding the financial condition or operations of the Mortgagor;
- (xiii) the Mortgagor is the legal owner of a freehold interest in the Property with good and marketable title thereto, and any other real and personal property of the Mortgagor of any nature which is part of the Property, in each case free and clear of all encumbrances, except Permitted Encumbrances, and no Person has any agreement or right to acquire an interest in the Property except as previously disclosed to the Mortgagee in writing by the Mortgagor or permitted in connection with the Permitted Encumbrances;
- (xiv) the Mortgagor has not received notice of any proposed rezoning of all or any part of the Property which has had or is reasonably likely to have a Material Adverse Effect;
- (xv) the Mortgagor has not received notice of any expropriation of all or any part of the Property;
- (xvi) the Mortgagor has the right to mortgage the Property;

- (xvii) upon the enforcement of its remedies under this Mortgage the Mortgagee shall have quiet possession of the Property, free from all encumbrances, other than Permitted Encumbrances;
 - (xviii) the Mortgagor, and the operation of its business and assets, including without limitation, the Property, are in compliance in all material respects with all applicable laws (including any environmental laws), except where any non-compliance is not reasonably likely to have a Material Adverse Effect; and
 - (xix) the Mortgagor has filed all tax returns which are required to be filed, other than such tax returns the failure of which to file has had or is reasonably likely to have a Material Adverse Effect, and has paid all Taxes, interest and penalties, if any, which have become due pursuant to such returns or pursuant to any assessment received by it and adequate provision for payment has been made for Taxes not yet due except any such payment of which the concerned party is contesting in good faith by appropriate proceedings and for which appropriate reserves have been provided on its books and as to which no foreclosure, distraint, seizure, attachment, sale or other similar proceedings have been commenced or the non-payment of which would not reasonable be excepted to result in a Material Adverse Effect regarding the financial condition or operations of the Mortgagor;
- (b) to the extent within the control of the Mortgagor, covenants to cause the forgoing representations and warranties to be true and correct in all material respects until the Loan Indebtedness is repaid in full and the Loan Obligations are fully performed;
 - (c) acknowledges and agrees that all representations and warranties of the Mortgagor made in this Mortgage or in any of the other Loan Documents are material, shall survive and shall not merge upon the execution and delivery of this Mortgage and shall continue in full force and effect. The Mortgagee shall be deemed to have relied upon such representations and warranties notwithstanding any investigation made by or on behalf of the Mortgagee at any time;
 - (d) shall not, at any time prior to the repayment in full of the Loan Indebtedness and the performance of all of the Loan Obligations:
 - (i) repay any loans (principal or interest) to;
 - (ii) redeem or purchase any shares or units or partnership interests held by or on behalf of;
 - (iii) pay any compensation, fee or other amount to; or
 - (iv) pay any distributions or dividends or return on partnership or shareholder investment to,in each case, any of the Covenantors or any other shareholder, unitholder or partner of any Covenantor, or any other Person not at arms-length to any of the foregoing;
 - (e) acknowledges and agrees that any third party property manager of the Property and each property management agreement will be subject to the prior written approval of the Mortgagee, acting reasonably; and
 - (f) acknowledges and agrees that each new Lease of the Property, including each renewal or extension of an existing Lease (other than any extension or renewal of an existing Lease which is exercised pursuant to, and the terms of which are governed by, such existing Lease), must:
 - (i) be a commercially reasonable arm's length transaction made in the ordinary course of business and in accordance with prudent property management and leasing standards and practices; and

- (ii) provide for rental rates and other terms and conditions consistent with prevailing market rates, terms and conditions.

EXPROPRIATION

36. Subject to the rights of creditors of the Mortgagor in accordance with Prior Permitted Encumbrances, the Mortgagor hereby assigns to the Mortgagee, that portion of any proceeds which may become due and payable to the Mortgagor by an expropriating authority upon an expropriation of the Property or the proceeds of any condemnation, eminent domain or like proceeding or the sale in lieu of or in reasonable anticipation thereof of the whole or any part of the Property or any portion thereof, not to exceed the balance outstanding under the Mortgage, provided that the Mortgagee shall permit the Mortgagor to use such portion of any proceeds as reasonably necessary to pay the cost to repair any damage resulting from such expropriation. The Mortgagor shall forward to the Mortgagee, copies of any documentation relating to an expropriation or a proposed expropriation of the Property or any portion thereof, forthwith upon receipt of the said documentation by it and shall execute and deliver any further or additional documentation which the Mortgagee in its sole discretion deems necessary to effect the above assignment or which is requested by the expropriating authority. Notwithstanding anything to the contrary contained herein, if the Mortgagor or the Mortgagee receives a notice of intention to expropriate in relation to the Property, or any portion thereof, that has had or is reasonably likely to have a Material Adverse Effect, at the option of the Mortgagee, the whole of the outstanding balance secured under this Mortgage at the date of the expropriation, shall immediately become due and payable in like manner and to all intents and purposes as if the time for payment of the said balance had fully come and expired. If any or all of the Property is expropriated, it is agreed that the proceeds from any such expropriation up to the amount outstanding under this Mortgage shall be paid directly to the Mortgagee in priority to the claims of any other party, except such creditors of the Mortgagor and other parties with priority to collect such proceeds pursuant to any Prior Permitted Encumbrances. Service of a copy of this Mortgage on the expropriating authority shall be sufficient authority for the expropriating authority to deliver proceeds to the Mortgagee, in accordance with the terms of the assignment contained herein.

PERMITTED ENCUMBRANCES AND OTHER OBLIGATIONS

37. The Mortgagor hereby covenants to perform and observe and satisfy all the terms, covenants and conditions to be performed and observed by the Mortgagor under the terms of any Prior Permitted Encumbrances and the Leases (hereinafter called the "**Other Obligations**"). It is expressly agreed and understood by the Mortgagor that in the event of default by the Mortgagor under any of the terms of any Other Obligations, beyond any applicable notice or cure periods, then at the option of the Mortgagee an Event of Default shall have occurred hereunder. The Mortgagee may at its option make any payment or cure any default under the any Prior Permitted Encumbrance and any amount or amounts so paid together with all costs, charges, expenses and outlays of the Mortgagee thereby incurred together with interest thereon at the Interest Rate shall be added to the Loan Indebtedness hereby secured, shall be repaid by the Mortgagor to the Mortgagee forthwith, and until repaid shall be a charge upon the Property and the Mortgagee shall have the same rights and remedies to enforce payment thereof as it would have upon the occurrence of an Event of Default which is continuing.

SEVERABILITY

38. In the event any Section or part thereof or any Section or part thereof is invalid and not enforceable for any reason, then such Section or part thereof or such Section or part thereof shall be severable from this Mortgage and not affect the validity or enforceability of any other part of this Mortgage.

SUCCESSORS AND ASSIGNS

39. When the context makes it possible, the word "**Mortgagee**" wherever it occurs in this Mortgage, shall include the successors and assigns of the Mortgagee, and the word "**Mortgagor**" shall include heirs, executors, administrators, successors and permitted assigns of the Mortgagor; and that words in the singular include the plural, and that words in plural include the singular, and words importing the masculine gender include the feminine; and that if there is more than one entity comprising the Mortgagor all covenants

herein contained and implied are to be construed as joint and several; and that heirs, executors, administrators, successors and assigns of any party executing this Mortgage are jointly and severally bound by the covenants, provisos and agreements herein contained or implied. The Documents, including without limitation this Mortgage, together with the Loan Indebtedness and the Loan Obligations may be assigned by the Mortgagee, provided that the Mortgagee shall provide the Mortgagor and the Covenantors with written notice of any such assignment and obtain the Mortgagor's consent to the assignment, which consent shall not be unreasonably withheld, conditioned or delayed.

DISCHARGE

40. The Mortgagee shall upon payment and performance of all indebtedness and obligations secured hereby in full deliver an executed discharge of this Mortgage; it being agreed that the Mortgagor's solicitor shall be responsible for preparing the mortgage discharge document for review by the Mortgagee and its counsel at least seven (7) days prior to payment, and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Mortgagee; and all reasonable legal and other expenses and Taxes thereon, if any, for the preparation and execution of such discharge shall be borne by the Mortgagor.

LAW

41. This Mortgage is made pursuant to the *Land Titles Act* (Ontario) and any amendments thereto.

COMMITMENT LETTER

42. The parties agree that the accepted terms and conditions of the Commitment Letter, shall survive the initial advance of monies by the Mortgagee to the Mortgagor as contemplated hereunder and continue to be in full force and effect after said initial advance. In the event there is a direct conflict between the terms and conditions of this Mortgage and the Commitment Letter, then the Commitment Letter shall prevail to the extent necessary to resolve the conflict. In the event there is a direct conflict between the terms and conditions of this Mortgage and any other Loan Document (other than the Commitment Letter), the terms and conditions of this Mortgage shall prevail to the extent necessary to resolve the conflict.

HAZARDOUS MATERIALS

43. The Mortgagor,
- (a) has not nor, to the best knowledge of the Mortgagor, has any other Person ever caused or permitted any hazardous materials to be placed, held, located or disposed of on, under or at the Property and that its business and assets are operated in compliance with applicable laws intended to protect the environment (including, without limitation, laws respecting the disposal or emission of hazardous materials) and that no enforcement actions in respect thereof are threatened or pending.
 - (b) covenants and agrees that it will at all times during the continuance of this Mortgage, operate the Property in compliance with applicable laws intended to protect the environment (including, without limitation, laws respecting the disposal or emission of hazardous materials) and shall, subject to the rights of tenants under the Leases, permit the Mortgagee to conduct inspections and appraisals of all or any of its records, business and assets at any time or from time to time upon reasonable prior notice to ensure such compliance.
 - (c) in addition to the representations and warranties contained in Section 35, hereby represents, warrants and agrees that,
 - (i) to the best of the knowledge of the Mortgagor, the condition and use of the Property is, and will continue to be in compliance with all applicable environmental laws and standards; all necessary licenses and permits relating to the release of contaminants, production of dangerous materials and carrying on of hazardous activities have been obtained and are being

complied with; there are no outstanding orders against the Mortgagor from any Governmental Authority responsible for protecting the environment;

- (ii) to the best of the knowledge of the Mortgagor, the Property is not being subjected to environmental damage or contamination and to the best of the Mortgagor's knowledge, the Property incurred no such damage or contamination prior to the Mortgagor's control;
- (iii) the Mortgagor will use commercially reasonable efforts to use the Property and conduct its business thereon so as not to cause environmental damage and that the use of the Property will not change without the Mortgagee's approval, acting reasonably;
- (iv) to the best of the knowledge of the Mortgagor, the terms of any past credit arrangement have not been altered, cancelled or not renewed due to environmental risk considerations;
- (v) all legally required remedial action will be taken with respect to violations of environmental laws, and spills or other contaminations;
- (vi) the Mortgagor will give notice to the Mortgagee of any contamination of which the Mortgagor has or acquires knowledge of, or any pending or threatened government enforcement action or civil suit arising out of alleged environmental damage of which the Mortgagor has or acquires knowledge of;
- (vii) in accordance with Section 12 above, the Mortgagor will permit the Mortgagee and its agents to enter onto the Property at any time to conduct an environmental inspection and to permit the Mortgagee to take such action as it deems reasonably necessary to remedy any environmental damage or breach of law which the Mortgagor fails to take, subject to the rights of tenants under the Leases;
- (viii) the Mortgagor will provide copies of its own internal/external environmental audits to the Mortgagee upon request;
- (ix) subject to the terms of the existing Leases, the Mortgagor will use commercially reasonable efforts to cause any other occupants or Persons in control of the Property to comply with the foregoing covenants;
- (x) the Mortgagor will defend and indemnify the Mortgagee, its directors, officers, employees and agents against all costs, etc., arising out of any environmental damage caused by the Mortgagor's activities or by contamination of or from the Property (unless caused by the Mortgagee or those for whom in law it is responsible); and
- (xi) if the Mortgagor fails to perform any of the foregoing covenants beyond any applicable notice or cure periods, the Mortgagee may do so and any money expended by the Mortgagee shall be paid by the Mortgagor out of any funds coming into the Mortgagee's possession in priority to the Loan.

DUE ON SALE

44. The Loan Indebtedness shall, at the election of the Mortgagee, immediately become due and payable in full without notice by nor demand from the Mortgagee if the Property or any part thereof or interest therein is, without the prior consent in writing of the Mortgagee sold, transferred, conveyed, foreclosed, exchanged, assigned, mortgaged, or otherwise disposed of, or if the Mortgagor enters into an agreement to effect any of the foregoing whether by registered or unregistered instrument and whether for valuable or nominal consideration (and if the Mortgagor is a corporation, any change in Control of the Mortgagor or any other Covenantor shall constitute a default under this Section 44), in all cases except as specifically permitted in this Mortgage or in the Commitment Letter; provided however that nothing herein shall be construed as permitting the Mortgagor to prepay this Mortgage in whole or in part except in accordance with Section 8 hereof; and provided further that the acceptance by the Mortgagee of any instalment payment or other

payment under this Mortgage from any entity other than the Mortgagor shall not constitute a waiver by the Mortgagee of its rights under this Section 44, nor a consent by the Mortgagee of any such sale or disposal of the Property as above described.

SUBSEQUENT FINANCING

45. The Loan Indebtedness shall, at the election of the Mortgagee, become due and payable in full if the Property or any part thereof or interest therein is, without the prior consent in writing of the Mortgagee acting reasonably, mortgaged or similarly charged, except as may be specifically permitted in this Mortgage, the Commitment Letter or under a Permitted Encumbrance; provided however that nothing herein shall be construed as permitting the Mortgagor to repay this Mortgage in whole or in part except in accordance with Section 8 hereof.

PROHIBITED BUSINESSES

46. The Mortgagor agrees not to operate, nor allow any tenant to operate a business on the Property that:
- (a) is sexually exploitive or that is inconsistent with generally accepted community standards of conduct and propriety, including those that feature sexually explicit entertainment, products or services; or
 - (b) are engaged in or associated with illegal activities.

FINANCIAL STATEMENTS AND REPORTS

47. The Mortgagor shall deliver or cause to be delivered the following documentation to the Mortgagee:
- (a) any and all insurance certificate renewals and/or amendments within ten (10) business days of the issuance thereof. In the event of any change to the insurance held by the Mortgagor, the Mortgagee may, in its unfettered discretion, require its insurance consultant to conduct an insurance review at the Mortgagor's expense;
 - (b) property tax statements supported by proof of payment on a quarterly basis or as otherwise requested by the Mortgagee from time to time;
 - (c) all commercial leases and any and all other agreements related to any of the Rents, income, and profits arising from or in connection with the Property as requested by the Mortgagee from time to time;
 - (d) certified property operating statements, together with a summary of capital expenses at the Property, to the Mortgagee on an annual basis within ninety (90) days of the Mortgagor's fiscal year end or as otherwise requested by the Mortgagee from time to time;
 - (e) each year, or more often if requested by the Mortgagee, within ninety (90) days of the Mortgagor's fiscal year end, notice to reader financial statements of the Mortgagor and of any corporate Covenantor, including a balance sheet and supporting schedules, a detailed statement of income and expenditures and supporting schedules, and a statement of change in cash flow; and
 - (f) at the request of the Mortgagee from time to time any other relevant updates regarding the Property.

BENEFIT OF EASEMENTS

48. As additional security for the indebtedness and other obligations secured hereunder and interest thereon and the due performance of the Mortgagor's obligations hereunder and under any collateral security the Mortgagor hereby assigns, transfers, mortgages, charges and sets over to and in favour of the Mortgagee as and by way of a specific assignment, mortgage and charge all of the right, title and interest of the Mortgagor in and with respect to any and all easements, restrictive covenants, rights of way, party wall agreements and encroachment agreements benefiting the Property (the "**Title Agreements**") and all of the benefit, power and advantage of the Mortgagor to be derived therefrom (including without

limitation the benefit of any positive covenants) and otherwise to enforce the rights of the Mortgagor under the Title Agreements in the name of the Mortgagor. Nothing herein contained shall render the Mortgagee liable to any Person for the fulfilment or non-fulfilment of the obligations covered in any of the Title Agreements, including, but not limited to, the payment of any moneys thereunder or in respect thereto and the Mortgagor hereby indemnifies and agrees to save and hold harmless the Mortgagee from and against any and all claims, demands, actions, causes of action, losses, suits, damages and costs whatsoever arising directly or indirectly from or out of any of the Title Agreements. The Mortgagor covenants and agrees with the Mortgagee that the Mortgagor shall not surrender, alter, amend or modify any of the Title Agreements or any of the terms or conditions thereof except with the prior written consent of the Mortgagee or as required to complete the project, if applicable, as determined by the Mortgagor, acting as a prudent owner.

INDEMNITY

49. The Mortgagor shall indemnify and save harmless the Mortgagee and its officers, agents, trustees, employees, contractors, licensees or invitees from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature whatsoever in connection with any breach or default by the Mortgagor under this Mortgage and any of the other Loan Documents.

GENERAL

50. This Mortgage shall be construed in accordance with and governed under the laws of the Province of Ontario and the federal laws of Canada applicable therein.
51. The Mortgagor agrees with the Mortgagee as follows:
- (a) to comply with the terms and conditions of this Mortgage and the other Loan Documents at all times;
 - (b) to maintain the Property in a sound state of repair at all times as would other prudent owners of similar property;
 - (c) to allow the Mortgagee and its appointees to have access to the property at all reasonable times upon reasonable prior notice, subject to the rights of tenants at the Property; and
 - (d) at the Mortgagee's request, acting reasonably, to promptly deliver or cause to be delivered to the Mortgagee promptly such information about the financial condition and operation with respect to the Property as the Mortgagee may request from time to time.
52. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Commitment Letter.
53. Notwithstanding anything in this Mortgage, in dealing with enforcing and realizing on this Mortgage, the Mortgagee shall not claim hereunder any greater amount in the aggregate than the amounts advanced by the Mortgagee that remain unpaid, together with all accrued and unpaid interest, and any other amounts unpaid hereunder.

-- signatures follow on next page --

IN WITNESS WHEREOF the Mortgagor has hereunto affixed its corporate seal attested to by the duly authorized officers in that behalf this ___ day of July, 2022.

688 SOUTHDOWN GP INC., in its capacity
as general partner for and on behalf of **688**
SOUTHDOWN LP

Per: 

Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

SCHEDULE "A"

DESCRIPTION OF THE LANDS

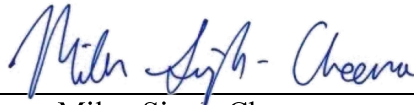
PIN: 13493-0044(LT)

PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDSTORONTO PTS 1 TO 6, 8, 43R13084;
S/T TT129899; S/T TT103210, TT103804, TT153650, VS163947, VS42085, VS58563
MISSISSAUGA

**T
A
B**

JJ

THIS IS **EXHIBIT "JJ"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

PLEDGE AGREEMENT

THIS AGREEMENT is made as of the ___ day of July, 2022.

B E T W E E N:

SOUTHSHORE 2226 RW GP INC., SOUTHSHORE 2226 RW HOLDINGS LP and 1000237699 ONTARIO INC.

