

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF 33 LAIRD INC. A
CORPORATION INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

**MOTION RECORD OF 33 LAIRD INC.
(administrative consolidation, extension of time to file a proposal, debtor-in-possession
financing charge)
(returnable December 16, 2020)**

December 10, 2020

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Lawyers for 33 Laird Inc.

TO: THE SERVICE LIST

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Tab 1

Estate No. 31-2693094

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF 33 LAIRD INC. A CORPORATION
INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

**NOTICE OF MOTION
(administrative consolidation, extension of time to file a proposal, debtor-in-possession
financing charge)
(returnable December 16, 2020)**

33 Laird Inc. will make a motion to a judge of the Commercial List at 330 University Avenue, Toronto, on Wednesday, December 16, 2020, at 10:30 am or as soon thereafter as the motion can be heard, via Zoom teleconference the details for which are in Schedule “A” hereto.

PROPOSED METHOD OF HEARING: orally.

THE MOTION IS FOR: an order, substantially in the form of the suggested draft in the motion record, (i) administratively consolidating the estate court files of the notice of intention to make a proposal (“NOI”) proceedings of 33 Laird Inc. (the “Nominee”), 33 Laird GP Inc. (“GP”), and 33 Laird Limited Partnership (“LP”, and, together with the Nominee and GP, the “Laird Entities”), (ii) extending from December 28, 2020 to February 11, 2021 the time for a proposal to be filed on behalf of the Laird Entities, and (iii) creating a debtor-in-possession financing charge of the assets of all the Laird Entities (the “DIP Charge”).

THE GROUND FOR THE MOTION ARE:

I. BACKGROUND

1. The Laird Entities were set up under a conventional limited partnership arrangement for the main purpose of pursuing a real estate development project at 33 Laird Drive in Toronto, Ontario (the “Project”).

2. The Project is insolvent. Each of the Laird Entities filed an NOI under the *Bankruptcy and Insolvency Act* (the “**BIA**”) on November 28, 2020 as follows:
 - a. in this estate/court file for the Nominee,
 - b. in estate/court file number 31-2693092 for GP, and
 - c. in court file number 31-2693095 for LP.(collectively, the “**NOI Proceedings**”)
3. MNP Ltd. is the proposal trustee in each of the NOI Proceedings (in such capacity, the “**Proposal Trustee**”). Given the limited partnership and nominee structure of the Project, the debts of the Laird Entities are essentially the same.
4. After the limited partners’ initial investment, the Project was principally financed through secured loan facilities with DUCA Financial Services Credit Union Ltd. (“**DUCA**”). On November 19, 2020, DUCA made demand on its loan and security.

II. RELIEF SOUGHT

a. Consolidation

5. The Laird Entities operate a single Project. The restructuring is in respect of the Project as a whole, in which each Laird Entities is a stakeholder along with their own stakeholders. Consolidation would allow economies of scale with respect to court, administration and professional costs, and facilitate the handling of this restructuring as a unified case.

b. Extension of time

6. As further set out in the affidavit of Jason Birnboim sworn December 10, 2020 (the “**Birnboim Affidavit**”), the Laird Entities have acted, and are acting, in good faith and with due diligence. The extension would allow the Laird Entities to continue working on a restructuring plan to allow a viable proposal. No creditor would be materially prejudiced if the extension being applied for were granted.

7. An extension is sought now, merely a couple of weeks in the process, rather than closer to the end of the first 30-day stay period ending on December 28, 2020, to accommodate for the holiday season, including with the court's sitting time.

c. DIP financing and charge

8. As further set out in the Birnboim Affidavit, the Project is currently cashflow negative. To safeguard the assets of the Project and to effect the restructuring approach set out in the Birnboim Affidavit, additional financing is therefore necessary. The limited partners in the Project have collectively arranged for funding a DIP loan.
9. The DIP Charge sought would rank immediately behind DUCA's security interest in all of the Laird Entities' property on which DUCA holds a security interest, and would otherwise rank first on all property of the Laird Entities on which DUCA does not hold a security interest.

III. MAIN STATUTORY PROVISIONS

10. BIA s. 50.4 and 50.6.
11. Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rules 2.03, 3.02 and 6.
12. Such other and further grounds as counsel may advise and the court permit.

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

- a. the Birnboim Affidavit and exhibits,
- b. the First Report of the Trustee, to be filed separately, and
- c. such further and other materials as counsel may advise and the court may permit.

December 10, 2020

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Lawyers for 33 Laird Inc., 33 Laird GP Inc. and
33 Laird Limited Partnership

TO: THE SERVICE LIST

Schedule “A” – Videoconference Details

Join Zoom Meeting

<https://zoom.us/j/94913352530?pwd=K2hPeGVQRW1RbW1RTzY3OFJ5S3o1Zz09>

Meeting ID: 949 1335 2530

Passcode: 493018

One tap mobile

+16465588656,,94913352530#,,,,,0#,,493018# US (New York)

+16699009128,,94913352530#,,,,,0#,,493018# US (San Jose)

Dial by your location

+1 646 558 8656 US (New York)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

Meeting ID: 949 1335 2530

Passcode: 493018

Find your local number: <https://zoom.us/u/acENAMANAA>

Court File No. CV-20-00649558-00CL

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF EXPRESS GOLD REFINING LTD.**

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced in TORONTO

NOTICE OF MOTION
(extension of stay period)
(returnable December 14, 2020)

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2
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Lawyers for the Applicant, Express Gold Refining Ltd.

Tab 2

Estate No. 31-2693094

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF 33 LAIRD INC. A CORPORATION
INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

**AFFIDAVIT OF JASON L. S. BIRNBOIM
(sworn December 10, 2020)**

I, Jason L. S. Birnboim of the City of Toronto in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a director and the president of each of 33 Laird Inc. (the “**Nominee**”) and 33 Laird GP Inc. (“**GP**”), as well as a director of Beaux Properties International Inc. (“**Beaux**”) which is a limited partner in the 33 Laird Limited Partnership (“**LP**”, and together with the Nominee and GP, the “**Laird Entities**”). As such I have knowledge of the matters attested herein. In preparing this affidavit, I consulted with legal, financial and other advisors of the Laird Entities and other members of the Laird Entities’ management. Where this affidavit is on information and belief, I have stated the source of that information and believe it true.
2. The affidavit is in support of the Nominee’s motion for orders substantially per the draft order, filed:
 - a. administratively consolidating the estates and notice of intention court files of the Laird Entities, directing the proposal trustee to administer these proceedings on a consolidated basis, and permitting the filing of court materials in this estate and court file on behalf of all of the Laird Entities,
 - b. extending from December 28, 2020 to February 11, 2021 the time for the proposal trustee of the Laird Entities to file, on behalf of the Laird Entities (individually or collectively, as the case may be), a proposal to creditors under the *Bankruptcy and Insolvency Act* (the “**BIA**”), and

[2]

- c. creating a second-ranking debtor-in-possession financing charge on the assets of all the Laird Entities (the “**DIP Charge**”).

I. THE LAIRD ENTITIES AND THE PROJECT

3. The Laird Entities were set up under a conventional limited partnership arrangement for the main purpose of pursuing a real estate development project at 33 Laird Drive in Toronto, Ontario (the “**Project**”). Corporation profile reports for the Nominee and GP are respectively attached as **Exhibits “A” and “B”**.
4. Title to the property known as 33 Laird Drive is held by the Nominee in trust for GP, which is the general partner of LP. A copy of the parcel register for the property is attached as **Exhibit “C”**.
5. Sealink JV Ltd. (“**Sealink**”) and 2344011 Ontario Inc. (“**Quaestus**”) are the other two limited partners in LP in addition to Beaux.
6. The Project was designed as a development, originally to lease or sell space to commercial tenants. Over time, the partners decided to only lease space to tenants. It is in the early stages of construction, with part of the structural work complete, but very little mechanical or electrical work and no finishing work. None of the Laird Entities have employees.

II. NOI FILINGS

7. The Project is insolvent. Each of the Laird Entities filed a notice of intention to make a proposal to creditors (“**NOI**”) under the BIA on November 28, 2020 as follows:
 - a. in this estate/court file for the Nominee, a copy of which with the creditors listing is attached as **Exhibit “D”**,
 - b. in estate/court file number 31-2693092 for GP, a copy of which with the creditors listing is attached as **Exhibit “E”**, and
 - c. in court file number 31-2693095 for LP, a copy of which with the creditors listing is attached as **Exhibit “F”**.(collectively, the “**NOI Proceedings**”)

8. MNP Ltd. is the proposal trustee in each of the NOI Proceedings (in such capacity, the “**Proposal Trustee**”). Given the limited partnership and nominee structure of the Project, the debts of the Laird Entities are essentially the same.

III. CREDITORS

9. After the limited partners’ initial investment, the Project was principally financed through secured loan facilities with DUCA Financial Services Credit Union Ltd. (“**DUCA**”), including:
 - a. a March 17, 2017 Commitment Letter, a copy of which is **Exhibit “G”**, as amended and restated through an August 16, 2019 Amended and Restated Commitment Letter, a copy of which is **Exhibit “H”**, under both of which the Nominee is the borrower.
 - b. a May 1, 2017 charge in favour of DUCA on the real estate underlying the Project, a copy of which charge is **Exhibit “I”**, as supplemented through an April 27, 2017 Beneficiary’s Consent and Covenants among LP and DUCA, a copy of which is **Exhibit “J”**, and a September 26, 2019 Acknowledgment, Confirmation and Amending Agreement, a copy of which is **Exhibit “K”**. This charge appears, on the Exhibit “C” parcel register as registration number AT4550601, on the first page, as registered for an amount of \$22,000,000.
10. I understand that a portion of the loan from DUCA is held by Centurion Asset Management Inc.
11. The other secured creditors of the Laird Entities include Beaux and Sealink for a second ranking mortgage in the amount of \$5.2 million that was registered on title on November 16, 2020 as shown in the Exhibit “C” parcel register. I note that the parcel register also shows mortgages registered on August 13, 2020 by Beaux and Sealink, each in the amount of \$5 million. It is my understanding that the later registration in the amount of \$5.2 million is the sole mortgage claimed by Beaux and Sealink and that the earlier registration was done preliminarily only. As well, Maxwell & Co. Inc. has registered a construction lien, a copy of which is attached as **Exhibit “L”**.

12. The other known creditors of the Laird Entities are unsecured and are set out in the Exhibit “D”, “E” and “F” creditor mailing packages.
13. I attach together as **Exhibit “M”** Personal Property Security Registration Reports dated December 8, 2020 in respect of each of the Laird Entities. Those disclose chattel security registrations as follows:
 - a. with respect to the Nominee, registrations by DUCA on all but consumer goods,
 - b. with respect to GP, no registration, and
 - c. with respect to the Partnership, a registration by DUCA on “accounts” and the “other” category only.
14. I note that the amounts claimed by Beaux and Sealink as mortgagees, and also the amount claimed by Quaestus (which I understand is on account of fees claimed), are not accepted by all partners and are therefore not necessarily accepted by the Laird Entities at this time. The Laird Entities are insolvent notwithstanding the disputed claims of Beaux, Sealink and Quaestus. I am advised by the Proposal Trustee and by counsel to the Laird Entities that it would be appropriate to address these issues at a later point in the restructuring proceedings if, among other things, the claims need to be determined to permit voting at a creditors’ meeting, if there is likely to be a distribution on account of these claims, or if these claims affect distributions to other creditors. I therefore only make mention of that now for the sake of completeness and of disclosure to the court and stakeholders.

IV. ASSETS

15. The main asset of the Project is the property at 33 Laird Drive and the partially completed building. The Project does also own certain equipment that was purchased for installation at the site, but which has not been installed yet. In order to safeguard that equipment in light of its value, it is being stored offsite under conditions where security can be more assured than on site.

[5]

16. The planned development and existing approvals for the property also represent possible value to third parties, as do leases that have been entered into with proposed commercial tenants.

V. CAUSES OF INSOLVENCY

17. The immediate cause of insolvency for the Laird Entities was the demand by DUCA on its loan and security on November 19, 2020. Copies of the demand letter and notice of intention to enforce security are attached as **Exhibit “N”**.
18. DUCA had been expressing concern about whether it wished to continue to make loans to the Laird Entities since the Spring of 2020. The initial maturity date of DUCA’s loan at the end of September was extended to permit additional time for discussions with DUCA and for possible replacement financing, which did not materialize in time.
19. The underlying financial issues in the project, which DUCA also identified in its discussions with the Laird Entities about the loan, included cost overruns and the impact of the COVID-19 crisis on costs, timeline to complete, and also potential viability of the proposed tenants, which would impact takeout financing at the end of the project in order to allow DUCA as the construction lender to exit.

VI. INTENDED RESTRUCTURING APPROACH

20. Further to professional advice, the Laird Entities’ management concluded that the Project was insolvent and that a restructuring of the Project through the NOI Proceedings may allow recovery of more value for stakeholders – including each of the Laird Entities as well as their clients, suppliers, equity holders, and creditors – than a liquidation scenario.
21. Accordingly, on November 28, 2020, the Proposal Trustee filed NOIs of behalf of each of the Laird Entities in the NOI Proceedings.
22. The Laird Entities are pursuing dual track approaches to restructuring.
23. One option is to seek replacement financing for DUCA with the assistance of the Proposal Trustee and of counsel for the Laird Entities, as well as additional loan amounts to permit

the completion of most of or all the Project under the current projections. The effort to seek refinancing commenced prior to the filing of the NOIs and is ongoing.

24. The other option is the sale of the Project and all its assets in a competitive bid process. The Laird Entities have had expressions of interest from several possible purchasers, so if a refinancing option cannot be achieved then a sale of the Project in a process managed by the Laird Entities as the persons most familiar with the planned development and its features may achieve the best result for stakeholders, under the supervision of and with assistance of the Proposal Trustee.
25. The Laird Entities are currently working with various commercial real estate agents to obtain their proposed marketing strategy as well as their commission proposals in order to bring a sale process before the court for approval. The Laird Entities had hoped to be able to do so for this initial motion in the NOI Proceedings, but I am advised by counsel that the court is not sitting after December 18 except to hear emergency matters, and that December 16 was the only available date for this motion, which would not have permitted enough time to complete the work necessary for a cogent sale process and its review by the Proposal Trustee.
26. The Laird Entities anticipate returning to court in early 2021 to seek approval of a sale process. Possible refinancing will also be sought during that process, but the Laird Entities plan to require that any planned refinancing be ready by the bid deadline for the sale process in order to avoid a prolonged process.

VII. RELIEF SOUGHT

A. Consolidation

27. The Laird Entities operate a single Project. I understand that each entity had to commence a separate proceeding, but the restructuring is in respect of the Project as a whole, in which each Laird Entity is a stakeholder along with their own stakeholders. Consolidation would allow economies of scale with respect to court, administration and professional costs, and facilitate the handling of this restructuring as a unified case.

B. Extension of time

28. Following the filing of the NOI, the Laird Entities have:
- i. Arranged for DIP financing, as described below, and
 - ii. worked with the Proposal Trustee to evaluate their financial position and restructuring options, including to build a 13-week cashflow in respect of the Project dated December 8, 2020, a copy of which is attached as **Exhibit “O”**, and other financial models.
29. Ultimately, the Laird Entities remain at the earliest stage of the NOI Proceedings. An extension is sought now, merely a couple of weeks in, rather than closer to the end of the first 30-day stay period ending on December 28, 2020 to accommodate for the holiday season.
30. I believe that the Laird Entities are acting with due diligence and good faith. I also believe that, following the one-time restructuring expenses and the completion of the restructuring approach set out above, a viable proposal to creditors can be made while allowing the Project to remain a going concern, to the benefit of all its stakeholders including suppliers, shareholders and creditors.

C. DIP Charge

31. As appears from the Exhibit “O” projected cashflow, the Project is currently cashflow negative. This is normal for a development project where costs are incurred almost entirely at the front end before revenues are achieved on completion. The Project is expected to need \$230,837 in new funding over the period of the NOI extension requested.
32. To effect the restructuring approach noted above, additional financing is therefore necessary. Beaux, through an affiliate, has offered to extend a DIP loan, the material terms of which appear in a term sheet and are as follows:
- i. maximum loan amount: \$250,000
 - ii. interest: 10% per annum
 - iii. term: 6 months

- iv. conditions: court approval of the DIP loan and a court order satisfactory to the lender creating the DIP Charge as a charge against all the property, assets and undertaking of the Laird Entities, to a maximum of \$250,000, ranking immediately after the interest of DUCA.
- 33. A copy of the term sheet is attached as **Exhibit "P"**.
- 34. Accordingly, the Laird Entities request an approval and charging order substantially in the form of the draft order filed in the motion record, notably providing that the DIP Charge is not enforceable without prior court approval.

FaceTime

SWORN BEFORE ME via ~~Zoom~~ at the City of Toronto, in the Province of Ontario, this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*

R. B. Bissell

Commissioner for taking affidavits
(present at Toronto at the time of swearing)

R. B. Bissell

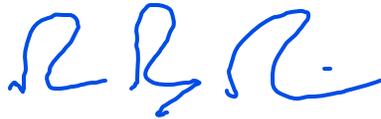
Jason L. S. Birnboim

Jason L. S. Birnboim
(present at Toronto at the time of swearing)

Tab A

FaceTime

This is **Exhibit "A"** to the affidavit of Jason L. S. Birnboim sworn before me via ~~Zoom~~ this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

Request ID: 025339527
 Transaction ID: 77355299
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2020/11/27
 Time Report Produced: 12:53:41
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
2443075	33 LAIRD INC.	2014/11/24
		Jurisdiction
		ONTARIO
		Former Jurisdiction
		NOT APPLICABLE
Corporation Type	Corporation Status	
ONTARIO BUSINESS CORP.	ACTIVE	
Registered Office Address		Date Amalgamated
2323 YONGE STREET		NOT APPLICABLE
Suite # 605 TORONTO ONTARIO CANADA M4P 2C9		Amalgamation Ind.
		NOT APPLICABLE
		New Amal. Number
		NOT APPLICABLE
		Notice Date
		NOT APPLICABLE
		Letter Date
		NOT APPLICABLE
Mailing Address		Revival Date
2323 YONGE STREET		NOT APPLICABLE
Suite # 605 TORONTO ONTARIO CANADA M4P 2C9		Continuation Date
		NOT APPLICABLE
		Transferred Out Date
		NOT APPLICABLE
		Cancel/Inactive Date
		NOT APPLICABLE
		EP Licence Eff.Date
		NOT APPLICABLE
		EP Licence Term.Date
		NOT APPLICABLE
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
Activity Classification	Number of Directors Minimum Maximum	
NOT AVAILABLE	00001 00010	NOT APPLICABLE

Request ID: 025339527
Transaction ID: 77355299
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2020/11/27
Time Report Produced: 12:53:41
Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
2443075	33 LAIRD INC.

Corporate Name History	Effective Date
33 LAIRD INC.	2014/11/24

Current Business Name(s) Exist:	NO
Expired Business Name(s) Exist:	NO

Administrator: Name (Individual / Corporation)	Address
JASON BIRNBOIM	5140 YONGE STREET Suite # 2360 TORONTO ONTARIO CANADA M2N 6L7

Date Began	First Director	
2014/11/24	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
DIRECTOR		Y

Request ID: 025339527
Transaction ID: 77355299
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2020/11/27
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Page: 3

CORPORATION PROFILE REPORT

Ontario Corp Number

2443075

Corporation Name

33 LAIRD INC.

Administrator:**Name (Individual / Corporation)**

JASON
BIRNBOIM

Address

5140 YONGE STREET

Suite # 2360
TORONTO
ONTARIO
CANADA M2N 6L7

Date Began

2014/11/24

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian

Y

Administrator:**Name (Individual / Corporation)**

ROY
BIRNBOIM

Address

5140 YONGE STREET

Suite # 2360
TORONTO
ONTARIO
CANADA M2N 6L7

Date Began

2014/11/24

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type**Resident Canadian**

Y

Request ID: 025339527
 Transaction ID: 77355299
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2020/11/27
 Time Report Produced: 12:53:41
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CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	
2443075	33 LAIRD INC.	
Administrator: Name (Individual / Corporation)	Address	
KARTIK GANATRA	17 MAIN STREET NORTH PO BOX 1396 WATERDOWN ONTARIO CANADA LOR 2H0	
Date Began	First Director	
2014/11/24	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
DIRECTOR		Y
Administrator: Name (Individual / Corporation)	Address	
KARTIK GANATRA	17 MAIN STREET NORTH PO BOX 1396 WATERDOWN ONTARIO CANADA LOR 2H0	
Date Began	First Director	
2014/11/24	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
OFFICER	VICE-PRESIDENT	Y

Request ID: 025339527
 Transaction ID: 77355299
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2020/11/27
 Time Report Produced: 12:53:41
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CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	
2443075	33 LAIRD INC.	
Administrator: Name (Individual / Corporation)	Address	
BARRY GODFREY	2323 YONGE STREET Suite # 605 TORONTO ONTARIO CANADA M4P 2C9	
Date Began	First Director	
2014/11/24	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
DIRECTOR		Y
Administrator: Name (Individual / Corporation)	Address	
BARRY GODFREY	2323 YONGE STREET Suite # 605 TORONTO ONTARIO CANADA M4P 2C9	
Date Began	First Director	
2014/11/24	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
OFFICER	SECRETARY	Y

Request ID: 025339527
Transaction ID: 77355299
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2020/11/27
Time Report Produced: 12:53:41
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CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
2443075	33 LAIRD INC.

Last Document Recorded

Act/Code	Description	Form	Date
CIA	ANNUAL RETURN 2018	1C	2019/07/14 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

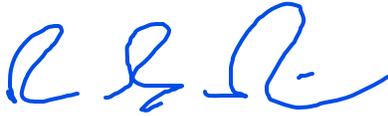
ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

Tab B

FaceTime

This is **Exhibit "B"** to the affidavit of Jason L. S. Birnboim sworn before me via ~~Zoom~~ this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

Request ID: 025339532
 Transaction ID: 77355315
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2020/11/27
 Time Report Produced: 12:54:13
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
2557833	33 LAIRD GP INC.	2017/01/25
		Jurisdiction
		ONTARIO
		Former Jurisdiction
		NOT APPLICABLE
Corporation Type	Corporation Status	
ONTARIO BUSINESS CORP.	ACTIVE	
Registered Office Address		Date Amalgamated
2323 YONGE STREET		NOT APPLICABLE
Suite # 605 TORONTO ONTARIO CANADA M4P 2C9		New Amal. Number
		NOT APPLICABLE
		Notice Date
		NOT APPLICABLE
		Letter Date
		NOT APPLICABLE
Mailing Address		Revival Date
2323 YONGE STREET		NOT APPLICABLE
Suite # 605 TORONTO ONTARIO CANADA M4P 2C9		Transferred Out Date
		NOT APPLICABLE
		Cancel/Inactive Date
		NOT APPLICABLE
		EP Licence Eff.Date
		NOT APPLICABLE
		EP Licence Term.Date
		NOT APPLICABLE
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
		Number of Directors
		Minimum
		Maximum
		00001
		00020
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
Activity Classification		
NOT AVAILABLE		

Request ID: 025339532
 Transaction ID: 77355315
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2020/11/27
 Time Report Produced: 12:54:13
 Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
2557833	33 LAIRD GP INC.