(collectively, the "**Pledgor**")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "**Lender**")

OF THE SECOND PART

WHEREAS 2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP (the "**Mortgagor**"), as mortgagor, has granted a first ranking mortgage (the "**Mortgage**") to and in favour of the Lender, as mortgagee, of the lands charged therein (the "**Lands**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS the Mortgage has been granted by the Mortgagor in favour of the Lender pursuant to the terms and conditions of a commitment letter dated June 28, 2022 between, *inter alios*, the Mortgagor, as borrower, and the Lender, as lender (as the same may be amended, restated, modified, supplemented, assigned and/or assumed from time to time, the "**Commitment Letter**");

AND WHEREAS the Pledgor has made a limited recourse guarantee dated of even date herewith (as such limited recourse guarantee may be amended, extended, renewed, replaced, restated and in effect from time to time the "**Guarantee**") in favour of the Lender with respect to the payment of the Loan Indebtedness and observance and performance of the Loan Obligations; and

AND WHEREAS as collateral security for the obligations under the Guarantee and as a condition for the Mortgagor receiving the Loan Indebtedness, the Lender has stipulated that the Pledgor enter into this Agreement as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations;

NOW THEREFORE IN CONSIDERATION of the recitals, the Lender extending the Loan Indebtedness and for such other good and valuable consideration received by the Pledgor, the

receipt and adequacy of which is acknowledged by the Pledgor, the Pledgor agrees with the Lender as follows:

ARTICLE 1
INTERPRETATION

1.1 Defined Terms

In this Agreement capitalized terms used but not defined herein shall have the meaning ascribed thereto in the Mortgage. Otherwise, in this Agreement:

- (a) **"Delivery"** and the corresponding term **"Delivered"** when used with respect to the Secured Property means:
 - (i) in the case of Secured Property constituting Certificated Securities, physical delivery thereof to the Lender or its nominee of the Security Certificates to the Lender or its nominee, such Secured Property to be endorsed for transfer or accompanied by endorsements or powers of attorney duly executed in blank, all in form and content satisfactory to the Lender;
 - (ii) in the case of Secured Property constituting Uncertificated Securities: (i) registration thereof on the books and records of the issuer thereof in the name of the Lender or its nominee; or (ii) the execution and delivery by the issuer thereof of an effective agreement (each, an **"Issuer Control Agreement"**), pursuant to which such issuer agrees that it will comply with instructions originated by the Lender or its nominee without further consent of any of the Pledgor or any other person; and
 - (iii) such additional or alternative procedures as may hereafter become reasonably appropriate to grant control of, or otherwise perfect a security interest in, the Secured Property in favour of the Lender or its nominee;
- (b) **"Demand Date"** means the earlier of the date on which: (i) an Event of Default has occurred and is continuing; and (ii) the Maturity Date;
- (c) **"Indebtedness"**, in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
- (d) **"Issuer Control Agreement"** has the meaning set out in clause (ii) of the definition of **"Delivery"**;

- (e) "**Loan Indebtedness**" means any Indebtedness from time to time of the Mortgagor and any of the other Covenantors to the Lender arising under any of the Loan Documents;
- (f) "**Loan Obligations**" means the obligations of the Mortgagor and any of the other Covenantors arising under the Loan Documents;
- (g) "**Pledged Entities**" means, collectively, 2226 Royal Windsor GP Inc. and 2226 Royal Windsor LP;
- (h) "**Pledged Interests**" has the meaning set out in clause (i) of the definition of Secured Property;
- (i) "**PPSA**" means the *Personal Property Security Act* (Ontario) and the regulations thereto, as each may be amended, replaced or revoked from time to time;
- (j) "**Secured Property**" means:
 - (i) all common shares and units, as applicable, in the capital of the Pledged Entities owned by the Pledgor (the "**Pledged Interests**") as set out in Schedule A, as such schedule may be amended or replaced from time to time, including all warrants and options relating to such shares and any substitutions, additions and proceeds arising out of any consolidation, subdivision, reclassification, conversion, stock dividend or similar increase or decrease in or alteration of the capital of the Pledged Entities, or any other event and additional Pledged Interests acquired pursuant to the exercise of a right or offer granted or made by the Pledgor to the extent that any such right or offer arises out of the ownership of any shares or units, as applicable, in the capital of the Pledged Entities, whether or not delivered to the Lender and all proceeds from time to time received, receivable or otherwise distributed in respect of, or in exchange for any or all of such Secured Property;
 - (ii) all Security Certificates, if any, with respect to the Secured Property and any other instruments evidencing or representing such Pledged Interests, and all interest, distributions, cash, instruments and other property, income, profits and proceeds from time to time received or receivable upon or otherwise distributed or distributable in respect of or in exchange for any and all of the Pledged Interests;
 - (iii) all additional or substitute units or shares or other equity interests in the Pledged Entities from time to time issued to or otherwise acquired by the Pledgor in any manner in respect of Pledged Interests, the Security Certificates, if any, and other instruments representing such additional or substitute units or interests, and all interests, distributions, cash, instruments and other property, income, profits and proceeds from time to time received or receivable upon or otherwise distributed or distributable in respect of or in exchange for any or all of such additional or substitute units; and

- (iv) to the extent not otherwise included in the foregoing, all Proceeds thereof;
- (k) "STA" means the *Securities Transfer Act* (Ontario) and the regulations thereto, as each may be amended, replaced or revoked from time to time;

The terms "**Certificated Security**", "**Uncertificated Security**", "**Proceeds**", "**Securities Intermediary**", "**Security**", "**Securities Account**", "**Security Entitlements**" and "**Security Certificate**", whenever used herein have the meanings given to those terms in the PPSA.

1.2 Interpretation

For the purposes of this Agreement, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Agreement, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Agreement.

1.4 Statutory References

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulation made thereunder.

ARTICLE 2 **GRANT OF SECURITY INTEREST AND PLEDGE**

2.1 Grant and Pledge of Secured Property

As general and continuing security for the observance and performance of the Pledgor's liabilities and obligations under the Guarantee the Pledgor hereby grants to the Lender a security interest in, and pledges, assigns and hypothecates to the Lender, all right, title and interest of the Pledgor in and to, the Secured Property, whether now owned or existing or hereafter from time to time acquired, by way of amalgamation or otherwise.

2.2 Security Interest Absolute

The security interest granted hereby and all rights of the Lender hereunder are unconditional and absolute and independent and separate from any other security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, whether executed by the Pledgor or any other person.

2.3 Continuing Liability of the Pledgor

This Agreement and the security interest granted under Section 2.1 is granted as collateral security only and will not subject the Lender to, or transfer or in any way affect or modify, any obligation or liability of the Pledgor with respect to any of the Secured Property or any transaction in connection therewith.

2.4 Delivery of Secured Property

All Secured Property must be Delivered immediately to the Lender or its nominee. The Lender may, at its option, upon the occurrence and continuance of an Event of Default, cause all or any of the Secured Property to be registered in the name of the Lender or its nominee.

2.5 Subsequently Acquired Collateral

To the extent the Pledgor acquires, by way of amalgamation or otherwise, any additional Secured Property at any time or from time to time after the date hereof, such Secured Property will automatically (and without any further action being required to be taken by the Lender) be subject to the security interest and pledge created hereby. The Pledgor will take, or cause to be taken, as promptly as practicable and, in any event within five (5) days after it obtains such additional Secured Property, all steps and actions as the Lender deems necessary to ensure that the additional Secured Property is Delivered to the Lender.

2.6 Attachment

The Pledgor acknowledges that the security interest hereby created attaches upon the execution of this Agreement (or in the case of any after acquired property, upon the date of acquisition of the Pledgor of any rights therein), that value has been given by the Lender and that the Pledgor has, respectively, or in the case of after acquired Secured Property will have, rights in the Secured Property or the power to transfer rights in the Secured Property to the Lender.

ARTICLE 3 DEALING WITH COLLATERAL

3.1 Rights and Duties of the Lender

The Lender:

- (a) may perform any of its rights and duties hereunder by or through agents and is entitled to retain counsel and to act in reliance upon the advice of such counsel concerning all matters pertaining to its rights and duties hereunder; and
- (b) in the holding of the Secured Property, the Lender and any nominee on its behalf is only bound to exercise the same degree of care as it would exercise with respect to similar property of its own of similar value held in the same place. The Lender and any nominee on its behalf will be deemed to have exercised reasonable care with

respect to the custody and preservation of the Secured Property if it takes such action for that purpose as the Pledgor reasonably requests in writing.

3.2 Voting Rights

In connection with the rights and powers of a holder of such Secured Property:

- (a) subject to the provisions of Section 3.2(b), the Pledgor is entitled to exercise, either directly or, if the Secured Property is registered in the name of the Lender or its nominee, by power of attorney or proxy, all the rights and powers of a holder of such Secured Property, including the right to vote from time to time exercisable in respect of the Secured Property and to give proxies, consents, ratifications and waivers in respect thereof. No such action may be taken if it would be prejudicial to the interests of the Lender or would have the effect of reducing the value of the Secured Property as security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, or imposing any restriction on the transferability of any of the Secured Property; and
- (b) upon the occurrence and during the continuance of an Event of Default the Lender may give the Pledgor a notice prohibiting the Pledgor from exercising the rights and powers of a holder of the Secured Property, including the right to vote the Secured Property, at which time all such rights of the Pledgor will cease immediately and the Lender will have the right to exercise the rights and powers related to such Secured Property, including the right to vote.

3.3 Dividends, Distributions and Interest Payments

With respect to dividends, distributions and interest payments:

- (a) the Pledgor is entitled to receive all dividend payments or other distributions or interest payments in respect of the Secured Property. If the Secured Property has been registered in the name of the Lender or its nominee, the Lender will execute and deliver (or cause to be executed and delivered) to the Pledgor all directions and other instruments as the Pledgor may request for the purpose of enabling the Pledgor to receive the dividends or other payments that the Pledgor is authorized to receive pursuant to this Section 3.3(a); and
- (b) upon the occurrence and during the continuance of an Event of Default all rights of the Pledgor pursuant to Section 3.1(a) will cease, and all such rights will thereupon become vested in the Lender, and the Lender will have the sole and exclusive right and authority to receive and retain all payments that the Pledgor would otherwise be authorized to retain pursuant to Section 3.3(a). All money and other property received by the Lender pursuant to the provisions of this Section 3.3(b) may be applied on account of the Loan Indebtedness or may be retained by the Lender as additional Secured Property hereunder and be applied in accordance with the provisions of this Agreement. All payments which are received by the Pledgor contrary to the provisions of this Section 3.3(b) will be held by the Pledgor in trust for the benefit of the Lender, will be segregated from other property or funds of the

Pledgor and will be forthwith Delivered to the Lender or its nominee to hold as Secured Property.

ARTICLE 4
COVENANTS AND REPRESENTATIONS OF PLEDGOR

4.1 Covenants

The Pledgor covenants to and with the Lender, that:

- (a) in the event that the Pledgor shall receive any additional Secured Property, which the Pledgor shall accept same as the agent for the Lender in the form received and shall deliver to the Lender:
 - (i) the certificates with respect to the additional Secured Property if such additional Secured Property constitutes Certificated Securities;
 - (ii) if the additional Secured Property constitutes Uncertificated Securities, an Issuer Control Agreement with respect thereto; and
 - (iii) an updated Schedule A.

4.2 Representations and Warranties

The Pledgor represents and warrants:

- (a) as of the date hereof, the Pledgor has not assigned, mortgaged, pledged, hypothecated or encumbered the Secured Property except in favour of the Lender pursuant to this Agreement;
- (b) to the extent that the Secured Property includes an interest in, or unit certificates in a partnership, limited partnership, a limited liability partnership or a limited liability company, the partnership agreement, articles, articles of association, bylaws, other constating documents or any terms of any interest in such partnership, limited partnership, a limited liability partnership or a limited liability company, provide that such interest is a "**Security**" for the purposes of the STA;
- (c) has not consented to the entering into by: (i) any issuer of any Uncertificated Securities included in or relating to the Secured Property of an Issuer Control Agreement; or (ii) any Securities Intermediary for any Securities Accounts or Security Entitlements included in or relating to the Secured Property of an Issuer Control Agreement, other than, in either case, the Lender;
- (d) constitutes all of the issued and outstanding shares and units, as applicable, of the capital stock of the Pledged Entities owned by the Pledgor as at the date hereof;
- (e) all corporate action has been taken by the Pledged Entities and the Pledgor in order that the Secured Property is freely transferable and assignable to the Lender, its

nominee or third party upon the exercise by the Lender of its rights hereunder to effect such transfer or assignment;

- (f) no consent is required, or is purported to be required, in connection with the granting of the security interest and the assignment, pledge and hypothecation of the Secured Property, or for enforcement thereof;
- (g) there are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is now or hereafter convertible into, or that requires the issuance or sale of, any Secured Property; and
- (h) there is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which the Pledgor would be required to sell or otherwise dispose of any of the Secured Property or under which the Pledged Entities have any obligation to issue any shares or units of the Pledged Entities to any other person.

All representations and warranties of the Pledgor made in this Agreement or in any certificate or other document delivered by or on behalf of the Pledgor to or for the benefit of the Lender are material, shall survive and shall not merge upon the execution and delivery of this Agreement and shall continue in full force and effect. The Lender shall be deemed to have relied upon such representations and warranties notwithstanding any investigation made by or on behalf of the Lender at any time.

ARTICLE 5 **REMEDIES**

5.1 Remedies

Upon the occurrence and during the continuance of an Event of Default, until payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations, the Lender shall have, without obligation to resort to other security or to recourse against any of the other Covenantors, the right at any time and from time to time to sell, resell, assign and deliver all or any of the Secured Property in Canada or elsewhere, in whole or in part, at the same or different times, and all right, title, interest, claim and demand therein and right of redemption thereof, at public or private sale, for cash, upon credit or for immediate or future delivery, and at such price or prices and on such terms as the Lender may determine, the Pledgor hereby agreeing that upon any such sale any and all equity and right of redemption shall be automatically waived and released without any further action on the part of the Pledgor, and in connection therewith the Lender may grant options, all without any demand, advertisement or notice, all of which are hereby expressly waived by the Pledgor. Until payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations, the Lender may, in its discretion, retain the Secured Property as continuing collateral security as provided herein. On and after a Demand Date where there are outstanding Loan Obligations, the Lender may in its own right, purchase all or any of the Secured Property being sold, whether in connection with a sale made under the power of sale herein contained or pursuant to judicial proceedings or otherwise, free of any equity

or right of redemption. The proceeds of each such sale shall be applied to the payment of all costs and expenses of every kind for sale or delivery, including reasonable agent's fees or legal fees (including legal fees on a substantial indemnity basis) and expenses of the party entitled to sell the Secured Property, and after deducting such costs and expenses from the proceeds of the sale, any residue shall be applied in payment of the Loan Indebtedness in such order as the party entitled to sell the Secured Property may deem fit. The balance, if any, remaining after payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations shall be paid over to the Pledgor or to whomever else may be entitled thereto by law. Notwithstanding the foregoing provisions of this Section, the Lender shall not in any event be under any duty to do any of the foregoing. The Pledgor hereby ratify all that the Lender, or the Lender's nominee, as the case may be, shall do by virtue of the foregoing authority.

5.2 Compliance with Restrictions

The Pledgor agrees that in any sale of any of the Secured Property following the occurrence of an Event of Default that is continuing, the Lender is hereby authorized to comply with any limitation or restriction in connection with such sale as is necessary in order to avoid any violation of applicable law (including compliance with such procedures as may restrict the number of prospective bidders and purchasers, require that such prospective bidders and purchasers have certain qualifications, and restrict such prospective bidders and purchasers to persons who will represent and agree that they are purchasing for their own account for investment and not with a view to the distribution or resale of such Secured Property), or in order to obtain any required approval of the sale or of the purchaser by any governmental regulatory authority or official, and the Pledgor further agrees that such compliance shall not result in such sale being considered or deemed not to have been made in a commercially reasonable manner, nor shall the Lender be liable nor accountable to the Pledgor for any discount allowed by the reason of the fact that such Secured Property is sold in compliance with any such limitation or restriction.

5.3 Remedies Cumulative

The rights, powers and remedies of the Lender hereunder shall not be deemed exclusive, but shall be cumulative with and in addition to all other rights and remedies existing at law or in equity and available to a secured creditor under the PPSA, the *Securities Transfer Act* (Ontario) or any similar legislation of any other appropriate jurisdiction and the *Business Corporations Act* (Ontario) or any similar legislation of any other appropriate jurisdiction.

5.4 Private Sales

The Pledgor recognizes that subject to compliance with applicable securities laws and the rules and regulations of any stock exchange on which the applicable Secured Property is listed and posted for trading, any sale by the Lender of all or any portion of the Secured Property may be by way of one or more private sales to a restricted group of purchasers who may be obligated to agree, among other things, to acquire the Secured Property for their own account, for investment and not with a view to the distribution or resale thereof.

The Pledgor acknowledges that any such private sales may be at prices and on terms less favorable than those of public sales.

5.5 Indemnity and Expenses

The Pledgor hereby indemnify and hold harmless the Lender from and against any and all claims, losses, and liabilities arising out of or resulting from this Agreement, save and except for those arising from the gross negligence or willful misconduct of the Lender or its agents. Upon demand, the Pledgor will pay to the Lender the amount of any and all reasonable expenses, including the reasonable fees and disbursements of its legal counsel and of any experts and agents, which the Lender may incur in connection with:

- (a) the administration of this Agreement;
- (b) the custody, preservation, use, or operation of, or the sale of, collection from, or other realization upon, any of the Secured Property;
- (c) the exercise or enforcement of any of the rights of the Lender hereunder; or
- (d) the failure by the Pledgor to perform or observe any of the provisions hereof.

ARTICLE 6 **GENERAL**

6.1 Termination of Pledge and Reassignment

The provisions of this Agreement shall remain in full force and effect as general and continuing collateral security for the payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations until the earlier of: (i) termination in writing by the parties hereto; or (ii) payment in full of the Loan Indebtedness and the satisfaction of all of the Loan Obligations. The Lender covenants and agrees that upon the termination of the Pledge as aforesaid it will release its security interests created hereby in the Secured Property at the sole cost and expense of the Pledgor.

6.2 Power of Attorney

The Pledgor hereby irrevocably constitutes and appoints the Lender and any officer or agent thereof the true and lawful attorney of the Pledgor upon the occurrence of an Event of Default, with full power of substitution, to do, make and execute all such statements, assignments, documents, agreements, acts, matters or things with the right to use the name of the Pledgor whenever and wherever the officer or agent may deem necessary or expedient and from time to time to exercise all rights and powers and to perform all acts of ownership in respect to the Secured Property in accordance with this Agreement, such power being coupled with an interest.

6.3 Authorization to Provide Copy of Agreement

The Pledgor hereby authorizes the Lender to provide a copy of this Agreement and such other information and documents specified under the PPSA to any person entitled pursuant to the PPSA to demand and receive same.

6.4 Copy of Agreement and Financing Statement

The Pledgor:

- (a) acknowledges receiving a copy of this Agreement; and
- (b) waives all rights to receive from the Lender a copy of any financing statement, financing change statement or verification statement filed, issued or obtained at any time in respect of this Agreement.

6.5 Payments

All payments required to be made by the Pledgor to the Lender under this Agreement will be made at the address of the Lender set out in Section 6.13 (or at any other place specified by the Lender by written notice to the Pledgor and the Mortgagor) in immediately available funds in lawful Canadian currency, without any set off counter claim or deduction.

6.6 Failure of Indulgence Not Waiver

No failure or delay by the Lender in the exercise of any power or right under this Agreement constitutes a waiver thereof, nor does any exercise of any such power or right preclude any other exercise of same. Each power and right under this Agreement is cumulative with, and not exclusive of, any power or right otherwise available.

6.7 Modification

No modification or waiver of this Agreement is binding on the Lender unless made in writing and signed by a duly authorized officer of the Lender.

6.8 Entire Agreement

On the execution and delivery by the Pledgor, this Agreement is deemed to be finally executed and delivered by the Pledgor to the Lender and is not subject to or affected by any condition as to the receipt by the Lender of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Lender of any other Loan Documents, nor by any promise or condition affecting the liability of the Pledgor. No agreement, promise, representation or statement by the Lender or any of its officers, employees or agents unless in this Agreement forms part of this Agreement, has induced the making of it or affects the liability of the Pledgor and the Mortgagor under it.

6.9 Severability

If any part or provision of this Agreement is determined to be invalid, illegal or unenforceable, it will be severable from this Agreement and the remainder of this Agreement will be construed as if such invalid, illegal or unenforceable provision or part had been deleted.

6.10 Non-Merger

The giving of this Agreement is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default that is continuing, proceedings may be taken under this Agreement, the Commitment Letter, the Mortgage or any of the other Security Documents or any one or more of them at the option of the Lender.

6.11 Paramountcy

The provisions of any agreement between the Pledgor and the Lender in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Agreement except where inconsistent with the provisions hereof. In the case of any inconsistency between this Agreement and the Mortgage, the provisions of the Mortgage shall prevail.

6.12 Assignability

The Pledgor hereby consents to the Lender assigning, transferring or selling all or any portion of its interest under this Agreement, the Loan Indebtedness and the Loan Obligations and without limiting the foregoing, the Lender may enter into participation, contending or syndication agreements with other Lenders in connection with this Agreement, the Loan Indebtedness and the Loan Obligations. The Lender may provide information of a financial or other nature to any prospective assignee, transferee, purchaser or other Lenders concerning the Pledgor, this Agreement, the Loan Indebtedness and the Loan Obligations.

6.13 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Agreement shall be in writing and shall be delivered in person, transmitted by e-mail or similar means of recorded electronic communication or sent by registered mail, charges pre-paid, addressed:

(a) to the Pledgor:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Pledgor's solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Lender:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

6.14 Expenses, Fees and Indemnity

The Pledgor will pay to the Lender all reasonable costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Lender in connection with the collection of any amount payable under this Agreement by the Pledgor to the Lender. The Pledgor shall indemnify the Lender against all claims, loss or damages

arising out of or in connection with any breach or default by the Pledgor under this Agreement.

6.15 Applicable Law

This Agreement and the rights and obligations of the Pledgor and the Lender under it are governed by and construed according to the laws of the jurisdiction in which the Lands are situate (the "**Province**") and the laws of Canada applicable therein.

6.16 Time of the Essence

Time is of the essence of this Agreement.

6.17 Jurisdiction

Any legal action or proceeding with respect to this Agreement may be brought, in the discretion of the Lender, in the courts of the Province or in such other courts as the Lender in its sole discretion elects and each of the Pledgor and the Mortgagor irrevocably submits to each such jurisdiction.

6.18 Execution by the Lender

This Agreement need not be executed by the Lender to be binding on and to enure to the benefit of the Lender.

6.19 Counterparts

This Agreement may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document, and such will not affect the obligations of the Pledgor under this Agreement. This Agreement or counterparts hereof may be executed by fax or email PDF, and the parties shall adopt any signatures provided or received by fax or email PDF as original signatures of the applicable party or parties, provided that any party providing its signature by fax or email PDF shall promptly forward to the other party a copy of this Agreement with an original signature.

6.20 Further Assurances

The Pledgor will promptly do all further acts and execute and deliver further documents as the Lender considers necessary or advisable to carry out the terms or intent of this Agreement.

6.21 Successors and Assigns

This Agreement is binding on and enures to the benefit of the Lender and the Pledgor and their respective executors, administrators, successors and assigns and to any Person to whom the Lender may grant any participation in this Agreement, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Lender under this


Agreement or any of the Lender's interest herein or in the Loan Indebtedness and the Loan Obligations.

6.22 Multiple Parties

This Agreement will be read with all necessary grammatical changes and each reference to the Pledgor includes each and every such Person or corporation individually. All covenants and agreements herein of the Pledgor are the joint and several covenants and agreements of each such Person or corporation. If the Lender consists of more than one party, this Agreement will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Lender under this Agreement.

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

SOUTHSHORE 2226 RW GP INC.

Per: 

Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

SOUTHSHORE 2226 RW GP INC., in its capacity as general partner for and on behalf of SOUTHSHORE 2226 RW HOLDINGS LP

Per: 

Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

1000237699 ONTARIO INC.

Per: 

Name: Michael Moldenhauer
Title: Authorized Signing Officer


Per: _____
Name:
Title:

SCHEDULE A

Pledged Entities	Type/Class of Pledged Securities	Stock Certificate Number	Number of Shares/ Units	Shareholder/ Unitholder
2226 Royal Windsor GP Inc.	Common shares	C-1	100	Southshore 2226 RW GP Inc.
2226 Royal Windsor LP	Class A units	A-1	100	Southshore 2226 RW Holdings LP
2226 Royal Windsor LP	Class B unit	B-2	1	1000237699 Ontario Inc.

DATED as of the date hereof.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

Per: 

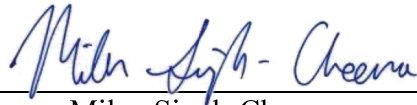
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

**T
A
B**

KK

THIS IS **EXHIBIT "KK"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

GENERAL ASSIGNMENT OF LEASES AND RENTS

THIS AGREEMENT made as of the ____ day of July, 2022.

B E T W E E N:

688 SOUTHDOWN GP INC., in its capacity as general partner for and on behalf of **688 SOUTHDOWN LP**

(the "**Assignor**")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "**Assignee**")

OF THE SECOND PART

WHEREAS the Assignor, as mortgagor, has granted a mortgage (the "**Mortgage**") to and in favour of the Assignee, as mortgagee, of the lands and premises charged therein (the "**Property**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS as a condition for the Borrower receiving the Loan Indebtedness, the Assignor agreed to assign to the Assignee, its successors and assigns, as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, in all of the Assignor's right, title and interest in and to:

- (a) all present and future leases, subleases, licenses, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Assignor or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Property, and including all agreements collateral thereto (collectively, the "**Leases**");
- (b) all rents, issues, profits and other monies now due or accruing due or to become due and payable under or derived from the Leases or receivable by the Assignor pursuant to the Leases or the Property (collectively, the "**Rents**"); and
- (c) the benefit of all covenants and obligations of lessees, tenants, licensees, or occupants as well as all other rights, privileges, advantages and benefits contained in any of the Leases, including without limitation, all rights and benefits of any present and future guarantees or indemnities thereof, with full power and authority to demand, sue for, collect, recover and receive all Rents, to enforce the Assignor's

rights under any Lease, and generally any collateral advantage or benefit to be derived from the Leases or any of them together with the full benefit of all security in support of any guarantees or indemnities (collectively, the "**Lease Benefits**" and together with the Leases and the Rents, collectively, the "**Assigned Rights and Benefits**");

NOW THEREFORE IN CONSIDERATION of the recitals, the Assignee extending the Loan Indebtedness and for such other good and valuable consideration received by the Assignor, the receipt and adequacy of which is acknowledged by the Assignor, the Assignor agrees with the Assignee as follows:

ARTICLE 1 **DEFINITIONS, INTERPRETATION**

1.1 Definitions

Capitalized terms that are not defined herein have the meanings set out in the Mortgage. Otherwise, in this Agreement:

- (a) "**Excluded Lease**" has the meaning ascribed to it in Section 2.3;
- (b) "**Indebtedness**", in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;
- (c) "**Loan Indebtedness**" means any Indebtedness from time to time of the Assignor or any of the other Covenantors to the Assignee arising under any of the Loan Documents;
- (d) "**Loan Obligations**" means the obligations of the Assignor or any of the other Covenantors arising under the Loan Documents;
- (e) "**Other Parties**" has the meaning ascribed to it in Section 2.13(a); and
- (f) "**Receiver**" has the meaning ascribed to it in Section 2.12(a).

1.2 Interpretation

For the purposes of this Agreement, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Agreement, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Agreement.

ARTICLE 2 **AGREEMENT**

2.1 Assignment

As continuing collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations, the Assignor hereby assigns, transfers and sets over unto the Assignee and grants to the Assignee a security interest in all of the Assignor's right, title, estate, interest and benefit, both at law and in equity, in and to the Assigned Rights and Benefits, to hold and receive the same unto the Assignee with full power and authority to demand, sue for, collect, recover and receive and give receipts for the Rents and to enforce the payment of the Rents and the payment and performance of all Assigned Rights and Benefits, assigned in accordance with and subject to the terms of this Agreement.

2.2 Last Day of Term

This Agreement shall not extend or apply to the last day of the term, or the last day of any extended or renewed term, of any of the Leases provided that if this Agreement is enforced by the Assignee, the Assignor shall stand possessed of each such last day and shall hold same in trust and if this Agreement is enforced by the Assignee, to assign at the direction of the Assignee or any Person who may acquire any such term or renewal term or who in the course of enforcement hereof may be entitled to so direct.

2.3 Excluded Leases

Nothing in this Agreement shall constitute an assignment or attempted assignment of any of the right, title, estate, interest and benefit of the Assignor in any Assigned Rights and Benefits which require the consent of a third party to assignment unless such consent has been obtained (an "**Excluded Lease**"). The Assignor shall, upon request, obtain the required consent of any third party to the assignment of any Excluded Lease under this Agreement and to its further assignment by the Assignee to any third party as a result of the exercise by the Assignee of its remedies hereunder after an Event of Default. Upon consent being obtained, this Agreement shall apply to the applicable Excluded Lease without regard to this Section and without the necessity of any further assurance to effect assignment under this Agreement. Until consent to assignment is obtained, the Assignor shall, to the extent it may do so at law or pursuant to the provisions of the Excluded Lease and without giving rise to any default or penalty under the Excluded Lease, hold all right, title, estate, interest and benefit to be derived from the Excluded Lease in trust for the Assignee as additional security for the payment of the Loan Indebtedness and performance of the Loan Obligations as if this Agreement applied.

2.4 Representations and Warranties

The Assignor represents and warrants to and in favour of the Assignee that:

- (a) each of the Leases is in existence, and is in full force and effect, and there is currently no default by any party to any Lease under any term, condition or covenant required to be performed by it under the Assigned Rights and Benefits and there exists no event or circumstance, which would with the passage of time or the giving of notice or both constitute a default or an event of default under any of the Assigned Rights and Benefits;
- (b) there is no outstanding dispute under any Lease by any of the parties to it and no lessee under any Lease is entitled to any set off or defense against the payment of Rent under the Lease; and
- (c) the Assignor has good right, full power and absolute authority to assign the Assigned Rights and Benefits in the manner aforesaid, and has not performed any act or executed any other instrument which might prevent the Assignee from operating under the terms and conditions of this Agreement or which would limit the Assignee in such operation.

2.5 Covenants

The Assignor hereby covenants with the Assignee:

- (a) that it will at all times perform or cause to be performed all of the covenants and obligations on the part of lessor contained in the Leases as would a prudent landlord (except to the extent that the same have been expressly waived by the Other Parties to the Leases);
- (b) to maintain or cause to be maintained the Leases in good standing and not to do, permit to be done or omit to do, anything which may impair the enforceability of the Leases;
- (c) that in respect of all of the Leases, save for the deposits for the first and last month rentals, not to accept Rents more than one month in advance of the dates when Rents fall due;
- (d) except as provided for in Section 2.7 below, all offers to lease and all tenancy agreements, leases or subleases entered into with lessees of the Property shall be on the standard forms previously approved by the Assignee to be used in connection with the Property, amended as deemed appropriate in the circumstances by the Assignor, acting reasonably, to give effect to the arrangements made with each lessee or, if not on a pre-approved standard form, then in all cases in form and substance acceptable to the Assignee acting reasonably;

- (e) upon and during the continuance of an Event of Default, to facilitate in all ways the Assignee's exercise of its rights hereunder, including without limitation, upon request of the Assignee:
 - (i) to deliver to the Assignee up-to-date rent rolls and true copies of all then outstanding Leases and any other document giving rise to any of the Lease Benefits;
 - (ii) to permit access by the Assignee or its agent during regular business hours, upon reasonable notice to the Assignor, to all records pertaining to the Property, wherever held; and
 - (iii) to provide written notices to the lessees or any Other Parties, directing them to make payment of Rents to the Assignee or as it may direct; and
- (f) to obtain estoppel certificates from the lessees under the Leases (provided that the lessees are obliged to do so pursuant to their Lease) when and as reasonably required by the Assignee, or if any of such estoppel certificate is not forthcoming, to furnish a certificate of a senior officer of the Assignor in lieu thereof attesting (to the extent within the Assignor's knowledge and without Personal liability) to the information which would have been provided in such estoppel certificate.

2.6 Right to Deal

Until the occurrence of an Event of Default which is continuing, and subject to Section 2.5, the Assignor is permitted to enjoy the benefits of and deal with the Assigned Rights and Benefits, and may demand, receive, collect and enjoy the Rents, but only as the same fall due and payable according to the terms of each of the Leases and any of the documents giving rise to any of the Lease Benefits, and not more than one month in advance (except for prepayment of the last month of the term if so provided in the Lease) as would a prudent landlord. Upon the occurrence of an Event of Default which is continuing, the Assignee may, in addition to any other rights and remedies it may have, deliver a written notice to any lessee or any Other Party directing it to deal with the Assignee and to pay the Rents payable under its Lease to the Assignee, and such notice shall be good and sufficient authority for so doing.

2.7 No Dealings with Leases

The Assignor shall not, without the prior written consent of the Assignee:

- (a) do any act or thing or omit to do any act or thing that would materially adversely change the obligations of the Assignor under that Lease, other than as permitted by the Mortgage (except where the provisions of the Lease require the landlord to do so); or
- (b) enter into any Lease, including each renewal or extension of an existing Lease (other than any extension or renewal of an existing Lease which is exercised pursuant to, and the terms of which are governed by, such existing Lease), unless:

- (i) it is a commercially reasonable arm's length transaction made in the ordinary course of business and in accordance with prudent property management and leasing standards and practices;
 - (ii) it provides for rental rates and other terms and conditions consistent with prevailing market rates, terms and conditions; and
 - (iii) the Assignor has notified the Assignee of the proposed Lease and provided a copy of it to the Assignee; and
- (c) upon the Assignee delivering a written notice to the Assignor notifying the Assignor that the Assignee has elected to exercise its rights under this Section, enter into any Lease unless the Assignee has approved, acting reasonably, the form and content thereof.

Whenever the Assignee's consent is required hereunder, the Assignee shall act in a commercially reasonable manner as would a prudent owner of similar real estate and the Assignee shall communicate its consent or non-consent within ten (10) Business Days of any written request (unless otherwise indicated herein), failing which the Assignee shall be deemed to have given its consent.

The Assignor covenants to specifically assign any future Lease to the Assignee upon the Assignee's request in a form satisfactory to the Assignee. In such event, the Assignor further covenants that it will use its commercially reasonable efforts to have the lessee of all such future Leases, covenant to attorn to the Assignee on request.

2.8 Assigned Rights and Benefits Not Impaired

The within assignment to the Assignee of the Assigned Rights and Benefits shall remain in full force and effect without regard to, and the obligations of the lessees under the Leases shall not be affected or impaired by:

- (a) any amendment, modification, renewal or replacement of or addition or supplement to any of the other Loan Documents or the loan secured by the Security Documents; or
- (b) any exercise or non-exercise of any right, remedy, power or privilege in respect of this Agreement or any of the other Security Documents; or
- (c) any waiver, consent, extension, indulgence or other action, inaction or omission under or in respect of this Agreement or any of the other Security Documents; or
- (d) any insolvency, bankruptcy, liquidation, reorganization, arrangement, composition, winding-up, dissolution or similar proceeding involving or affecting the Assignor or any of the lessees under any of the Leases.

2.9 Power of Attorney

So long as the Loan Indebtedness and the Loan Obligations, or any portion thereof, remains outstanding:

- (a) the Assignor hereby irrevocably appoints the Assignee, or any Receiver appointed by the Assignee as provided for in this Agreement, to be the attorney of the Assignor with full power of substitution, and with full authority in the place of the Assignor and in the name of the Assignor or otherwise, from time to time in the Assignee's discretion, to do all acts, matters and things that may be necessary for, incidental to, or advisable for, carrying out the powers given to the Assignee under this Agreement and the Mortgage upon the occurrence of any Event of Default which is continuing (but the Assignee is not obligated to take such action and will have no liability to the Assignor or any third party for failure to take any action). This power of attorney is given for valuable consideration, is coupled with an interest, and is irrevocable until registration of a complete discharge of the Mortgage; and
- (b) in the event any action is brought by the Assignee to enforce any rights under the Assigned Rights and Benefits, the Assignor agrees to cooperate fully with and assist the Assignee in the prosecution thereof.

2.10 Acceleration

Upon the occurrence of an Event of Default which is continuing all of the Loan Indebtedness shall, at the Assignee's option and without notice to the Assignor, become immediately due and payable and the Assignee may, in its sole, absolute and unfettered discretion, exercise its rights in respect of the Assigned Rights and Benefits in addition to all other rights and remedies afforded by applicable law, in equity or otherwise. The Assignee shall have the right to enforce one or more remedies successively or concurrently in accordance with applicable law and the Assignee expressly retains all rights and remedies not inconsistent with the provisions in this Agreement including any rights it may have under the PPSA. The provisions of this clause do not and are not intended to affect in any way any rights of the Assignee with respect to any Loan Obligations or any Loan Indebtedness which may now or hereafter be payable on demand.

2.11 Enforcement

Upon the occurrence of and during the continuance of an Event of Default, the security hereby constituted will, at the option of the Assignee, immediately become enforceable.

2.12 Assignee's Rights and Remedies

In addition to the Assignee's rights under the Mortgage, the Assignee may, at its option and without any obligation or liability therefor and in addition to any other remedy in respect of the Assigned Rights and Benefits to which it is entitled under any of the Loan Documents, upon the occurrence of any Event of Default which is continuing and to the extent permitted by applicable law, enforce and realize on the security constituted by this

Agreement and take any action permitted by law or in equity, as it may deem expedient, and in particular, but without limiting the generality of the foregoing, the Assignee may do the following:

- (a) appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of the Assignee or not, to be a receiver or receivers, or may institute proceedings in any court of competent jurisdiction for the appointment of a receiver (the "**Receiver**", which term includes a receiver or a manager or a receiver and manager) of the Assigned Rights and Benefits and may remove any appointed Receiver and appoint a replacement. Any Receiver shall, so far as concerns responsibility for its acts, be deemed the agent of the Assignor and not of the Assignee, and the Assignee shall not in any way be responsible for any misconduct, negligence, or nonfeasance on the part of any Receiver, the Receiver's servants, agents or employees. Subject to the provisions of the instrument appointing it, any Receiver shall be vested with all or any of the rights, powers and discretions of the Assignee. Except as may be otherwise directed by the Assignee all monies received from time to time by the Receiver in carrying out its appointment shall be received in trust for and paid over to the Assignee for the benefit of the Assignee;
- (b) compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rents or any other matter relating to the Assigned Rights and Benefits, and any settlement arrived at shall be binding upon the Assignor and any Other Parties;
- (c) at its option and without notice to the Assignor, take possession of or enter upon the Property by its officers, agents or employees for the purpose of collecting the Rents and any and all amounts which may be or become due or payable or remain unpaid at any time to the Assignor pursuant to the Assigned Rights and Benefits and give acquittances for them and to manage, operate and maintain its interest in the Property including without limitation, the making of repairs or replacements to maintain the Property;
- (d) receive, enjoy or otherwise avail itself of the Lease Benefits;
- (e) appoint and dismiss such agents or employees as may be necessary or desirable to exercise the Assignee's rights hereunder;
- (f) alter, modify, amend or change the terms of Leases; enter into new Leases; give consents, concessions or waivers of any rights or provisions of Leases; accept surrenders of Leases; give consents to assignment of or subletting under Leases;
- (g) send or employ any inspector or agent to inspect and report upon the value, state and condition of the Property and employ a solicitor to examine and report upon title to the same and the lease documentation pertaining to same;
- (h) in the Assignor's name, perform, at the Assignor's expense, any and all of the Assignor's obligations or covenants relating to the Assigned Rights and Benefits

and enforce performance by any Other Parties of their obligations in relation to the Assigned Rights and Benefits and settle any disputes with Other Parties upon terms that the Assignee deems appropriate, in its discretion;

- (i) make payment of or cure any default under any Permitted Encumbrance or any Liens or other claims that may exist or be threatened against the Assigned Rights and Benefits, and any amount so paid together with costs, charges and expenses incurred together with interest at the Interest Rate shall be added to the Loan Indebtedness;
- (j) if the proceeds of realization are insufficient to pay all of the Loan Indebtedness, the Assignor shall forthwith pay or cause to be paid to the Assignee any deficiency and the Assignee may sue the Assignor to collect the amount of such deficiency;
- (k) subject to applicable law, seize, collect, realize, borrow money on the security of, release to third parties, sell (by way of public or private sale), lease or otherwise deal with the Assigned Rights and Benefits in such manner, upon such terms and conditions, at such time or times and place or places and for such consideration as may seem to the Assignee advisable and without notice to the Assignor. The Assignee may charge on its own behalf and pay to others sums for expenses incurred and for services rendered (expressly including legal, consulting, broker, management, receivership and accounting fees) in or in connection with seizing, collecting, realizing, borrowing on the security of, selling or obtaining payment of the Assigned Rights and Benefits and may add all such sums to the Loan Indebtedness;
- (l) perform all such acts as may in the reasonable opinion of the Assignee be necessary or desirable for the proper operation and maintenance of the Property, which acts may be performed in the name of the Assignor or in the name of the Assignee and the Assignor hereby grants to the Assignee irrevocable authority to join the Assignor in any proceedings or actions relating to the Assigned Rights and Benefits whether judicial or extra-judicial; and
- (m) waive any Event of Default, and any waiver of an Event of Default shall not extend to any subsequent Event of Default, nor shall the Assignee be bound to serve any notice on any lessees or any Other Parties on the happening of any Event of Default.

2.13 Assignee's Dealings with Other Parties

The Assignor and the Assignee hereby covenant and agree that:

- (a) the Assignee may at any time upon the occurrence of an Event of Default which is continuing, with respect to any and all Assigned Rights and Benefits, give to any lessee or other Person from whom the Assignor would have been entitled to receive or claim any benefit under the Assigned Rights and Benefits in question (the "**Other Parties**" or "**Other Party**") upon written notice to it by the Assignee to pay the Rents directly to the Assignee and such notice shall be good and sufficient notice for doing so. Without limiting the foregoing the Assignee may, after giving

such notice, deal with the Other Party or Other Parties in respect of the Assigned Rights and Benefits without reference to or consent of the Assignor while the Event of Default is continuing;

- (b) this Agreement constitutes an irrevocable direction and authorization of the Assignor to any Other Party to pay Rents to the Assignee and otherwise honour the rights of the Assignee under this Agreement;
- (c) any Other Party may rely upon any notice given by the Assignee or on its behalf and the Assignor hereby waives as against any Other Party any claims they might otherwise have by reason of the Other Party acting on such notice;
- (d) in the event all Events of Defaults are subsequently cured, the Assignee shall upon request of the Assignor, and at the Assignor's expense, execute and deliver to the Assignor directions and authorizations to any Other Party who received notice of this Agreement in connection with the Events of Default so cured as aforesaid, authorizing and directing such Other Party to resume payment of Rents to the Assignor until such time as a further written notice is delivered by the Assignee pursuant to the terms of this Agreement;
- (e) all receipts given by the Assignee to any lessee under the Leases after delivery of a written notice pursuant to Section 2.13(a) and prior to the delivery of a notice pursuant to Section 2.13(d) on account of any Rents paid to the Assignee in accordance with the terms of this Agreement shall constitute a good and valid discharge therefor to each such lessee; and
- (f) the Assignee shall not be required or obligated in any manner to make any demand or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or take any other action to collect or enforce the payment of any amounts which may have been assigned to the Assignee or to which the Assignee may be entitled hereunder at any time or times.