Corporate Name History	Effective Date
33 LAIRD GP INC.	2017/01/25

Current Business Name(s) Exist:	NO
Expired Business Name(s) Exist:	NO

Administrator: Name (Individual / Corporation)	Address
JASON L. S. BIRNBOIM	5140 YONGE STREET Suite # 2360 TORONTO ONTARIO CANADA M2N 6L7

Date Began	First Director	
2017/01/25	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
DIRECTOR		Y

Request ID: 025339532
Transaction ID: 77355315
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2020/11/27
Time Report Produced: 12:54:13
Page: 3

CORPORATION PROFILE REPORT

Ontario Corp Number

2557833

Corporation Name

33 LAIRD GP INC.

Administrator:**Name (Individual / Corporation)**

JASON
L. S.
BIRNBOIM

Address

5140 YONGE STREET

Suite # 2360
TORONTO
ONTARIO
CANADA M2N 6L7

Date Began

2017/01/25

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian

Y

Administrator:**Name (Individual / Corporation)**

ROY
BIRNBOIM

Address

5140 YONGE STREET

Suite # 2360
TORONTO
ONTARIO
CANADA M2N 6L7

Date Began

2017/01/25

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type**Resident Canadian**

Y

Request ID: 025339532
 Transaction ID: 77355315
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2020/11/27
 Time Report Produced: 12:54:13
 Page: 4

CORPORATION PROFILE REPORT

Ontario Corp Number

2557833

Corporation Name

33 LAIRD GP INC.

Administrator:

Name (Individual / Corporation)

KARTIK
 GANATRA

Address

17 MAIN STREET NORTH, PO BOX 139
 WATERDOWN
 ONTARIO
 CANADA LOR 2H0

Date Began

2017/01/25

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Administrator:

Name (Individual / Corporation)

KARTIK
 GANATRA

Address

17 MAIN STREET NORTH, PO BOX 139
 WATERDOWN
 ONTARIO
 CANADA LOR 2H0

Date Began

2017/01/25

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

VICE-PRESIDENT

Resident Canadian

Y

Request ID: 025339532
 Transaction ID: 77355315
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2020/11/27
 Time Report Produced: 12:54:13
 Page: 5

CORPORATION PROFILE REPORT

Ontario Corp Number

2557833

Corporation Name

33 LAIRD GP INC.

Administrator:

Name (Individual / Corporation)

BARRY
 GODFREY

Address

2323 YONGE STREET
 Suite # 605
 TORONTO
 ONTARIO
 CANADA M4P 2C9

Date Began

2017/01/25

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Administrator:

Name (Individual / Corporation)

BARRY
 GODFREY

Address

2323 YONGE STREET
 Suite # 605
 TORONTO
 ONTARIO
 CANADA M4P 2C9

Date Began

2017/01/25

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

SECRETARY

Resident Canadian

Y

Request ID: 025339532
Transaction ID: 77355315
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2020/11/27
Time Report Produced: 12:54:13
Page: 6

CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2557833

33 LAIRD GP INC.

Last Document Recorded

Act/Code	Description	Form	Date
CIA	INITIAL RETURN	1	2017/04/11 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

Tab C

Factive

This is **Exhibit "C"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

LAND
REGISTRY
OFFICE #66

10369-0360 (LT)

PAGE 1 OF 2
PREPARED FOR Hiuwanhu
ON 2020/12/08 AT 14:02:23

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

PROPERTY DESCRIPTION: PART LOTS 685, 686, 687, 688, 689, 690 AND 691 PLAN 2120, PART LOTS 12 & 13 CONCESSION 3 FROM THE BAY (YORK), PART LEASIDE ROAD PLAN 1535 AND PART CANVARCO ROAD PLAN 2921 (CLOSED BY BYLAW 627 AS IN EY173327), PARTS 2, 3, 4 & 5 PLAN 66R30829; TOGETHER WITH AN EASEMENT OVER PARTS 1 & 6, PLAN 66R30829 AS IN AT5243556; SUBJECT TO AN EASEMENT IN GROSS OVER PART 3, PLAN 66R30829 AS IN AT5243558; CITY OF TORONTO

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
DIVISION FROM 10369-0198

PIN CREATION DATE:
2019/10/22

OWNERS' NAMES
33 LAIRD INC.

CAPACITY SHARE
ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2019/10/22 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2000/11/27 **						
TL42961	1962/09/19	BYLAW				C
AT4516975	2017/03/21	TRANSFER	\$8,000,000	LEVITT UNITED LIMITED	33 LAIRD INC.	C
REMARKS: PLANNING ACT STATEMENTS.						
AT4550601	2017/05/01	CHARGE	\$22,000,000	33 LAIRD INC.	DUCA FINANCIAL SERVICES CREDIT UNION LTD.	C
AT4550614	2017/05/01	NO ASSGN RENT GEN		33 LAIRD INC.	DUCA FINANCIAL SERVICES CREDIT UNION LTD.	C
REMARKS: AT4550601						
AT4643103	2017/08/01	BYLAW		CITY OF TORONTO		C
REMARKS: BY-LAW 781-2017 - TO DESIGNATE THE PROPERTY AT 33 LAIRD DRIVE (SHERIDAN EQUIPMENT LTD.) AS BEING OF CULTURAL HERITAGE VALUE OR INTEREST.						
AT4815350	2018/03/05	NOTICE	\$2	CITY OF TORONTO		C
AT4815354	2018/03/05	POSTPONEMENT		DUCA FINANCIAL SERVICES CREDIT UNION LTD.	CITY OF TORONTO	C
REMARKS: AT4550601 TO AT4815350						

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 #66

10369-0360 (LT)

PAGE 2 OF 2
PREPARED FOR Hiuwanhu
ON 2020/12/08 AT 14:02:23

* 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
66R30829	2019/07/12	PLAN REFERENCE				C
AT5243555	2019/09/23	NOTICE REMARKS: SITE PLAN AGREEMENT		CITY OF TORONTO		C
AT5243558	2019/09/23	TRANSFER EASEMENT		33 LAIRD INC.	CITY OF TORONTO	C
AT5243559	2019/09/23	POSTPONEMENT REMARKS: AT4550601 & AT4550614 TO AT5243558		DUCA FINANCIAL SERVICES CREDIT UNION LTD.	CITY OF TORONTO	C
AT5247712	2019/09/26	NOTICE REMARKS: AT4550601	\$2	33 LAIRD INC.	DUCA FINANCIAL SERVICES CREDIT UNION LTD.	C
AT5270953	2019/10/25	LR'S ORDER REMARKS: AMEND DESCRIPTION		LAND REGISTRAR, TORONTO LAND REGISTRY OFFICE		C
AT5274151	2019/10/29	NOTICE REMARKS: ENCROACHMENT AGREEMENT	\$2	CITY OF TORONTO		C
AT5494726	2020/08/13	CHARGE		*** COMPLETELY DELETED *** 33 LAIRD INC.	BEAUX PROPERTIES INTERNATIONAL INC.	
AT5494727	2020/08/13	CHARGE		*** COMPLETELY DELETED *** 33 LAIRD INC.	SEALINK J.V. LTD.	
AT5494803	2020/08/13	CHARGE	\$5,000,000	33 LAIRD INC.	SEALINK J.V. LTD.	C
AT5494804	2020/08/13	CHARGE	\$5,000,000	33 LAIRD INC.	BEAUX PROPERTIES INTERNATIONAL INC.	C
AT5496137	2020/08/14	DISCH OF CHARGE REMARKS: AT5494726.		*** COMPLETELY DELETED *** BEAUX PROPERTIES INTERNATIONAL INC.		
AT5496138	2020/08/14	DISCH OF CHARGE REMARKS: AT5494727.		*** COMPLETELY DELETED *** SEALINK J.V. LTD.		
AT5569465	2020/11/12	CONSTRUCTION LIEN	\$113,336	MAXXWEL & CO. INC.		C
AT5572805	2020/11/16	CHARGE	\$5,200,000	33 LAIRD INC.	BEAUX PROPERTIES INTERNATIONAL INC. SEALINK JV LTD.	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.

Tab D

FaceTime

This is **Exhibit "D"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*

A Commissioner, etc.

District of:
Division No. -
Court No.
Estate No.

- FORM 33 -
Notice of Intention To Make a Proposal
(Subsection 50.4(1) of the Act)

In the matter of the proposal of
33 Laird Inc.
of the City of Toronto
in the Province of Ontario

Take notice that:

1. We, 33 Laird Inc., an insolvent person, state, pursuant to subsection 50.4(1) of the Act, that we intend to make a proposal to our creditors.
2. MNP Ltd. of 300 - 111 Richmond Street West, Toronto, ON, M5H 2G4, a licensed trustee, has consented to act as trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 69 of the Act, all proceedings against us are stayed as of the date of filing of this notice with the official receiver in our locality.

Dated at the City of Toronto in the Province of Ontario, this 28th day of November 2020.



33 Laird Inc.
Insolvent Person

To be completed by Official Receiver:

Filing Date

Official Receiver

District of:
 Division No. -
 Court No.
 Estate No.

- FORM 33 -
 Notice of Intention To Make a Proposal
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of
 33 Laird Inc.
 of the City of Toronto
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
2065629 Ontario			4,723.40
2730419 Ontario Inc. o/a Davina's Swim House	46 Armon Ave Thronhill ON L4J 8B2 CA	N/A	40,000.00
AIM Rx Inc	c/o Royal Lepage 2320 Bloor Street West Toronto, Ontario M6S 1P2 CA	N/A	72,440.00
Anesh Srikrishnakumar. (Dog Trainer)	112 Glenvale Blvd Toronto ON M4G 2V9 CA	N/A	8,000.00
Aztec Structural Restoration Inc.	11 Holland Drive, Unit 1 Bolton ON L7E 7G4 CA	N/A	267,271.73
Aztec Structural Restoration Inc.	11 Holland Drive, Unit 1 Bolton ON L7E 7G4 CA	N/A	369,019.24
Beaux Properties International Inc.	6 Eglinton Ave. East, Suite 303 Toronto ON M4P 1A6 CA		3,170,077.01
C.F. Crozier & Associates Inc.	40 Huron Street, Suite 301 Collingwood ON L9Y 4R3 CA	N/A	9,361.32
CB Ross Partners	501 - 1920 Yonge Street Toronto ON M4S 3E2 CA	N/A	786.60
Centurion Mortgage Capital Corporation	25 Sheppard Ave West, Suite 710 Toronto ON M2N 6S6 CA		3,214,485.34
CMV Group	247 Spadina Ave, 4th Floor Toronto ON M5T 3A8 CA	N/A	86,693.47
DUCA Financial Services Credit Union Ltd	5255 Yonge Street, 4th Floor Toronto ON M2N 6P4 CA		9,789,335.28
Happy Bathrooms Inc.	160-106 Vanderhood Ave Toronto ON M4G 0B7 CA	N/A	2,252.46
Innovia Corporation	10 Queen Elizabeth Blvd. Unit 2 Etobicoke ON M8Z 1L8 CA	N/A	271,179.94

District of:
 Division No. -
 Court No.
 Estate No.

- FORM 33 -
 Notice of Intention To Make a Proposal
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of
 33 Laird Inc.
 of the City of Toronto
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Lennard Commercial Realty	55 University Avenue, Suite 6060 Toronto ON M4N 3N1 CA	N/A	44,070.00
Minden Gross, LLP	145 King Street West, Suite 2200 Toronto ON M5H 4G2 CA	N/A	6,657.12
Mirkwood Engineering	5045 Mainway, Suite 216 Burlington ON L7L 5H9 CA	N/A	9,780.15
MultiTech Trades Corp	2025 Meadowvale Blvd, Unit 2 Mississauga ON L5N 5N1 CA	N/A	99,157.51
Quaestus Corp	3080 Yonge Street, Suite 6060 Toronto ON M5N3N1 CA	N/A	31,639.17
Quaestus Corp - balance of development fee (Note 1)	3080 Yonge Street, Suite 6060 Toronto ON M5N3N1 CA		800,000.00
Sealink JV Ltd, In Trust	17 Main Street North PO Boc 1396 Waterdown ON L0R 2H0		2,027,677.00
Treasurer, City of Toronto	Box 6000 Toronto ON M2N 5V3 CA	N/A	13,249.89
Treasurer, City of Toronto George Charocopos, Collections Department	North York Civic Centre, Lower Level 5100 Yonge Street North York ON M2N 5V7	N/A	95,452.74
Tristar Engineering	8901 Woodbine Ave, Unit 116 Markham ON L3R 9Y4 CA	N/A	1,130.00
Via Bridle Path RE		N/A	1,372.95
Total			20,435,812.32

Note the amounts owing to Beaux Properties International Inc., Sealink JV Ltd. and Quaestus Corp (in respect of the development fee) are subject to further review.



33 Laird Inc.
 Insolvent Person

Tab E

FaceTime

This is **Exhibit "E"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

District of:
Division No. -
Court No.
Estate No.

- FORM 33 -
Notice of Intention To Make a Proposal
(Subsection 50.4(1) of the Act)

In the matter of the proposal of
33 Laird GP Inc.
of the City of Toronto
in the Province of Ontario

Take notice that:

1. We, 33 Laird GP Inc., an insolvent person, state, pursuant to subsection 50.4(1) of the Act, that we intend to make a proposal to our creditors.
2. MNP Ltd. of 300 - 111 Richmond Street West, Toronto, ON, M5H 2G4, a licensed trustee, has consented to act as trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 69 of the Act, all proceedings against us are stayed as of the date of filing of this notice with the official receiver in our locality.

Dated at the City of Toronto in the Province of Ontario, this 28th day of November 2020.



 33 Laird GP Inc.
 Insolvent Person

To be completed by Official Receiver:

Filing Date

Official Receiver

District of:
 Division No. -
 Court No.
 Estate No.

- FORM 33 -
 Notice of Intention To Make a Proposal
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of
 33 Laird GP Inc.
 of the City of Toronto
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
2065629 Ontario			4,723.40
2730419 Ontario Inc. o/a Davina's Swim House	46 Armon Ave Thronhill ON L4J 8B2 CA	N/A	40,000.00
AIM Rx Inc	c/o Royal Lepage 2320 Bloor Street West Toronto, Ontario M6S 1P2 CA	N/A	72,440.00
Anesh Srikrishnakumar. (Dog Trainer)	112 Glenvale Blvd Toronto ON M4G 2V9 CA	N/A	8,000.00
Aztec Structural Restoration Inc.	11 Holland Drive, Unit 1 Bolton ON L7E 7G4 CA	N/A	267,271.73
Aztec Structural Restoration Inc.	11 Holland Drive, Unit 1 Bolton ON L7E 7G4 CA	N/A	369,019.24
Beaux Properties International Inc.	6 Eglinton Ave. East, Suite 303 Toronto ON M4P 1A6 CA		3,170,077.01
C.F. Crozier & Associates Inc.	40 Huron Street, Suite 301 Collingwood ON L9Y 4R3 CA	N/A	9,361.32
CB Ross Partners	501 - 1920 Yonge Street Toronto ON M4S 3E2 CA	N/A	786.60
Centurion Mortgage Capital Corporation	25 Sheppard Ave West, Suite 710 Toronto ON M2N 6S6 CA		3,214,485.34
CMV Group	247 Spadina Ave, 4th Floor Toronto ON M5T 3A8 CA	N/A	86,693.47
DUCA Financial Services Credit Union Ltd	5255 Yonge Street, 4th Floor Toronto ON M2N 6P4 CA		9,789,335.28
Happy Bathrooms Inc.	160-106 Vanderhood Ave Toronto ON M4G 0B7 CA	N/A	2,252.46
Innovia Corporation	10 Queen Elizabeth Blvd. Unit 2 Etobicoke ON M8Z 1L8 CA	N/A	271,179.94

District of:
 Division No. -
 Court No.
 Estate No.

- FORM 33 -
 Notice of Intention To Make a Proposal
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of
 33 Laird GP Inc.
 of the City of Toronto
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
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Mirkwood Engineering	5045 Mainway, Suite 216 Burlington ON L7L 5H9 CA	N/A	9,780.15
MultiTech Trades Corp	2025 Meadowvale Blvd, Unit 2 Mississauga ON L5N 5N1 CA	N/A	99,157.51
Quaestus Corp	3080 Yonge Street, Suite 6060 Toronto ON M5N3N1 CA	N/A	31,639.17
Quaestus Corp - balance of development fee (Note 1)	3080 Yonge Street, Suite 6060 Toronto ON M5N3N1 CA		800,000.00
Sealink JV Ltd, In Trust			2,027,677.00
Treasurer, City of Toronto	Box 6000 Toronto ON M2N 5V3 CA	N/A	13,249.89
Treasurer, City of Toronto George Charocopos, Collections Department	North York Civic Centre, Lower Level 5100 Yonge Street North York ON M2N 5V7	N/A	95,452.74
Tristar Engineering	8901 Woodbine Ave, Unit 116 Markham ON L3R 9Y4 CA	N/A	1,130.00
Via Bridle Path RE		N/A	1,372.95
Total			20,435,812.32

Note the amounts owing to Beaux Properties International Inc., Sealink JV Ltd. and Quaestus Corp (in respect of the development fee) are subject to further review.



33 Laird GP Inc.
 Insolvent Person

Tab F

This is **Exhibit "F"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*

FaceTime

A handwritten signature in blue ink, appearing to be 'R.S.B.', written over a horizontal line.

A Commissioner, etc.

District of:
Division No. -
Court No.
Estate No.

- FORM 33 -
Notice of Intention To Make a Proposal
(Subsection 50.4(1) of the Act)

In the matter of the proposal of
33 Laird Limited Partnership
of the City of Toronto
in the Province of Ontario

Take notice that:

1. We, 33 Laird Limited Partnership, an insolvent person, state, pursuant to subsection 50.4(1) of the Act, that we intend to make a proposal to our creditors.
2. MNP Ltd. of 300 - 111 Richmond Street West, Toronto, ON, M5H 2G4, a licensed trustee, has consented to act as trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 69 of the Act, all proceedings against us are stayed as of the date of filing of this notice with the official receiver in our locality.

Dated at the City of Toronto in the Province of Ontario, this 28th day of November 2020.



33 Laird Limited Partnership
Insolvent Person

To be completed by Official Receiver:

Filing Date

Official Receiver

District of:
 Division No. -
 Court No.
 Estate No.

- FORM 33 -
 Notice of Intention To Make a Proposal
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of
 33 Laird Limited Partnership
 of the City of Toronto
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
2065629 Ontario			4,723.40
2730419 Ontario Inc. o/a Davina's Swim House	46 Armon Ave Thronhill ON L4J 8B2 CA	N/A	40,000.00
AIM Rx Inc	c/o Royal Lepage 2320 Bloor Street West Toronto, Ontario M6S 1P2 CA	N/A	72,440.00
Anesh Srikrishnakumar. (Dog Trainer)	112 Glenvale Blvd Toronto ON M4G 2V9 CA	N/A	8,000.00
Aztec Structural Restoration Inc.	11 Holland Drive, Unit 1 Bolton ON L7E 7G4 CA	N/A	267,271.73
Aztec Structural Restoration Inc.	11 Holland Drive, Unit 1 Bolton ON L7E 7G4 CA	N/A	369,019.24
Beaux Properties International Inc.	6 Eglinton Ave. East, Suite 303 Toronto ON M4P 1A6 CA		3,170,077.01
C.F. Crozier & Associates Inc.	40 Huron Street, Suite 301 Collingwood ON L9Y 4R3 CA	N/A	9,361.32
CB Ross Partners	501 - 1920 Yonge Street Toronto ON M4S 3E2 CA	N/A	786.60
Centurion Mortgage Capital Corporation	25 Sheppard Ave West, Suite 710 Toronto ON M2N 6S6 CA		3,214,485.34
CMV Group	247 Spadina Ave, 4th Floor Toronto ON M5T 3A8 CA	N/A	86,693.47
DUCA Financial Services Credit Union Ltd	5255 Yonge Street, 4th Floor Toronto ON M2N 6P4 CA		9,789,335.28
Happy Bathrooms Inc.	160-106 Vanderhood Ave Toronto ON M4G 0B7 CA	N/A	2,252.46
Innovia Corporation	10 Queen Elizabeth Blvd. Unit 2 Etobicoke ON M8Z 1L8 CA	N/A	271,179.94

District of:
 Division No. -
 Court No.
 Estate No.

- FORM 33 -
 Notice of Intention To Make a Proposal
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of
 33 Laird Limited Partnership
 of the City of Toronto
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Lennard Commercial Realty	55 University Avenue, Suite 6060 Toronto ON M4N 3N1 CA	N/A	44,070.00
Minden Gross, LLP	145 King Street West, Suite 2200 Toronto ON M5H 4G2 CA	N/A	6,657.12
Mirkwood Engineering	5045 Mainway, Suite 216 Burlington ON L7L 5H9 CA	N/A	9,780.15
MultiTech Trades Corp	2025 Meadowvale Blvd, Unit 2 Mississauga ON L5N 5N1 CA	N/A	99,157.51
Quaestus Corp	3080 Yonge Street, Suite 6060 Toronto ON M5N3N1 CA	N/A	31,639.17
Quaestus Corp - balance of development fee (Note 1)	3080 Yonge Street, Suite 6060 Toronto ON M5N3N1 CA		800,000.00
Sealink JV Ltd, In Trust	17 Main St N North PO Box 1396 Waterdown ON L0R 2H0		2,027,677.00
Treasurer, City of Toronto	Box 6000 Toronto ON M2N 5V3 CA	N/A	13,249.89
Treasurer, City of Toronto George Charocopos, Collections Department	North York Civic Centre, Lower Level 5100 Yonge Street North York ON M2N 5V7	N/A	95,452.74
Tristar Engineering	8901 Woodbine Ave, Unit 116 Markham ON L3R 9Y4 CA	N/A	1,130.00
Via Bridle Path RE		N/A	1,372.95
Total			20,435,812.32

Note the amounts owing to Beaux Properties International Inc., Sealink JV Ltd. and Quaestus Corp (in respect of the development fee) are subject to further review.


 33 Laird Limited Partnership
 Insolvent Person

Tab G

Face Time

This is **Exhibit "G"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

March 17, 2017

DELIVERED BY COURIER

33 Laird Inc.
c/o Quaestus Management Corp.
2323 Yonge Street, Suite 605
Toronto, Ontario
M4P 2C9

Attention: Barry Godfrey

Dear Sir:

We are pleased to advise that DUCA Financial Services Credit Union Ltd. (the “**Lender**”) has approved certain credit facilities in favour of 33 Laird Inc. (the “**Borrower**”) for the approximately 80,000 square foot retail centre to be comprised of both rentable and saleable space to be confirmed by the Project Monitor (the “**Project**”) to be constructed at 33 Laird Drive, Toronto, Ontario (the “**Property**”), upon the terms and conditions described in this commitment letter (the “**Commitment**”). Upon execution, the Commitment will constitute an agreement which shall bind the Borrower, Beaux Properties International Inc. and Quaestus Management Corp. (collectively, the “**Corporate Guarantors**”), Barry Godfrey and Kartik Ganatra (collectively, the “**Personal Guarantors**”, and collectively with the Corporate Guarantors, the “**Guarantors**”) and the Lender.

CREDIT FACILITY

The Lender establishes a \$21,834,000 demand non-revolving loan facility (the “**Credit Facility**”) in favour of the Borrower.

Notwithstanding compliance with the covenants and all the terms and conditions of this Commitment, the Credit Facility is repayable ON DEMAND.

The Credit Facility shall be funded by way of Loans from the Lender as follows:

- (1) \$18,195,000 (the “**A Loan**”); and
- (2) \$3,639,000 (the “**B Loan**”), to be funded by Centurion pursuant to a subordination, participation and servicing agreement to be entered into between the Lender and Centurion (the “**Centurion Participation Agreement**”),

in accordance with the Sources and Uses of Funds set out below and pursuant to the terms of this Commitment.

PURPOSE

Loans made under the Credit Facility will only be used to finance the acquisition of the Property and Construction of the Project. The Lender acknowledges that the Borrower closed on its purchase of the Property on March 21, 2017 by way of a vendor take-back mortgage (the “VTB Mortgage”) and that the first Advance shall be applied towards the amount required to pay off and discharge the VTB Mortgage.

SOURCES AND USES OF FUNDS

Sources and Uses – First Advance (acquisition)					
Sources	\$	%	Uses	\$	%
Equity	\$2,426,000	28%	Land	\$8,490,060	100%
A Loan	\$5,094,036	60%			
B Loan	\$970,024	12%			
Total	\$8,490,060	100%	Total	\$8,490,060	100%

Sources and Uses – Total Advance (acquisition and construction)					
Sources	\$	%	Uses	\$	%
Equity	\$2,426,000	10%	Land	\$8,490,060	35%
A Loan	\$18,195,000	75%	Hard Costs	\$9,250,000	38%
B Loan	\$3,639,000	15%	Soft Costs	\$6,519,940	27%
Total	\$24,260,000	100%	Total	\$24,260,000	100%

CLOSING DATE

The date of the first Advance shall be no later than April 21, 2017 (the “Closing Date”).