2.14 Assignee's Obligations and Limitation on Liabilities

It is expressly acknowledged and agreed by the Assignor and the Assignee that:

- (a) nothing herein contained shall oblige the Assignee to assume or perform any obligation of the Assignor to any Other Party in respect of or arising out of the Assigned Rights and Benefits or any of them. The Assignee may, however, after the occurrence of an Event of Default which is continuing, at its option assume or perform any such obligations as the Assignee considers necessary or desirable to obtain the benefit of the Assigned Rights and Benefits free of any set-off, deduction or abatement, and any money expended by the Assignee in this regard shall form part of and be deemed to form part of the Loan Indebtedness and bear interest at the maximum rate stipulated in the Mortgage;
- (b) the Assignee shall only be liable to account for such moneys as shall actually be received by the Assignee by virtue of this Agreement at the address provided

herein, less reasonable collection charges and costs (including, without limitation, legal costs on a solicitor and client basis) and other reasonable expenses to which the Assignee may be put, and the Assignee shall not be responsible for any act or default of any agent employed by the Assignee for the collection of any such amounts. Such moneys when so received by the Assignee shall be applied in accordance with the provisions of the Mortgage and the Assignee shall not be responsible for diligence in the collection of any monies as contemplated herein. No credit shall be given for any Rent received by the Assignee after it obtains ownership of the Property under court order or by operation of law;

- (c) exercise by the Assignee of its rights under this Agreement or the assumption of certain obligations of the Assignor upon the occurrence of an Event Default as referred to in Section 2.14(a) shall not constitute or have the effect of making the Assignee a mortgagee in possession nor shall the entering into of this Agreement or anything done in pursuance of it make the Assignee liable in any way, as landlord or otherwise, for the performance of any covenants, obligations and liabilities under any of the Leases;
- (d) care, control and management of the Property shall remain and be deemed to be with the Assignor, in the absence of clear and unequivocal action by the Assignee depriving the Assignor of such care, control and management and the assumption thereof by the Assignee;
- (e) the Assignee's obligations as to any Rents or other amounts actually collected (including, without limitation, those arising from the Lease Benefits) shall be discharged by application of such Rents or other amounts (including, without limitation, those arising from the Lease Benefits) against the Loan Indebtedness or for any of the other purposes described in this Agreement; and
- (f) the Assignee shall not be:
 - (i) liable for and no credit shall be given in respect of any uncollected Rents or other uncollected amounts;
 - (ii) liable to any lessee for the return of any security deposit made under any Lease unless the Assignee shall have actually received such security deposit; and
 - (iii) by reason of this Agreement or the exercise of any right granted herein, responsible for any act committed by the Assignor or any breach or failure to perform by the Assignor with respect to any of the Assigned Rights and Benefits.

2.15 Continuing Security

Notwithstanding any variation of the terms of the Mortgage or any of the other Security Documents, or any extension of time for payment or any release of any security, this Agreement shall continue as general and collateral security for the Loan Indebtedness and

observance and performance of all of the Loan Obligations. This Agreement and the assignments granted hereby are in addition to and not in substitution for any other security now or hereafter held by the Assignee and this Agreement will remain in full force and effect until registration of a complete discharge of the Mortgage by the Assignee, which discharge shall be deemed to be a reassignment of this Agreement and the Assigned Rights and Benefits in favour of the Assignor. On the complete discharge of the Mortgage, the Assignee will, at the request and at the sole cost and expense of the Assignor, execute and deliver to the Assignor such instruments in registrable form as may be necessary to evidence the termination of this Agreement and the reassignment to the Assignor of the Assigned Rights and Benefits.

2.16 Reassignment/Discharge

The Assignee may, at any time and whether or not an Event of Default has occurred, without further request or agreement by the Assignor, reassign to the Assignor, its successors and assigns, the Assigned Rights and Benefits or any part or parts thereof, by an instrument of reassignment in writing executed by the Assignee delivered to the Assignor, its successors and assigns, at the address for notice herein provided. Such instrument upon delivery shall constitute a good and sufficient reassignment of all of the Assignee's right, title and interest in and benefit of the Assigned Rights and Benefits to which it pertains and a good and valid release and termination of obligations (if any) of the Assignee with respect thereto. Such reassignment shall not expressly or impliedly constitute any representation or warranty by the Assignee to the Assignor as to the Assigned Rights and Benefits or anything related thereto.

ARTICLE 3 MISCELLANEOUS

3.1 Payments

All payments required to be made by the Assignor to the Assignee under this Agreement will be made at the address of the Assignee set out in Section 3.9 (or at any other place specified by the Assignee by written notice to the Assignor) in immediately available funds in lawful Canadian currency, without any set off, counter claim or deduction.

3.2 Failure of Indulgence Not Waiver

No extension of time, waiver, or other indulgence given by the Assignee to the Assignor, or anyone claiming under the Assignor, shall in any way affect or prejudice the rights of the Assignee against the Assignor or any Covenantor unless explicitly set forth in writing and signed by the waiving party. No failure to exercise or delay in exercising any right, remedy, power or privilege arising from this Agreement will operate or be construed as a waiver thereof, nor will any single or partial exercise of any right, remedy, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Each power and right under this Agreement is cumulative and is in addition to and not in substitution for any other rights and remedies at law, or in equity or otherwise.

3.3 Modification

No modification or waiver of this Agreement is binding on the Assignee unless made in writing and signed by a duly authorized officer of the Assignee.

3.4 Entire Agreement

On execution and delivery by the Assignor, this Agreement is deemed to be finally executed and delivered by the Assignor to the Assignee and is not subject to or affected by any condition as to the receipt by the Assignee of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Assignee of any other Loan Documents, nor by any promise or condition affecting the liability of the Assignor. No agreement, promise, representation or statement by the Assignee or any of its officers, employees or agents unless in this Agreement forms part of this Agreement, has induced the making of it or affects the liability of the Assignor or any Covenantor under it.

3.5 Severability

If any Section or part thereof of this Agreement is invalid or unenforceable for any reason, then such Section or part thereof will be severable from this Agreement and will not affect the validity or enforceability of any other part of this Agreement.

3.6 Non-Merger

The giving of this Agreement is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default that is continuing, proceedings may be taken under this Agreement, the Mortgage, or any of the other Security Documents or any one or more of them at the option of the Assignee.

3.7 Paramountcy

The provisions of any agreement between the Assignor and the Assignee in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Agreement except where inconsistent with the provisions hereof. In the case of any inconsistency between this Agreement and the Mortgage, the provisions of the Mortgage, as the case may be, shall prevail.

3.8 Assignability

The Assignor hereby consents to the Assignee assigning, transferring or selling all or any portion of its interest under this Agreement in connection with the proportionate assignment, transfer or sale of its interest in the Loan Indebtedness and the Loan Obligations. Without limiting the foregoing, the Assignee may enter into participation, contending or syndication agreements with other lenders in connection with this

Agreement, the Loan Indebtedness and the Loan Obligations. The Assignee may provide information of a financial or other nature to any prospective assignee or transferee or other lenders concerning the Assignor, this Agreement, the Loan Indebtedness and the Loan Obligations.

3.9 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Agreement shall be in writing and shall be delivered by personal delivery, prepaid courier service, postage prepaid registered mail or by electronic or digital transmission to the relevant party, addressed:

(a) to the Assignor:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Assignor's solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Assignee:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business

day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

3.10 Expenses, Fees and Indemnity

The Assignor will pay to the Assignee all costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Assignee in connection with the collection of any amount payable under this Agreement by the Assignor to the Assignee. The Assignor shall indemnify the Assignee against all claims, loss or damages arising out of or in connection with any breach or default by the Assignor under this Agreement.

3.11 Applicable Law

This Agreement and the rights and obligations of the Assignor and the Assignee under it are governed by and construed according to the laws of the jurisdiction in which the Property is situate and the laws of Canada applicable therein.

3.12 Time of the Essence

Time is of the essence of this Agreement.

3.13 Execution by the Assignee

This Agreement need not be executed by the Assignee to be binding on and to enure to the benefit of the Assignee.

3.14 Counterparts

This Agreement may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document. A signed copy of this Agreement or a counterpart of it delivered by email, facsimile or other means of electronic or digital transmission or signature is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

3.15 Further Assurances

The Assignor will promptly do all further acts and execute and deliver such further documents as the Assignee considers necessary or advisable to carry out the terms or intent of this Agreement.

3.16 Successors and Assigns

This Agreement is binding on and enures to the benefit of the Assignee and the Assignor, and their respective executors, administrators, successors and assigns and to any Person to whom the Assignee may grant any participation in this Agreement, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Assignee under this Agreement or any of the Assignee's interest herein or in the Loan Indebtedness and the Loan Obligations.

3.17 Multiple Parties

If the Assignor consists of more than one party, this Agreement will be read with all necessary grammatical changes and each reference to the Assignor includes each and every such Person individually. All covenants and agreements herein of the Assignor are the joint and several covenants and agreements of each such Person or corporation. If the Assignee consists of more than one party, this Agreement will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Assignee under this Agreement.

-- signatures follow on next page --

IN WITNESS WHEREOF the Assignor has executed this Agreement as of the date and year first written above.

688 SOUTHDOWN GP INC., in its capacity
as general partner for and on behalf of **688**
SOUTHDOWN LP

Per: 

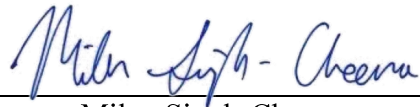
Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

**T
A
B**

LL

THIS IS **EXHIBIT "LL"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line underneath it.

Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

ASSIGNMENT OF INSURANCE

THIS AGREEMENT made as of the ___ day of July, 2022.

B E T W E E N:

688 SOUTHDOWN GP INC., in its capacity as general partner for and on behalf of **688 SOUTHDOWN LP**

(the "Assignor")

OF THE FIRST PART

- and -

KINGSETT MORTGAGE CORPORATION

(the "Assignee")

OF THE SECOND PART

WHEREAS the Assignor, as mortgagor, has granted a mortgage (the "**Mortgage**") to and in favour of the Assignee, as mortgagee, of the lands and premises charged therein (the "**Property**"), notice of which was registered on the date hereof in the Land Registry Office for the Land Titles Division of Peel (No. 43) to secure the payment of principal, interest and other monies and the performance of all obligations arising thereunder, as amended, modified, supplemented or replaced from time to time;

AND WHEREAS as a condition for the Borrower receiving the Loan Indebtedness, the Assignor agreed to assign to the Assignee, its successors and assigns, as a further continuing and collateral security for the payment of the Loan Indebtedness and observance and performance of the Loan Obligations, all of the Assignor's right, title and interest in and to the Policies;

NOW THEREFORE IN CONSIDERATION of the recitals, the Assignee extending the Loan Indebtedness and for such other good and valuable consideration received by the Assignor, the receipt and adequacy of which is acknowledged by the Assignor, the Assignor agrees with the Assignee as follows:

ARTICLE 1 **DEFINITIONS, INTERPRETATION**

1.1 Definitions

Capitalized terms that are not defined herein have the meanings set out in the Mortgage. Otherwise, in this Agreement:

- (a) "**Indebtedness**", in respect of any Person, is used in its most comprehensive sense and includes any and all advances, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities and undertakings of such Person at any time

assumed, incurred or made, however arising, whether or not now due, absolute or contingent, liquidated or unliquidated, direct or indirect, and whether such Person is liable individually or jointly with others, irrespective of the regularity or validity thereof or of any security therefor;

- (b) "**Loan Indebtedness**" means any Indebtedness from time to time of the Assignor or any of the other Covenantors to the Assignee arising under any of the Loan Documents;
- (c) "**Loan Obligations**" means the obligations of the Assignor or any of the other Covenantors arising under the Loan Documents;
- (d) "**Policies**" means any and all insurance policies maintained by the Assignor in respect of the Property, including without limitation, those Policies reflected in the certificates attached in Schedule "A" hereto, as they may be amended, restated, modified, supplemented, renewed or replaced from time to time.

1.2 Interpretation

For the purposes of this Agreement, all references to the singular include the plural where the context so admits, the masculine to include the feminine and neuter gender and, where necessary, a body corporate, and vice versa.

1.3 Headings

In this Agreement, the headings have been inserted for reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Agreement.

ARTICLE 2 **AGREEMENT**

2.1 Assignment

The Assignor does hereby assign, transfer and set over unto the Assignee, as additional insured and loss payee as the Assignee's interest may appear, all of the Assignor's right, title and interest, in the entire amount of proceeds from time to time payable to the Assignor with respect to the Property under any and all Policies, whether now or hereafter existing, in each case subject to the terms and conditions of the Permitted Encumbrances, and the rights of the creditors of the Assignor and other parties with, in each case, priority to collect such proceeds, and with full power, following the occurrence of an Event of Default which is continuing, to receive all money payable, held or accumulated as aforesaid with respect to such Policies, and to grant receipts thereof which shall effectually discharge the issuing insurance companies thereof (the "**Insurers**") and exonerate the Insurers from seeing to the application of the money therein acknowledged to have been received and from being accountable for any disposition thereof or dealing therewith. Without restricting the generality of the foregoing, all of the Assignor's rights and benefits under the Policies are hereby vested in the Assignee, including the right to bring action to recover monies under the Policies. Provided however that nothing contained in this Agreement shall be construed

so as to oblige the Assignee to pay any premiums owing under the policies or to otherwise maintain the Policies in good standing.

2.2 Covenants

So long as the Loan Indebtedness and the Loan Obligations, or any portion thereof, remains outstanding, the Assignor shall:

- (a) keep and maintain insurance on the Property in accordance with the requirements of the Assignee as set forth in the Loan Documents;
- (b) pay all premiums owing in respect of the Policies as the same become due;
- (c) refrain from committing or omitting any acts which could or would affect the validity or enforceability of the Policies; and
- (d) from time to time, at the reasonable request of the Assignee, provide the Assignee with evidence that the Policies have been obtained and are in good standing.

2.3 Power of Attorney

Effective upon, and during the continuance of, an Event of Default, the Assignor hereby constitutes and appoints any officer or director of the Assignee from time to time, or any receiver appointed of the Assignor, the true and lawful attorney of the Assignor irrevocably with full power of substitution to do, make and execute all such documents, acts, matters or things with the right to use the name of the Assignor whenever and wherever it may be deemed necessary or expedient in connection with the exercise of its rights and remedies set forth in this Agreement. The Assignor hereby declares that the irrevocable power of attorney granted hereby, being coupled with an interest, is given for valuable consideration.

2.4 Reassignment/Discharge

The Assignee may, at any time and whether or not an Event of Default has occurred, without further request or agreement by the Assignor, reassign to the Assignor, its successors and assigns, all or any of the Policies by an instrument of reassignment in writing executed by the Assignee delivered to the Assignor, its successors and assigns, at the address for notice herein provided. Such instrument upon delivery shall constitute a good and sufficient reassignment of all of the Assignee's right, title and interest in and benefit of the Policies to which it pertains and a good and valid release and termination of obligations (if any) of the Assignee with respect thereto. Such reassignment shall not expressly or impliedly constitute any representation or warranty by the Assignee to the Assignor as to the Policies or anything related thereto. Upon registration of a discharge of the Mortgage, this Agreement shall thereupon become and be of no force or effect. At such time as the Mortgage has been discharged, the Assignee will, upon the request of the Assignor, and at the sole cost and expense of the Assignor, execute and deliver to the Assignor such instruments as may be necessary or effective, in registrable form, to evidence the termination of this Agreement and/or the reassignment to the Assignor of the Policies.

ARTICLE 3
MISCELLANEOUS

3.1 Payments

All payments required to be made by the Assignor to the Assignee under this Agreement will be made at the address of the Assignee set out in Section 3.9 (or at any other place specified by the Assignee by written notice to the Assignor) in immediately available funds in lawful Canadian currency, without any set off counter claim or deduction.

3.2 Failure of Indulgence Not Waiver

No failure or delay by the Assignee in the exercise of any power or right under this Agreement constitutes a waiver thereof, nor does any exercise of any such power or right preclude any other exercise of same. Each power and right under this Agreement is cumulative with, and not exclusive of, any power or right otherwise available.

3.3 Modification

No modification or waiver of this Agreement is binding on the Assignee unless made in writing and signed by a duly authorized officer of the Assignee.

3.4 Entire Agreement

On the execution and delivery by the Assignor, this Agreement is deemed to be finally executed and delivered by the Assignor to the Assignee and is not subject to or affected by any condition as to the receipt by the Assignee of any of the other Security Documents or as to the execution and delivery by any of the other Covenantors to the Assignee of any other Loan Documents, nor by any promise or condition affecting the liability of the Assignor. No agreement, promise, representation or statement by the Assignee or any of its officers, employees or agents unless in this Agreement forms part of this Agreement, has induced the making of it or affects the liability of the Assignor and any Covenantor under it.

3.5 Severability

If any part or provision of this Agreement is determined to be invalid, illegal or unenforceable, it will be severable from this Agreement and the remainder of this Agreement will be construed as if such invalid, illegal or unenforceable provision or part had been deleted.

3.6 Non-Merger

The giving of this Agreement is by way of additional and collateral security for the payment of the Loan Indebtedness and the performance of the Loan Obligations and not in substitution for or in satisfaction thereof, and the Commitment Letter, the Mortgage or any of the other Loan Documents shall not be merged hereby and in case of an Event of Default

that is continuing, proceedings may be taken under this Agreement, the Mortgage, or any of the other Security Documents or any one or more of them at the option of the Assignee.

3.7 Paramountcy

The provisions of any agreement between the Assignor and the Assignee in connection with the Loan Indebtedness, including but not limited to any loan application in respect thereof, the Mortgage and all of the other Loan Documents, shall form part of this Agreement except where inconsistent with the provisions hereof. In the case of any inconsistency between this Agreement and the Mortgage, the provisions of the Mortgage shall prevail.

3.8 Assignability

The Assignor hereby consents to the Assignee assigning, transferring or selling all or any portion of its interest under this Agreement, the Loan Indebtedness and the Loan Obligations and without limiting the foregoing, the Assignee may enter into participation, contending or syndication agreements with other lenders in connection with this Agreement, the Loan Indebtedness and the Loan Obligations. The Assignee may provide information of a financial or other nature to any prospective assignee, transferee, purchaser or other lenders concerning the Assignor, this Agreement, the Loan Indebtedness and the Loan Obligations.

3.9 Notices

Any notice, demand, approval, consent, information, agreement, offer, payment, request or other communication to be given under or in connection with this Agreement shall be in writing and shall be delivered in Person, transmitted by e-mail or similar means of recorded electronic communication or sent by registered mail, charges pre-paid, addressed:

(a) to the Assignor:

2680 Royal Windsor Drive
Mississauga, Ontario
L5J 1K7

Attention: Michael Moldenhauer
Email: mm@moldenhauer.ca
Facsimile: 416-637-9633

with a copy to the Assignor's solicitors at

Northview Law
49 Queen Street North
Bolton, Ontario
L7E 1C1

Attention: Danny McMullen
Email: dmcullen@northviewlaw.com

(b) to the Assignee:

Scotia Plaza
40 King Street West, Suite 3700,
Toronto, Ontario
M5H 3Y2

Attention: Scott Coates
Email: SCoates@kingsettcapital.com
Facsimile: 416-687-6701

and such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a business day or if delivery or transmission is made on a business day after 5:00 p.m. at the place of receipt, then on the next following business day) or, if mailed, on the third (3rd) business day following the date of mailing; provided, however, that if at the time of mailing or within three (3) business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid. Each party may change its address for notice by providing notice of same in accordance with the foregoing.

3.10 Expenses, Fees and Indemnity

The Assignor will pay to the Assignee all reasonable costs, charges and expenses, including all administrative fees, legal fees and professional fees, incurred by the Assignee in connection with the collection of any amount payable under this Agreement by the Assignor to the Assignee. The Assignor shall indemnify the Assignee against all claims, loss or damages arising out of or in connection with any breach or default by the Assignor under this Agreement.