MATURITY DATE

The Credit Facility shall mature and any outstanding balance shall become due and payable in full on the earlier of: (1) two (2) years from the Closing Date; and (2) the date on which the Lender demands repayment of the Credit Facility.

INTEREST RATE AND PAYMENTS

The Borrower shall pay interest on each Advance under the: (1) A Loan at a rate per annum equal to the Prime Rate plus 1.80% per annum; and (2) B Loan at a rate of 10% per annum, each calculated and payable monthly on the first day of each month, not in advance both before and after maturity, default and judgment. Interest will accrue from the date of disbursement of Advance monies to the Lender’s solicitors. Interest shall be payable on all past due interest from the due date of such interest at (1) the Interest Rate applicable to the A Loan; and (2) 10% per annum in respect of the B Loan, both before and after maturity, Default and judgment. The Borrower authorizes the Lender to automatically debit the Borrower’s account with the Lender for all payments.

Notwithstanding and in addition to the foregoing: (1) prior to the second Advance hereunder, the Borrower shall pay interest as set out above with funds deposited into its account with the Lender from its own resources; and (2) following the second Advance hereunder, interest as set out above shall be paid from the Credit Facility via Advances (provided that no Progress Advance

Fee shall be applicable to any Advance made solely for the purpose of paying interest hereunder), subject to the Lender's satisfactory receipt of a clear subsearch of the Property, execution search against the Borrower and there being no Default.

The Borrower shall open an account with the Lender and deposit the sum of \$1.00 into a membership share account and a one-time commercial account opening fee of \$30.00 will be required. The Lender's pre-authorized debit form is required for all new accounts together with a void cheque.

REPAYMENTS AND PARTIAL DISCHARGES

Mandatory Repayment

- (1) Provided that the Borrower is in full compliance with the terms of this Commitment, the Borrower shall be entitled to a partial discharge of the Security as it relates to the applicable Retail Units upon:
 - (a) the sale of any Retail Unit to a bona fide Arm's Length third party on terms approved in writing by the Lender and the payment to the Lender of the Net Retail Sale Proceeds, for application in accordance with Subsection (2) below; or
 - (b) the Borrower obtaining term financing for any Retail Units from an Arm's Length lender and on terms approved in writing by the Lender and the payment to the Lender of the net proceeds of such financing, for application in accordance with Subsection (2) below.
- (2) Any payments received by the Lender pursuant to Subsection (1) above shall be applied towards repayment of the Loans outstanding under the Credit Facility (with such repayments to be allocated to the A Loan and the B Loan in accordance with the terms of the Centurion Participation Agreement) and any such repayments shall result in a corresponding permanent reduction in the Credit Facility.
- (3) The Lender shall execute such releases of the Security in respect of any Retail Unit for which a partial discharge is sought pursuant to Subsection (1) above, in form and substance as the Borrower may reasonably require, and shall deliver the same to the Borrower's solicitors in escrow for delivery or release upon delivery to the Lender of the amount described in Subsection (1) above.

"Net Retail Sale Proceeds" means the Gross Sale Proceeds relating to the sale of a Retail Unit less deposits paid, sales commissions, legal costs and other typical closing adjustments contemplated by the relevant Retail Sales Agreement as approved by the Lender. HST is to be paid by the purchaser thereunder.

Voluntary Prepayments and Reductions

The Borrower may from time to time prepay Loans outstanding under the Credit Facility, in whole or in part, without premium or penalty. Upon such prepayment, the Credit Facility shall be correspondingly permanently reduced by the amount of such prepayment.

AVAILABILITY

Requests for Advances under the Credit Facility shall be made no more frequently than monthly and for amounts greater than \$300,000. The Credit Facility is made available at the sole discretion of the Lender for the purpose of the acquisition and Construction of the Project and for no other purpose without the prior written consent of the Lender. The Lender may cancel or restrict the availability of any unutilized portion of the Credit Facility at any time and from time to time.

The Lender will engage the Project Monitor to review the Plans and Specifications, approvals, permits, environmental reports, geotechnical reports, survey, contracts, Retail Sales Agreements and all other material agreements pertinent to the development of the Project. The Project Monitor will provide a detailed Project Budget containing total Project Costs not exceeding \$24,260,000 to be approved by the Lender and otherwise prepared in accordance with the Sources and Uses of Funds hereinbefore set out unless otherwise approved by the Lender. The cost of the Project Monitor shall be borne by the Borrower.

Following the Closing Date, the Credit Facility will be funded by Advances to pay Project Costs. Advances will be made as recommended by the Project Monitor and approved by the Lender, on the basis of the Project Monitor verifying Costs-in-Place less Minimum Required Equity, accounts payable that will not be paid from the requested Advance, Interim Revenue received and utilized to fund Project Costs, Retail Deposits released to the Borrower and utilized to fund Project Costs, Cost Overruns and Holdbacks in accordance with the Construction Lien Act (the “**Costs-in-Place Margin**”) subject to the unadvanced amount of the Credit Facility plus remaining offsetting income being equal to the Cost-to-Complete plus Holdbacks plus unpaid payables.

Holdbacks will be retained by the Lender in accordance with the Construction Lien Act. Release of Holdbacks will be made in accordance with the Construction Lien Act and the final release shall be approved by the Lender’s legal counsel. All Cost Overruns must be funded by the Borrower from its own cash resources derived from outside the Project. Any construction liens must be fully discharged by the Borrower from its own cash resources derived from outside the Project prior to any further Advances. All Advances will be subject to an acceptable subsearch performed by the Lender’s legal counsel.

SECURITY

As general and continuing security for the payment and performance of the Obligations, the following security will be granted to the Lender in form and with content satisfactory to the Lender and its solicitors:

- (1) the Charge in the principal amount of \$22,000,000;
- (2) a general security agreement given by the Borrower to the Lender providing a first priority security interest over all the present and future assets, property and undertaking of the Borrower including purchase and sale agreements, plans, contracts, drawings, agreements, permits, approvals, equipment, receivables, inventory and intellectual property;
- (3) an assignment of the Borrower’s insurance policies;
- (4) a general assignment of the Leases and rents, revenues and profits payable thereunder made by the Borrower in favour of the Lender;

- (5) a general assignment of the Material Project Agreements by the Borrower in favour of the Lender acknowledged by the counterparties as required by the Lender;
- (6) a specific assignment of the Construction Management Agreement made by the Borrower in favour of the Lender with a form of Construction Manager acknowledgement and consent attached;
- (7) a specific assignment of the Development Management Agreement made by the Borrower in favour of the Lender acknowledged by the Development Manager;
- (8) an assignment in favour of the Lender made by the Borrower of its rights under the Retail Sales Agreements, as may be amended, modified or restated from time to time, together with the Retail Deposits;
- (9) a joint and several debt service, cost overrun and completion undertaking and guarantee made by the Borrower and Guarantors in favour of the Lender;
- (10) as may be required by the Lender, an assignment of the Construction Contracts given by the Borrower to the Lender with a form of Contractor acknowledgement and consent attached as required by the Lender;
- (11) the unconditional guarantee and postponement of claim by Beaux Properties International Inc. ("**Beaux**") of up to a maximum of \$3,333,334 of all Obligations owing by the Borrower to the Lender. This guarantee and postponement of claim is in addition to Beaux's obligations under the environmental indemnity and debt service, cost overrun and completion undertaking and guarantee;
- (12) the unconditional joint and several guarantee and postponement of claim by Barry Godfrey ("**Godfrey**") and Quaestus Management Corp. ("**Quaestus**") of up to a maximum of \$3,333,334 of all Obligations owing by the Borrower to the Lender. This guarantee and postponement of claim is in addition to Godfrey's and Quaestus' obligations under the environmental indemnity and debt service, cost overrun and completion undertaking and guarantee;
- (13) the unconditional guarantee and postponement of claim by Kartik Ganatra ("**Ganatra**") of up to a maximum of \$3,333,334 of all Obligations owing by the Borrower to the Lender. This guarantee and postponement of claim is in addition to Ganatra's obligations under the environmental indemnity and debt service, cost overrun and completion undertaking and guarantee;
- (14) a joint and several environmental indemnity to be provided by the Borrower and Guarantors in favour of the Lender;
- (15) standstills, subordinations, postponements and assignments of claim from any shareholder or stakeholder of the Borrower who is not one of the Guarantors and any other Person the Lender may designate, acting reasonably;
- (16) an agreement to be provided by the Borrower and Guarantors in favour of the Lender not to withdraw equity from the Project until the Credit Facility has been repaid in full;
- (17) assignments made by the Borrower in favour of the Lender of any cash security now or in future to be held by any Governmental Authority for the obligations of the Borrower to

such Governmental Authority in respect of: (a) the servicing and development of the Property; (b) conditional building permit fee deposits; or (c) construction work; together with irrevocable directions by the Borrower to such Governmental Authority to pay such cash security to the Lender upon its release in whole or in part from time to time; and

- (18) such other security as the Lender or its solicitors may reasonably require which is contemplated by this Commitment or which security more fully gives effect to the security contemplated by this Commitment.

Condominium Documents

Provided that the Borrower is fully in compliance with the terms of the Loan Documents, the Lender agrees, from time to time upon the request and at the expense of the Borrower, to execute and deliver a consent to the Borrower registering the Declaration pursuant to the Condominium Act, provided that all Condominium Documents are provided to and found in all respects satisfactory to the Lender and its solicitors and provided further that, upon the request of the Lender (which the Lender shall only make if it, in its sole discretion but in good faith, believes that the occurrence of a Material Adverse Change is imminent or reasonably likely to occur) the Borrower shall deliver to the Lender a further charge of the Project (in substantially the same form as the Charge) with respect to the Retail Units and the pro-rata share of common elements appurtenant to such Retail Units only (the “**Replacement Charge**”), which Replacement Charge shall be registered after the date of registration of the Declaration on title to the Retail Units.

Condominium Votes

At any time the Lender may request the Borrower to name the Lender as the Borrower’s proxy, to attend and to vote at meetings of unit owners or, in the alternative, at the option of the Lender, to act as the proxy of the Lender at such meetings, and for this purpose, the Borrower hereby assigns its voting rights to the Lender. Any notice of such assignment required by Applicable Law shall be given by the Borrower in accordance with the requirements of Applicable Law.

Trustee/Beneficial Owner

The Borrower and 33 Laird Limited Partnership (the “Beneficial Owner”) shall grant to the Lender a trustee and beneficial owner agreement (in form and content satisfactory to the Lender and its solicitors) prior to the first Advance, and all the covenants, agreements, rights, obligations, representations, warranties and other provisions set out in this Commitment relating to the Borrower shall apply, *mutatis mutandis*, to the Beneficial Owner.

CONDITIONS PRECEDENT TO THE FIRST ADVANCE

The obligation of the Lender to make the first Advance hereunder is subject to and conditional upon the prior satisfaction of the following conditions precedent:

- (1) The Lender will have received a request for the first Advance at least five (5) Business Days prior to the proposed Advance date;
- (2) The Borrower shall be fully in compliance with all the terms and conditions of the Loan Documents;
- (3) A Material Adverse Change will not have occurred and be existing or, in the reasonable opinion of the Lender, be threatened or pending;

- (4) The Lender will have received a policy of title insurance satisfactory to the Lender;
- (5) All corporate documentation requested by the Lender and its solicitors will have been received;
- (6) The Project Monitor shall have been engaged to act on behalf of the Lender throughout the duration of the Credit Facility at the Borrower's expense;
- (7) The Lender will have completed its due diligence with respect to the Borrower, Guarantors and Project, and will have received all financial, corporate and other information requested by the Lender including receipt and satisfactory review of:
 - (a) a written status report from the Borrower and Guarantors' legal counsel with respect to any actual or threatened litigation, dispute, arbitration or other proceeding in respect of the Property, the Borrower and/or any of the Guarantors;
 - (b) the personal net worth statement of the Personal Guarantors together with supporting documents;
 - (c) notice to reader financial statements prepared by acceptable independent chartered accountants of the Borrower for the 2015 calendar year and of the Corporate Guarantors for the 2015 and 2016 years;
 - (d) corporate tax returns of the Borrower and the Corporate Guarantors and personal tax returns for the Personal Guarantors for the 2015 and 2016 years together with evidence confirming all income taxes for such years are paid up-to-date;
 - (e) all Material Project Agreements to date;
 - (f) the agreement of purchase and sale for the Property;
 - (g) all Retail Sales Agreements to date;
 - (h) all Leases together with an up-to-date rent roll;
 - (i) current pre-sales report, including purchaser name, current address, unit number of the Retail Unit being acquired, square footage of the Retail Unit, asking price, sale price, deposit status (including location of deposits, amount paid to date and amount and timing of deposits yet to be paid) closing date and any special conditions;
 - (j) the most recent realty Taxes bill and evidence of payment thereof and that all realty Taxes levied against the Property are current;
 - (k) an Appraisal with respect to the Property indicating an "as is" value of not less than \$8,700,000 and an "as completed" value of not less than \$28,000,000 which must be addressed to the Lender or accompanied by a letter from the Appraiser permitting the Lender to rely thereon.
 - (l) the environmental reports in respect of the Property satisfactory to the Lender in its sole discretion addressed to the Lender or accompanied by a letter from the environmental consultant permitting the Lender to rely thereon;

- (m) a draft plan prepared by the Borrower's architect, engineer or surveyor setting forth the boundaries, area and dimensions of the Property, the location of any encroachments, easements or rights of way and the proposed location of any improvements to the Property;
 - (n) evidence satisfactory to the Lender that the Borrower's insurance is satisfactory and complies with this Commitment and in respect of which an independent insurance consultant retained by the Lender shall have provided a written report to the Lender confirming the same;
 - (o) all draft Condominium Documents, which shall include the Disclosure Statement;
 - (p) the Standard Form Sales Agreement;
 - (q) all existing Retail Sales Agreements in digital form;
 - (r) copies of current Plans and Specifications, including, without limitation, floor plans and any current market survey materials relating to the Project;
- (8) the Lender will have received certified copies of all shareholder approvals and true copies of all regulatory governmental and other approvals, if any, required in order for the Borrower to enter into this Commitment and to perform its obligations hereunder;
 - (9) the discharge of any existing mortgages and all other releases, discharges and postponements that are required in the discretion of the Lender (in registrable form where necessary) with respect to all Encumbrances affecting the collateral Encumbered by the Security that are not Permitted Encumbrances, if any, will have been delivered to the Lender;
 - (10) the Lender will have received the payment of all fees and expenses (including the fees and disbursements of the Lender's solicitors) payable to the Lender that are due and payable at such time;
 - (11) duly executed copies of the Loan Documents and deliveries in connection therewith will have been delivered to the Lender and all such Loan Documents will have been duly registered, filed and recorded in all relevant jurisdictions where required by Applicable Law or where the Lender considers it necessary, in its sole discretion, to do so;
 - (12) a currently dated letter of opinion of the Borrower's solicitors as to such matters and in such form as the Lender's solicitors may reasonably require, including with respect to usual corporate matters and enforceability, addressed to the Lender and its solicitors will have been delivered to the Lender;
 - (13) the Lender shall have received a title opinion from its solicitors dated the date of the first Advance and confirming based on title insurance that: (a) the Borrower has good and marketable title to the Project, subject only to Permitted Encumbrances, and (b) the Charge constitutes a good and valid first charge on the Property, subject only to Permitted Encumbrances;
 - (14) the Borrower shall have opened an account with the Lender and deposited the sum of \$1.00 into a membership share account and a one-time commercial account opening fee of \$30.00 shall have been paid, into which all Advances and Project revenues will be

deposited and from which all Project Costs will be paid.

- (15) the Lender will have received identity certificates with respect to the Borrower and Guarantors in the form required by the Lender;
- (16) the Lender will have received all required identification and other due diligence materials required with respect to the Borrower to allow the Lender to comply with its obligations under all applicable anti-money laundering and anti-terrorism laws and regulations to which the Lender may be subject, including AMLA;
- (17) the Lender shall have received all other reports and deliveries required hereunder for the period prior to the date of the first Advance;
- (18) confirmation that 65% of the Hard Costs budget has been committed on the date of the first Advance with 75% committed within 90 days thereafter;
- (19) such first Advance must have occurred no later than April 21, 2017; and
- (20) the Lender shall have successfully participated the B Loan to Centurion pursuant to the Centurion Participation Agreement;

and further provided that all documents delivered pursuant the foregoing provisions hereof must be in full force and effect, and in form and substance satisfactory to the Lender and its solicitors.

CONDITIONS PRECEDENT TO THE SECOND ADVANCE

The obligation of the Lender to make the second Advance hereunder is subject to and conditional upon the prior satisfaction of the following conditions precedent:

- (1) The Lender will have received a request for the second Advance at least five (5) Business Days prior to the proposed Advance date;
- (2) The Project other than the Retail Units shall be pre-leased with qualified, binding Leases satisfactory to the Lender having a minimum annual net rental revenue of not less than \$987,570 and an average net rental rate of not less than \$22.00 per square foot, all as determined by the Lender;
- (3) The Lender will have completed its due diligence with respect to the Borrower, Guarantors and the Project, and will have received all financial, corporate and other information requested by the Lender including receipt and review of a satisfactory report from the Project Monitor containing:
 - (a) confirmation that it has reviewed and is satisfied with the Project Budget, Plans and Specifications and Construction Schedule and that the Project can be completed in accordance with the same;
 - (b) a projected cash flow estimate for the Construction;
 - (c) verification of the reputation, qualification and capabilities of all major trades and containing its recommendation with respect to the requirement for any Performance and Payment Bonds for major trades and suppliers (and where same have been required by the Lender, confirming the same are in form and content

acceptable to the Project Monitor);

- (d) confirmation that all necessary zoning and development approvals, including all necessary permits, have been obtained or will be issued as required pertaining to each stage of Construction (being first, up to excavation level; second, up to foundation stage; and third, superstructure, as applicable);
- (e) the site plan control agreement for the Project, as applicable;
- (f) confirmation of the Project Budget of not more than \$24,260,000 (including the Land Costs of \$8,490,060);
- (g) confirmation of the amount of Costs-in-Place including Land Value, Hard Costs and Soft Costs incurred on the Project to date on a line by line basis and identifying whether such costs have been incurred in accordance with the Project Budget or are Cost Overruns;
- (h) confirmation of Cost-to-Complete and Holdbacks;
- (i) confirmation that the Project Equity is no less than the Minimum Required Equity;
- (j) confirmation that any Cost Overruns that have been incurred on the Project have been funded in their entirety by the Borrower and/or Guarantors from their own cash resources derived from outside the Project;
- (k) confirmation that the Borrower has made all required Holdbacks with respect to the Construction completed to date in compliance with the Construction Lien Act;
- (l) recommendation of the requested Advance amount based on the Project Monitor's verification of the Costs-in-Place Margin subject to the unadvanced amount of the Credit Facility and offsetting income less Holdbacks and unpaid payables being equal to the Cost-to-Complete;
- (m) a certificate from a senior officer of the Borrower:
 - (A) certifying the amount of Costs-in-Place incurred on the Project to date, the Cost-to-Complete and Holdbacks on a line by line basis;
 - (B) certifying the payments that have been made or will be made from the proceeds of the second Advance and, where required by the Project Monitor, attaching copies of all invoices in excess of \$100,000 that will be paid from the proceeds of the second Advance;
 - (C) certifying that any Cost Overruns that have been incurred on the Project have been funded by the Borrower and/or Guarantors from their cash resources derived from outside the Project;
 - (D) certifying that the Borrower has made all required Holdbacks with respect to the work completed to date in accordance with the Construction Lien Act;
 - (E) certifying the amount of Project Equity, which must be no less than the

Minimum Required Equity; and

- (F) certifying as to such other information and accompanied by such back-up material, as the Lender or Project Monitor may reasonably request from time to time;
- (n) certificates signed by the relevant Consultant certifying:
 - (A) that any Construction to date has been completed in all material respects in accordance with the Plans and Specifications; and
 - (B) such other matters as may be reasonably required by the Project Monitor (and in respect of which the Consultant is qualified to certify).
- (o) except where the Lender will be an addressee of the relevant reports, an acknowledgement from the Consultant which will be providing certificates of substantial performance in respect of any portion of Construction for the purposes of the Construction Lien Act, that the Lender and Project Monitor will be relying on the reports and certificates provided by the Consultant and that they are entitled to do so;
- (p) Performance and Payment Bonds, if any, required by the Lender with the recommendation of the Project Monitor;
- (q) confirmation that where the Borrower has entered into Eligible Pre-Sales:
 - (A) a minimum of 25% of each Retail Unit price in Retail Deposits has been contracted for with 5% due on occupancy; and
 - (B) no lease-backs or cash flow guarantees are permitted, provided that any shortfall in these pre-sales requirements may be met by the Borrower injecting additional cash equity which will be released when the pre-sales requirements are met.
- (r) any other documents related to the Project that the Lender or Project Monitor deems reasonably necessary, including development, regulatory and zoning approvals;

and the results of such due diligence will be satisfactory to the Lender in its sole discretion.