3.11 Applicable Law

This Agreement and the rights and obligations of the Assignor and the Assignee under it are governed by and construed according to the laws of the jurisdiction in which the Property are situate (the "**Province**") and the laws of Canada applicable therein.

3.12 Time of the Essence

Time is of the essence of this Agreement.

3.13 Jurisdiction

Any legal action or proceeding with respect to this Agreement may be brought, in the discretion of the Assignee, in the courts of the Province or in such other courts as the

Assignee in its sole discretion elects and the Assignor irrevocably submits to each such jurisdiction.

3.14 Execution by the Assignee

This Agreement need not be executed by the Assignee to be binding on and to enure to the benefit of the Assignee.

3.15 Counterparts

This Agreement may be executed in any number of counterparts, each of which will constitute an original, but all of which together will constitute one and the same document, and such will not affect the obligations of the Assignor under this Agreement. This Agreement or counterparts hereof may be executed by fax or email PDF, and the parties shall adopt any signatures provided or received by fax or email PDF as original signatures of the applicable party or parties, provided that any party providing its signature by fax or email PDF shall promptly forward to the other party a copy of this Agreement with an original signature.

3.16 Further Assurances

The Assignor will promptly do all further acts and execute and deliver further documents as the Assignee considers necessary or advisable to carry out the terms or intent of this Agreement.

3.17 Successors and Assigns

This Agreement is binding on and enures to the benefit of the Assignee and the Assignor, and their respective executors, administrators, successors and assigns and to any Person to whom the Assignee may grant any participation in this Agreement, the Loan Indebtedness or any of the Loan Obligations or any power, remedy or right of the Assignee under this Agreement or any of the Assignee's interest herein or in the Loan Indebtedness and the Loan Obligations.

3.18 Multiple Parties

If the Assignor consists of more than one party, this Agreement will be read with all necessary grammatical changes and each reference to the Assignor includes each and every such Person or corporation individually. All covenants and agreements herein of the Assignor are the joint and several covenants and agreements of each such Person or corporation. If the Assignee consists of more than one party, this Agreement will be read with all necessary grammatical changes and each such party or any one or more of them is entitled to enforce each right and remedy of the Assignee under this Agreement.

-- signatures follow on next page --

IN WITNESS WHEREOF the Assignor has executed this Agreement as of the date and year first written above.

688 SOUTHDOWN GP INC., in its capacity
as general partner for and on behalf of **688**
SOUTHDOWN LP

Per: 

Name: Michael Moldenhauer
Title: Authorized Signing Officer

Per: _____
Name:
Title:

SCHEDULE "A"
INSURANCE CERTIFICATE

Please see attached.

This is to certify that the Policy(ies) of insurance listed below ("Policy" or "Policies") have been issued to the Named Insured identified below for the policy period(s) indicated. This certificate is issued as a matter of information only and confers no rights upon the Certificate Holder named below other than those provided by the Policy(ies).

Notwithstanding any requirement, term, or condition of any contract or any other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the Policy(ies) is subject to all the terms, conditions, and exclusions of such Policy(ies). This certificate does not amend, extend, or alter the coverage afforded by the Policy(ies). Limits shown are intended to address contractual obligations of the Named Insured.

Limits may have been reduced since Policy effective date(s) as a result of a claim or claims.

Certificate Holder: KingSett Mortgage Corporation Scotia Plaza, 40 King Street West Suite 3700, PO Box 110 Toronto, ON M5H 3Y2	Named Insured and Address: 688 Southdown LP 1125 Clarkson Rd. North Mississauga, ON L5J 2W1
---	---

This certificate is issued regarding:

Loan No. - Ln5241

688 Southdown Road, Mississauga, ON, L5J 2Y4 - a 91-acre future industrial site (80 acres developable) in Mississauga, ON
 Square Footage: +/- 1,700,000 square feet of Class A industrial buildings

Type(s) of Insurance	Insurer(s)	Policy Number(s)	Effective/Expiry Dates	Sums Insured Or Limits of Liability	
COMMERCIAL GENERAL LIABILITY • Cross Liability • Severability of Interest • Contractual Liability • Primary & Non-Contributory • Waiver of subrogation (only when required by contract)	XL Specialty Insurance Company	BOWCI2151502	Sep 09, 2021 to Sep 09, 2022	Each Occurrence (inclusive of bodily injury and/or property damage)	CDN 5,000,000
				Products & Completed Operations Aggregate	CDN 5,000,000
				Personal & Advertising Injury	CDN 5,000,000
				Non - Owned Auto	CDN 1,000,000
				Tenants Legal Liability	CDN 2,000,000
				Sudden & Accidental Pollution (120 hours)	CDN 5,000,000 Limited Pollution Liability
				Employee Benefits	CDN 2,000,000 any one person employed and in the annual aggregate
				Contingent Employers Liability	CDN 2,000,000 any one employee and in the annual aggregate
				Forest Firefighting Expense	CDN 1,000,000 Aggregate limit
				Deductible	CDN 5,000 Each and every claim except
				Deductible	CDN 10,000 in respect of Fire Fighting Expense (as per Memorandum CGL006)
				Deductible	CDN 1,000 in respect of Tenant's Legal Liability
Deductible	CDN 1,000 in respect of Employee Benefits Liability				

Additional Information:

It is hereby agreed and understood that KingSett Mortgage Corporation is added to the Commercial General Liability Policy as Additional Insured, but only with respect to liability arising out of the operations of the Named Insured.

South Shore Holdings LP is added as Named Insured.

Notice of cancellation:

Should any of the policies described herein be cancelled before the expiration date thereof, the insurer(s) affording coverage will mail 30 days written notice to the certificate holder named herein.

No.: **2021-156-REV-1**Dated: **September 09, 2021**

This document supersedes any certificate previously issued under this number

Marsh Canada Limited

120 Bremner Boulevard
Suite 800
Toronto, ON M5J 0A8
Telephone: 1-844-990-2378
Fax: (416)-3494518
constructioncertrequests@marsh.com

Marsh Canada Limited

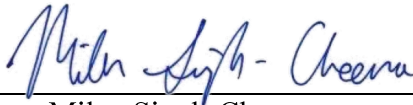
By: 

Brian LeNguyen

**T
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B**

MM

THIS IS **EXHIBIT "MM"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line underneath it.

Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

LAND
REGISTRY
OFFICE #43

13493-0190 (LT)

PAGE 1 OF 2
PREPARED FOR JZHANG01
ON 2024/02/05 AT 15:11:23

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

PROPERTY DESCRIPTION: PT LT 31,32 CON 3 SDS DES PTS 1,2 PL 43R11375 SAVE & EXCEPT PTS 1,2,3 PL 43R21957,EXCEPT PT 1 43R22260, EXCEPT PT 1 43R25470, EXCEPT PTS 1, 2, 3 PL 43R25635, EXCEPT PT 1 PL 43R28305 MISSISSAUGA.S/T EASEMENT IN FAVOUR OF INTERPROVINCIAL PIPE LINE COMPANY OVER PT LT 32 CON 3 SDS DES PT 2 PL 43R11375 EXCEPT PT 2 PL 43R21957 AS IN TT102320, TT104152.T/W EASEMENT OVER PT LT 32 CON 3 SDS DES PT 3 PL 43R21957 AS IN LT1712946

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
ABSOLUTE

RECENTLY:
DIVISION FROM 13493-0186

PIN CREATION DATE:
2003/10/27

OWNERS' NAMES
2226 ROYAL WINDSOR GP INC.
2226 ROYAL WINDSOR LP

CAPACITY SHARE
GPAR
FIRM

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<i>** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **</i>						
TT102320	1957/03/12	PLAN MISCELLANEOUS				C
TT104152	1957/06/25	TRANSFER EASEMENT			INTERPROVINCIAL PIPE LINE COMPANY	C
43R11375	1984/01/06	PLAN REFERENCE				C
43R11520	1984/03/27	PLAN REFERENCE				C
43R18046	1990/08/28	PLAN REFERENCE				C
PR1032278	2006/03/22	NOTICE	\$2	LUSHES AVENUE DEVELOPMENTS INC.	STANDARD RADIO INC.	C
PR1032308	2006/03/22	NOTICE	\$2	CASACO DEVELOPMENTS INC.	STANDARD RADIO INC.	C
PR1366922	2007/11/05	NOTICE OF LEASE		STANDARD RADIO INC.	4382072 CANADA INC. ASTRAL MEDIA RADIO (TORONTO) INC. ASTRAL MEDIA RADIO G.P	C
<i>CORRECTIONS: 'PARTY: ASTRAL MEDIA RADIO G.P' ADDED ON 2007/11/08 BY PAULINE CARTER.</i>						
PR4056044	2022/05/24	LR'S ORDER <i>REMARKS: AMEND DESCRIPTION</i>		LAND REGISTRAR, PEEL LAND REGISTRY OFFICE		C
PR4082506	2022/07/08	TRANSFER <i>REMARKS: PLANNING ACT STATEMENTS.</i>	\$22,500,000	SLAIGHT COMMUNICATIONS INC.	2226 ROYAL WINDSOR GP INC. 2226 ROYAL WINDSOR LP	C
PR4082507	2022/07/08	CHARGE PARTNERSHIP	\$43,750,000	2226 ROYAL WINDSOR GP INC. 2226 ROYAL WINDSOR LP	KINGSETT MORTGAGE CORPORATION	C
PR4082508	2022/07/08	NO ASSGN RENT GEN		2226 ROYAL WINDSOR GP INC.	KINGSETT MORTGAGE CORPORATION	C

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

LAND
REGISTRY
OFFICE #43

13493-0190 (LT)

PAGE 2 OF 2
PREPARED FOR JZHANG01
ON 2024/02/05 AT 15:11:23

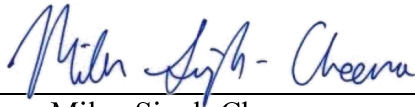
* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
	REMARKS: PR4082507			2226 ROYAL WINDSOR LP		

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NN

THIS IS **EXHIBIT "NN"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line underneath it.

Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 2226 Royal Windsor LP

FILE CURRENCY: February 4, 2024

RESPONSE CONTAINS: APPROXIMATELY 1 FAMILIES and 2 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE
INTERPRETATION AND USE THAT ARE MADE OF IT.

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 2226 Royal Windsor LP

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 1 OF 2

SEARCH : BD : 2226 ROYAL WINDSOR LP

00 FILE NUMBER : 784693233 EXPIRY DATE : 07JUL 2027 STATUS :
01 CAUTION FILING : PAGE : 001 OF 2 MV SCHEDULE ATTACHED :
REG NUM : 20220707 1054 9234 3651 REG TYP: P PPSA REG PERIOD: 5
02 IND DOB : IND NAME:
03 BUS NAME: 2226 ROYAL WINDSOR GP INC.
OCN :
04 ADDRESS : 2680 ROYAL WINDSOR DRIVE
CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5J 1K7
05 IND DOB : IND NAME:
06 BUS NAME: 2226 ROYAL WINDSOR LP
OCN :
07 ADDRESS : 2680 ROYAL WINDSOR DRIVE
CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5J 1K7

08 SECURED PARTY/LIEN CLAIMANT :
KINGSETT MORTGAGE CORPORATION
09 ADDRESS : 3700-40 KING STREET WEST, SCOTIA PLAZA
CITY : TORONTO PROV: ON POSTAL CODE: M5H 3Y2
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10 X X X X X
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 ALL OF THE DEBTORS' PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY
14 LOCATED AT, RELATING TO, ARISING FROM OR USED IN CONNECTION WITH, OR
15 WHICH IS NECESSARY TO THE USE AND OPERATION OF THE PROPERTY
16 AGENT: BENNETT JONES LLP (O'GRADY/59445-96/OD)
17 ADDRESS : 3400-1 FIRST CANADIAN PLACE
CITY : TORONTO PROV: ON POSTAL CODE: M5X 1A4

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 2226 Royal Windsor LP

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 2 OF 2

SEARCH : BD : 2226 ROYAL WINDSOR LP

00 FILE NUMBER : 784693233 EXPIRY DATE : 07JUL 2027 STATUS :
01 CAUTION FILING : PAGE : 002 OF 2 MV SCHEDULE ATTACHED :
REG NUM : 20220707 1054 9234 3651 REG TYP: REG PERIOD:
02 IND DOB : IND NAME:
03 BUS NAME:
OCN :
04 ADDRESS :
CITY : PROV: POSTAL CODE:
05 IND DOB : IND NAME:
06 BUS NAME:
OCN :
07 ADDRESS :
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :
CITY : PROV: POSTAL CODE:
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 MUNICIPALLY KNOWN AS 2226 ROYAL WINDSOR DRIVE, MISSISSAUGA, ONTARIO
14 AND ALL PROCEEDS THEREFROM

15

16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

LAST SCREEN

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 2226 Royal Windsor GP Inc

FILE CURRENCY: February 4, 2024

RESPONSE CONTAINS: APPROXIMATELY 1 FAMILIES and 2 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE
INTERPRETATION AND USE THAT ARE MADE OF IT.

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 2226 Royal Windsor GP Inc

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 1 OF 2

SEARCH : BD : 2226 ROYAL WINDSOR GP INC

00 FILE NUMBER : 784693233 EXPIRY DATE : 07JUL 2027 STATUS :
01 CAUTION FILING : PAGE : 001 OF 2 MV SCHEDULE ATTACHED :
REG NUM : 20220707 1054 9234 3651 REG TYP: P PPSA REG PERIOD: 5
02 IND DOB : IND NAME:
03 BUS NAME: 2226 ROYAL WINDSOR GP INC.
OCN :
04 ADDRESS : 2680 ROYAL WINDSOR DRIVE
CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5J 1K7
05 IND DOB : IND NAME:
06 BUS NAME: 2226 ROYAL WINDSOR LP
OCN :
07 ADDRESS : 2680 ROYAL WINDSOR DRIVE
CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5J 1K7

08 SECURED PARTY/LIEN CLAIMANT :
KINGSETT MORTGAGE CORPORATION
09 ADDRESS : 3700-40 KING STREET WEST, SCOTIA PLAZA
CITY : TORONTO PROV: ON POSTAL CODE: M5H 3Y2
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10 X X X X X
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 ALL OF THE DEBTORS' PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY
14 LOCATED AT, RELATING TO, ARISING FROM OR USED IN CONNECTION WITH, OR
15 WHICH IS NECESSARY TO THE USE AND OPERATION OF THE PROPERTY
16 AGENT: BENNETT JONES LLP (O'GRADY/59445-96/OD)
17 ADDRESS : 3400-1 FIRST CANADIAN PLACE
CITY : TORONTO PROV: ON POSTAL CODE: M5X 1A4

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 2226 Royal Windsor GP Inc

FILE CURRENCY: February 4, 2024

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 1 ENQUIRY PAGE : 2 OF 2

SEARCH : BD : 2226 ROYAL WINDSOR GP INC

00 FILE NUMBER : 784693233 EXPIRY DATE : 07JUL 2027 STATUS :
01 CAUTION FILING : PAGE : 002 OF 2 MV SCHEDULE ATTACHED :
REG NUM : 20220707 1054 9234 3651 REG TYP: REG PERIOD:
02 IND DOB : IND NAME:
03 BUS NAME:
OCN :
04 ADDRESS :
CITY : PROV: POSTAL CODE:
05 IND DOB : IND NAME:
06 BUS NAME:
OCN :
07 ADDRESS :
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :
CITY : PROV: POSTAL CODE:
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 MUNICIPALLY KNOWN AS 2226 ROYAL WINDSOR DRIVE, MISSISSAUGA, ONTARIO
14 AND ALL PROCEEDS THEREFROM

15

16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

LAST SCREEN

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

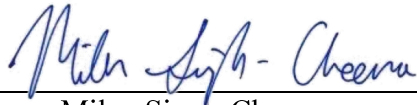
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A

B

OO

THIS IS **EXHIBIT "OO"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)



Bennett Jones

Bennett Jones LLP
3400 One First Canadian Place, PO Box 130
Toronto, Ontario, Canada M5X 1A4
Tel: 416.863.1200 Fax: 416.863.1716

Sean H. Zweig
Partner
Direct Line: 416.777.6254
e-mail: zweigs@bennettjones.com

January 12, 2024

DELIVERED VIA COURIER AND EMAIL

**759 Winston Churchill GP Inc., in its capacity as
general partner for and on behalf of 759 Winston
Churchill L.P.**

1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

McCarthy Tetrault LLP

5300 – 66 Wellington Street West
Toronto, ON M5K 1E6
Attention: Sarit Pandya

Dear Sirs/Mesdames:

Re: Indebtedness of 759 Winston Churchill L.P. (the “Borrower”) to KingSett Mortgage Corporation (the “Lender”) in Respect of 759 Winston Churchill Road, Mississauga, Ontario

We are counsel to the Lender. As you know, the Borrower is indebted to the Lender pursuant to a Commitment Letter dated January 18, 2022, as amended by a letter amendment dated March 20, 2023 (the “**Commitment Letter**”), under which the Lender extended to the Borrower the following loans: (i) a First Mortgage in the principal amount of \$205,000,000 (the “**Mortgage Facility**”); and (ii) a Letter of Credit (cash in lieu) in the principal amount of \$7,653,864 (the “**LC Facility**”). Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Commitment Letter.

As general and continuing security for the payment and performance of the Borrower’s indebtedness and obligations under the Commitment Letter, the Lender was granted various security (collectively, the “**Security**”) including, without limitation: (i) a first ranking mortgage/charge in the amount of \$250,000,000 (the “**Mortgage**”) over the property more particularly described in Schedule “A” appended hereto (the “**Property**”); and (ii) a General Security Agreement dated February 16, 2022.

The Borrower’s obligations are also guaranteed by: (i) WPAM Royal Windsor GP Inc., in its capacity as general partner for and on behalf of WPAM Royal Windsor Limited Partnership (the “**WPAM Guarantor**”) and RW GP Inc., in its capacity as general partner for and on behalf of RW Limited Partnership (the “**RW Guarantor**”) pursuant to a Guarantee dated February 16, 2022 (the “**Churchill Guarantee**”); (ii) 2712611 Ontario Corp., Obayashi Canada Ltd. and South Shore GP Inc., in its capacity as general partner for and on behalf of Southshore Holdings LP (collectively, the “**Limited Recourse Guarantors**” and together with the RW Guarantor and

WPAM Guarantor, the “**Guarantors**”) pursuant to a Limited Recourse Guarantee dated February 16, 2022 (the “**Limited Recourse Guarantee**”); and (iii) WPAM Guarantor and RW Guarantor pursuant to a Project Completion and Cost Overrun Guarantee dated February 16, 2022 (the “**Overrun Guarantee**”, together with the Churchill Guarantee and Limited Recourse Guarantee, the “**Guarantees**”). The Guarantors’ obligations under the Guarantees are secured by various security granted in favor of the Lender (collectively, the “**Collateral Security**”) including, without limitation, the security pledged pursuant to the Pledge Agreement dated February 16, 2022 by and between the Limited Recourse Guarantors and the Lender.

We are advised by the Lender that events of default under the terms of the Commitment Letter and Mortgages have occurred and are continuing, including, among other things, the failure to pay monthly payments of interest in accordance with section A12 of the Commitment Letter and 3(b) of the Mortgage (collectively with any other events of default having occurred and continuing under the Commitment Letter and Mortgage as of the date of this letter, the “**Events of Default**”). As a result of the Events of Default, the Lender hereby: (i) declares the entire amount of the Borrower’s indebtedness to the Lender (the “**Indebtedness**”) due and payable; and (ii) demands repayment of the Indebtedness in full by no later than 10 days from the date of this letter, which as of January 11th, 2024 is in the amount of \$155,595,894.55, comprised of the following:

Mortgage Facility

Principal Balance	\$144,825,346.13
Outstanding Interest	\$2,589,794.61
Accrued Interest	\$424,556.49
Late Interest Charges	\$12,085.66
Discharge Fee	\$1,000.00
Estimated Legal Fees	\$10,000.00
Total	\$147,862,782.89

LC Facility

Principal Balance	\$7,653,864.00
Outstanding Interest	\$59,804.99
Accrued Interest	\$19,291.93
Late Interest Charges	\$150.74
Total	\$7,733,111.66

Interest accrues on the Indebtedness in accordance with the terms of the Commitment Letter and the Mortgage and will accrue until the Indebtedness is paid in full. Additionally, the Lender has incurred and is continuing to incur costs in relation to this matter and reserves the right to claim such amounts from the Borrower and/or the Guarantors. Payment of the Indebtedness can be made by electronic funds transfer to the Lender.