CONDITIONS PRECEDENT TO ALL SUBSEQUENT ADVANCES

The obligation of the Lender to make any subsequent Advance hereunder by way of a Loan is subject to and conditional upon the prior satisfaction of the following additional conditions precedent:

- (1) the Lender shall have received a request for Advance at least five (5) Business Days prior to the proposed Advance date;
- (2) the representations and warranties set out in the Loan Documents will continue to be true and correct as if made on and as of the Advance date;

- (3) the Borrower shall be fully in compliance with all the terms and conditions of the Loan Documents;
- (4) a Material Adverse Change will not have occurred and be existing;
- (5) the Lender shall not have received notice of the existence of any claim for lien made under the Construction Lien Act;
- (6) the Borrower must have delivered to the Lender all reporting required hereunder;
- (7) the Lender shall have received confirmation from its solicitors based on a subsearch of title conducted on the Advance date confirming that no Encumbrances have been registered on title to the Property since the date of the prior Advance other than Permitted Encumbrances;
- (8) prior to any Advance being utilized to fund the actual construction of the Project, the Lender shall have received copies of the site plan control agreement, Construction Management Agreement and Development Management Agreement for the Project and all other subdivision, servicing, development, site plan and similar agreements with Governmental Authorities that are required in order to ensure the completion or delivery of possession of the Project;
- (9) prior to any Advance being utilized to fund the actual construction of the Project, the Lender shall have received evidence that the Material Project Agreements relating to the Construction of the Project and the grant of necessary rights (including crane swing and shoring) by adjacent property owners, to the extent necessary, have been executed by all counterparties thereto; and
- (10) the Lender shall have received evidence that all Permits necessary for Construction which relate to: (a) Construction in respect of which the Advance is being made, and (b) all prior Construction, are in place at the time of the Advance;
- (11) if any new Material Project Agreements have been entered into since the previous Advance, notice of such agreements shall have been given to the Lender and, if required by the Lender, specific assignments of such agreement shall be delivered to it;
- (12) the Lender shall have received copies of all new Retail Sales Agreements and Leases entered into since the date of the previous Advance and an updated pre-sales report, including purchaser name, current address, Retail Unit number being acquired, square footage of the Retail Unit, asking price, sale price, deposit status (including location of deposits, amounts paid to date and amounts and timing of deposits yet to be paid, portion of deposits relating to purchaser upgrades), closing date and any special conditions;
- (13) the Lender shall have received a satisfactory report from the Project Monitor:
 - (a) confirming that the Project can be completed in accordance with the Project Budget, Plans and Specifications and Construction Schedule;
 - (b) containing the updated pre-sales report per paragraph (10) above with copies of any new Retail Sales Agreement since the prior Advance report;
 - (c) containing an updated projected cash flow estimate for the Construction where

any event has caused the previously delivered estimate to have been revised in any material manner;

- (d) confirming that all necessary zoning and development approvals, including all necessary Permits, have been obtained or will be issued as required pertaining to each stage of Construction;
- (e) verifying the reputation of any new major trades and containing its recommendation with respect to the requirement for any Performance and Payment Bonds to be required by the Lender in consultation with the Project Monitor for major trades and suppliers (and where the same have been required by the Lender, confirming the same are in form and content acceptable to the Project Monitor);
- (f) verifying that all previous Advances have been applied towards the payment of Project Costs;
- (g) recommending the requested Advance amount based on the Project Monitor's verification of the Costs-in-Place Margin subject to the unadvanced amount of the Credit Facility and offsetting income less Holdbacks and unpaid payables being equal to the Cost-to-Complete;
- (h) confirming that any Cost Overruns that have been incurred on the Project have been funded in their entirety by the Borrower and/or Guarantors from their cash resources derived from outside the Project;
- (i) confirming that the Borrower has made all required Holdbacks with respect to the Construction completed to date in accordance with the Construction Lien Act;
- (j) where the underlying conditions have been satisfied, the Certificate of Total Completion;
- (k) containing a certificate from a senior officer of the Borrower:
 - (A) certifying the amount of Costs-in-Place incurred on the Project to date, the Cost-to-Complete and Holdbacks on a line by line basis;
 - (B) certifying the payments that have been made or will be made from the proceeds of the Advance and, where required by Project Monitor, attaching copies of all invoices in excess of \$100,000 that will be paid from the proceeds of the Advance;
 - (C) certifying that all accounts payable that were to have been paid from prior Advances have been paid;
 - (D) certifying that any Cost Overruns that have been incurred on the Project have been funded in their entirety by the Borrower and/or Guarantors from their own cash resources derived from outside the Project;
 - (E) certifying compliance with: (i) the Construction Lien Act, including that that the Borrower has made all required Holdbacks with respect to the work completed to date; and (ii) applicable legislation relating to Taxes;

- (F) certifying the amount of Project Equity, which must be no less than: (i) the Minimum Required Equity; plus (ii) the amount of Interim Revenue received since the prior Advance; and (iii) Cost Overruns funded by the Borrower and/or Guarantor;
 - (G) certifying as to such other information and accompanied by such back-up material, as the Lender or Project Monitor may reasonably request from time to time;
 - (H) certifying that the Cost-to-Complete shall not exceed the aggregate of the unadvanced amount of the Credit Facility and offsetting income less Holdbacks and unpaid payables;
 - (I) certifying that the aggregate principal amount of all Loans under the Credit Facility shall not exceed the lesser of (i) the authorized amount of the Credit Facility; and (ii) the Costs-In-Place Margin;
 - (J) containing the certificates signed by the relevant Consultant (where the architect is unable to provide such certification) certifying that all Construction to date has been completed in all material respects in accordance with the Plans and Specifications, and
 - (K) such other matters as may be reasonably required and in respect of which the Consultant is qualified to certify.
- (l) Performance and Payment Bonds, if any, required by the Lender with the recommendation of the Project Monitor;
 - (m) the Lender will have received payment of all fees payable to the Lender that are due and payable at such time;
 - (n) the Lender shall be satisfied that after giving effect to the Advance:
 - (A) the Cost-to-Complete does not exceed the aggregate of the unadvanced amount of the Credit Facility and offsetting income less Holdbacks and unpaid payables; and
 - (B) the aggregate principal amount of all Loans under the Credit Facility shall not exceed the lesser of (i) the authorized amount of the Credit Facility and (ii) the Costs-In-Place Margin;
 - (o) a sign shall be erected at the site indicating financing provided by the Lender and the cost shall be borne by the Borrower; and
 - (p) all other terms and conditions of the Commitment that have not been waived will have been fulfilled;

and provided further that all documents delivered pursuant to the foregoing provisions must be in full force and effect, and in form and substance satisfactory to the Lender and its solicitors.

The conditions precedent to the first Advance and to all Advances hereinbefore described are inserted for the sole benefit of the Lender and may be waived by the Lender, in whole or in part

(with or without terms or conditions), in respect of any Advance without prejudicing the right of the Lender at any time to assert such conditions in respect of any subsequent Advance.

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lender as follows, and acknowledges and confirms that the Lender is relying upon such representations and warranties:

- (1) Existence and Qualification – The Borrower: (a) has been duly incorporated, amalgamated or continued, as the case may be, and is validly subsisting as a corporation under the laws of its jurisdiction of incorporation, amalgamation, or continuance, as the case may be; and (b) is duly qualified to carry on business in all jurisdictions in which it carries on its business.
- (2) Power and Authority – The Borrower has the power, authority and right (a) to enter into and deliver, and to exercise its rights and perform its obligations under the Loan Documents to which it is a party and all other instruments and agreements delivered by it pursuant to any of the Loan Documents; and (b) to own its property and carry on its business as currently conducted and as currently proposed to be conducted by it. Without limiting the foregoing, the Borrower has all necessary power and authority to own its interest in the Property and to develop and complete the Project and is duly licensed, registered and qualified to carry out such activities.
- (3) Execution, Delivery, Performance and Enforceability of Documents – The execution, delivery and performance of each of the Loan Documents to which the Borrower is a party, and every other instrument or agreement delivered by it pursuant to any Loan Document, has been duly authorized by all actions, if any, required on its part and by its directors, and each of such documents has been duly executed and delivered and constitutes a valid and legally binding obligation of the Borrower enforceable against it in accordance with its terms subject to bankruptcy, insolvency, reorganization, arrangement, winding-up, moratorium and other similar laws of general application limiting the enforcement of creditors' rights generally and to general equitable principles.
- (4) Loan Documents Comply with Applicable Laws and Contractual Obligations – Neither the entering into nor the delivery of, and neither the consummation of the transactions contemplated in nor compliance with the terms, conditions and provisions of, the Loan Documents by the Borrower conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under or contravention of any Applicable Laws, or results or will result in the creation or imposition of any Encumbrance other than Permitted Encumbrances except in favour of the Lender upon or against the Project.
- (5) Consents Respecting Loan Documents – The Borrower has obtained, made or taken all consents, approvals, authorizations, declarations, registrations, filings, notices and other actions whatsoever required in connection with the execution and delivery by it of each of the Loan Documents to which it is a party and the consummation of the transactions contemplated in the Loan Documents.
- (6) Taxes – The Borrower has paid or made adequate provision for the payment of all Taxes levied on it or on the Property or income that are due and payable, including interest and penalties, or has accrued such amounts in its financial statements for the payment of such Taxes, and there is no material action, suit, proceeding, investigation, audit or claim now

pending, or to its knowledge threatened, by any Governmental Authority regarding any Taxes that is reasonably likely to cause a Material Adverse Change nor has it agreed to waive or extend any statute of limitations with respect to the payment or collection of Taxes.

- (7) Judgments – The Borrower is not subject to any judgment, order, writ, injunction, decree or award, or to any restriction, rule or regulation that has not been stayed or of which enforcement has not been suspended and that individually or in the aggregate constitutes, or is reasonably likely to cause a Material Adverse Change.
- (8) Absence of Litigation – There are no actions, suits or proceedings pending or, to the best of the Borrower’s knowledge and belief, threatened against or affecting the Borrower that are reasonably likely to cause, either separately or in the aggregate, a Material Adverse Change. The Borrower is not in default with respect to any Applicable Law in a manner or to an extent that could reasonably be expected to cause a Material Adverse Change.
- (9) Title to Property – The Borrower is the registered owner of the Property with good and marketable title thereto, and any other real and personal property of any nature which is part of the Project, in each case free and clear of all Encumbrances except Permitted Encumbrances, and no Person (other than the Beneficial Owner and a purchaser under a Retail Sales Agreement as disclosed to the Lender effective the date hereof) has any agreement or right to acquire an interest in the Project.
- (10) Compliance with Laws – To the best of the Borrower’s knowledge, it is not in default under any Applicable Law where such default could reasonably be expected to cause a Material Adverse Change. To the best of the knowledge of the Borrower, the Property is in compliance in all material respects with all Applicable Laws. Further, there are no facts known or which ought reasonably to be known, which could give rise to a notice of non-compliance to such extent with any Applicable Law.
- (11) No Default – The Borrower is not 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 could reasonably be expected to cause a Material Adverse Change.
- (12) Environmental Matters
 - (a) Other than as disclosed in the environmental reports delivered by the Borrower to the Lender pursuant hereto, the Property is in full compliance in all material respects with all Environmental Law; the Borrower is not aware of, nor has it received notice of any past, present or future condition, event, activity, practice or incident that may interfere with or prevent the compliance or continued compliance of the Project or the Borrower in all respects with all Environmental Law; and the Borrower has obtained all licences, permits and approvals in connection with the Project that are currently required under all Environmental Law and is in full compliance with the provisions of such licences, permits and approvals.
 - (b) Other than as disclosed in the environmental reports delivered by the Borrower to the Lender pursuant hereto, the Borrower is not aware that any Hazardous Substances exist on, about or within or have been used, generated, stored, transported, disposed of on, or Released from the Property other than in

accordance and compliance with all Environmental Law.

- (c) The use that the Borrower has made and intends to make of the Property will not result in the use, generation, storage, transportation, accumulation, disposal, or Release of any Hazardous Substances on, in or from the Property except in accordance and compliance with all Environmental Law.
 - (d) There is no action, suit or proceeding or, to its knowledge, any investigation or inquiry, before any Governmental Authority pending or, to its knowledge, threatened against the Borrower relating in any way to any Environmental Law that would or could reasonably be expected to cause a Material Adverse Change.
 - (e) The Borrower has not (A) with respect to the Property, incurred any current and outstanding liability for any clean-up or remedial action under any Environmental Law with respect to current or past operations, events, activities, practices or incidents relating thereto; (B) received any outstanding written request for information by any Person under any Environmental Law with respect to the condition, use or operation of the Property; (C) received any outstanding written notice or claim under any Environmental Law with respect to any material violation of or liability under any Environmental Law or relating to the presence of Hazardous Substances on or originating from the Property, that, would or could reasonably be expected to cause a Material Adverse Change; or (D) ever been convicted of an offence or subjected to any judgment, injunction or other proceeding for non-compliance with any Environmental Law with respect to the Property or been fined or otherwise sentenced or settled such prosecution or other proceeding short of conviction for non-compliance with any Environmental Law with respect to the Property.
 - (f) Copies of all material analysis and monitoring data for soil, ground water, surface water and the like and reports pertaining to any environmental assessments/audits, including any inspections, investigations and tests, relating to the Property that were obtained, are in the possession or control of, or were carried out on behalf of the Borrower have been delivered to the Lender.
 - (g) Since acquiring its interest in the Property, the Borrower has maintained all environmental and operating documents and records relating to the Property substantially in the manner and for the time periods required by Environmental Law.
 - (h) The Borrower has not defaulted in reporting to any applicable Governmental Authority in relation to the Property on the happening of an occurrence which it is or was required by any Environmental Law to report.
- (13) Zoning, Uses and Expropriation
- (a) Except as disclosed in writing to the Lender, the Project is zoned to permit the Construction and operation of the Project.
 - (b) Upon the Borrower's receipt of site plan approval, the existing and proposed uses of the Project shall comply in all material respects with all Applicable Law.
 - (c) It has not received notice of any proposed rezoning of all or any part of the

Project that would be reasonably likely to cause a Material Adverse Change in respect of the Construction of the Project or otherwise.

- (d) Except for the road widening contemplated by the site plan approval for the Project as disclosed to the Lender, it has not received notice of any expropriation of all or any part of the Property.
- (14) Insolvency – The Borrower (a) has not committed any act of bankruptcy; (b) is not insolvent, or has not proposed or given notice of its intention to propose a compromise or arrangement to its creditors generally; (c) has not made any petition for a receiving order in bankruptcy, made a voluntary assignment in bankruptcy, taken any proceeding with respect to any compromise or arrangement, taken any proceeding to have itself declared bankrupt or wound-up, taken any proceeding to have a receiver appointed of any part of its assets, or had any Encumbrancer take possession of its property; or (d) has not had an execution or distress become enforceable or become levied on any portion of its assets and property.
- (15) Setbacks – To the best of the knowledge of the Borrower, the location of any buildings in the Project are or will be, to the extent they have been constructed or will be constructed in accordance with the Plans and Specifications, within the boundary lines of the Project as a whole and are in compliance with all applicable setback requirements.
- (16) Full Disclosure – All information provided or to be provided to the Lender in connection with the Credit Facility is true and correct in all material respects and none of the documentation furnished to the Lender by the Borrower, omits or will omit as of such time, a material fact necessary to make the statements contained therein not misleading in any material way, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful inquiry by the Borrower and any other Person who furnished such material on its behalf.
- (17) Residency – The Borrower is not a non-resident for the purposes of Section 116 of the *Income Tax Act (Canada)*.

The representations and warranties set out above survive the execution and delivery of the Loan Documents and will be deemed to be repeated by the Borrower as of each Advance date.

POSITIVE COVENANTS

So long as this Commitment is in force and except as otherwise permitted by the prior written consent of the Lender, the Borrower will:

- (1) Timely payment – Make due and timely payment of the Obligations required to be paid by it hereunder.
- (2) Conduct of Business, Maintenance of Existence, Compliance with Laws – Engage in business of the same general type as now conducted by it; carry on and conduct its business and operations in a proper, efficient and businesslike manner in accordance with good business practice; preserve, renew and keep in full force and effect its existence; and take all reasonable action to maintain all rights, privileges and franchises necessary in the normal conduct of its business and to comply in all material respects with all Material Project Agreements as applicable, Material Licences and Applicable Law, including,

following the registration of the Declaration in respect of that portion of the Project comprising the Retail Units, the Condominium Act and including the establishment and maintenance of a replacement reserve, where the same is required under the Condominium Act.

- (3) Access to Information – Promptly provide the Lender and Project Monitor with all information reasonably requested by any of them from time to time at reasonable intervals in connection with this Commitment concerning its financial condition and the Project (including the Plans and Specifications, the Project Budget, the status of Construction, Material Project Agreements and Material Licences), and during normal business hours and from time to time at reasonable intervals upon reasonable notice, permit representatives of the Lender to inspect the Project and to examine and take extracts from its financial records, including records stored in computer data banks and computer software systems regarding the Project, and to discuss its financial condition with its senior officers and its auditors, the reasonable expense of all of which will be paid by the Borrower.
- (4) Obligations and Taxes – Pay or discharge, or cause to be paid or discharged, before the same will become delinquent: (a) all Taxes imposed upon it or upon its income or profits or in respect of its business or the Project and file all tax returns in respect thereof; (b) all lawful claims for labour, materials and supplies; (c) all required payments under any of its debt; and (d) all other obligations.
- (5) Use of Credit Facility – Use the proceeds of the Credit Facility only for the purposes specified herein and not for the benefit of or on behalf of any Person other than the Borrower.
- (6) Construction Insurance – From the date hereof until Total Completion of the Project, the Borrower shall maintain or cause to be maintained with insurance companies acceptable to the Lender on the advice of its insurance consultant :
 - (a) all risks builder's risk (including coverage against the perils of earthquake, flood, testing and commissioning Hard and Soft Costs) coverage for the full replacement cost of the Project, excluding Land Costs. Such insurance shall:
 - (A) include a soft cost endorsement in an amount of not less than 100% of total recurring Soft Costs or such lesser amount as may be recommended by the Project Monitor and accepted by the Lender;
 - (B) name the Borrower as first named insured thereunder and as additional insureds all those required to be named as additional insureds under any of the Material Project Agreements;
 - (C) name the Lender as first mortgagee and first loss payee and have attached the standard Insurance Bureau of Canada mortgage clause;
 - (D) provide that no cancellation or termination thereof, for any reason whatsoever (with the exception of cancellation due to non-payment of premium for which 15 days' statutory notice of cancellation may apply), shall take effect unless the insurer concerned has given the Lender not less than 30 days' prior written notice of such proposed action;

- (E) contain a waiver by the insurer or insurers of all rights of subrogation or indemnity or any other claim to which such insurer or insurers might otherwise be entitled against the Lender; and
 - (F) otherwise be in such form as the Lender shall reasonably require or as required under any of the Material Project Agreements;
- (b) wrap-up liability insurance with a minimum combined single limit of liability of not less than \$10,000,000 per occurrence. Such insurance shall:
- (A) name the Borrower as first named insured and the Lender as an additional insured and name all others required to be named under any of the Material Project Agreements including architects, engineers, consultants, contractors, sub-contractors and trades of every tier as additional insureds;
 - (B) provide that no cancellation or termination thereof, for any reason whatsoever (with the exception of cancellation due to non-payment of premium for which 15 days' statutory notice of cancellation may apply), shall take effect unless the insurer concerned has given the Lender no less than 30 days' prior written notice of such proposed action;
 - (C) contain a waiver by the insurer of all rights of subrogation or indemnity or any other claim to which the insurer might otherwise be entitled against the Lender and others to whom the Borrower has granted such waivers under any of the Material Project Agreements;
 - (D) contain a cross-liability clause and a severability of interest clause; and
 - (E) otherwise be in such form as the Lender shall reasonably require or as required under any of the Material Project Agreements.

The Borrower will provide detailed certificates of insurance for all policies required hereunder to be purchased and maintained by the Borrower in form acceptable to the Lender on the advice of its insurance consultant.

- (7) Operating Insurance – After Total Completion of the Project has been achieved, so long as the Borrower has an ownership interest in same and so long as any amounts are due hereunder, maintain or cause to be maintained all risks insurance (on a replacement cost, stated amount, no co-insurance basis), general liability insurance, business interruption insurance and such other insurance in form and in such amounts and with such deductibles as are customary in the case of owners of projects similar to the Project and in any event as are acceptable to the Lender. The Lender shall be named as first mortgagee and first loss payee or additional insured, as applicable, under such policies. The foregoing shall not apply with respect to the lands and buildings in respect of which a condominium corporation has been created by registration of a Declaration under the Condominium Act and which has obtained the insurance coverages required by the Condominium Act and the Condominium Documents.
- (8) Notice of Litigation – Promptly notify the Lender on becoming aware of the occurrence of any actual or potential litigation, dispute, arbitration or other proceeding the result of which if determined adversely would be a judgment or award against the Borrower that would result in a Material Adverse Change to it, and from time to time provide the

Lender with all reasonable information requested by it concerning the status of any such proceeding.

(9) Environmental Compliance

- (a) Operate the Property in a manner such that no material obligation, including a clean-up or remedial obligation, will arise under any Environmental Law; provided, however, that if any such claim is made or any such obligation arises, it will immediately satisfy or contest such claim or obligation at its own cost and expense, and promptly notify the Lender upon learning of (A) the existence of Hazardous Substances located on, above or below the surface of the Property or contained in the soil or water constituting such land (except those being stored, used, contained or otherwise handled in substantial compliance with Environmental Law); or (B) the occurrence of any reportable Release of Hazardous Substances into the air, land, surface water or ground water that has occurred on or from such land; or (C) any other event or occurrence relating to the Project which, in the opinion of the Borrower, is likely to give rise to a notice of non-compliance in any material respect with any Environmental Law.
- (b) Comply, and cause any other party that is acting under its authority to comply, in all material respects with all Environmental Law (including obtaining any Material Licences or similar authorizations) relating to the Project.
- (c) Use its reasonable commercial efforts not to cause or permit a Release of any Hazardous Substance at, on, under, or near the Project except in compliance with Environmental Law.
- (d) Provide the Lender with an environmental site assessment/audit report of the Project, or an update of such assessment/audit report (A) upon the written request of the Lender if, in its reasonable opinion, there is a concern about the Borrower's compliance as it relates to the Project or the Project's compliance with Environmental Law, all in scope, form and content satisfactory to the Lender; (B) if such assessment/audit report has been prepared at the request of or on behalf of any Governmental Authority; or (C) if an event of non-compliance relating to an environmental matter has occurred, and the Lender has made a written request to the Borrower for such an assessment/audit report or update, within 30 Business Days after such request, and all such assessments/audits reports or updates thereof shall be at the Borrower's expense and risk; an environmental site assessment/audit may include, for purposes hereof, any inspection, investigation, test, sampling, analysis, monitoring pertaining to air, land and water relating to the Project reasonably required under the circumstances giving rise to the request for the assessment/audit report.
- (e) Not use the Project, or permit it to be used, to generate, manufacture, refine, treat, transport, store, handle, dispose, transfer, produce or process Hazardous Substances except in compliance with all Environmental Law.
- (f) Maintain in all material respects all environmental and operating documents and records, including, without limitation, Material Licences and orders, relating to the Project in the manner and for the time periods required by Environmental Law.

- (10) Adequate Books – Maintain adequate books, accounts and records in respect of the Project and the Borrower in accordance with GAAP consistently applied.
- (11) Material Project Agreements and Permitted Encumbrances
- (a) At all times be and remain in full compliance in all material respects with all of its covenants, agreements and obligations in and diligently enforce all its material rights under all Material Project Agreements and Permitted Encumbrances if non-compliance could lead to a Material Adverse Change. The Borrower shall not alter, amend or waive, in any material respect, any of its rights under or permit any termination or surrender of any Material Project Agreement or Permitted Encumbrance, without the prior written consent of the Lender, unless such alterations, amendments, waivers, terminations or surrenders, as applicable, reflect, in all material respects, good business practice, are in the ordinary course of business, and such material terms as a prudent owner of a similar property would accept having regard to all relevant factors at the time.
- (b) Advise the Lender in writing of all new Material Project Agreements and Permitted Encumbrances (or any material amendments of existing Material Agreements or Permitted Encumbrances) entered into forthwith following the entering into thereof and shall deliver forthwith copies thereof to the Lender. The Borrower shall provide written notice to the Lender of any assignment made by a contracting party to a Material Project Agreement.
- (12) Access – Permit the Lender (through its agents, officers or employees), for the purpose of monitoring compliance with the covenants and obligations of the Borrower hereunder, at its risk, to visit and inspect the Property to conduct tests, measurements and surveys in relation to the Project, provided that such tests, measurements and surveys are conducted in accordance with prudent industry practice and Applicable Law and/or are required as a result of the reasonable concerns of the Lender as to non-compliance with such covenant and obligation, and to be advised as to the same by the officers, engineers and advisers of the Borrower (or such other Persons as may be appropriate), all at such reasonable times and intervals as the Lender may desire upon reasonable prior notice and in the presence of the Borrower if it so desires. Such visits, inspections, measurements, reviews and tests shall be at the cost of the Borrower, provided such expenses are reasonably incurred. Any such visit, inspection, examination, discussion or tests shall not be deemed to be supervision, charge, management, control or occupation by the Lender for purposes of any environmental or other liabilities.
- (13) Consultants – Permit the Lender, and it shall have the right, to appoint the Project Monitor and an independent insurance consultant to assist the Lender with (a) reviewing and approving the insurance policies maintained by the Borrower for the Project, the Project Budget, the Construction Schedule, the Plans and Specifications and the Material Project Agreements; (b) projecting the Cost-to-Complete and determining the Costs-in-Place Margin; (c) advising the Lender as to whether the Project has been constructed in accordance with prudent industry practice, Applicable Law, the Project Budget, the Plans and Specifications, the Material Project Agreements and the Material Licences; and (d) performing such additional functions as the Lender shall reasonably request. The Borrower shall pay all reasonable fees, costs and expenses of the Project Monitor and insurance consultant.

- (14) Management and Control of Project – Diligently and continuously proceed with and manage the Construction of, and operate the Project in all material respects in accordance with: (a) prudent industry practice; (b) the Material Project Agreements and Material Licences; (c) the Project Budget; (d) all warranties; (e) the Plans and Specifications; (f) the Construction Schedule; and (g) all insurance policies issued in respect of the Project. Subject to Force Majeure, it shall not abandon (for a single period of 20 days or more), and shall ensure that there is no abandonment of, the Project.
- (15) Construction Lien Act – Comply with the provisions of the Construction Lien Act, including retaining the Holdbacks required thereby. In the event that any lien is registered under the Construction Lien Act against the Property (or notice of such lien is provided to the Lender), the Borrower shall cause such lien to be vacated or discharged within 10 days of the earlier of: (a) the date of registration thereof or the date the Borrower has received written notice thereof; and (b) the date that the Borrower has been provided written notice thereof by the Lender, with any payment thereof being made from financial resources other than the Credit Facility. The Borrower will not release the Holdbacks until: (a) 45 days have elapsed following the publication of a certificate of substantial completion pursuant to the Construction Lien Act; and (b) the Lender shall be satisfied that no construction liens have been registered on title to the Property as of the expiry date of such period.
- (16) HST Refunds – File on a monthly basis all returns and other documents necessary to obtain the refund of HST in respect of the Project and apply the amount of any such refund to payment of Project Costs.
- (17) “As Built” Survey – (Survey of Foundations) – As soon as practicable, and in any event not later than completion of the foundations for any buildings on the Property, provide the Lender with a survey of the foundations of the buildings on the Property prepared and certified by a land surveyor qualified to practise in Ontario confirming the boundaries, area and dimensions of the Property, the location of the improvements to the Project and the location of any encroachments, easements or rights of way.
- (18) “As Built” Survey – (Survey of Permanent Structures) – Within 120 days after Total Completion of the Project, deliver to the Lender an “As-Built” survey of the Project, prepared and certified by a land surveyor qualified to practise in Ontario which will identify, *inter alia*, the location of all encroachments, easements and rights of way affecting the Project.
- (19) Project Equity, Margin Deficiencies and Cost Overruns – Maintain Project Equity in an amount of no less than the Minimum Required Equity and fund any margin deficiencies and/or Cost Overruns on a line by line basis (after allocation of contingencies and demonstrable savings) by an additional contribution of Project Equity from resources outside the Project.
- (20) Signage – Upon the request of the Lender, cause any sign to be provided by the Lender erected in respect of the Project to contain an acknowledgement of the financing provided by the Lender, the size and format of such acknowledgement: (a) to be similar to that of other major providers of services in respect of the Project; and (b) to comply with municipal by-laws. Such sign shall be erected by the Borrower at its own cost and may be removed by the Borrower upon achievement of Total Completion.

- (21) Location of Operation Accounts – Maintain the Project Account in an account with the Lender during the term of this Commitment.
- (22) Non-Disturbance Agreement – In respect of any Lease where the Lender requests, use commercially reasonable efforts to obtain from the tenant under such Lease an attornment and non-disturbance agreement in a form acceptable to the Lender.
- (23) Acknowledgement and Assignment of Consultant Contracts and Construction Contracts- Use its commercially reasonable efforts to cause each counterparty to the Consultant Contracts and each Construction Contract (in the case of a Construction Contract, only where the contracted aggregate payments thereunder are in excess of \$1,000,000) to cause such counterparty to execute and deliver an acknowledgment (in the form provided by the Lender or such other form as may be acceptable to the Lender) of the assignment thereof in favour of the Lender.
- (24) Condominium Registration /Voting Rights – Diligently pursue registration of the Project under the Condominium Act for registration as a condominium thereunder to ensure that the Retail Units may be delivered in a timely basis in accordance with the planned schedule of closings of the Retail Units. Following that portion of the Project comprising the Retail Units being registered as a plan of condominium, upon receipt of a request from the Lender, to name the Lender as the Borrower’s proxy, to attend and to vote at meetings of unit owners, or in the alternative, at the option of the Lender, to act as the proxy of the Lender at such meetings and to vote its interest as the Borrower and the Lender may agree upon, and for this purpose the Borrower assigns its voting rights to the Lender. Any notice of such assignment, required by Applicable Law, shall be given by the Borrower in accordance with the requirements of such Applicable Law.
- (25) Performance and Payment Bonds – Obtain and maintain all Performance and Payment Bonds required hereunder.
- (26) Building Permits – Obtain all necessary Permits to facilitate Construction in accordance with the Construction Schedule having regard to the staged Construction of the Project (it being acknowledged that Permits will be required to be delivered in respect of Construction relating to the excavation phase, in respect of the foundation phase and in respect of the above-ground phase of Construction of the Project).
- (27) Takeout Financing – The Borrower shall provide the Lender with the first opportunity to provide takeout financing for the Project.
- (28) Environmental Remediation – The Borrower shall complete all environmental remediation of the Property required by the Lender within 8 weeks of the Closing Date and provide the Lender with satisfactory evidence of soil samples from the Property adhering to the applicable Ministry of Environment standards within 90 days of the completion of such environmental remediation.

NEGATIVE COVENANTS

So long as this Commitment is in force and except as otherwise permitted by the prior written consent of the Lender, the Borrower will not:

- (1) No Sale of Project – Other than (a) sales made pursuant to the terms of Retail Sales Agreements; or (b) the Disposition of other premises pursuant to Leases as permitted

hereunder, Dispose of the Project or any part thereof or interest therein except as contemplated herein, unless approved by the Lender in writing.

- (2) No Transfer of Interest in Borrower – Permit any Disposition of any interest in the Borrower without giving 30 days’ prior written notice to the Lender and obtaining the Lender’s prior written consent.
- (3) No Consolidation, Amalgamation – Consolidate, amalgamate or merge with any other Person, enter into any corporate reorganization or other transaction intended to effect or otherwise permit a change in its existing corporate structure, liquidate, wind-up or dissolve itself, or permit any liquidation, winding-up or dissolution without the consent of the Lender in its sole and absolute discretion.
- (4) No Change of Name – Change its name without providing the Lender with 30 days’ prior written notice thereof.
- (5) No Distributions – Make any Distribution until all Obligations under the Credit Facility has been repaid in full and the Lender has no further obligation to make Advances hereunder.
- (6) Amendments to Material Project Agreements – Except as otherwise contemplated herein, amend, vary or alter in any material way, consent to any assignment or transfer of, or waive or surrender any of its material rights or material entitlements under any Material Project Agreement.
- (7) Amendment of Project Budget – Without the prior written consent of the Lender not to be unreasonably withheld, and the concurrence of the Project Monitor, make cumulative positive or negative changes to the Project Budget including, for greater certainty, cumulative positive or negative changes to individual line items within such Project Budget (whether or not resulting in a change to the aggregate Budgeted Project Costs) and regardless of whether such changes are within the initial contingency budget, unless:
 - (a) such changes do not exceed the lesser of (A) \$200,000 in the aggregate; (B) 10% of the approved Hard Costs portion of the Project Budget; and (C) 50% of the approved Hard Costs contingency portion of the Project Budget;
 - (b) the Contingency Amount in such Project Budget continues to be reasonable and adequate to ensure Construction Completion of the Project as recommended by the Project Monitor; and
 - (c) there is no adverse effect on the overall quality or change in the scope of the applicable Project stage a result of the changes.

Upon any revision of a Project Budget, the Borrower will forthwith provide a copy to the Lender and its Project Monitor.

- (8) Amendment of Plans and Specifications – Revise the Plans and Specifications in any material respect, except with the consent of the Lender and its Project Monitor, such consent not to be unreasonably withheld. Upon revision of the Plans and Specifications, the Borrower will forthwith provide a copy to the Lender.
- (9) Amendment of Construction Schedule – Revise the Construction Schedule to permit

completion of Construction later than that contemplated in the then current Construction Schedule, except with the consent of the Lender and its Project Monitor, acting reasonably, and provided, if required, the Borrower can demonstrate that it has contributed additional Project Equity sufficient to cover any increased Budgeted Project Costs arising in connection therewith. Upon revision of the Construction Schedule, the Borrower will forthwith provide a copy to the Lender and its Project Monitor.

- (10) Retail Unit Vendor Take Back Mortgage/Non-Cash Payments – The Borrower shall not, without having received the prior written consent of the Lender, enter into any Retail Sales Agreement which contains a provision allowing for partial or full payment of the purchase price payable thereunder by way of a vendor take back mortgage or other debt instrument in favour of the Borrower, the intent being that all net proceeds of the sale of a Retail Unit shall be in the form of cash.
- (11) Leasing – Enter into any Leases or renew, amend, terminate, forfeit or cancel any Leases unless such Leases, amendments, renewals, terminations, forfeitures or cancellations reflect in all material respects good business practice and such material terms as a prudent owner of a similar property would accept having regard to all relevant factors and the leasing practice in the market at the relevant time.
- (12) Concerning Leases Generally – Accept or require payment of rent or other monies payable by a tenant under any Lease that would result in more than one month of such rent or other monies being prepaid under such Lease other than:
- (a) prepaid rent or deposits on account of rent which represent the portion of the cost of construction of the relevant demised premises which exceeds the portion of such cost which was used as the basis for determining the basic rental otherwise payable under such Lease; or
 - (b) an amount representing a bona fide precalculation of any amount that is required to be paid under such Lease in addition to basic rental, including amounts payable with respect to Taxes and maintenance of the Project and overage and percentage rentals; or
 - (c) lease surrender payments and security deposits made by the tenant under such Lease.
- (13) No Financial Assistance – Guarantee or otherwise provide for, on a direct, indirect or contingent basis, the payment of any monies or performance of any obligations of any other Person, except as may be contemplated by the Loan Documents and other than in the ordinary course of business of the Borrower.
- (14) No Further Encumbrances — Permit any further Encumbrances of the Property other than Permitted Encumbrances.

MANAGEMENT

If the management of the Project becomes unsatisfactory, in the Lender's sole opinion, the Lender may, after giving the Borrower 30 days' prior written notice to correct any such deficiency, appoint alternate management, with all costs in this regard being borne by the Borrower.

TAXES LEVIED AGAINST PROPERTY

With respect to Taxes levied against the Property: (1) the Lender may deduct from any Advance an amount sufficient to pay the Taxes which have become or will become due and payable on the date of such Advance or are unpaid at the date of such Advance; (2) the Borrower will pay all Taxes as they fall due and will provide the Lender with receipts confirming payment of same as it may require; (3) the Borrower shall, if directed by the Lender, pay to the Lender in monthly instalments on the dates on which monthly instalments on the Loans are payable hereunder, sums which in the sole opinion of the Lender will be sufficient to enable it to pay the whole amount of Taxes on or before the due date for payment thereof or, if such amount is payable in instalments, on or before the due date for payment of the first instalment thereof; (4) the Lender agrees to apply such deduction and payments to the Taxes levied against the Property so long as the Borrower is not in Default, but nothing herein contained shall obligate the Lender to apply such payments on account of Taxes more often than yearly; provided, however, that if before any sum so paid to the Lender shall have been so applied, there shall be Default by the Borrower in respect of any monthly payments on the Loan, the Lender may apply such sum in or towards payment of the principal and/or interest in default; the Borrower shall transmit to the Lender the assessment notices, tax bills and other notices affecting the imposition of Taxes forthwith upon receipt; and (5) the Lender shall allow the Borrower interest on the average monthly balance standing in the account from time to time to the credit of the Borrower for payment of Taxes, at a rate per annum and at such times as the Lender may determine in its sole discretion, and the Borrower shall be charged interest at the interest rate applicable to the A Loan on the debit balance, if any, of Taxes in the account outstanding after payment of Taxes by the Lender until such debit balance is fully repaid.

COSTS AND FEES

Whether or not the transactions contemplated hereby are completed, the Borrower shall pay the legal fees and disbursements of the Lender's solicitors, and the costs incurred by the Lender or its consultants including, without limitation, in connection with the Loan Documents, including those related to fire and title insurance, appraisal and environmental reports, survey, inspection, monitoring and progress Advances. Such fees, disbursements and costs may be deducted from any Advance.

PROGRESS ADVANCE FEE

A fee of \$500 is payable on each Advance.

DISCHARGE FEE

A fee of \$100 is payable on the discharge from or postponement of the Security of each Retail Unit.

ANNUAL REVIEW FEE

The Lender shall conduct a review of the Credit Facility and Project each year during continuation of the Credit Facility. The first annual review will be performed on February 28, 2018. A minimum annual review fee of \$2,500 will be charged by the Lender to the Borrower.

APPLICATION FEE

A fee of \$20,000 is acknowledged as received by the Lender. This fee is non-refundable and is earned by the Lender as compensation for costs incurred, including time expended in processing, approving and providing this Commitment, but excluding the Costs and Fees referred to above.

COMMITMENT FEE

A fee of \$231,091 is payable on acceptance of this Commitment and will be deducted from the first Advance.

APPRAISALS AND ASSESSMENTS

All appraisals, inspections, assessments and information with respect to the Property provided to the Lender are provided only for the purpose of assisting it in determining whether to approve the Credit Facility, and no acceptance, use of or adoption of such appraisals, inspections, assessments or information by the Lender shall be construed as any agreement by it as to the value or condition of the Property or Project. The Borrower is responsible for all appraisal and assessment fees.

REPORTING REQUIREMENTS

For the purposes of the Lender's annual review of the Credit Facility and Project, the Borrower and Guarantors shall provide the following statements and information (collectively the "**Statements**") to the Lender:

- (1) notice to reader financial statements prepared by accountants acceptable to the Lender for the Borrower and Corporate Guarantors within five months of each fiscal year end together with copies of all tax filings and notices of assessments to confirm all taxes are paid up-to-date;
- (2) updated net worth statement for each of the Personal Guarantors together with supporting information as requested by the Lender within five months of each fiscal year end of the Borrower together with copies of all tax filings and notices of assessment to confirm all taxes are paid up-to-date as requested by the Lender;
- (3) current realty Taxes bill with confirmation that all required Taxes have been paid;
- (4) current insurance policy indicating the Lender as first mortgagee and as additional insured with respect to public liability insurance;
- (5) updated status report of the Construction, costs, sales, Retail Deposits occupancies, Interim Revenue and closings;
- (6) updated rent roll for the Project together with copies of any new Leases; and
- (7) such other information pertinent to the Property and Project as the Lender may request.

LATE REPORTING

In the event that any of the Statements are not provided to the Lender within the time limited therefor, the Lender will assess penalty charges against the Borrower or the Guarantors. The

Lender may request the Borrower or the Corporate Guarantors to provide the Lender with updated Statements at any time during a fiscal year of the Borrower or the Corporate Guarantors.

ASSIGNMENT AND SYNDICATION

Neither the Borrower nor the Guarantors shall have the right to assign any of its respective rights or obligations under this Commitment or in respect of the Credit Facility to any Person. The Borrower and Guarantors agree that the Lender may transfer and assign, without their consent and without notice to them, the Lender's rights and obligations under the Credit Facility and Loan Documents to any Person. The Lender may, at any time before or after the first Advance, syndicate, securitize or grant participation interests in the Credit Facility and Loan Documents without the consent of the Borrower and Guarantors or notice to them. The Borrower and Guarantors agree that the Lender may disclose confidential information relating to the Credit Facility and Loan Documents, including any financial information provided by them at any time or otherwise relating to the Property and Project and any plans, drawings or other documentation or information regarding the Property and Project, to any Person in connection with any of the transactions contemplated in this paragraph.

CONSENT TO DISCLOSURE

The Borrower hereby consents (such consent to remain in force as long as the Credit Facility are outstanding) to any Governmental Authority or other Person having information relating to HST or any other amount required to be paid by the Borrower, where the failure to pay such other amount could give rise to a claim ranking or capable of ranking in priority to the Security, releasing such information to the Lender at any time upon its request. The Borrower shall provide signed third party authorizations in support of the foregoing at any time upon the Lender's request.

LENDER'S EXPENSES AND ADMINISTRATION FEES

The Borrower shall pay all costs, charges and expenses incurred by the Lender in connection with the operation or enforcement of this Commitment or the Security, including costs of registration of financing statements or financing change statements and searches in connection therewith, periodic property inspections and Taxes verifications and other similar costs, and any fees or charges of agents or other Persons retained by the Lender for the purpose of conducting such activities on its behalf. In addition the Borrower shall pay the administration fees in connection with the administration of the Credit Facility by the Lender, including the provision of mortgage statements and discharges, processing late payments, and cheques or automatic debits which are dishonoured or not accepted, the amount of each such administration fee being a liquidated amount to cover administrative costs and not a penalty. If the Borrower fails to pay any such costs, charges or expenses upon demand, they will be added to the outstanding Loans and shall be secured by the Security.

LENDER'S RECORDS

The Lender shall keep accounts showing the status of the Credit Facility and records of the sums borrowed, principal and interest repayments and all other sums due under this Commitment. In the absence of manifest error, the Lender's records shall constitute conclusive evidence of the Borrower's indebtedness to the Lender hereunder.

PAYMENTS TO GOVERNMENT AUTHORITIES

As long as the Credit Facility is outstanding, the Borrower shall pay, when due, all amounts owing

to any Governmental Authority which, if unpaid, would give such authority recourse for such amounts ranking in priority to the Security.

TIME

Time is of the essence hereof.

AMENDMENT

This Commitment shall only be amended by agreement in writing executed by all the parties hereto.

WAIVER

Any failure by the Lender to exercise any rights or remedies under the Loan Documents shall not constitute a waiver thereof.

GOVERNING LAW

This Commitment shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

SURVIVAL

The terms and conditions of this Commitment shall survive the execution and registration of the Security and there shall be no merger of these provisions or conditions in the Security; provided that in the event of any conflict between the provisions of this Commitment and the Security, the provisions of this Commitment shall prevail to the extent necessary to remove such conflict. Notwithstanding the foregoing, in the event that the Security contains remedies which are in addition to the remedies set forth in this Commitment, the existence of such additional remedies in the Security shall not constitute a conflict or inconsistency with the provisions of this Commitment.

NOTICES

Any notice or demand or other written communication hereunder shall be given by facsimile or delivered by courier or registered mail. A facsimile communication shall be deemed received on the Business Day following its transmission. A letter delivered by courier or by registered mail shall be deemed received when delivered to the receiving party at the address shown on page 1 hereof. Each party shall be bound by any notice given as provided hereunder and entitled to act in accordance therewith.

INTERPRETATION

In this Commitment (1) words denoting the singular include the plural and vice versa and words denoting any gender include all genders; (2) the word “including” shall mean “including, without limitation,”; (3) the word “will” shall be construed to have the same meaning and effect as the word “shall”; (4) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced from time to time, and any successor statute thereto; (5) any reference to this Commitment, the Security or other concomitant agreement or instrument shall include all amendments, addenda, modifications, extensions, renewals, restatements,

supplements or replacements thereto from time to time; (6) any reference to the Lender, Borrower, Guarantors and any other Person shall include their respective heirs, estate trustees, legal representatives, successors and assigns; and reference to a “corporation” shall include a company or other form of body corporate; (7) all dollar amounts are expressed in Canadian dollars; (8) the division of this Commitment into separate sections and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Commitment; (9) 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; and (10) if more than one Person is named as, or otherwise becomes liable for or assumes the obligations and liabilities of the Borrower or Guarantors, then the obligations and liabilities of all such Persons shall be joint and several, unless otherwise provided herein. This Commitment is intended to supplement and not derogate from the Security or any other Loan Document.

ANNOUNCEMENTS

The Borrower irrevocably acknowledges and agrees that, at any time following the Closing Date, the Lender may announce the closing of the transaction and include details of the transaction in its external public communications, which communications may (a) disclose the Borrower’s name, the amount and purpose of the Credit Facility, the Closing Date and any other non-confidential facts related to the relationship between the parties; and (b) be made in any and all media or formats now or hereafter known or developed.

ADDITIONAL LOAN TERMS

The definitions attached as Schedule “A” to this Commitment shall form a part hereof as if incorporated herein.

LENDER APPROVED SOLICITORS

Philip Taylor
Chaitons LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario
416 218 1125

[the remainder of this page is intentionally blank, signature page follows]

ACCEPTANCE

The terms of this Commitment are open for acceptance by the Borrower and Guarantors by executing the original hereof where indicated below and delivering it to the Lender's head office at 5290 Yonge Street, Toronto, Ontario, M2N 5P9, on or before 5:00 p.m. on April 10, 2017, after which date and time this Commitment, if not accepted, shall lapse and become null and void.

Yours truly,

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Per: _____

Name: Francis F. Sajed
Title: Chief Lending Officer

Per: _____

Name: Andrea Cali
Title: Senior Account Manager, Corporate Finance



ACCEPTED on: April 6TH, 2017

33 LAIRD INC.

Per: 
Name: Jason Birnboim
Title: President

Per: _____
Name: Barry Godfrey
Title: Secretary

The undersigned Guarantors have read, understand and accept the terms and conditions of this Commitment.

ACCEPTED on: April 6TH, 2017

BEAUX PROPERTIES INTERNATIONAL INC.

Per: 
Name: Jason Birnboim
Title: President

QUAESTUS MANAGEMENT CORP.

Per: _____
Name: Barry Godfrey
Title: President

Witness

Barry Godfrey

Witness

Kartik Ganatra

ACCEPTED on: April 6th, 2017

33 LAIRD INC.

Per: _____
Name: Jason Birnboim
Title: President

Per: _____
Name: Barry Godfrey
Title: Secretary

The undersigned Guarantors have read, understand and accept the terms and conditions of this Commitment.

ACCEPTED on: April 6th, 2017

BEAUX PROPERTIES INTERNATIONAL INC.

Per: _____
Name: Jason Birnboim
Title: President

QUAESTUS MANAGEMENT CORP.

Per: _____
Name: Barry Godfrey
Title: President

Witness

Barry Godfrey

Witness

Kartik Ganatra

ACCEPTED on: April ___, 2017

33 LAIRD INC.

Per: _____
Name: Jason Birnboim
Title: President

Per: _____
Name: Barry Godfrey
Title: Secretary

The undersigned Guarantors have read, understand and accept the terms and conditions of this Commitment.

ACCEPTED on: April ^{6th} ___, 2017

BEAUX PROPERTIES INTERNATIONAL INC.

Per: _____
Name: Jason Birnboim
Title: President

QUAESTUS MANAGEMENT CORP.

Per: _____
Name: Barry Godfrey
Title: President

Witness

Witness

Barry Godfrey

Kartik Ganatra

SCHEDULE "A"

ADDITIONAL LOAN TERMS

Attached to and forming part of a commitment letter dated March 17, 2017 among DUCA Financial Services Credit Union Ltd., as Lender, 33 Laird Inc., as Borrower, Beaux Properties International Inc. and Quaestus Management Corp., as Corporate Guarantors, and Barry Godfrey and Kartik Ganatra, as Personal Guarantors.

DEFINITIONS

For the purpose of this Commitment, the following terms and phrases shall have the following meanings:

- (1) **"Advance"** means any advance hereunder by way of a Loan.
- (2) **"AMLA"** means the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada).
- (3) **"Applicable Law"** means (a) any domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, rule, regulation, restriction or by-law (zoning or otherwise); (b) any judgment, order, writ, injunction, decision, ruling, decree or award; (c) any regulatory policy, practice, guideline or directive; or (d) any franchise, licence, qualification, authorization, consent, exemption, waiver, right, permit or other approval of any Governmental Authority, binding on or affecting the Person, in each case whether or not having the force of law.
- (4) **"Appraisal"** means a report prepared by an Appraiser who will be engaged based on a mandate letter, and containing assumptions acceptable to the Lender.
- (5) **"Appraiser"** means an Accredited Appraiser Canadian Institute (AACI) designated real estate appraiser acceptable to the Lender.
- (6) **"Arm's Length"** has the meaning ascribed to such term as set out in section 251 of the Income Tax Act (Canada).
- (7) **"Borrower"** means 33 Laird Inc.
- (8) **"Budgeted Project Costs"** means the costs associated with acquisition of the Property and all budgeted Hard Costs and Soft Costs described as a line item in the Project Budget, including any Contingency Amount of budgeted Hard Costs and Soft Costs reviewed by the Project Monitor and approved by the Lender.
- (9) **"Business Day"** means any day other than a Saturday, Sunday or any statutory or civic holiday observed in the Province of Ontario.
- (10) **"Centurion"** means Centurion Mortgage Capital Corporation.
- (11) **"Certificate of Total Completion"** means a certificate to be issued by the Project Monitor, certifying that all required work under each Construction Contract in respect of

the Project has been fully completed (pursuant to the Form 5 Declaration of Last Supply under subsection 31 (5) of the Construction Lien Act obtained by the Project Monitor from each Contractor or the publication of a certificate of substantial performance under the Construction Lien Act), and accompanied by a certificate or report issued by each of the major Consultants involved in the Construction of the Project confirming that the Construction of the Project that falls within the purview of its control, supervision or responsibility has been completed in accordance with the Ontario Building Code and the applicable zoning and building by-laws of the City of Toronto, in substantial conformity with the approved Plans and Specifications and related Material Project Agreements and certificates of substantial performance pursuant to the Construction Lien Act have been published as required by such Act.