Please be advised that unless the Indebtedness, together with all applicable interest, fees, costs, legal expenses and disbursements, is paid in full within the 10-day period referred to above, the Lender will be entitled, and intends to, take whatever steps it considers necessary or appropriate to protect its rights and interests including, without limitation, commencing legal proceedings against the Borrower and/or the Guarantors, enforcing the Security and Collateral Security, and



January 12, 2024

Page 3

seeking the appointment of a receiver or receiver-manager. To that end, please find enclosed a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Should you consent to an earlier enforcement, please return an executed copy of the relevant enclosed Consent and Waiver to our office.

Nothing in this letter shall constitute or be deemed to be a waiver by the Lender of any breach, default, or event of default that has occurred to the date hereof and the Lender specifically reserves all of its rights and remedies at law or in equity or arising under or in connection with the Commitment Letter, the Security, the Guarantees and all documents and instruments provided in respect thereof. Further, the Lender expressly reserves its right to take such additional steps as are necessary at any time without further notice to you if the Lender becomes aware of any matter that may impair the Security or Collateral Security.

Yours truly,

BENNETT JONES LLP



Sean H. Zweig

Enclosures – Notice of Intention to Enforce Security, and Consents and Waivers

c: Aiden Nelms and Milan Singh-Cheema – Bennett Jones LLP



Schedule "A"
Property

PIN: 13493-0213(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 2 & 3 PLAN 43R39986; CITY OF MISSISSAUGA

PIN: 13493-0226(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 5 & 6 PLAN 43R39986; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA

PIN: 13493-0225(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PART 1 PLAN 43R39884; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA

FORM 86
NOTICE OF INTENTION TO ENFORCE A SECURITY
(SUBSECTION 244(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*)

TO: 759 Winston Churchill GP Inc., in its capacity as general partner for and on behalf of 759 Winston Churchill L.P. (collectively, the "**Debtors**" and each a "**Debtor**"), each an insolvent person.

TAKE NOTICE THAT:

1. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Commitment Letter dated January 18, 2022 as amended by a letter amendment dated March 20, 2023 (the "**Commitment Letter**") between, among others, 759 Winston Churchill GP Inc., in its capacity as general partner for and on behalf of 759 Winston Churchill L.P. (the "**Partnership**") and KingSett Mortgage Corporation (the "**Secured Party**" or "**KingSett**"), the mortgage/charge registered on title to the Property (as defined below) in favour of the Secured Party as Instrument No. PR3997327 (the "**Mortgage**"), as applicable.
2. KingSett, a secured creditor, intends to enforce its security on all of the following property and assets of the Debtors including, without limitation:
 - (a) the lands and premises more particularly described within Schedule "A" attached hereto (the "**Property**");
 - (b) the Collateral (as defined in the General Security Agreement dated February 16, 2022 (the "**GSA**"));
 - (c) all property and collateral against which the security interest bearing reference file number 765542457 has been registered pursuant to the *Personal Property Security Act* (Ontario); and
 - (d) all other assets, property and collateral that were assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security (as defined below) or the Commitment Letter.
3. The security that is to be enforced is in the form of all security delivered in connection with the Commitment Letter, including, among other things:
 - (a) the Mortgage executed by the Partnership in favour of the Secured Party;
 - (a) the GSA executed by the Partnership in favour of the Secured Party;
 - (b) the General Assignment of Leases and Rents dated February 16, 2022, executed by the Partnership in favour of the Secured Party;
 - (c) the General Assignment of Material Contracts dated February 16, 2022, executed by the Partnership in favour of the Secured Party;
 - (d) the Assignment of Insurance dated February 16, 2022, executed by the Partnership in favour of the Secured Party;

- (e) the Specific Assignment of Development Management Agreement with an acknowledgement of Kenaidan Contracting Ltd. dated February 16, 2022 and executed by the Partnership;
 - (f) the Specific Assignment of Development Management Agreement with an acknowledgement of 2668945 Ontario Corp. dated February 16, 2022 and executed by the Partnership; and
 - (g) all ancillary, supplemental and additional documents or instruments to each of the foregoing (collectively, the "**Security**").
1. The total amount of indebtedness secured by the security as of January 11, 2024 is \$155,595,894.55, (excluding accruing fees, expenses and costs).
 2. The Secured Party will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent company consents to an earlier enforcement. Consents and Waivers to earlier enforcement, which may be completed and executed by the relevant Debtor, are enclosed herewith.

DATED at Toronto, this 12th day of January, 2024.

**KINGSETT MORTGAGE
CORPORATION** by its solicitors, Bennett
Jones LLP



Sean Zweig

This Notice is a required document under the *Bankruptcy & Insolvency Act* (Canada) (the "**Act**"). The use of the word "insolvent" is prescribed by the Act but nothing herein shall be deemed to imply that any person to whom this Notice is delivered is, in fact, insolvent.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, 759 Winston Churchill GP Inc., in its capacity as general partner for and on behalf of 759 Winston Churchill L.P. (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

759 WINSTON CHURCHILL GP INC., in
its capacity as general partner for and on behalf
of **759 WINSTON CHURCHILL L.P.**

By: _____

Name:

Title:

I have authority to bind the corporation.

Schedule "A"
Property

PIN: 13493-0213(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 2 & 3 PLAN 43R39986; CITY OF MISSISSAUGA

PIN: 13493-0226(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 5 & 6 PLAN 43R39986; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA

PIN: 13493-0225(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PART 1 PLAN 43R39884; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA



Bennett Jones

Bennett Jones LLP
3400 One First Canadian Place, PO Box 130
Toronto, Ontario, Canada M5X 1A4
Tel: 416.863.1200 Fax: 416.863.1716

Sean H. Zweig
Partner
Direct Line: 416.777.6254
e-mail: zweigs@bennettjones.com

January 12, 2024

DELIVERED VIA COURIER AND EMAIL

WPAM Royal Windsor GP Inc., in its capacity as general partner for and on behalf of WPAM Royal Windsor Limited Partnership

1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

2712611 Ontario Corp.

1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

Southshore GP Inc., in its capacity as general partner for and on behalf of Southshore Holdings LP

1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

RW GP Inc. in its capacity as general partner for and on behalf of RW Limited Partnership

1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

Obayashi Canada Ltd.

1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

McCarthy Tetrault LLP

5300 – 66 Wellington Street West
Toronto, ON M5K 1E6
Attention: Sarit Pandya

Dear Sirs/Mesdames:

Re: Guarantees of Indebtedness of 759 Winston Churchill L.P. (the “Borrower”) to KingSett Mortgage Corporation (the “Lender”) in Respect of 759 Winston Churchill Road, Mississauga, Ontario

We are counsel to the Lender. As you know, the Borrower is indebted to the Lender pursuant to a Commitment Letter dated January 18, 2022, as amended by a letter amendment dated March 20, 2023 (the “**Commitment Letter**”) under which the Lender extended to the Borrower the following loans: (i) a First Mortgage in the principal amount of \$205,000,000 (the “**Mortgage Facility**”); and (ii) a Letter of Credit (cash in lieu) in the principal amount of \$7,653,864 (the “**LC Facility**”). Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Commitment Letter.

As general and continuing security for the payment and performance of the Borrower's indebtedness and obligations under the Commitment Letter, the Lender was granted various security (collectively, the "**Security**") including, without limitation: (i) a first ranking mortgage/charge in the amount of \$250,000,000 (the "**Mortgage**") over the property more particularly described in Schedule "A" appended hereto (the "**Property**"); and (ii) a General Security Agreement dated February 16, 2022.

The Borrower's obligations are also guaranteed by: (i) WPAM Royal Windsor GP Inc., in its capacity as general partner for and on behalf of WPAM Royal Windsor Limited Partnership (the "**WPAM Guarantor**") and RW GP Inc., in its capacity as general partner for and on behalf of RW Limited Partnership (the "**RW Guarantor**") pursuant to a Guarantee dated February 16, 2022 (the "**Churchill Guarantee**"); (ii) 2712611 Ontario Corp., Obayashi Canada Ltd. and Southshore GP Inc., in its capacity as general partner for and on behalf of Southshore Holdings LP (collectively, the "**Limited Recourse Guarantors**" and together with the RW Guarantor and WPAM Guarantor, the "**Guarantors**") pursuant to a Limited Recourse Guarantee dated February 16, 2022 (the "**Limited Recourse Guarantee**"); and (iii) WPAM Guarantor and RW Guarantor pursuant to a Project Completion and Cost Overrun Guarantee dated February 16, 2022 (the "**Overrun Guarantee**", together with the Churchill Guarantee and Limited Recourse Guarantee, the "**Guarantees**"). The Guarantors' obligations under the Guarantees are secured by various security granted in favor of the Lender (collectively, the "**Collateral Security**") including, without limitation, the security pledged pursuant to the Pledge Agreement dated February 16, 2022 by and between the Limited Recourse Guarantors, and the Lender.

We are advised by the Lender that events of default under the terms of the Commitment Letter and Mortgages have occurred and are continuing, including, among other things, the failure to pay monthly payments of interest in accordance with section A12 of the Commitment Letter and 3(b) of the Mortgage (collectively with any other events of default having occurred and continuing under the Commitment Letter and Mortgage as of the date of this letter, the "**Events of Default**"). As a result of the Events of Default, the Lender has issued a demand letter dated January 12th, 2024 (the "**Demand Letter**") to the Debtor declaring the entire amount of the Borrower's indebtedness to the Lender (the "**Indebtedness**") due and payable and demanding repayment of the Indebtedness in full by no later than 10 days from the date of this letter.

As of January 11, 2024 the Indebtedness is in the amount of \$155,595,894.55, Interest accrues on the Indebtedness in accordance with the terms of the Commitment Letter and the Mortgage and will accrue until the Indebtedness is paid in full. Additionally, the Lender has incurred and is continuing to incur costs in relation to this matter and reserves the right to claim such amounts from the Borrower and/or the Guarantors. Payment of the Indebtedness can be made by electronic funds transfer to the Lender.

In light of the Events of Default, and in connection with the Guarantees and Collateral Security, on behalf of the Lender we hereby demand payment of the Indebtedness from the Guarantors within 10 days of the date of this letter. Payment of the Indebtedness can be made by electronic funds transfer to the Lender.



January 12, 2024

Page 3

Please be advised that unless the Indebtedness, together with all applicable interest, fees, costs, legal expenses and disbursements, is paid in full within the 10-day period referred to above, the Lender will be entitled, and intends to, take whatever steps it considers necessary or appropriate to protect its rights and interests including, without limitation, commencing legal proceedings against the Borrower and/or the Guarantors, enforcing the Security and Collateral Security, and seeking the appointment of a receiver or receiver-manager. To that end, please find enclosed a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Should you consent to an earlier enforcement, please return an executed copy of the relevant enclosed Consent and Waiver to our office.

Nothing in this letter shall constitute or be deemed to be a waiver by the Lender of any breach, default, or event of default that has occurred to the date hereof and the Lender specifically reserves all of its rights and remedies at law or in equity or arising under or in connection with the Commitment Letter, the Security, the Guarantees and all documents and instruments provided in respect thereof. Further, the Lender expressly reserves its right to take such additional steps as are necessary at any time without further notice to you if the Lender becomes aware of any matter that may impair the Security or Collateral Security.

Yours truly,

BENNETT JONES LLP



Sean H. Zweig

Enclosures – Demand Letter, Notice of Intention to Enforce Security, and Consents and Waivers

c: Aiden Nelms and Milan Singh-Cheema – Bennett Jones LLP



Schedule "A"
Property

PIN: 13493-0213(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 2 & 3 PLAN 43R39986; CITY OF MISSISSAUGA

PIN: 13493-0226(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 5 & 6 PLAN 43R39986; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA

PIN: 13493-0225(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PART 1 PLAN 43R39884; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA

FORM 86
NOTICE OF INTENTION TO ENFORCE A SECURITY
(SUBSECTION 244(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*)

TO: WPAM Royal Windsor GP Inc., in its capacity as general partner for and on behalf of WPAM Royal Windsor Limited Partnership, RW GP Inc., in its capacity as general partner for and on behalf of RW Limited Partnership, 2712611 Ontario Corp., Obayashi Canada Ltd. and South Shore GP Inc., in its capacity as general partner for and on behalf of South Shore Holdings LP (collectively, the "**Debtors**" and each a "**Debtor**"), each an insolvent person.

TAKE NOTICE THAT:

1. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Commitment Letter dated January 18, 2022 as amended by a letter amendment dated March 20, 2023 (the "**Commitment Letter**") between, among others, 759 Winston Churchill GP Inc. in its capacity as general partner for and on behalf of 759 Winston Churchill L.P. and KingSett Mortgage Corporation (the "**Secured Party**" or "**KingSett**"), the mortgage/charge registered on title to the Property (as defined below) in favour of the Secured Party as Instrument No. PR3997327 (the "**Mortgage**"), as applicable.
2. KingSett, a secured creditor, intends to enforce its security on all of the following property and assets of the Debtors, including, without limitation:
 - (a) the pledged assets more particularly described within Schedule "A" attached hereto (the "**Pledged Assets**");
 - (b) all property and collateral against which the security interest bearing reference file numbers 765542142 and 765542826 has been registered pursuant to the *Personal Property Security Act* (Ontario); and
 - (c) all other assets, property and collateral that were assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security (as defined below) or the Commitment Letter.
3. The security that is to be enforced is in the form of all security delivered in connection with the Commitment Letter, including, among other things:
 - (a) the Guarantee dated February 16, 2022, executed by WPAM Royal Windsor GP Inc., in its capacity as general partner for and on behalf of WPAM Royal Windsor Limited Partnership and RW GP Inc., in its capacity as general partner for and on behalf of RW Limited Partnership (collectively, the "**Churchill Guarantors**") in favour of the Secured Party;
 - (a) the Limited Recourse Guarantee dated February 16, 2022, executed by 2712611 Ontario Corp., Obayashi Canada Ltd. and South Shore GP Inc., in its capacity as general partner for and on behalf of South Shore Holdings LP (the "**Limited Recourse Guarantors**"), in favour of the Secured Party;

- (b) the Project Completion and Cost Overrun Guarantee dated February 16, 2022, executed by the Churchill Guarantors in favour of the Secured Party;
 - (c) the Pledge Agreement dated February 16, 2022, executed by the Limited Recourse Guarantors in favour of the Secured Party; and
 - (d) all ancillary, supplemental and additional documents or instruments to each of the foregoing (collectively, the "**Security**").
4. The total amount of indebtedness secured by the security as of January 11, 2024 is \$155,595,894.55, (excluding accruing fees, expenses and costs).
5. The Secured Party will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent company consents to an earlier enforcement. Consents and Waivers to earlier enforcement, which may be completed and executed by the relevant Debtor, are enclosed herewith.

DATED at Toronto, this 12th day of January, 2024.

**KINGSETT MORTGAGE
CORPORATION** by its solicitors, Bennett
Jones LLP



Sean Zweig

This Notice is a required document under the *Bankruptcy & Insolvency Act* (Canada) (the "**Act**"). The use of the word "insolvent" is prescribed by the Act but nothing herein shall be deemed to imply that any person to whom this Notice is delivered is, in fact, insolvent.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, WPAM Royal Windsor GP Inc., in its capacity as general partner for and on behalf of WPAM Royal Windsor Limited Partnership (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

WPAM ROYAL WINDSOR GP INC., in its capacity as general partner for and on behalf of **WPAM ROYAL WINDSOR LIMITED PARTNERSHIP**

By: _____
Name:
Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, RW GP Inc., in its capacity as general partner for and on behalf of RW Limited Partnership (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

RW GP INC., in its capacity as general partner
for and on behalf of **RW LIMITED
PARTNERSHIP**

By: _____
Name:
Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, 2712611 Ontario Corp. (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

2712611 ONTARIO CORP.

By: _____

Name:

Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, Obayashi Canada Ltd. (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

OBAYASHI CANADA LTD.

By: _____

Name:

Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, South Shore GP Inc., in its capacity as general partner for and on behalf of South Shore Holding LP (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

SOUTH SHORE GP INC., in its capacity as
general partner for and on behalf of **SOUTH
SHORE HOLDINGS LP**

By: _____

Name:

Title:

I have authority to bind the corporation.

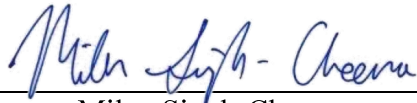
Schedule "A"
Pledged Assets

Pledged Entities	Type/Class of Pledged Securities	Stock Certificate Number	Number of Shares/Units	Shareholder/ Unitholder
759 Winston Churchill L.P.	Class A Units	CA-5	5,000,000	South Shore Holdings LP
759 Winston Churchill L.P.	Class A Units	CA-6	1,666,667	Obayashi Canada Ltd.
759 Winston Churchill L.P.	Class B Units	CB-2	10	2712611 Ontario Corp.
759 Winston Churchill GP Inc.	Common Shares	C-3	100	South Shore Holdings LP
759 Winston Churchill GP Inc.	Common Shares	C-4	33	Obayashi Canada Ltd.

**T
A
B**

PP

THIS IS **EXHIBIT "PP"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)



Bennett Jones

Bennett Jones LLP
3400 One First Canadian Place, PO Box 130
Toronto, Ontario, Canada M5X 1A4
Tel: 416.863.1200 Fax: 416.863.1716

Sean H. Zweig
Partner
Direct Line: 416.777.6254
e-mail: zweigs@bennettjones.com

January 12, 2024

DELIVERED VIA COURIER AND EMAIL

Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP
1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

McCarthy Tetrault LLP
5300-66 Wellington Street West
Toronto, ON M5K 1E6
Attention: Sarit Pandya

Dear Sirs/Mesdames:

Re: Indebtedness of 688 Southdown LP (the “Borrower”) to KingSett Mortgage Corporation (the “Lender”) in Respect of 688 Southdown Road, Mississauga, Ontario

We are counsel to the Lender. As you know, the Borrower is indebted to the Lender pursuant to a Commitment Letter dated August 19, 2021, as amended by a letter amendment dated March 29, 2023 (the “**Commitment Letter**”), under which the Lender extended to the Borrower a loan with a maximum principal amount of \$165,000,000. Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Commitment Letter.

As general and continuing security for the payment and performance of the Borrower’s indebtedness and obligations under the Commitment Letter, the Lender was granted various security (collectively, the “**Security**”) including, without limitation: (i) a first ranking mortgage/charge in the amount of \$193,750,000, as amended (the “**Mortgage**”) over the property more particularly described in Schedule “A” appended hereto (the “**Property**”); and (ii) a General Security Agreement dated September 15, 2021.

The Borrower’s obligations are also guaranteed by: (i) South Shore GP Inc., in its capacity as general partner for and on behalf of South Shore Holdings LP (the “**South Shore Guarantors**”) pursuant to a Guarantee dated September 15, 2021 (the “**South Shore Guarantee**”); and (ii) South Shore GP II Inc. and South Shore Holdings II LP (the “**Limited Recourse Guarantors**”) collectively with the South Shore Guarantors, the “**Guarantors**”) pursuant to a Limited Recourse Guarantee dated September 15, 2021 (the “**Limited Recourse Guarantee**”, together with the South Shore Guarantee, the “**Guarantees**”). The Guarantors' obligations under the Guarantees are secured by various security granted in favor of the Lender (collectively, the “**Collateral Security**”) including, without limitation, the security pledged pursuant to the Pledge Agreement dated September 15, 2021 by and between the Limited Recourse Guarantors and the Lender.

We are advised by the Lender that events of default under the terms of the Commitment Letter and Mortgage have occurred and are continuing, including, among other things, the failure to: (i) pay the Indebtedness (as defined below) in full by the Maturity Date in accordance with section A9 of the Commitment Letter and 3(c) of the Mortgage; and (ii) to pay monthly payments of interest in accordance with section A11 of the Commitment Letter and 3(b) of the Mortgage (collectively with any other events of default having occurred and continuing under the Commitment Letter and Mortgage as of the date of this letter, the “**Events of Default**”). As a result of the Events of Default, the Lender hereby: (i) declares the entire amount of the Borrower’s indebtedness to the Lender (the “**Indebtedness**”) due and payable; and (ii) demands repayment of the Indebtedness in full by no later than 10 days from the date of this letter, which as of January 11, 2024 is in the amount of \$172,752,011.23, comprised of the following:

Principal Balance	\$164,700,000.00
Outstanding Interest	\$7,294,179.44
Accrued Interest	\$597,883.56
Late Interest Charges	\$148,948.23
Discharge Fee	\$1,000.00
Estimated Legal Fees	\$10,000.00
Total	\$172,752,011.23

Interest accrues on the Indebtedness in accordance with the terms of the Commitment Letter and the Mortgage and will accrue until the Indebtedness is paid in full. Additionally, the Lender has incurred and is continuing to incur costs in relation to this matter and reserves the right to claim such amounts from the Borrower and/or the Guarantor. Payment of the Indebtedness can be made by electronic funds transfer to the Lender.