- (12) “**Charge**” means a collateral debenture in the principal amount of \$22,000,000 with interest at a rate of 21% to be granted by the Borrower in favour of the Lender constituting a first charge on the Property and granting a first priority security interest over all present and future personal property of the Borrower related to the Project, including purchase and sale agreements, plans, contracts, drawings, agreements, permits, approvals, equipment, receivables, inventory, intellectual property and which shall contain an assignment of property insurance proceeds.
- (13) “**Condominium Act**” means the Condominium Act (Ontario).
- (14) “**Condominium Documents**” means the Declaration, condominium corporation by-laws (or agreements relating thereto), shared facility agreements, insurance trust agreement (if any) or other documents relating to the creation and operation of the Project.
- (15) “**Construction**” means the design and construction of the Project in accordance with the Plans and Specifications.
- (16) “**Construction Completion**” means the date on which:
- (a) Construction has been completed to the standard required for delivery under the related Retail Sales Agreements; and
 - (b) the Borrower has received all relevant occupancy permits and passed inspections required by Governmental Authorities (other than those inspections required to be made in respect of work undertaken by purchasers under Retail Sales Agreements).

For greater certainty, Construction Completion can occur prior to the registration of the condominium on that portion of the Project comprising the Retail Units.

- (17) “**Construction Contracts**” means all contracts, subcontracts and agreements entered into by or on behalf of the Borrower relating to the Construction, including contracts, subcontracts and agreements relating to the supply of materials or services to or for the Project.
- (18) “**Construction Lien Act**” means the *Construction Lien Act* (Ontario).

- (19) “**Construction Management Agreement**” means the construction management agreement made between the Construction Manager and Borrower, as the same may be modified, amended or restated as permitted by the Lender.
- (20) “**Construction Manager**” means the manager appointed by the Borrower under the Construction Management Agreement and approved by the Lender.
- (21) “**Construction Schedule**” means the construction schedule provided to and approved by the Lender and its Project Monitor, as it may be amended from time to time with the consent of the Lender.
- (22) “**Consultant Contracts**” means the contracts entered into by or on behalf of the Borrower and each of the Consultants.
- (23) “**Consultants**” means, as applicable, the architect, mechanical and electrical consultant, engineer, geotechnical and environmental engineer and other consultants retained by or on behalf of the Borrower in connection with the Construction, as approved by the Lender.
- (24) “**Contingency Amount**” means, with respect to the Project Budget, the amount, if any, of any contingency provided in respect of the calculation of Project Costs.
- (25) “**Contractors**” means the contractors, sub-contractors and suppliers retained by or on behalf of the Borrower in connection with the Construction of the Project and “**Contractor**” means any one of the Contractors.
- (26) “**Cost Overruns**” means the excess of the current Project Budget over the initial Project Budget.
- (27) “**Costs-in-Place**” means Land Costs, Hard costs and Soft costs incurred at any time.
- (28) “**Costs-in-Place Margin**” has the meaning ascribed thereto in the section of the Commitment headed “Availability”.
- (29) “**Cost-to-Complete**” means, at any given date, that amount calculated by the Project Monitor after consulting with the Borrower and approved by the Lender, which is the amount of all Project Costs not then incurred.
- (30) “**Declaration**” means the declaration or declarations which, together with the description, shall be registered under the Condominium Act and will subject portions of the Project to the provisions of the Condominium Act, and all amendments to such declaration or declarations.
- (31) “**Default**” means any non-compliance by the Borrower or Guarantors with the covenants, agreements, terms and conditions set out in the Loan Documents beyond any applicable cure periods.
- (32) “**Development Management Agreement**” means the development management agreement made between the Development Manager and Borrower, as the same may be modified, amended or restated as permitted by the Lender.

- (33) “**Development Manager**” means the manager appointed under the Development Management Agreement and approved by the Lender.
- (34) “**Disclosure Statement**” means the statement required pursuant to the Condominium Act.
- (35) “**Disposition**” means, with respect to a Person, any sale, assignment, transfer, conveyance, lease, license or other disposition of any nature or kind whatsoever of any property or of any right, title or interest in or to any property, and the verb “**Dispose**” has a corresponding meaning.
- (36) “**Distribution**” means:
- (a) any payment, declaration of dividend or other distribution, whether in cash or property to any holder of shares, limited partnership units or other equity interests of any class of such Person; or
 - (b) any repurchase, redemption, retraction or other retirement or purchase for cancellation of shares of such Person, or of any options, warrants or other rights to acquire any of such shares,
- and the verb “**Distribute**” has a corresponding meaning.
- (37) “**Eligible Pre-Sale**” means the sale of a Retail Unit meeting the following criteria:
- (a) such sale must be pursuant to a binding and unconditional Retail Sales Agreement, a copy of which has been provided to the Lender and which is in the form of the Standard Form Sales Agreement or in a form otherwise satisfactory to the Lender;
 - (b) the period in which any right of rescission or right to claim a return of a Retail Deposit by the purchaser under such Retail Sales Agreement and pursuant to the provisions of the Condominium Act shall have expired;
 - (c) the purchaser under such Retail Sales Agreement must:
 - (A) be a bona fide purchaser that is Arm’s Length with the Borrower and Guarantor;
 - (B) each purchaser shall be obligated to make a Retail Deposit of not less than 25% of the Gross Sale Price within 365 days and 5% thereof due on occupancy;
 - (C) not be in default of its payment obligations (including payments on account of the relevant Retail Deposit) under the Retail Sales Agreement or in respect of any mortgage commitment; and
 - (D) have provided evidence to the Lender of approval for mortgage financing or has otherwise demonstrated his ability to close unless waived by the Lender; and
 - (d) if the purchaser either individually or in conjunction with a spouse or child (or, in

the case of Persons that are not individuals, together with affiliates thereof within the meaning of the *Business Corporations Act* (Ontario)) is purchasing more than one Retail Unit, the sale of such Retail Units will not be designated Eligible Pre-Sales unless approved in writing by the Lender.

- (38) “**Encumbrance**” means, with respect to any Person, any mortgage, debenture, pledge, hypothec, lien, charge, assignment by way of security, hypothecation or security interest granted or permitted by such Person or arising by operation of law, in respect of any of such Person’s property, or any consignment by way of security or capital lease (or a lease that should be treated as such) of property by such Person as consignee or lessee, as the case may be, or any other security agreement, trust or arrangement having the effect of security for the payment of any debt, liability or other obligation, and “**Encumbrances**”, “**Encumbrancer**”, “**Encumber**” and “**Encumbered**” have corresponding meanings.
- (39) “**Environmental Law**” means any Applicable Law relating to the environment, including those pertaining to:
- (a) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same of Hazardous Substances; and
 - (b) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handing and the like of Hazardous Substances, including those pertaining to occupational health and safety.
- (40) “**Force Majeure**” means any of the following events which prevents or materially impairs the Construction or operation of the Project and is not caused by and is beyond the reasonable control of the Borrower: acts of God, floods, earthquakes, tidal waves, hurricanes, windstorms, severe weather conditions, lightning, fire, wars (whether declared or not), riots, insurrections, rebellions, civil commotions, sabotage, partial or entire failure of utilities, strikes, walkouts or other labour disruptions, delays in transportation, accidents, shortages of and inability to procure labour, materials and supplies (after all commercially reasonable efforts have been made by the Borrower to obtain replacement for such labour, materials and supplies) or orders, legislation, regulations and directives of any Governmental Authorities. For greater certainty, lack of funds, the state of the market or any wilful or negligent act or omission on the part of the Borrower does not constitute Force Majeure.
- (41) “**GAAP**” means those accounting principles that are from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute.
- (42) “**Governmental Authority**” means any federal, provincial, municipal or other form of government or any political subdivision or agency thereof, any body or authority exercising any functions of government, and any court;
- (43) “**Gross Sale Price**” or “**Gross Sale Proceeds**” means the gross sale price (exclusive of HST) set out in a Retail Sales Agreement relating to the sale of a Retail Unit, net of any pricing incentives.
- (44) “**Hard Costs**” means amounts expended or to be expended for work, services or materials done, performed, placed or furnished in connection with the Construction of the

Project, all as more particularly set out in the Project Budget (for greater certainty, Hard Costs shall not include amounts payable pursuant to the terms of the Construction Contracts).

- (45) “**Hazardous Substance**” means any substance or material that is prohibited, controlled or regulated by any Governmental Authority pursuant to any Environmental Law, including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes (including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law.
- (46) “**Holdback**” means any amount required to be retained by or on behalf of the Borrower in respect of the value of work, services and materials actually done, performed, placed or furnished on or in the Project in accordance with the Construction Lien Act.
- (47) “**HST**” means the harmonized sales tax under the *Excise Tax Act* (Canada).
- (48) “**Interim Revenue**” means proceeds of sale, recovery of expenses or any other Project cash flow received or anticipated while any availability under the Credit Facility exists or any Obligations remain outstanding under the Loan and Loan Documents recommended by the Project Monitor and approved by the Lender.
- (49) “**Land Costs**” means the purchase price of the land being \$8,490,050 plus associated costs.
- (50) “**Land Value**” means the deemed value of the Property, being \$8,700,000.
- (51) “**Lease**” means any lease, sublease, agreement to lease, offer to lease, licence or right of occupation granted from time to time by or on behalf of the Borrower entitling the lessee, sublessee or grantee thereunder to use or occupy all or any part of the Project, other than any interim occupancy rights granted to a purchaser of a Retail Unit pursuant to a Retail Sales Agreement.
- (52) “**Loan**” means any extension of credit by the Lender under this Commitment.
- (53) “**Loan Documents**” means (1) this Commitment; (2) the Security; and (3) all present and future agreements, documents, certificates and instruments delivered by the Borrower or Guarantors to the Lender pursuant to or in respect of this Commitment or the Security, in each case as the same may from time to time be amended, and “**Loan Document**” means any one of the Loan Documents.
- (54) “**Material Adverse Change**” means any event or occurrence which, when considered individually or together with other events or occurrences, has a material adverse effect on (1) the business, assets, liabilities, operations, results of operations, condition (financial or other) or prospects of the Borrower, taken as a whole; (2) the Construction and/or operation of the Project; or (3) the ability of the Borrower to perform its Obligations under the Loan Documents in all material respects.
- (55) “**Material Licences**” means all licences, permits or approvals issued by any Governmental Authority, or any applicable stock exchange or securities commission, to the Borrower, and which are at any time on or after the date of this Commitment,

- (a) necessary or material to the business and operations of the Project (including the Construction of the Project), the breach or default of which would result in a Material Adverse Change, other than those not required or able to be obtained until a later stage of Construction or until Total Completion, provided those not obtained may be reasonably expected to be received in the ordinary course of business prior to the date when required to complete the transactions provided for in the Material Project Agreements and to construct and operate the Project; or
 - (b) designated by the Lender as a Material Licence with respect to the Project provided that the Lender has notified the Borrower of such designation.
- (56) **“Material Project Agreements”** means:
- (a) the Construction Management Agreement;
 - (b) the Development Management Agreement;
 - (c) the Consultant Contracts;
 - (d) the Construction Contracts;
 - (e) each other operating contract with respect to the Project having a term more than one year and which contemplates payments in excess of \$500,000 per annum;
 - (f) any insurance trust agreement;
 - (g) any shared facilities and/or reciprocal easement agreements; and
 - (h) the Plans and Specifications and all planning approvals, permits, licences, development agreements, site plan agreements, record of site condition and other material contracts with respect to the Project designated as Material Project Agreements by the Lender from time to time, provided that the Lender has notified the Borrower of such designation.
- (57) **“Minimum Required Equity”** means an amount of Project Equity equal to the sum of:
- (a) \$2,426,000; and
 - (b) Cost Overruns funded by the Borrower and/or Guarantor.
- (58) **“Obligations”** means all obligations of the Borrower to the Lender under or in connection with the Loan Documents, including all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Borrower to the Lender in any currency or remaining unpaid by the Borrower to the Lender under or in connection with this Commitment or the other Loan Documents whether arising from dealings between the Lender and the Borrower, or from any other dealings or proceedings by which the Lender may be or become in any manner whatsoever a creditor or obligee of the Borrower or any of them pursuant to this Commitment or the Loan Documents, and wherever incurred, and whether incurred by the Borrower alone or with another or others and whether as principal or surety, and all interest, fees, legal and other costs, charges and expenses relating thereto.

- (59) **“Performance and Payment Bonds”** means labour and material or performance bonds as may be required by the Lender in consultation with the Project Monitor (in each case, up to 50% of the amount of the relevant Construction Contract) issued by a surety acceptable to the Lender relating to all or a portion of the Construction, such bonds to be in customary form typically utilized within the construction industry and otherwise acceptable to the Lender (which bonds shall contain dual obligee riders in favour of the Lender) and in such amount as may be required hereunder.
- (60) **“Permits”** means all permits, consents, orders, waivers, applications, authorizations, licences, certificates, approvals, registrations, franchises, rights, privileges and exemptions or the like issued or granted by any Governmental Authority or by any third party with respect to the Project (including any Permits relating to Environmental Laws).
- (61) **“Permitted Encumbrances”** means, with respect to the Property, the following:
- (a) liens for Taxes, rates, assessments or other governmental charges or levies not yet due, or for which instalments have been paid based on reasonable estimates pending final assessments, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person, provided that, if the aggregate amount being contested is in excess of \$100,000, the Borrower shall have deposited with the Lender collateral satisfactory to the Lender to secure the payment of such Taxes and assessments.
 - (b) undetermined or inchoate liens, rights of distress and charges incidental to construction, maintenance or current operations that have not at such time been filed or exercised and of which the Lender has not been given notice, or that relate to obligations not due or payable, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person;
 - (c) reservations, limitations, provisos and conditions expressed in any original grant from the Crown or other grants of real or immovable property, or interests therein, that do not materially affect the use of the affected land for the purpose for which it is used by that Person;
 - (d) permits, reservations, covenants, servitudes, right of access or user licences, easements, rights of way and rights in the nature of easements (including licences, easements, rights of way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electric light and power, or telephone, telecommunication, television and telegraph conduits, poles, wires and cables) that do not materially impair the use of the affected land for the purpose for which it is used by that Person, or in respect of which satisfactory arrangements have been made for relocation so that such use will not in the aggregate, be materially and adversely impaired, or which that Person is bound to enter into pursuant to any agreement with a Governmental Authority or a counterparty to a Material Project Agreement entered into in connection with the development of the Project;
 - (e) title defects, irregularities or other matters relating to title that are of a minor nature and that in the aggregate do not materially impair the use of the affected property for the purpose for which it is used by that Person;

- (f) the right reserved to or vested in any Governmental Authority by the terms of any lease, licence, franchise, grant or permit acquired by that Person or by any statutory provision to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
 - (g) the Encumbrance resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, employment insurance, surety or appeal bonds, costs of litigation when required by law, liens and claims incidental to current construction, mechanics', warehousemen's, carriers' and other similar liens, and public, statutory and other like obligations incurred in the ordinary course of business;
 - (h) security given to a public utility or any Governmental Authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of its business;
 - (i) the Encumbrance created by a judgment of a court of competent jurisdiction, or claim (excluding claims pursuant to the Construction Lien Act) filed, against the Borrower as long as the judgment is being contested diligently and in good faith by appropriate proceedings by that Person, provided that if such judgment or claim is in the aggregate greater than \$250,000, the Borrower or Guarantors shall have either (A) in the case of any such judgment or claim, if acceptable to the Lender, deposited with the Lender collateral satisfactory to the Lender to secure the payment of such judgment or claim; or (B) posted a payment bond, or made payment into court of such amount as is necessary to remove such Encumbrance;
 - (j) the Security;
 - (k) encroachments by the Project or structures thereon over neighbouring lands (including public streets) and minor encroachments by neighbouring lands or structures thereon over the Property, so long as, in the former case, there are written agreements permitting such encroachments;
 - (l) subdivision, development, servicing and site plan agreements, undertakings and agreements made pursuant to applicable planning and development legislation, entered into with or made in favour of any Governmental Authority, or public or private utility relating to the Property;
 - (m) Leases relating to the Property that have been approved by the Lender or entered into in accordance with this Commitment and notices of them;
 - (n) all municipal by-laws and regulations and other municipal land use instruments, including official plans, zoning and building by-laws, restrictive covenants and other land use limitations, public or private, and other restrictions as to the use of the Property; and
 - (o) such other Encumbrances as are agreed to in writing by the Lender.
- (62) **“Person”** means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

- (63) **“Plans and Specifications”** means the plans and specifications (including all structural, architectural, mechanical, electrical, landscape and interior design and specifications) pertaining to the development and Construction of the Project prepared by or at the direction of the Borrower and as approved by the Lender in consultation with the Project Monitor, as amended from time to time with the consent of the Lender.
- (64) **“Prime Rate”** means the annual rate of interest announced from time to time by the Lender as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada and designated by the Lender as its prime rate.
- (65) **“Project Account”** means the account maintained by the Borrower with the Lender in respect of which all revenues and expenses relating to the Project (and only the Project) will be paid into and from, as applicable.
- (66) **“Project Budget”** means the budget of all Project Costs which has specified a line by line itemization of Project Costs, including Contingency Amounts, as prepared by the Borrower, reviewed by the Project Monitor and approved by the Lender, as amended from time to time with the consent of the Lender.
- (67) **“Project Costs”** means the aggregate of all Hard Costs and all Soft Costs expended or to be expended to achieve Construction Completion in accordance with the Plans and Specifications and Construction Schedule.
- (68) **“Project Monitor”** means the consultant engaged by the Lender to advise and assist the Lender with respect to the Project or any part thereof.
- (69) **“Project Equity”** means, at any time and from time to time, the equity of the Borrower in the Project.
- (70) **“Release”** means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal, and the word **“Released”** has a corresponding meaning.
- (71) **“Retail Deposits”** means deposits paid by purchasers of Retail Units under the Retail Sales Agreements.
- (72) **“Retail Sales Agreements”** means purchase and sale agreements in respect of the Retail Units.
- (73) **“Retail Unit”** means a condominium unit in the Project together with any parking and/or storage and/or common exclusive use interests appurtenant thereto.
- (74) **“Security”** means the documents creating an Encumbrance in favour of the Lender, or any collateral held from time to time by the Lender in each case securing or intended to secure repayment of the Obligations, including all security described herein.
- (75) **“Soft Costs”** means all amounts expended or to be expended in respect of the Project for consultants, architects, taxes, surveys, construction insurance, bonding costs, legal fees, promotions of the Project, financing, leasing, pre-operating costs and all other costs related to the Project except Hard Costs and the cost of acquiring the Property (for greater

certainty, Soft Costs includes fees, excluding reimbursements for Hard Costs, payable pursuant to the terms of Consultant Contracts).

- (76) “**Standard Form Sales Agreement**” means the standard form agreement of purchase and sale to be utilized in respect of the sale of the Retail Units, approved as to form by the Lender.
- (77) “**Taxes**” means all present or future taxes, 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.
- (78) “**Total Completion**” means the date on which the Project Monitor is able to deliver the Certificate of Total Completion.

Tab H

FaceTime

This is **Exhibit "H"** to the affidavit of Jason L. S. Birnboim sworn before me via ~~Zoom~~ this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

August 16, 2019

33 Laird Inc.
c/o Quaestus Management Corp.
2323 Yonge Street, Suite 605
Toronto, Ontario
M4P 2C9

Attention: Barry Godfrey

Dear Mr. Godfrey:

We are pleased to advise that DUCA Financial Services Credit Union Ltd. (the “**Lender**”) has approved certain credit facilities in favour of 33 Laird Inc. (the “**Borrower**”) for the construction and renovation of a retail centre comprising approximately 68,150 square feet of leasable space (the “**Project**”) located at 33 Laird Drive, Toronto, Ontario (the “**Property**”), upon the terms and conditions described in this commitment letter (the “**Commitment**”). Upon execution, the Commitment will constitute an agreement which shall bind the Borrower, Beaux Properties International Inc. and Quaestus Management Corp. (collectively, the “**Corporate Guarantors**”), Barry Godfrey and Kartik Ganatra (collectively, the “**Personal Guarantors**”, and collectively with the Corporate Guarantors, the “**Guarantors**”) and the Lender. **For greater certainty, this Commitment amends and restates the commitment letter dated March 17, 2017 (the “2017 Commitment”), which, upon the first Advance hereunder shall be of no further force and/or effect. For greater certainty, the Borrower acknowledges that there shall be no further Advances under the 2017 Commitment.**

CREDIT FACILITIES

The Lender establishes the following credit facilities (collectively, the “**Credit Facilities**”) in favour of the Borrower:

- (1) A demand non-revolving loan facility (the “**Construction Facility**”) in the amounts of:
 - (a) \$18,195,000 (the “**A Loan**”); and
 - (b) \$5,805,000 (the “**B Loan**”) to be funded by Centurion pursuant to a subordination, participation and servicing agreement to be entered into between the Lender and Centurion (the “**Centurion Participation Agreement**”); and
- (2) A \$706,965 (the “**LC Facility Amount**”) demand non-revolving letter of credit facility (the “**LC Facility**”).

Notwithstanding compliance with the covenants and all the terms and conditions of this Commitment, the Credit Facilities are repayable **ON DEMAND**.

PURPOSE

Loans made and Letters of Credit issued under the Credit Facilities will only be used for the following respective purposes:

- (1) Construction Facility – to re finance all amounts outstanding under the 2017 Commitment and to finance the Construction of the Project; and

- (2) LC Facility – to provide Letters of Credit to Governmental Authorities or for other obligations of the Borrower relating to the Construction as provided for in the Project Budget.

SOURCES AND USES OF FUNDS – A LOAN AND B LOAN

Sources	Sources and Uses of Funds				
	\$	%	Uses	\$	%
Equity	\$3,744,855	13%	Land	\$8,543,099	30%
Deferral	\$475,145	2%	Hard Costs	\$9,644,014	34%
B Loan	\$5,805,000	21%	Soft Costs	\$9,081,656	32%
A Loan	\$18,195,000	64%	Contingencies	\$951,231	3%
Total	\$28,220,000	100%	Total	\$28,220,000	100%

CLOSING DATE

The date of the first Advance shall be no later than October 1, 2019 (the “**Closing Date**”), or such later date as may be agreed to by the parties. To the extent that the Lender agrees, in its sole discretion, to an extension to the Closing Date, such extension may, among other things, be subject to a standby fee of 0.35% per annum.

MATURITY DATE

The Construction Facility shall mature and any outstanding balance shall become due and payable in full on the date (the “**Maturity Date**”) which shall be the earlier to occur of: (1) one (1) year from the Closing Date; and (2) the date on which the Lender demands repayment of the Construction Facility.

BORROWING OPTIONS

Prime Rate Loans and Letters of Credit.

INTEREST RATE AND PAYMENTS

Construction Facility

The Borrower shall pay interest on each Advance under the: (1) A Loan at a rate per annum equal to the greater of (a) 5.95% and (b) the Prime Rate plus 2.00% per annum; and (2) B Loan at a rate of 10% per annum, each calculated and payable monthly on the first day of each month, not in advance both before and after maturity, default and judgment. Interest will accrue from the date of disbursement of Advance monies to the Lender’s solicitors. Interest shall be payable on all past due interest from the due date of such interest at (1) the interest rate applicable to the A Loan; and (2) 10% per annum in respect of the B Loan, both before and after maturity, Default and judgment. The Borrower authorizes the Lender to automatically debit the Borrower’s account with the Lender for all payments. As of the date hereof, the Prime Rate is 3.95% per annum.

LC Facility

The Borrower shall pay a fee of 2.00% of each Letter of Credit issued and subsequently upon each anniversary of the issuance thereof. The Letter of Credit rates are subject to change based on the Lender’s pricing schedule in effect from time to time. If the Borrower wishes to request a Letter of Credit, the following provisions shall apply thereto:

- (1) The Borrower will execute and deliver to the Lender such usual documentation relating to the issuance and administration of Letters of Credit as may be required by the Lender including, without limitation, an indemnity agreement. In the event of any inconsistency between the terms of such documentation and this Commitment, the terms of this Commitment will prevail.
- (2) Each Letter of Credit issued by the Lender will be in a form and on such terms as determined by the Lender in its sole and unfettered discretion.

- (3) Unless otherwise agreed by the Lender, no Letter of Credit may be issued for a period in excess of one year provided, however, that Letters of Credit may automatically renew annually.
- (4) If, at any time, a demand for payment (the amount so demanded being herein referred to as a "**Relevant Amount**") is made under any Letter of Credit:
 - (a) the Lender will promptly notify the Borrower of such demand;
 - (b) at or before 11:00 a.m. (Toronto time) on the date the Relevant Amount becomes payable, the Borrower shall pay to the Lender an amount in same day funds equal to the amount to be paid, together with all charges and expenses incurred by the Lender in connection with payment under the Letter of Credit; and
 - (c) the Lender will pay the Relevant Amount to the Person entitled thereto on the date upon which the Relevant Amount becomes payable under the Letter of Credit or as soon as possible thereafter.
- (5) If the Borrower fails to make payment pursuant to Subsection (4)(b), the Borrower will pay interest to the Lender on such Relevant Amount commencing on such date until paid at the rate per annum equal to Prime Rate plus 2.00%.
- (6) The Borrower hereby undertakes to indemnify and hold harmless the Lender from time to time on demand by the Lender from and against all liabilities and costs (including any costs incurred in funding any amount that falls due from the Lender under any Letter of Credit hereunder) to the extent that such liabilities or costs are not satisfied or compensated by the payment of interest on sums due pursuant to this Commitment in connection with any Letter of Credit.
- (7) The Lender will at all times be entitled, and is irrevocably authorized by the Borrower, to make any payment under a Letter of Credit for which a request or demand has been made in the required form without any further reference to the Borrower and any investigation or enquiry, need not concern itself with the propriety or validity of any claim made or purported to be made under the terms of such Letter of Credit (except as to compliance with the payment conditions of such Letter of Credit) and will be entitled to assume that any Person expressed in such Letter of Credit as being entitled to make demand or receive payments thereunder is so entitled. Accordingly, so long as a request or demand has been made as aforementioned, it will not be a defence to any demand made of the Borrower hereunder, nor will the obligations of the Borrower hereunder be impaired by the fact (if it be the case) that the Lender was or might have been justified in refusing payment, in whole or in part, of the amounts so claimed.
- (8) A certificate of the Lender as to the amounts paid by it pursuant hereto or the amount paid under any Letter of Credit will, in the absence of manifest error, be *prima facie* evidence of the existence and amount of such payment in any legal action or proceeding arising out of or in connection herewith.
- (9) If any Letter of Credit is outstanding on the Maturity Date, the Borrower will forthwith pay to the Lender an amount (the "**deposit amount**") equal to the undrawn face amount of the outstanding Letter of Credit, which deposit amount will be held by the Lender in an interest bearing deposit instrument for application against the indebtedness owing by the Borrower to the Lender in respect of any draw on the outstanding Letter of Credit. In the event that the Lender is not called upon to make full payment on the outstanding Letter of Credit prior to its expiry date, the deposit amount (together with interest thereon, if any), or any part thereof that has not been paid out, will, so long as no Default then exists, be returned to the Borrower on the expiry date of the Letter of Credit.
- (10) The obligations of the Borrower with respect to Letters of Credit will be unconditional and irrevocable, and must be paid or performed strictly in accordance with the terms of this Commitment under any and all circumstances whatsoever.

At the option of the Lender, either the *Uniform Customs and Practice* for documentary credits or *International Standby Practices*, each published by the International Chamber of Commerce, current on the

issue of each Letter of Credit will be binding on the Borrower and the Lender with respect to each such Letter of Credit. The Borrower assumes all risks of the acts or omissions of the beneficiary of each Letter of Credit with respect thereto. The determination as to whether the required documents are presented prior to the expiration of a Letter of Credit and whether such other documents are in proper and sufficient form for compliance with a Letter of Credit will be made by the Lender in its sole discretion, which determination will be conclusive and binding upon the Borrower absent manifest error. It is agreed that the Lender may honour, as complying with the terms of a Letter of Credit and this Commitment, any documents otherwise in order and signed or issued by the beneficiary thereof. Any action, inaction or omission on the part of the Lender under or in connection with any Letter of Credit or any related instrument or document, if in good faith and in conformity with such laws, regulations or commercial or banking customs as the Lender may reasonably deem to be applicable, will be binding upon the Borrower, and will not affect, impair or prevent the vesting of any of the Lender's rights or powers hereunder or the Borrower's obligation to make full reimbursement of amounts drawn under the Letter of Credit.

REPAYMENTS

The Borrower may from time to time prepay Loans outstanding under the Construction Facility, in whole or in part, without premium or penalty. Upon such prepayment, the Construction Facility shall be correspondingly permanently reduced by the amount of such prepayment.

If the Borrower, by reason of any repayment hereunder, whether mandatory or voluntary, wishes to discharge its obligation to the Lender in respect of outstanding Letters of Credit, the Borrower will deposit cash with the Lender equal to the face amount of such Letters of Credit, and the Borrower shall concurrently enter into such documentation as the Lender may reasonably require in respect thereof (which documentation shall constitute Loan Documents).

AVAILABILITY

Requests for Advances under the Construction Facility shall be made no more frequently than monthly and for amounts greater than \$300,000. The Construction Facility is made available at the sole discretion of the Lender for the purpose of the Construction of the Project (including, in the case of the first Advance, refinancing the 2017 Commitment) and for no other purpose without the prior written consent of the Lender. The Lender may cancel or restrict the availability of any unutilized portion of the Credit Facilities at any time and from time to time.

The Lender will engage the Project Monitor to review the Plans and Specifications, approvals, permits, environmental reports, geotechnical reports, survey, contracts and all other material agreements pertinent to the development of the Project. The Project Monitor will provide a detailed Project Budget containing total Project Costs not exceeding \$28,220,000 to be approved by the Lender and otherwise prepared in accordance with the Sources and Uses of Funds hereinbefore set out unless otherwise approved by the Lender. The cost of the Project Monitor shall be borne by the Borrower.

Following the Closing Date, the Construction Facility will be funded by Advances to pay Project Costs. Advances will be made as recommended by the Project Monitor and approved by the Lender, on the basis of the Project Monitor verifying Costs-in-Place less Minimum Required Equity, accounts payable that will not be paid from the requested Advance, Interim Revenue received and utilized to fund Project Costs, Cost Overruns and Holdbacks in accordance with the Construction Act (the "**Costs-in-Place Margin**") subject to the unadvanced amount of the Construction Facility plus remaining offsetting income being equal to the Cost-to-Complete plus Holdbacks plus unpaid payables.

Holdbacks will be retained by the Lender in accordance with the Construction Act. Release of Holdbacks will be made in accordance with the Construction Act and the final release shall be approved by the Lender's legal counsel. All Cost Overruns must be funded by the Borrower from its own cash resources derived from outside the Project. Any construction liens must be fully discharged by the Borrower from its own cash resources derived from outside the Project prior to any further Advances. All Advances will be subject to an acceptable subsearch performed by the Lender's legal counsel.

SECURITY

As general and continuing security for the payment and performance of the Obligations, the following

security will be granted to the Lender in form and with content satisfactory to the Lender and its solicitors:

- (1) an agreement amending the Charge to, *inter alia*, increase the principal amount secured thereunder from \$22,000,000 to \$28,000,000, increase the interest rate to 24% per annum and update the Lender's mortgage schedule, to be registered on title to the Property;
- (2) an acknowledgement and confirmation confirming, *inter alia*, that certain existing security in favour of the Lender as set out in the 2017 Commitment shall continue secure all present and future obligations of the Borrower and Guarantors to the Lender subject to the increase of the unconditional guarantees and postponements of claim by: (i) Beaux Properties International Inc. ("**Beaux**"); (ii) Barry Godfrey and Quaestus Management Corp.; and (iii) Kartik Ganatra from \$3,333,334 to \$3,500,000 (in addition to their obligations under the environmental indemnity and debt service, cost overrun and completion undertaking and guarantee);
- (3) counterparty execution of contract assignment document as required by the Lender;
- (4) standstills, subordinations, postponements and assignments of claim from any shareholder or stakeholder of the Borrower who is not one of the Guarantors and any other Person the Lender may designate, acting reasonably;
- (5) a postponement of shareholder(s) and/or related party loans from the shareholder(s) and/or related parties of the Borrower, if applicable; and
- (6) such other security as the Lender or its solicitors require, which is contemplated by this Commitment or which security more fully gives effect to the security contemplated by this Commitment.

Trustee/Beneficial Owner

The Borrower and 33 Laird Limited Partnership (the "**Beneficial Owner**") shall grant to the Lender a trustee and beneficial owner agreement (in form and content satisfactory to the Lender and its solicitors) prior to the first Advance, and all the covenants, agreements, rights, obligations, representations, warranties and other provisions set out in this Commitment relating to the Borrower shall apply, *mutatis mutandis*, to the Beneficial Owner.

CONDITIONS PRECEDENT TO THE FIRST CONSTRUCTION ADVANCE

The obligation of the Lender to make the first Advance hereunder is subject to and conditional upon the prior satisfaction of the following conditions precedent:

- (1) The Lender will have received a request for the first Advance at least five (5) Business Days prior to the proposed Advance date;
- (2) The Borrower shall be fully in compliance with all the terms and conditions of the Loan Documents;
- (3) A Material Adverse Change will not have occurred and be existing or, in the reasonable opinion of the Lender, be threatened or pending;
- (4) The Lender will have received a policy of title insurance satisfactory to the Lender (In ordering such title insurance policy, the Lender shall request that the title insurer only charge a premium on the increase to the amount of the Charge from the 2017 Commitment. Notwithstanding the foregoing, the Borrower shall be responsible for any premium charged by the title insurer.);
- (5) All corporate documentation requested by the Lender and its solicitors will have been received;
- (6) The Project Monitor shall have been engaged to act on behalf of the Lender throughout the duration of the Credit Facilities at the Borrower's expense;
- (7) The Lender will have completed its due diligence with respect to the Borrower, Guarantors and

Project, and will have received all financial, corporate and other information requested by the Lender including receipt and satisfactory review of:

- (a) a written status report from the Borrower and Guarantors' legal counsel with respect to any actual or threatened litigation, dispute, arbitration or other proceeding in respect of the Property, the Borrower and/or any of the Guarantors;
 - (b) the personal net worth statement of the Personal Guarantors together with supporting documents and notices of assessment for 2018 and evidence that all Taxes are paid in full;
 - (c) notice to reader financial statements prepared by acceptable independent chartered accountants of the Borrower and the Corporate Guarantors for the 2018 calendar year;
 - (d) corporate tax returns of the Borrower and the Corporate Guarantors for 2018 together with evidence confirming all income taxes for such years are paid up-to-date;
 - (e) all Material Project Agreements to date;
 - (f) all Leases together with an up-to-date rent roll and tenant estoppel certificates where required by the Lender;
 - (g) an updated analysis based on finalized Leases satisfactory to the Lender;
 - (h) the most recent realty Taxes bill and evidence of payment thereof and that all realty Taxes levied against the Property are current;
 - (i) an Appraisal with respect to the Property indicating an "as completed" value of not less than \$34,600,000 for Phase 1 of the Project, which must be addressed to the Lender or accompanied by a letter from the Appraiser permitting the Lender to rely thereon.
 - (j) the environmental reports in respect of the Property satisfactory to the Lender in its sole discretion addressed to the Lender or accompanied by a letter from the environmental consultant permitting the Lender to rely thereon;
 - (k) a geotechnical assessment and soil test report in respect of the Property satisfactory to the Lender in its sole discretion addressed to the Lender or accompanied by a letter from the environmental consultant permitting the Lender to rely thereon;
 - (l) evidence satisfactory to the Lender that the Borrower's insurance is satisfactory and complies with this Commitment and in respect of which an independent insurance consultant retained by the Lender shall have provided a written report to the Lender confirming the same;
 - (m) copies of current Plans and Specifications, including, without limitation, floor plans and any current market survey materials relating to the Project;
- (8) the Lender will have received and reviewed a satisfactory report from the Project Monitor containing:
- (a) confirmation that all necessary zoning and development approvals, including all necessary permits, have been obtained or will be issued as required pertaining to each stage of Construction (being first, up to excavation level; second, up to foundation stage; and third, superstructure, as applicable);
 - (b) the site plan control agreement for the Project; and
 - (c) a recommendation of the requested Advance amount based on the Project Monitor's verification of the Project Costs not exceeding \$28,220,000, Minimum Required Equity and a Contingency Amount satisfactory to the Lender;

- (9) all corporate documentation requested by the Lender and its solicitors will have been received;
- (10) the Lender will have received certified copies of all shareholder approvals and true copies of all regulatory governmental and other approvals, if any, required in order for the Borrower to enter into this Commitment and to perform its obligations hereunder;
- (11) the Lender will have received the payment of all fees and expenses (including the fees and disbursements of the Lender's solicitors) payable to the Lender that are due and payable at such time;
- (12) duly executed copies of the Loan Documents and deliveries in connection therewith will have been delivered to the Lender and all such Loan Documents will have been duly registered, filed and recorded in all relevant jurisdictions where required by Applicable Law or where the Lender considers it necessary, in its sole discretion, to do so;
- (13) a currently dated letter of opinion of the Borrower's solicitors as to such matters and in such form as the Lender's solicitors may reasonably require, including with respect to usual corporate matters and enforceability, addressed to the Lender and its solicitors will have been delivered to the Lender;
- (14) the Lender shall have received a title opinion from its solicitors dated the date of the first Advance and confirming based on title insurance that: (a) the Borrower has good and marketable title to the Project, subject only to Permitted Encumbrances, and (b) the Charge constitutes a good and valid first charge on the Property, subject only to Permitted Encumbrances;
- (15) the Borrower shall have maintained its account with the Lender into which all Advances and Project revenues will be deposited and from which all Project Costs will be paid.
- (16) the Lender will have received identity certificates with respect to the Borrower and Guarantors in the form required by the Lender;
- (17) the Lender will have received all required identification and other due diligence materials required with respect to the Borrower to allow the Lender to comply with its obligations under all applicable anti-money laundering and anti-terrorism laws and regulations to which the Lender may be subject, including AMLA;
- (18) the Lender shall have received all other reports and deliveries required hereunder for the period prior to the date of the first Advance;
- (19) confirmation that 75% of the Hard Costs budget has been committed on the date of the first Advance;
- (20) confirmation that approximately 60,163 square feet of the total leasable space of 68,150 square feet of the Project shall be pre-leased with qualified, Arm's Length binding Leases and tenant estoppels satisfactory to the Lender having a minimum annual net rental revenue of not less than \$1,716,781, all as determined by the Lender;
- (21) the first Advance must have occurred no later than October 1, 2019, or such later date as may be agreed to by the parties;
- (22) all obligations under the 2017 Commitment shall be indefeasibly repaid in full from the first Advance; and
- (23) the Lender shall have successfully participated the B Loan with Centurion pursuant to the Centurion Participation Agreement;

and further provided that all documents delivered pursuant the foregoing provisions hereof must be in full force and effect, and in form and substance satisfactory to the Lender and its solicitors.

CONDITIONS PRECEDENT TO FURTHER CONSTRUCTION ADVANCES

The obligation of the Lender to make a further Advance hereunder by way of a Loan is subject to and conditional upon the prior satisfaction of the following conditions precedent:

- (1) The Lender will have received a request for the Advance at least five (5) Business Days prior to the proposed Advance date;
- (2) The Lender will have completed its due diligence with respect to the Borrower, Guarantors and the Project, and will have received all financial, corporate and other information requested by the Lender including receipt and review of a satisfactory report from the Project Monitor containing:
 - (a) confirmation that it has reviewed and is satisfied with the Project Budget, Plans and Specifications and Construction Schedule and that the Project can be completed in accordance with the same;
 - (b) a projected cash flow estimate for the Construction;
 - (c) verification of the reputation, qualification and capabilities of all major trades and containing its recommendation with respect to the requirement for any Performance and Payment Bonds for major trades and suppliers (and where same have been required by the Lender, confirming the same are in form and content acceptable to the Project Monitor);
 - (d) confirmation of the amount of Costs-in-Place including Land Value, Hard Costs and Soft Costs incurred on the Project to date on a line by line basis and identifying whether such costs have been incurred in accordance with the Project Budget or are Cost Overruns;
 - (e) confirmation of Cost-to-Complete and Holdbacks;
 - (f) confirmation that the Project Equity is not less than the Minimum Required Equity;
 - (g) confirmation that any Cost Overruns that have been incurred on the Project have been funded in their entirety by the Borrower and/or Guarantors from their own cash resources derived from outside the Project;
 - (h) confirmation that the Borrower has made all required Holdbacks with respect to the Construction completed to date in compliance with the Construction Act;
 - (i) recommendation of the requested Advance amount based on the Project Monitor's verification of the Minimum Required Equity being in place, Costs Overruns being funded by the Borrower's own resources derived outside of the Project, and deferred costs of \$475,145 being equal to or greater than the Cost-to-Complete, net of Holdbacks and unpaid payables.
 - (j) a certificate from a senior officer of the Borrower:
 - (A) certifying the amount of Costs-in-Place incurred on the Project to date, the Cost-to-Complete and Holdbacks on a line by line basis;
 - (B) certifying the payments that have been made or will be made from the proceeds of the second Advance and, where required by the Project Monitor, attaching copies of all invoices in excess of \$100,000 that will be paid from the proceeds of the second Advance;
 - (C) certifying that any Cost Overruns that have been incurred on the Project have been funded by the Borrower and/or Guarantors from their cash resources derived from outside the Project;

- (D) certifying that the Borrower has made all required Holdbacks with respect to the work completed to date in accordance with the Construction Act;
 - (E) certifying the amount of Project Equity, which must be no less than the Minimum Required Equity;
 - (F) providing copies of any new Leases together with an up-to-date rent roll and tenant estoppel certificates from such new tenants where required by the Lender;
 - (G) confirmation that approximately 60,163 square feet of the total leasable space of 68,150 square feet of the Project shall be pre-leased with qualified, Arm's Length binding Leases satisfactory to the Lender having a minimum annual net rental revenue of not less than \$1,716,781, all as determined by the Lender; and
 - (H) certifying as to such other information and accompanied by such back-up material, as the Lender or Project Monitor may reasonably request from time to time;
- (k) certificates signed by the relevant Consultant certifying:
- (A) that any Construction to date has been completed in all material respects in accordance with the Plans and Specifications; and
 - (B) such other matters as may be reasonably required by the Project Monitor (and in respect of which the Consultant is qualified to certify).
- (l) except where the Lender will be an addressee of the relevant reports, an acknowledgement from the Consultant which will be providing certificates of substantial performance in respect of any portion of Construction for the purposes of the Construction Act, that the Lender and Project Monitor will be relying on the reports and certificates provided by the Consultant and that they are entitled to do so;
- (m) Performance and Payment Bonds, if any, required by the Lender with the recommendation of the Project Monitor;
- (n) any other documents related to the Project that the Lender or Project Monitor deems reasonably necessary, including development, regulatory and zoning approvals;

and the results of such due diligence will be satisfactory to the Lender in its sole discretion.

CONDITIONS PRECEDENT TO ALL SUBSEQUENT ADVANCES

The obligation of the Lender to make any subsequent Advance hereunder, whether by way of a Loan or the issuance of a Letter of Credit is subject to and conditional upon the prior satisfaction of the following additional conditions precedent:

- (1) the Lender shall have received a request for Advance at least five (5) Business Days prior to the proposed Advance date;
- (2) the representations and warranties set out in the Loan Documents will continue to be true and correct as if made on and as of the Advance date;
- (3) the Borrower shall be fully in compliance with all the terms and conditions of the Loan Documents;
- (4) a Material Adverse Change will not have occurred and be existing;
- (5) the Lender shall not have received notice of the existence of any claim for lien made under the Construction Act;

- (6) the Borrower must have delivered to the Lender all reporting required hereunder;
- (7) the Lender shall have received confirmation from its solicitors based on a subsearch of title conducted on the Advance date confirming that no Encumbrances have been registered on title to the Property since the date of the prior Advance other than Permitted Encumbrances;
- (8) prior to any Advance being utilized to fund the actual construction of the Project, the Lender shall have received copies of the site plan control agreement, Construction Management Agreement and Development Management Agreement for the Project and all other subdivision, servicing, development, site plan and similar agreements with Governmental Authorities that are required in order to ensure the completion or delivery of possession of the Project;
- (9) prior to any Advance being utilized to fund the actual construction of the Project, the Lender shall have received evidence that the Material Project Agreements relating to the Construction of the Project and the grant of necessary rights (including crane swing and shoring) by adjacent property owners, to the extent necessary, have been executed by all counterparties thereto; and
- (10) the Lender shall have received evidence that all Permits necessary for Construction which relate to: (a) Construction in respect of which the Advance is being made, and (b) all prior Construction, are in place at the time of the Advance;
- (11) if any new Material Project Agreements have been entered into since the previous Advance, notice of such agreements shall have been given to the Lender and, if required by the Lender, specific assignments of such agreement shall be delivered to it;
- (12) the Lender shall have received a satisfactory report from the Project Monitor:
 - (a) confirming that the Project can be completed in accordance with the Project Budget, Plans and Specifications and Construction Schedule;
 - (b) containing an updated projected cash flow estimate for the Construction where any event has caused the previously delivered estimate to have been revised in any material manner;
 - (c) confirming that all necessary zoning and development approvals, including all necessary Permits, have been obtained or will be issued as required pertaining to each stage of Construction;
 - (d) verifying the reputation of any new major trades and containing its recommendation with respect to the requirement for any Performance and Payment Bonds to be required by the Lender in consultation with the Project Monitor for major trades and suppliers (and where the same have been required by the Lender, confirming the same are in form and content acceptable to the Project Monitor);
 - (e) verifying that all previous Advances have been applied towards the payment of Project Costs;
 - (f) recommending the requested Advance amount based on the Project Monitor's verification of the Costs-in-Place Margin subject to the unadvanced amount of the Construction Facility and offsetting income less Holdbacks and unpaid payables being equal to the Cost-to-Complete;
 - (g) confirming that any Cost Overruns that have been incurred on the Project have been funded in their entirety by the Borrower and/or Guarantors from their cash resources derived from outside the Project;
 - (h) confirming that the Borrower has made all required Holdbacks with respect to the Construction completed to date in accordance with the Construction Act;
 - (i) where the underlying conditions have been satisfied, the Certificate of Total Completion;

- (j) containing a certificate from a senior officer of the Borrower:
 - (A) certifying the amount of Costs-in-Place incurred on the Project to date, the Cost-to-Complete and Holdbacks on a line by line basis;
 - (B) certifying the payments that have been made or will be made from the proceeds of the Advance and, where required by Project Monitor, attaching copies of all invoices in excess of \$100,000 that will be paid from the proceeds of the Advance;
 - (C) certifying that all accounts payable that were to have been paid from prior Advances have been paid;
 - (D) certifying that any Cost Overruns that have been incurred on the Project have been funded in their entirety by the Borrower and/or Guarantors from their own cash resources derived from outside the Project;
 - (E) certifying compliance with: (i) the Construction Act, including that the Borrower has made all required Holdbacks with respect to the work completed to date; and (ii) applicable legislation relating to Taxes;
 - (F) certifying the amount of Project Equity, which must be no less than: (i) the Minimum Required Equity; plus (ii) the amount of Interim Revenue received since the prior Advance; and (iii) Cost Overruns funded by the Borrower and/or Guarantor;
 - (G) certifying as to such other information and accompanied by such back-up material, as the Lender or Project Monitor may reasonably request from time to time;
 - (H) certifying that the Cost-to-Complete shall not exceed the aggregate of the unadvanced amount of the Construction Facility and offsetting income less Holdbacks and unpaid payables;
 - (I) certifying that the aggregate principal amount of all Loans under the Credit Facilities shall not exceed the lesser of (i) the authorized amount of the Credit Facilities; and (ii) the Costs-In-Place Margin;
 - (J) containing the certificates signed by the relevant Consultant (where the architect is unable to provide such certification) certifying that all Construction to date has been completed in all material respects in accordance with the Plans and Specifications, and
 - (K) such other matters as may be reasonably required and in respect of which the Consultant is qualified to certify.
- (k) Performance and Payment Bonds, if any, required by the Lender with the recommendation of the Project Monitor;
- (l) the Lender will have received payment of all fees payable to the Lender that are due and payable at such time;
- (m) the Lender shall be satisfied that after giving effect to the Advance:
 - (A) the Cost-to-Complete does not exceed the aggregate of the unadvanced amount of the Construction Facility and offsetting income less Holdbacks and unpaid payables;
 - (B) the aggregate principal amount of all Loans under the Construction Facility shall not exceed the lesser of (i) the authorized amount of the Construction Facility

and (ii) the Costs-In-Place Margin; and

- (C) the aggregate face amount of all Letters of Credit issued under the LC Facility shall not exceed the LC Facility Amount;
- (n) a sign shall be erected at the site, in a location not to interfere with the Borrower's leasing signage, indicating financing provided by the Lender, with the cost thereof to be borne by the Borrower; and
- (o) all other terms and conditions of the Commitment that have not been waived will have been fulfilled;

and provided further that all documents delivered pursuant to the foregoing provisions must be in full force and effect, and in form and substance satisfactory to the Lender and its solicitors.