Please be advised that unless the Indebtedness, together with all applicable interest, fees, costs, legal expenses and disbursements, is paid in full within the 10-day period referred to above, the Lender will be entitled, and intends to, take whatever steps it considers necessary or appropriate to protect its rights and interests including, without limitation, commencing legal proceedings against the Borrower and/or the Guarantors, enforcing the Security and Collateral Security, and seeking the appointment of a receiver or receiver-manager. To that end, please find enclosed a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Should you consent to an earlier enforcement, please return an executed copy of the relevant enclosed Consent and Waiver to our office.

Nothing in this letter shall constitute or be deemed to be a waiver by the Lender of any breach, default, or event of default that has occurred to the date hereof and the Lender specifically reserves all of its rights and remedies at law or in equity or arising under or in connection with the Commitment Letter, the Security, the Guarantees and all documents and instruments provided in respect thereof. Further, the Lender expressly reserves its right to take such additional steps as are necessary at any time without further notice to you if the Lender becomes aware of any matter that may impair the Security or Collateral Security.



January 12, 2024
Page 3

Yours truly,

BENNETT JONES LLP



Sean H. Zweig

Enclosures – Notice of Intention to Enforce Security, and Consents and Waivers

c: Aiden Nelms and Milan Singh-Cheema – Bennett Jones LLP



Schedule "A"
Property

PIN: 13493-0044(LT)

PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDS TORONTO PTS 1 TO 6, 8,
43R13084; S/T TT129899; S/T TT103210, TT103804, TT153650, VS163947, VS42085,
VS58563 MISSISSAUGA

FORM 86
NOTICE OF INTENTION TO ENFORCE A SECURITY
(SUBSECTION 244(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*)

TO: 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP (the "**Debtor**"), an insolvent person

TAKE NOTICE THAT:

1. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Commitment Letter dated August 19, 2021, as amended by a letter amendment dated March 29, 2023 (the "**Commitment Letter**") between 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP (the "**Partnership**") and KingSett Mortgage Corporation (the "**Secured Party**" or "**KingSett**"), the mortgage/charge registered on title to the Property (as defined below) in favour of the Secured Party as Instrument No. PR3909580 as amended by Instrument No. PR4212934 (the "**Mortgage**"), as applicable.
2. KingSett, a secured creditor, intends to enforce its security on all of the following property and assets of the Debtors, including, without limitation:
 - (a) the lands and premises more particularly described within Schedule "A" attached hereto (the "**Property**");
 - (b) the Collateral (as defined in the General Security Agreement dated September 15, 2021 (the "**GSA**"));
 - (c) all property and collateral against which the security interest bearing reference file number 776307366 has been registered pursuant to the *Personal Property Security Act* (Ontario); and
 - (d) all other assets, property and collateral that were assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security (as defined below) or the Commitment Letter.
3. The security that is to be enforced is in the form of all security delivered in connection with the Commitment Letter, including, among other things:
 - (a) the Mortgage executed by the Partnership in favour of the Secured Party;
 - (a) the GSA executed by the Partnership in favour of the Secured Party;
 - (b) the General Assignment of Leases and Rents dated September 15, 2021, executed by the Partnership in favour of the Secured Party;
 - (c) the General Assignment of Material Contracts dated September 15, 2021, executed by the Partnership in favour of the Secured Party;
 - (d) the Assignment of Insurance dated September 15, 2021, executed by the Partnership in favour of the Secured Party; and

- (a) all ancillary, supplemental and additional documents or instruments to each of the foregoing (collectively, the "**Security**").
2. The total amount of indebtedness secured by the security as of January 11, 2024 is \$172,752,011.23 (excluding accruing fees, expenses and costs).
3. The Secured Party will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent company consents to an earlier enforcement. Consents and Waivers to earlier enforcement, which may be completed and executed by the relevant Debtor, are enclosed herewith.

DATED at Toronto, this 12th day of January, 2024.

**KINGSETT MORTGAGE
CORPORATION** by its solicitors, Bennett
Jones LLP



Sean Zweig

This Notice is a required document under the *Bankruptcy & Insolvency Act* (Canada) (the "**Act**"). The use of the word "insolvent" is prescribed by the Act but nothing herein shall be deemed to imply that any person to whom this Notice is delivered is, in fact, insolvent.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

688 SOUTHDOWN GP INC., in its capacity
as general partner for and on behalf of **688**
SOUTHDOWN LP

By: _____
Name:
Title:

I have authority to bind the corporation.

Schedule "A"
Property

PIN: 13493-0044(LT)

PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDS TORONTO PTS 1 TO 6, 8,
43R13084; S/T TT129899; S/T TT103210, TT103804, TT153650, VS163947, VS42085,
VS58563 MISSISSAUGA



Bennett Jones

Bennett Jones LLP
3400 One First Canadian Place, PO Box 130
Toronto, Ontario, Canada M5X 1A4
Tel: 416.863.1200 Fax: 416.863.1716

Sean H. Zweig
Partner
Direct Line: 416.777.6254
e-mail: zweigs@bennettjones.com

January 12, 2024

DELIVERED VIA COURIER AND EMAIL

South Shore GP Inc., in its capacity as general partner for and on behalf of South Shore Holdings LP

1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

South Shore GP II Inc.

1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

South Shore Holdings II LP

1111 Clarkson Road, North
Mississauga, ON L5J 2W1
Attention: Michael Moldenhauer

McCarthy Tetrault LLP

5300-66 Wellington Street West
Toronto, ON M5K 1E6
Attention: Sarit Pandya

Dear Sirs/Mesdames:

Re: Guarantee of Indebtedness of 688 Southdown LP (the “Borrower”) to KingSett Mortgage Corporation (the “Lender”) in Respect of 688 Southdown Road, Mississauga, Ontario

We are counsel to the Lender. As you know, the Borrower is indebted to the Lender pursuant to a Commitment Letter dated August 19, 2021, as amended by a letter amendment dated March 29, 2023 (the “**Commitment Letter**”), under which the Lender extended to the Borrower a loan with a maximum principal amount of \$165,000,000. Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Commitment Letter.

As general and continuing security for the payment and performance of the Borrower’s indebtedness and obligations under the Commitment Letter, the Lender was granted various security (collectively, the “**Security**”) including, without limitation: (i) a first ranking mortgage/charge in the amount of \$193,750,000, as amended (the “**Mortgage**”) over the property more particularly described in Schedule “A” appended hereto (the “**Property**”); and (ii) a General Security Agreement dated September 15, 2021.

The Borrower’s obligations are also guaranteed by: (i) South Shore GP Inc., in its capacity as general partner for and on behalf of South Shore Holdings LP (the “**South Shore Guarantors**”) pursuant to a Guarantee dated September 15, 2021 (the “**South Shore Guarantee**”); and (ii) South Shore GP II Inc. and South Shore Holdings II LP (the “**Limited Recourse Guarantors**”

collectively with the South Shore Guarantors, the “**Guarantors**”) pursuant to a Limited Recourse Guarantee dated September 15, 2021 (the “**Limited Recourse Guarantee**”, together with the South Shore Guarantee, the “**Guarantees**”). The Guarantors’ obligations under the Guarantees are secured by various security granted in favor of the Lender (collectively, the “**Collateral Security**”) including, without limitation, the security pledged pursuant to the Pledge Agreement dated September 15, 2021 by and between the Limited Recourse Guarantors and the Lender.

We are advised by the Lender that events of default under the terms of the Commitment Letter and Mortgage have occurred and are continuing, including, among other things, the failure to: (i) pay the Indebtedness (as defined below) in full by the Maturity Date in accordance with section A9 of the Commitment Letter and 3(c) of the Mortgage; and (ii) to pay monthly payments of interest in accordance with section A11 of the Commitment Letter and 3(b) of the Mortgage (collectively with any other events of default having occurred and continuing under the Commitment Letter and Mortgage as of the date of this letter, the “**Events of Default**”). As a result of the Events of Default, the Lender has issued a demand letter dated January 12, 2024 (the “**Demand Letter**”) to the Debtor declaring the entire amount of the Borrower’s indebtedness to the Lender (the “**Indebtedness**”) due and payable and demanding repayment of the Indebtedness in full.

As of January 11, 2023, the Indebtedness is in the amount of \$172,752,011.23. Interest accrues on the Indebtedness in accordance with the terms of the Commitment Letter and the Mortgage and will accrue until the Indebtedness is paid in full. Additionally, the Lender has incurred and is continuing to incur costs in relation to this matter and reserves the right to claim such amounts from the Borrower and/or the Guarantor. Payment of the Indebtedness can be made by electronic funds transfer to the Lender.

In light of the Events of Default, and in connection with the Guarantees and Collateral Security, on behalf of the Lender we hereby demand payment of the Indebtedness from the Guarantors within 10 days of the date of this letter. Payment of the Indebtedness can be made by electronic funds transfer to the Lender.

Please be advised that unless the Indebtedness, together with all applicable interest, fees, costs, legal expenses and disbursements, is paid in full within the 10-day period referred to above, the Lender will be entitled, and intends to, take whatever steps it considers necessary or appropriate to protect its rights and interests including, without limitation, commencing legal proceedings against the Borrower and the Guarantors, enforcing the Security and Collateral Security, and seeking the appointment of a receiver or receiver-manager. To that end, please find enclosed a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Should you consent to an earlier enforcement, please return an executed copy of the relevant enclosed Consent and Waiver to our office.

Nothing in this letter shall constitute or be deemed to be a waiver by the Lender of any breach, default, or event of default that has occurred to the date hereof and the Lender specifically reserves all of its rights and remedies at law or in equity or arising under or in connection with the Commitment Letter, the Security, the Guarantees and all documents and instruments provided in



January 12, 2024

Page 3

respect thereof. Further, the Lender expressly reserves its right to take such additional steps as are necessary at any time without further notice to you if the Lender becomes aware of any matter that may impair the Security or Collateral Security.

Yours truly,

BENNETT JONES LLP



Sean H. Zweig

Enclosures – Demand Letter, Notice of Intention to Enforce Security, and Consents and Waivers

c: Aiden Nelms and Milan Singh-Cheema – Bennett Jones LLP



Schedule "A"
Property

PIN: 13493-0044(LT)

PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDS TORONTO PTS 1 TO 6, 8,
43R13084; S/T TT129899; S/T TT103210, TT103804, TT153650, VS163947, VS42085,
VS58563 MISSISSAUGA

FORM 86
NOTICE OF INTENTION TO ENFORCE A SECURITY
(SUBSECTION 244(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*)

TO: South Shore GP Inc., in its capacity as general partner for and on behalf of South Shore Holdings LP, South Shore GP II Inc., and South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP (collectively, the "**Debtors**" and each a "**Debtor**"), each an insolvent person.

TAKE NOTICE THAT:

1. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Commitment Letter dated August 19, 2021, as amended by a letter amendment dated March 29, 2023 (the "**Commitment Letter**") between 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP and KingSett Mortgage Corporation (the "**Secured Party**" or "**KingSett**"), and the mortgage/charge registered on title to the Property (as defined below) in favour of the Secured Party as Instrument No. PR3909580, as amended by Instrument No PR4212934 (the "**Mortgage**"), as applicable.
2. KingSett, a secured creditor, intends to enforce its security on all of the following property and assets of the Debtors, including without limitation:
 - (a) the pledged assets more particularly described within Schedule "A" attached hereto (the "**Pledged Assets**");
 - (b) all property and collateral against which the security interest bearing reference file number 776306781 has been registered pursuant to the *Personal Property Security Act* (Ontario);
 - (c) all property and collateral against which the security interest bearing reference file number 776307834 has been registered pursuant to the *Personal Property Security Act* (Ontario); and
 - (d) all other assets, property and collateral that were assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security (as defined below) or the Commitment Letter.
3. The security that is to be enforced is in the form of all security delivered by each Debtor in connection with the Commitment Letter including, among other things:
 - (a) the Guarantee dated September 15, 2021, executed by South Shore GP Inc., in its capacity as general partner for and on behalf of South Shore Holdings LP in favor of the Secured Party;
 - (a) the Limited Recourse Guarantee dated September 15, 2021, executed by South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP, and South Shore GP II Inc. in favour of the Secured Party;

- (b) the Pledge Agreement dated September 15, 2021, executed by South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP, and South Shore GP II Inc. in favour of the Secured Party; and
 - (c) all ancillary, supplemental and additional documents or instruments to each of the foregoing (collectively, the "**Security**").
2. The total amount of indebtedness secured by the security as of January 11, 2024 is \$172,752,011.23 (excluding accruing fees, expenses and costs).
 3. The Secured Party will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent company consents to an earlier enforcement. Consents and Waivers to earlier enforcement, which may be completed and executed by the relevant Debtor, are enclosed herewith.

DATED at Toronto, this 12th day of January, 2024.

**KINGSETT MORTGAGE
CORPORATION** by its solicitors, Bennett
Jones LLP



Sean Zweig

This Notice is a required document under the *Bankruptcy & Insolvency Act* (Canada) (the "**Act**"). The use of the word "insolvent" is prescribed by the Act but nothing herein shall be deemed to imply that any person to whom this Notice is delivered is, in fact, insolvent.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, South Shore GP Inc., in its capacity as general partner for and on behalf of South Shore Holdings LP (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

SOUTH SHORE GP INC., in its capacity as
general partner for and on behalf of **SOUTH
SHORE HOLDINGS LP**

By: _____

Name:

Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

SOUTH SHORE GP II INC., in its capacity
as general partner for and on behalf of
SOUTH SHORE HOLDINGS II LP.

By: _____
Name:
Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, South Shore GP II Inc. (the "**Debtor**"), hereby acknowledges receipt from KingSett Mortgage Corporation (the "**Secured Party**") of a Notice of Intention to Enforce Security (the "**Notice**") given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") dated January 12, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the "**Collateral**"), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

SOUTH SHORE GP II INC.

By: _____

Name:

Title:

I have authority to bind the corporation.

Schedule "A"
Pledged Assets

Pledged Entities	Number of Shares/ Units	Stock Certificate Number	Type/Class of Pledged Securities	Shareholder/ Unitholder
688 Southdown GP Inc.	100	C-1	Common shares	South Shore GP II Inc.
688 Southdown LP	100	A-1	Class A units	South Shore Holdings II LP

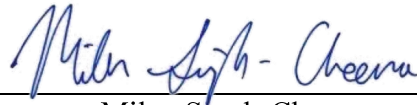
T

A

B

QQ

THIS IS **EXHIBIT "QQ"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line underneath it.

Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)



Bennett Jones

Bennett Jones LLP
3400 One First Canadian Place, PO Box 130
Toronto, Ontario, Canada M5X 1A4
Tel: 416.863.1200 Fax: 416.863.1716

Sean H. Zweig
Partner
Direct Line: 416.777.6254
e-mail: zweigs@bennettjones.com

January 22, 2024

DELIVERED VIA COURIER AND EMAIL

**2226 Royal Windsor GP Inc., in its capacity
as general partner for and on behalf of 2226
Royal Windsor LP.**
2680 Royal Windsor Drive,
Mississauga, ON L5J 1K7
Attention: Michael Moldenhauer

Northview Law
49 Queen Street North
Bolton, ON L7E 1C1
Attention: Danny McMullen

Dear Sirs/Mesdames:

Re: Indebtedness of 2226 Royal Windsor LP (the “Borrower”) to KingSett Mortgage Corporation (the “Lender”) in Respect of 2226 Royal Windsor Drive, Mississauga, Ontario

We are counsel to the Lender. As you know, the Borrower is indebted to the Lender pursuant to a Commitment Letter dated June 28, 2022, as amended, restated, or modified from time to time (the “**Commitment Letter**”), under which the Lender extended to the Borrower a loan with a maximum principal of \$35,000,000. Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Commitment Letter or the Mortgage (as defined below).

As general and continuing security for the payment and performance of the Borrower’s indebtedness and obligations under the Commitment Letter, the Lender was granted various security (collectively, the “**Security**”) including, without limitation: (i) a first ranking mortgage/charge in the amount of \$43,750,000 (the “**Mortgage**”) over the property more particularly described in Schedule “A” appended hereto (the “**Property**”); and (ii) a General Security Agreement dated July 8, 2022.

The Borrower’s obligations are also guaranteed by: (i) South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP (the “**South Shore Guarantor**”) pursuant to a Guarantee dated July 8, 2022 (the “**South Shore Guarantee**”); (ii) Southshore 2226 RW GP Inc., in its capacity as general partner for and on behalf of Southshore 2226 RW Holdings LP, Southshore 2226 RW GP Inc. and 1000237699 Ontario Inc. (collectively, the “**Limited Recourse Guarantors**”) pursuant to a Limited Recourse Guarantee dated July 8, 2022 (the “**Limited Recourse Guarantee**”); and (iii) 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP (the “**Collateral Property Guarantor**”, together with the South Shore Guarantor and the Limited Recourse Guarantors, the “**Guarantors**”)

pursuant to a Limited Recourse Guarantee dated July 8, 2022 (the “**Collateral Property Limited Recourse Guarantee**”, together with the South Shore Guarantee and Limited Recourse Guarantee, the “**Guarantees**”).

The Guarantors’ obligations under the Guarantees are secured by various security granted in favor of the Lender (collectively, the “**Collateral Security**”) including, without limitation, the security pledged pursuant to the Pledge Agreement dated July 8, 2022 by and between the Limited Recourse Guarantors and the Lender and a charge/mortgage in the amount of \$43,750,000 over the property more particularly described in Schedule “B” appended hereto (the “**Collateral Mortgage**”).

We are advised by the Lender that events of default under the terms of the Commitment Letter, Mortgage and Collateral Mortgage have occurred and are continuing, including, among other things, an event of default having occurred under the Southdown First Mortgage Charge in breach of section 28(e) of the Mortgage and section 28(e) of the Collateral Mortgage (collectively with any other events of default having occurred and continuing under the Commitment Letter and Mortgage as of the date of this letter, the “**Events of Default**”). As a result of the Events of Default, the Lender hereby: (i) declares the entire amount of the Borrower’s indebtedness to the Lender (the “**Indebtedness**”) due and payable; and (ii) demands repayment of the Indebtedness in full by no later than 10 days from the date of this letter, which as of January 22nd, 2024 is in the amount of \$35,252,643.84, comprised of the following:

Principal Balance	\$35,000,000
Accrued Interest	\$241,643.84
Discharge Fee	\$1,000.00
Estimated Legal Fees	\$10,000.00
Total	\$35,252,643.84

Interest accrues on the Indebtedness in accordance with the terms of the Commitment Letter and the Mortgage and will accrue until the Indebtedness is paid in full. Additionally, the Lender has incurred and is continuing to incur costs in relation to this matter and reserves the right to claim such amounts from the Borrower and/or the Guarantors. Payment of the Indebtedness can be made by electronic funds transfer to the Lender.

Please be advised that unless the Indebtedness, together with all applicable interest, fees, costs, legal expenses and disbursements, is paid in full within the 10-day period referred to above, the Lender will be entitled, and intends to, take whatever steps it considers necessary or appropriate to protect its rights and interests including, without limitation, commencing legal proceedings against the Borrower and/or the Guarantors, enforcing the Security and Collateral Security, and seeking the appointment of a receiver or receiver-manager. To that end, please find enclosed a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Should you consent to an earlier enforcement, please return an executed copy of the relevant enclosed Consent and Waiver to our office.

Nothing in this letter shall constitute or be deemed to be a waiver by the Lender of any breach, default, or event of default that has occurred to the date hereof and the Lender specifically reserves



January 22, 2024

Page 3

all of its rights and remedies at law or in equity or arising under or in connection with the Commitment Letter, the Security, the Guarantees and all documents and instruments provided in respect thereof. Further, the Lender expressly reserves its right to take such additional steps as are necessary at any time without further notice to you if the Lender becomes aware of any matter that may impair the Security or Collateral Security.

Yours truly,

BENNETT JONES LLP



Sean H. Zweig

Enclosures – Notice of Intention to Enforce Security, and Consents and Waivers

c: Aiden Nelms and Milan Singh-Cheema – Bennett Jones LLP



Schedule "A"
The Property

PIN: 13493-0190 (LT)

PT LT 31, 32 CON 3 SDS DES PTS 1, 2 PL 43R11375 SAVE & EXCEPT PTS 1,2,3 PL 43R21957, EXCEPT PT 1 43R22260, EXCEPT PT 1 43R25470, EXCEPT PTS 1, 2, 3 PL 43R25635, EXCEPT PT 1 PL 43R28305 MISSISSAUGA.S/T EASEMENT IN FAVOUR OF INTERPROVINCIAL PIPE LINE COMPANY OVER PT LT 32 CON 3 SDS DES PT 2 PL 43R11375 EXCEPT PT 2 PL 43R21957 AS IN TT102320, TT104152.T/W EASEMENT OVER PT LT 32 CON 3 SDS DES PT 3 PL 43R21957 AS IN LT1712946

Schedule "B"
The Collateral Property

PIN: 13493-0044(LT)

PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDSTORONTO PTS 1 TO 6, 8,
43R13084; S/T TT129899; S/T TT103210, TT103804, TT153650, VS163947, VS42085,
VS58563 MISSISSAUGA

FORM 86
NOTICE OF INTENTION TO ENFORCE A SECURITY
(SUBSECTION 244(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*)

TO: 2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP (collectively, the “**Debtors**” and each a “**Debtor**”), each an insolvent person.

TAKE NOTICE THAT:

1. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Commitment Letter dated June 28, 2022 as amended, restated or modified from time to time (the “**Commitment Letter**”) between, among others, 2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP (the “**Partnership**”) and KingSett Mortgage Corporation (the “**Secured Party**” or “**KingSett**”), and the mortgage/charge by partnership registered on title to the Property (as defined below) in favour of the Secured Party as Instrument No. PR4082507 (the “**Mortgage**”), as applicable.
2. KingSett, a secured creditor, intends to enforce its security on all of the following property and assets of the Debtors including, without limitation:
 - (a) the lands and premises more particularly described within Schedule “A” attached hereto (the “**Property**”);
 - (b) the Collateral (as defined in the General Security Agreement dated July 8, 2022 (the “**GSA**”));
 - (c) all property and collateral against which the security interest bearing reference file number 784693233 has been registered pursuant to the *Personal Property Security Act* (Ontario); and
 - (d) all other assets, property and collateral that were assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security (as defined below) or the Commitment Letter.
3. The security that is to be enforced is in the form of all security delivered in connection with the Commitment Letter, including, among other things:
 - (a) the Mortgage executed by the Partnership in favour of the Secured Party;
 - (b) the GSA executed by the Partnership in favour of the Secured Party;
 - (c) the General Assignment of Leases and Rents dated July 8, 2022, executed by the Partnership in favour of the Secured Party;
 - (d) the General Assignment of Material Contracts dated July 8, 2022, executed by the Partnership in favour of the Secured Party;
 - (e) the Assignment of Insurance dated July 8, 2022, executed by the Partnership in favour of the Secured Party;

- (f) all ancillary, supplemental and additional documents or instruments to each of the foregoing (collectively, the “**Security**”).
1. The total amount of indebtedness secured by the security as of January 22, 2024 is \$35,252,643.84, (excluding accruing fees, expenses and costs).
 2. The Secured Party will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent company consents to an earlier enforcement. Consents and Waivers to earlier enforcement, which may be completed and executed by the relevant Debtor, are enclosed herewith.

DATED at Toronto, this 22nd day of January, 2024.

**KINGSETT MORTGAGE
CORPORATION** by its solicitors, Bennett
Jones LLP



Sean Zweig

This Notice is a required document under the *Bankruptcy & Insolvency Act* (Canada) (the “**Act**”). The use of the word “insolvent” is prescribed by the Act but nothing herein shall be deemed to imply that any person to whom this Notice is delivered is, in fact, insolvent.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, 2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP (the “**Debtor**”), hereby acknowledges receipt from KingSett Mortgage Corporation (the “**Secured Party**”) of a Notice of Intention to Enforce Security (the “**Notice**”) given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) dated January 22, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the “**Collateral**”), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

2226 ROYAL WINDSOR GP INC., in its
capacity as general partner for and on behalf of
2226 ROYAL WINDSOR LP

By: _____

Name:

Title:

I have authority to bind the corporation.

Schedule "A"

The Property

PIN: 13493-0190 (LT)

PT LT 31,32 CON 3 SDS DES PTS 1,2 PL 43R11375 SAVE & EXCEPT PTS 1,2,3 PL
43R21957, EXCEPT PT 1 43R22260, EXCEPT PT 1 43R25470, EXCEPT PTS 1, 2, 3 PL
43R25635, EXCEPT PT 1 PL 43R28305 MISSISSAUGA.S/T EASEMENT IN FAVOUR OF
INTERPROVINCIAL PIPE LINE COMPANY OVER PT LT 32 CON 3 SDS DES PT 2 PL
43R11375 EXCEPT PT 2 PL 43R21957 AS IN TT102320, TT104152.T/W EASEMENT OVER
PT LT 32 CON 3 SDS DES PT 3 PL 43R21957 AS IN LT1712946



Bennett Jones

Bennett Jones LLP
3400 One First Canadian Place, PO Box 130
Toronto, Ontario, Canada M5X 1A4
Tel: 416.863.1200 Fax: 416.863.1716

Sean H. Zweig
Partner
Direct Line: 416.777.6254
e-mail: zweigs@bennettjones.com

January 22, 2024

DELIVERED VIA COURIER AND EMAIL

South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP
2680 Royal Windsor Drive,
Mississauga, ON L5J 1K7
Attention: Michael Moldenhauer

Northview Law
49 Queen Street North
Bolton, ON L7E 1C1
Attention: Danny McMullen

Southshore 2226 RW GP Inc., in its capacity as general partner for and on behalf of Southshore 2226 RW Holdings LP
2680 Royal Windsor Drive,
Mississauga, ON L5J 1K7
Attention: Michael Moldenhauer

1000237699 Ontario Inc.
2680 Royal Windsor Drive,
Mississauga, ON L5J 1K7
Attention: Michael Moldenhauer

688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP
2680 Royal Windsor Drive
Mississauga, ON L5J 1K7
Attention: Michael Moldenhauer

Southshore 2226 RW GP Inc.
2680 Royal Windsor Drive,
Mississauga, ON L5J 1K7
Attention: Michael Moldenhauer

Dear Sirs/Mesdames:

Re: Guarantee of Indebtedness of 2226 Royal Windsor LP (the “Borrower”) to KingSett Mortgage Corporation (the “Lender”) in Respect of 2226 Royal Windsor Drive, Mississauga, Ontario

We are counsel to the Lender. As you know, the Borrower is indebted to the Lender pursuant to a Commitment Letter dated June 28, 2022, as amended, restated, or modified from time to time (the “**Commitment Letter**”), under which the Lender extended to the Borrower a loan with a maximum principal of \$35,000,000. Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Commitment Letter.

As general and continuing security for the payment and performance of the Borrower’s indebtedness and obligations under the Commitment Letter, the Lender was granted various

security (collectively, the “**Security**”) including, without limitation: (i) a first ranking mortgage/charge in the amount of \$43,750,000 (the “**Mortgage**”) over the property more particularly described in Schedule “A” appended hereto (the “**Property**”); and (ii) a General Security Agreement dated July 8, 2022.

The Borrower’s obligations are also guaranteed by: (i) South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP (the “**South Shore Guarantor**”) pursuant to a Guarantee dated July 8, 2022 (the “**South Shore Guarantee**”); (ii) Southshore 2226 RW GP Inc., in its capacity as general partner for and on behalf of Southshore 2226 RW Holdings LP. Southshore 2226 RW GP Inc. and 1000237699 Ontario Inc. (collectively, the “**Limited Recourse Guarantors**”) pursuant to a Limited Recourse Guarantee dated July 8, 2022 (the “**Limited Recourse Guarantee**”); and (iii) 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP (the “**Collateral Property Guarantor**”, together with the South Shore Guarantor and the Limited Recourse Guarantors, the “**Guarantors**”) pursuant to a Limited Recourse Guarantee dated July 8, 2022 (the “**Collateral Property Limited Recourse Guarantee**”, together with the South Shore Guarantee and Limited Recourse Guarantee, the “**Guarantees**”).

The Guarantors’ obligations under the Guarantees are secured by various security granted in favor of the Lender (collectively, the “**Collateral Security**”) including, without limitation, the security pledged pursuant to the Pledge Agreement dated July 8, 2022 by and between the Limited Recourse Guarantors and the Lender and a charge/mortgage in the amount of \$43,750,000 over the property more particularly described in Schedule “B” appended hereto (the “**Collateral Mortgage**”).

We are advised by the Lender that events of default under the terms of the Commitment Letter, Mortgage and Collateral Mortgage have occurred and are continuing, including, among other things, an event of default having occurred under the Southdown First Mortgage Charge in breach of section 28(e) of the Mortgage and section 28(e) of the Collateral Mortgage (collectively with any other events of default having occurred and continuing under the Commitment Letter and Mortgage as of the date of this letter, the “**Events of Default**”). As a result of the Events of Default, the Lender has issued a demand letter dated January 22, 2024 (the “**Demand Letter**”) to the Borrower declaring the entire amount of the Borrower’s indebtedness to the Lender (the “**Indebtedness**”) due and payable and demanding repayment of the Indebtedness in full. As of January 22, 2024, the Indebtedness is in the amount of \$35,252,643.84.

Interest accrues on the Indebtedness in accordance with the terms of the Commitment Letter and the Mortgage and will accrue until the Indebtedness is paid in full. Additionally, the Lender has incurred and is continuing to incur costs in relation to this matter and reserves the right to claim such amounts from the Borrower and/or the Guarantors. Payment of the Indebtedness can be made by electronic funds transfer to the Lender.

In light of the Events of Default, and in connection with the Guarantees and Collateral Security, on behalf of the Lender we hereby demand payment of the Indebtedness from the Guarantors within 10 days of the date of this letter. Payment of the Indebtedness can be made by electronic funds transfer to the Lender.



January 22, 2024

Page 3

Please be advised that unless the Indebtedness, together with all applicable interest, fees, costs, legal expenses and disbursements, is paid in full within the 10-day period referred to above, the Lender will be entitled, and intends to, take whatever steps it considers necessary or appropriate to protect its rights and interests including, without limitation, commencing legal proceedings against the Borrower and the Guarantors, enforcing the Security and Collateral Security, and seeking the appointment of a receiver or receiver-manager. To that end, please find enclosed a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada). Should you consent to an earlier enforcement, please return an executed copy of the relevant enclosed Consent and Waiver to our office.

Nothing in this letter shall constitute or be deemed to be a waiver by the Lender of any breach, default, or event of default that has occurred to the date hereof and the Lender specifically reserves all of its rights and remedies at law or in equity or arising under or in connection with the Commitment Letter, the Security, the Guarantees and all documents and instruments provided in respect thereof. Further, the Lender expressly reserves its right to take such additional steps as are necessary at any time without further notice to you if the Lender becomes aware of any matter that may impair the Security or Collateral Security.

Yours truly,

BENNETT JONES LLP



Sean H. Zweig

Enclosures – Demand Letter, Notice of Intention to Enforce Security, and Consents and Waivers

c: Aiden Nelms and Milan Singh-Cheema – Bennett Jones LLP



Schedule "A"
The Property

PIN: 13493-0190 (LT)

PT LT 31, 32 CON 3 SDS DES PTS 1, 2 PL 43R11375 SAVE & EXCEPT PTS 1,2,3 PL 43R21957, EXCEPT PT 1 43R22260, EXCEPT PT 1 43R25470, EXCEPT PTS 1, 2, 3 PL 43R25635, EXCEPT PT 1 PL 43R28305 MISSISSAUGA.S/T EASEMENT IN FAVOUR OF INTERPROVINCIAL PIPE LINE COMPANY OVER PT LT 32 CON 3 SDS DES PT 2 PL 43R11375 EXCEPT PT 2 PL 43R21957 AS IN TT102320, TT104152.T/W EASEMENT OVER PT LT 32 CON 3 SDS DES PT 3 PL 43R21957 AS IN LT1712946

Schedule "B"
The Collateral Property

PIN: 13493-0044(LT)

PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDSTORONTO PTS 1 TO 6, 8,
43R13084; S/T TT129899; S/T TT103210, TT103804, TT153650, VS163947, VS42085,
VS58563 MISSISSAUGA

FORM 86
NOTICE OF INTENTION TO ENFORCE A SECURITY
(SUBSECTION 244(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*)

TO: South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP, Southshore 2226 RW GP Inc., in its capacity as general partner for and on behalf of Southshore 2226 RW Holdings LP, Southshore 2226 RW GP Inc., 1000237699 Ontario Inc. and 688 Southdown GP Inc., in its capacity for and on behalf of 688 Southdown LP (collectively, the “**Debtors**” and each a “**Debtor**”), each an insolvent person.

TAKE NOTICE THAT:

1. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Commitment Letter dated June 28, 2022 as amended, restated or modified from time to time (the “**Commitment Letter**”) between, among others, 2226 Royal Windsor GP Inc., in its capacity as general partner for and on behalf of 2226 Royal Windsor LP (the “**Partnership**”) and KingSett Mortgage Corporation (the “**Secured Party**” or “**KingSett**”), the mortgage/charge by partnership in favour of the Secured Party registered as Instrument No. PR4082507, as applicable and the mortgage/charge registered on title to the Collateral Property (as defined below) in favour of the Secured Party as Instrument No. PR4292044 (the “**Collateral Mortgage**”).
2. KingSett, a secured creditor, intends to enforce its security on all of the following property and assets of the Debtors, including, without limitation:
 - (a) the lands and premises more particularly described within Schedule “A” attached hereto (the “**Collateral Property**”);
 - (b) the pledged assets more particularly described within Schedule “B” attached hereto (the “**Pledged Assets**”);
 - (c) all property and collateral against which the security interest bearing reference file numbers 784693296 and 794693314 has been registered pursuant to the *Personal Property Security Act* (Ontario); and
 - (d) all other assets, property and collateral that were assigned, transferred, pledged, granted, mortgaged, charged and/or similarly secured pursuant to the Security (as defined below) or the Commitment Letter.
3. The security that is to be enforced is in the form of all security delivered in connection with the Commitment Letter, including, among other things:
 - (a) the Collateral Mortgage executed by 688 Southdown GP Inc., in its capacity as general partner for and on behalf of 688 Southdown LP (the “**Collateral Property Guarantors**”), in favour of the Secured Party;

- (b) the Guarantee dated July 8, 2022, executed by South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP, in favour of the Secured Party;
 - (c) the Limited Recourse Guarantee dated July 8, 2022, executed by Southshore 2226 RW GP Inc., in its capacity as general partner for and on behalf of Southshore 2226 RW Holdings LP, Southshore 2226 RW GP Inc. and 1000237699 Ontario Inc. (collectively, the “**Limited Recourse Guarantors**”), in favour of the Secured Party;
 - (d) the Limited Recourse Guarantee dated July 8, 2022, executed by the Collateral Property Guarantors, in favour of the Secured Party;
 - (e) the Pledge Agreement dated July 8, 2022, executed by the Limited Recourse Guarantors in favour of the Secured Party;
 - (f) the General Assignment of Leases and Rents dated July 8, 2022, executed by the Collateral Property Guarantors in favor of the Secured Party;
 - (g) the Assignment of Insurance dated July 8, 2022, executed by the Collateral Property Guarantors in favour of the Secured party; and
 - (h) all ancillary, supplemental and additional documents or instruments to each of the foregoing (collectively, the “**Security**”).
4. The total amount of indebtedness secured by the security as of January 22, 2024 is \$35,252,643.84, (excluding accruing fees, expenses and costs).
5. The Secured Party will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent company consents to an earlier enforcement. Consents and Waivers to earlier enforcement, which may be completed and executed by the relevant Debtor, are enclosed herewith.

DATED at Toronto, this 22nd day of January, 2024.

**KINGSETT MORTGAGE
CORPORATION** by its solicitors, Bennett
Jones LLP



Sean Zweig

This Notice is a required document under the *Bankruptcy & Insolvency Act* (Canada) (the “**Act**”). The use of the word “insolvent” is prescribed by the Act but nothing herein shall be deemed to imply that any person to whom this Notice is delivered is, in fact, insolvent.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, South Shore GP II Inc., in its capacity as general partner for and on behalf of South Shore Holdings II LP (the “**Debtor**”), hereby acknowledges receipt from KingSett Mortgage Corporation (the “**Secured Party**”) of a Notice of Intention to Enforce Security (the “**Notice**”) given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) dated January 22, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the “**Collateral**”), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

SOUTH SHORE GP II INC., in its capacity
as general partner for and on behalf of
SOUTH SHORE HOLDINGS II LP

By: _____

Name:

Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, Southshore 2226 RW GP Inc., in its capacity as general partner for and on behalf of Southshore 2226 RW Holdings LP (the “**Debtor**”), hereby acknowledges receipt from KingSett Mortgage Corporation (the “**Secured Party**”) of a Notice of Intention to Enforce Security (the “**Notice**”) given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) dated January 22, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the “**Collateral**”), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

SOUTHSHORE 2226 RW GP INC., in its
capacity as general partner for and on behalf of
SOUTHSHORE 2226 RW HOLDINGS LP

By: _____

Name:

Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, Southshore 2226 RW GP Inc. (the “**Debtor**”) hereby acknowledges receipt from KingSett Mortgage Corporation (the “**Secured Party**”) of a Notice of Intention to Enforce Security (the “**Notice**”) given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) dated January 22, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the “**Collateral**”), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

SOUTHSHORE 2226 RW GP INC.

By: _____

Name:

Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, 1000237699 Ontario Inc. (the “**Debtor**”), hereby acknowledges receipt from KingSett Mortgage Corporation (the “**Secured Party**”) of a Notice of Intention to Enforce Security (the “**Notice**”) given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) dated January 22, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the “**Collateral**”), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

1000237699 ONTARIO INC.

By: _____

Name:

Title:

I have authority to bind the corporation.

CONSENT AND WAIVER

TO: KingSett Mortgage Corporation

The undersigned, 688 Southdown GP Inc., in its capacity for and on behalf of 688 Southdown LP, (the “**Debtor**”), hereby acknowledges receipt from KingSett Mortgage Corporation (the “**Secured Party**”) of a Notice of Intention to Enforce Security (the “**Notice**”) given under subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) dated January 22, 2024, pursuant to which the Secured Party gave notice that it intended to enforce its security in all of the property and assets of the Debtor set out in the Notice (collectively, the “**Collateral**”), after the expiry of the ten (10) day period following the sending of the Notice unless the Debtor consented to an earlier enforcement. In accordance with subsection 244(2) of the Act, the Debtor hereby waives its rights to the ten (10) day notice period and consents to the immediate enforcement by the Secured Party of its security in all of the Collateral.

DATED at _____ this _____ day of _____, 2024.

688 SOUTHDOWN GP INC., in its capacity
for and on behalf of **688 SOUTHDOWN LP**

By: _____

Name:

Title:

I have authority to bind the corporation.

Schedule "A"

The Collateral Property

PIN: 13493-0044(LT)

PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDSTORONTO PTS 1 TO 6, 8, 43R13084;
S/T TT129899; S/T TT103210, TT103804, TT153650, VS163947, VS42085, VS58563
MISSISSAUGA

Schedule "B"

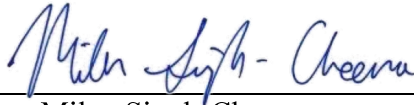
Pledged Assets

Pledged Entities	Type/Class of Pledged Securities	Stock Certificate Number	Number of Shares/ Units	Shareholder/ Unitholder
2226 Royal Windsor GP Inc.	Common shares	C-1	100	Southshore 2226 RW GP Inc.
2226 Royal Windsor LP	Class A units	A-1	100	Southshore 2226 RW Holdings LP
2226 Royal Windsor LP	Class B units	B-2	1	1000237699 Ontario Inc.

**T
A
B**

RR

THIS IS **EXHIBIT "RR"** REFERRED TO IN THE AFFIDAVIT
OF DANIEL POLLACK, SWORN BEFORE ME THIS
12TH DAY OF FEBRUARY, 2024.



Milan Singh-Cheema
A Commissioner for taking Affidavits
(or as may be)

Court File No.: _____

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

BETWEEN

KINGSETT MORTGAGE CORPORATION

Applicant

- and -

**759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688
SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC. and
2226 ROYAL WINDSOR LP**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

CONSENT TO ACT AS RECEIVER

KSV RESTRUCTURING INC. hereby consents to act as the receiver and manager, without security, of certain of the present and after-acquired assets, undertakings, and properties of the Respondents pursuant to the terms of the order contained in the Applicant's Application Record, subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

Dated at Toronto, Ontario this 6th day of February, 2024

KSV RESTRUCTURING INC.

Per:  _____

Name: Noah Goldstein

Title: Managing Director

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

KINGSETT MORTGAGE CORPORATION and **759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688 SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC. and 2226 ROYAL WINDSOR LP**

Applicant

Respondents

Court File No.: CV-24-00714543-00CL

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

Proceedings commenced in Toronto

Affidavit of Daniel Pollack

BENNETT JONES LLP

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Toronto, ON M5X 1A4

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Lawyers for the Applicant

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

KINGSETT MORTGAGE CORPORATION and **759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P.,
688 SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL
WINDSOR GP INC. and 2226 ROYAL WINDSOR LP**

Applicant

Respondents

Court File No.: CV-24-00714543-00CL

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

Proceedings commenced in Toronto

**APPLICATION RECORD
(Volume III of III)**

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Lawyers for the Applicant