The conditions precedent to the first Advance and to all Advances hereinbefore described are inserted for the sole benefit of the Lender and may be waived by the Lender, in whole or in part (with or without terms or conditions), in respect of any Advance without prejudicing the right of the Lender at any time to assert such conditions in respect of any subsequent Advance.

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lender as follows, and acknowledges and confirms that the Lender is relying upon such representations and warranties:

- (1) Existence and Qualification – The Borrower: (a) has been duly incorporated, amalgamated or continued, as the case may be, and is validly subsisting as a corporation under the laws of its jurisdiction of incorporation, amalgamation, or continuance, as the case may be; and (b) is duly qualified to carry on business in all jurisdictions in which it carries on its business.
- (2) Power and Authority – The Borrower has the power, authority and right (a) to enter into and deliver, and to exercise its rights and perform its obligations under the Loan Documents to which it is a party and all other instruments and agreements delivered by it pursuant to any of the Loan Documents; and (b) to own its property and carry on its business as currently conducted and as currently proposed to be conducted by it. Without limiting the foregoing, the Borrower has all necessary power and authority to own its interest in the Property and to develop and complete the Project and is duly licensed, registered and qualified to carry out such activities.
- (3) Execution, Delivery, Performance and Enforceability of Documents – The execution, delivery and performance of each of the Loan Documents to which the Borrower is a party, and every other instrument or agreement delivered by it pursuant to any Loan Document, has been duly authorized by all actions, if any, required on its part and by its directors, and each of such documents has been duly executed and delivered and constitutes a valid and legally binding obligation of the Borrower enforceable against it in accordance with its terms subject to bankruptcy, insolvency, reorganization, arrangement, winding-up, moratorium and other similar laws of general application limiting the enforcement of creditors' rights generally and to general equitable principles.
- (4) Loan Documents Comply with Applicable Laws and Contractual Obligations – Neither the entering into nor the delivery of, and neither the consummation of the transactions contemplated in nor compliance with the terms, conditions and provisions of, the Loan Documents by the Borrower conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under or contravention of any Applicable Laws, or results or will result in the creation or imposition of any Encumbrance other than Permitted Encumbrances except in favour of the Lender upon or against the Project.
- (5) Consents Respecting Loan Documents – The Borrower has obtained, made or taken all consents, approvals, authorizations, declarations, registrations, filings, notices and other actions whatsoever required in connection with the execution and delivery by it of each of the Loan

Documents to which it is a party and the consummation of the transactions contemplated in the Loan Documents.

- (6) Taxes – The Borrower has paid or made adequate provision for the payment of all Taxes levied on it or on the Property or income that are due and payable, including interest and penalties, or has accrued such amounts in its financial statements for the payment of such Taxes, and there is no material action, suit, proceeding, investigation, audit or claim now pending, or to its knowledge threatened, by any Governmental Authority regarding any Taxes that is reasonably likely to cause a Material Adverse Change nor has it agreed to waive or extend any statute of limitations with respect to the payment or collection of Taxes.
- (7) Judgments – The Borrower is not subject to any judgment, order, writ, injunction, decree or award, or to any restriction, rule or regulation that has not been stayed or of which enforcement has not been suspended and that individually or in the aggregate constitutes, or is reasonably likely to cause a Material Adverse Change.
- (8) Absence of Litigation – There are no actions, suits or proceedings pending or, to the best of the Borrower's knowledge and belief, threatened against or affecting the Borrower that are reasonably likely to cause, either separately or in the aggregate, a Material Adverse Change. The Borrower is not in default with respect to any Applicable Law in a manner or to an extent that could reasonably be expected to cause a Material Adverse Change.
- (9) Title to Property – The Borrower is the registered owner of the Property with good and marketable title thereto, and any other real and personal property of any nature which is part of the Project, in each case free and clear of all Encumbrances except Permitted Encumbrances, and no Person (other than the Beneficial Owner) has any agreement or right to acquire an interest in the Project.
- (10) Compliance with Laws – To the best of the Borrower's knowledge, it is not in default under any Applicable Law where such default could reasonably be expected to cause a Material Adverse Change. To the best of the knowledge of the Borrower, the Property is in compliance in all material respects with all Applicable Laws. Further, there are no facts known or which ought reasonably to be known, which could give rise to a notice of non-compliance to such extent with any Applicable Law.
- (11) No Default – The Borrower is not 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 could reasonably be expected to cause a Material Adverse Change.
- (12) Environmental Matters
- (a) Other than as disclosed in the environmental reports delivered by the Borrower to the Lender pursuant hereto, the Property is in full compliance in all material respects with all Environmental Law; the Borrower is not aware of, nor has it received notice of any past, present or future condition, event, activity, practice or incident that may interfere with or prevent the compliance or continued compliance of the Project or the Borrower in all respects with all Environmental Law; and the Borrower has obtained all licences, permits and approvals in connection with the Project that are currently required under all Environmental Law and is in full compliance with the provisions of such licences, permits and approvals.
- (b) Other than as disclosed in the environmental reports delivered by the Borrower to the Lender pursuant hereto, the Borrower is not aware that any Hazardous Substances exist on, about or within or have been used, generated, stored, transported, disposed of on, or Released from the Property other than in accordance and compliance with all Environmental Law.
- (c) The use that the Borrower has made and intends to make of the Property will not result in the use, generation, storage, transportation, accumulation, disposal, or Release of any Hazardous Substances on, in or from the Property except in accordance and compliance

with all Environmental Law.

- (d) There is no action, suit or proceeding or, to its knowledge, any investigation or inquiry, before any Governmental Authority pending or, to its knowledge, threatened against the Borrower relating in any way to any Environmental Law that would or could reasonably be expected to cause a Material Adverse Change.
 - (e) The Borrower has not (A) with respect to the Property, incurred any current and outstanding liability for any clean-up or remedial action under any Environmental Law with respect to current or past operations, events, activities, practices or incidents relating thereto; (B) received any outstanding written request for information by any Person under any Environmental Law with respect to the condition, use or operation of the Property; (C) received any outstanding written notice or claim under any Environmental Law with respect to any material violation of or liability under any Environmental Law or relating to the presence of Hazardous Substances on or originating from the Property, that, would or could reasonably be expected to cause a Material Adverse Change; or (D) ever been convicted of an offence or subjected to any judgment, injunction or other proceeding for non-compliance with any Environmental Law with respect to the Property or been fined or otherwise sentenced or settled such prosecution or other proceeding short of conviction for non-compliance with any Environmental Law with respect to the Property.
 - (f) Copies of all material analysis and monitoring data for soil, ground water, surface water and the like and reports pertaining to any environmental assessments/audits, including any inspections, investigations and tests, relating to the Property that were obtained, are in the possession or control of, or were carried out on behalf of the Borrower have been delivered to the Lender.
 - (g) Since acquiring its interest in the Property, the Borrower has maintained all environmental and operating documents and records relating to the Property substantially in the manner and for the time periods required by Environmental Law.
 - (h) The Borrower has not defaulted in reporting to any applicable Governmental Authority in relation to the Property on the happening of an occurrence which it is or was required by any Environmental Law to report.
- (13) Zoning, Uses and Expropriation
- (a) Except as disclosed in writing to the Lender, the Project is zoned to permit the Construction and operation of the Project.
 - (b) Upon the Borrower's receipt of site plan approval, the existing and proposed uses of the Project shall comply in all material respects with all Applicable Law.
 - (c) It has not received notice of any proposed rezoning of all or any part of the Project that would be reasonably likely to cause a Material Adverse Change in respect of the Construction of the Project or otherwise.
 - (d) Except for the road widening contemplated by the site plan approval for the Project as disclosed to the Lender, it has not received notice of any expropriation of all or any part of the Property.
- (14) Insolvency – The Borrower (a) has not committed any act of bankruptcy; (b) is not insolvent, or has not proposed or given notice of its intention to propose a compromise or arrangement to its creditors generally; (c) has not made any petition for a receiving order in bankruptcy, made a voluntary assignment in bankruptcy, taken any proceeding with respect to any compromise or arrangement, taken any proceeding to have itself declared bankrupt or wound-up, taken any proceeding to have a receiver appointed of any part of its assets, or had any Encumbrancer take possession of its property; or (d) has not had an execution or distress become enforceable or become levied on any portion of its assets and property.

- (15) Setbacks – To the best of the knowledge of the Borrower, the location of any buildings in the Project are or will be, to the extent they have been constructed or will be constructed in accordance with the Plans and Specifications, within the boundary lines of the Project as a whole and are in compliance with all applicable setback requirements.
- (16) Full Disclosure – All information provided or to be provided to the Lender in connection with the Credit Facilities is true and correct in all material respects and none of the documentation furnished to the Lender by the Borrower, omits or will omit as of such time, a material fact necessary to make the statements contained therein not misleading in any material way, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful inquiry by the Borrower and any other Person who furnished such material on its behalf.
- (17) Residency – The Borrower is not a non-resident for the purposes of Section 116 of the *Income Tax Act* (Canada).

The representations and warranties set out above survive the execution and delivery of the Loan Documents and will be deemed to be repeated by the Borrower as of each Advance date.

POSITIVE COVENANTS

So long as this Commitment is in force and except as otherwise permitted by the prior written consent of the Lender, the Borrower will:

- (1) Timely payment – Make due and timely payment of the Obligations required to be paid by it hereunder.
- (2) Conduct of Business, Maintenance of Existence, Compliance with Laws – Engage in business of the same general type as now conducted by it; carry on and conduct its business and operations in a proper, efficient and businesslike manner in accordance with good business practice; preserve, renew and keep in full force and effect its existence; and take all reasonable action to maintain all rights, privileges and franchises necessary in the normal conduct of its business and to comply in all material respects with all Material Project Agreements as applicable, Material Licences and Applicable Law.
- (3) Access to Information – Promptly provide the Lender and Project Monitor with all information reasonably requested by any of them from time to time at reasonable intervals in connection with this Commitment concerning its financial condition and the Project (including the Plans and Specifications, the Project Budget, the status of Construction, Material Project Agreements and Material Licences), and during normal business hours and from time to time at reasonable intervals upon reasonable notice, permit representatives of the Lender to inspect the Project and to examine and take extracts from its financial records, including records stored in computer data banks and computer software systems regarding the Project, and to discuss its financial condition with its senior officers and its auditors, the reasonable expense of all of which will be paid by the Borrower.
- (4) Obligations and Taxes – Pay or discharge, or cause to be paid or discharged, before the same will become delinquent: (a) all Taxes imposed upon it or upon its income or profits or in respect of its business or the Project and file all tax returns in respect thereof; (b) all lawful claims for labour, materials and supplies; (c) all required payments under any of its debt; and (d) all other obligations.
- (5) Use of Credit Facilities – Use the proceeds of the Credit Facilities only for the purposes specified herein and not for the benefit of or on behalf of any Person other than the Borrower.
- (6) Construction Insurance – From the date hereof until Total Completion of the Project, the Borrower shall maintain or cause to be maintained with insurance companies acceptable to the Lender on the advice of its insurance consultant:

- (a) all risks builder's risk (including coverage against the perils of earthquake, flood, testing and commissioning Hard and Soft Costs) coverage for the full replacement cost of the Project, excluding Land Costs. Such insurance shall:
- (A) include a soft cost endorsement in an amount of not less than 100% of total recurring Soft Costs or such lesser amount as may be recommended by the Project Monitor and accepted by the Lender;
 - (B) name the Borrower as first named insured thereunder and as additional insureds all those required to be named as additional insureds under any of the Material Project Agreements;
 - (C) name the Lender as first mortgagee and first loss payee and have attached the standard Insurance Bureau of Canada mortgage clause;
 - (D) provide that no cancellation or termination thereof, for any reason whatsoever (with the exception of cancellation due to non-payment of premium for which 15 days' statutory notice of cancellation may apply), shall take effect unless the insurer concerned has given the Lender not less than 30 days' prior written notice of such proposed action;
 - (E) contain a waiver by the insurer or insurers of all rights of subrogation or indemnity or any other claim to which such insurer or insurers might otherwise be entitled against the Lender; and
 - (F) otherwise be in such form as the Lender shall reasonably require or as required under any of the Material Project Agreements;
- (b) wrap-up liability insurance with a minimum combined single limit of liability of not less than \$10,000,000 per occurrence. Such insurance shall:
- (A) name the Borrower as first named insured and the Lender as an additional insured and name all others required to be named under any of the Material Project Agreements including architects, engineers, consultants, contractors, sub-contractors and trades of every tier as additional insureds;
 - (B) provide that no cancellation or termination thereof, for any reason whatsoever (with the exception of cancellation due to non-payment of premium for which 15 days' statutory notice of cancellation may apply), shall take effect unless the insurer concerned has given the Lender no less than 30 days' prior written notice of such proposed action;
 - (C) contain a waiver by the insurer of all rights of subrogation or indemnity or any other claim to which the insurer might otherwise be entitled against the Lender and others to whom the Borrower has granted such waivers under any of the Material Project Agreements;
 - (D) contain a cross-liability clause and a severability of interest clause; and
 - (E) otherwise be in such form as the Lender shall reasonably require or as required under any of the Material Project Agreements.

The Borrower will provide detailed certificates of insurance for all policies required hereunder to be purchased and maintained by the Borrower in form acceptable to the Lender on the advice of its insurance consultant.

- (7) Operating Insurance – After Total Completion of the Project has been achieved, so long as the Borrower has an ownership interest in same and so long as any amounts are due hereunder, maintain or cause to be maintained all risks insurance (on a replacement cost, stated amount, no co-insurance basis), general liability insurance, business interruption insurance and such other

insurance in form and in such amounts and with such deductibles as are customary in the case of owners of projects similar to the Project and in any event as are acceptable to the Lender. The Lender shall be named as first mortgagee and first loss payee or additional insured, as applicable, under such policies.

- (8) Notice of Litigation – Promptly notify the Lender on becoming aware of the occurrence of any actual or potential litigation, dispute, arbitration or other proceeding the result of which if determined adversely would be a judgment or award against the Borrower that would result in a Material Adverse Change to it, and from time to time provide the Lender with all reasonable information requested by it concerning the status of any such proceeding.
- (9) Environmental Compliance
- (a) Operate the Property in a manner such that no material obligation, including a clean-up or remedial obligation, will arise under any Environmental Law; provided, however, that if any such claim is made or any such obligation arises, it will immediately satisfy or contest such claim or obligation at its own cost and expense, and promptly notify the Lender upon learning of (A) the existence of Hazardous Substances located on, above or below the surface of the Property or contained in the soil or water constituting such land (except those being stored, used, contained or otherwise handled in substantial compliance with Environmental Law); or (B) the occurrence of any reportable Release of Hazardous Substances into the air, land, surface water or ground water that has occurred on or from such land; or (C) any other event or occurrence relating to the Project which, in the opinion of the Borrower, is likely to give rise to a notice of non-compliance in any material respect with any Environmental Law.
 - (b) Comply, and cause any other party that is acting under its authority to comply, in all material respects with all Environmental Law (including obtaining any Material Licences or similar authorizations) relating to the Project.
 - (c) Use its reasonable commercial efforts not to cause or permit a Release of any Hazardous Substance at, on, under, or near the Project except in compliance with Environmental Law.
 - (d) Provide the Lender with an environmental site assessment/audit report of the Project, or an update of such assessment/audit report (A) upon the written request of the Lender if, in its reasonable opinion, there is a concern about the Borrower's compliance as it relates to the Project or the Project's compliance with Environmental Law, all in scope, form and content satisfactory to the Lender; (B) if such assessment/audit report has been prepared at the request of or on behalf of any Governmental Authority; or (C) if an event of non-compliance relating to an environmental matter has occurred, and the Lender has made a written request to the Borrower for such an assessment/audit report or update, within 30 Business Days after such request, and all such assessments/audits reports or updates thereof shall be at the Borrower's expense and risk; an environmental site assessment/audit may include, for purposes hereof, any inspection, investigation, test, sampling, analysis, monitoring pertaining to air, land and water relating to the Project reasonably required under the circumstances giving rise to the request for the assessment/audit report.
 - (e) Not use the Project, or permit it to be used, to generate, manufacture, refine, treat, transport, store, handle, dispose, transfer, produce or process Hazardous Substances except in compliance with all Environmental Law.
 - (f) Maintain in all material respects all environmental and operating documents and records, including, without limitation, Material Licences and orders, relating to the Project in the manner and for the time periods required by Environmental Law.
- (10) Adequate Books – Maintain adequate books, accounts and records in respect of the Project and the Borrower in accordance with GAAP consistently applied.

- (11) Material Project Agreements and Permitted Encumbrances
- (a) At all times be and remain in full compliance in all material respects with all of its covenants, agreements and obligations in and diligently enforce all its material rights under all Material Project Agreements and Permitted Encumbrances if non-compliance could lead to a Material Adverse Change. The Borrower shall not alter, amend or waive, in any material respect, any of its rights under or permit any termination or surrender of any Material Project Agreement or Permitted Encumbrance, without the prior written consent of the Lender, unless such alterations, amendments, waivers, terminations or surrenders, as applicable, reflect, in all material respects, good business practice, are in the ordinary course of business, and such material terms as a prudent owner of a similar property would accept having regard to all relevant factors at the time.
- (b) Advise the Lender in writing of all new Material Project Agreements and Permitted Encumbrances (or any material amendments of existing Material Agreements or Permitted Encumbrances) entered into forthwith following the entering into thereof and shall deliver forthwith copies thereof to the Lender. The Borrower shall provide written notice to the Lender of any assignment made by a contracting party to a Material Project Agreement.
- (12) Access – Permit the Lender (through its agents, officers or employees), for the purpose of monitoring compliance with the covenants and obligations of the Borrower hereunder, at its risk, to visit and inspect the Property to conduct tests, measurements and surveys in relation to the Project, provided that such tests, measurements and surveys are conducted in accordance with prudent industry practice and Applicable Law and/or are required as a result of the reasonable concerns of the Lender as to non-compliance with such covenant and obligation, and to be advised as to the same by the officers, engineers and advisers of the Borrower (or such other Persons as may be appropriate), all at such reasonable times and intervals as the Lender may desire upon reasonable prior notice and in the presence of the Borrower if it so desires. Such visits, inspections, measurements, reviews and tests shall be at the cost of the Borrower, provided such expenses are reasonably incurred. Any such visit, inspection, examination, discussion or tests shall not be deemed to be supervision, charge, management, control or occupation by the Lender for purposes of any environmental or other liabilities.
- (13) Consultants – Permit the Lender, and it shall have the right, to appoint the Project Monitor and an independent insurance consultant to assist the Lender with (a) reviewing and approving the insurance policies maintained by the Borrower for the Project, the Project Budget, the Construction Schedule, the Plans and Specifications and the Material Project Agreements; (b) projecting the Cost-to-Complete and determining the Costs-in-Place Margin; (c) advising the Lender as to whether the Project has been constructed in accordance with prudent industry practice, Applicable Law, the Project Budget, the Plans and Specifications, the Material Project Agreements and the Material Licences; and (d) performing such additional functions as the Lender shall reasonably request. The Borrower shall pay all reasonable fees, costs and expenses of the Project Monitor and insurance consultant. Commencing with the start of site works on the Property, the Project Monitor shall deliver reports monthly regardless of whether an Advance is requested in such month.
- (14) Management and Control of Project – Diligently and continuously proceed with and manage the Construction of, and operate the Project in all material respects in accordance with: (a) prudent industry practice; (b) the Material Project Agreements and Material Licences; (c) the Project Budget; (d) all warranties; (e) the Plans and Specifications; (f) the Construction Schedule; and (g) all insurance policies issued in respect of the Project. Subject to Force Majeure, it shall not abandon (for a single period of 20 days or more), and shall ensure that there is no abandonment of, the Project.
- (15) Construction Act – Comply with the provisions of the Construction Act, including retaining the Holdbacks required thereby. In the event that any lien is registered under the Construction Act against the Property (or notice of such lien is provided to the Lender), the Borrower shall cause such lien to be vacated or discharged within 10 days of the earlier of: (a) the date of registration thereof or the date the Borrower has received written notice thereof; and (b) the date that the

Borrower has been provided written notice thereof by the Lender, with any payment thereof being made from financial resources other than the Construction Facility. The Borrower will not release the Holdbacks until: (a) 60 days have elapsed following the publication of a certificate of substantial completion pursuant to the Construction Act; and (b) the Lender shall be satisfied that no construction liens have been registered on title to the Property as of the expiry date of such period.

- (16) HST Refunds – File on a monthly basis all returns and other documents necessary to obtain the refund of HST in respect of the Project and apply the amount of any such refund to payment of Project Costs.
- (17) “As Built” Survey – (Survey of Foundations) – As soon as practicable, and in any event not later than completion of the foundations for any buildings on the Property, provide the Lender with a survey of the foundations of the buildings on the Property prepared and certified by a land surveyor qualified to practise in Ontario confirming the boundaries, area and dimensions of the Property, the location of the improvements to the Project and the location of any encroachments, easements or rights of way.
- (18) “As Built” Survey – (Survey of Permanent Structures) – Within 120 days after Total Completion of the Project, deliver to the Lender an “As-Built” survey of the Project, prepared and certified by a land surveyor qualified to practise in Ontario which will identify, *inter alia*, the location of all encroachments, easements and rights of way affecting the Project.
- (19) Project Equity, Margin Deficiencies and Cost Overruns – Maintain Project Equity in an amount of no less than the Minimum Required Equity and fund any margin deficiencies and/or Cost Overruns on a line by line basis (after allocation of contingencies and demonstrable savings) by an additional contribution of Project Equity from resources outside the Project. Without limiting the foregoing, if at any time a Letter of Credit issued under the LC Facility is drawn upon and such amount, or any portion thereof, does not from part of the Project Budget at the time of such draw, then the Borrower shall contribute additional Project Equity in an amount equal to such drawn amount or portion, as the case may be.
- (20) Signage – Upon the request of the Lender, cause any sign to be provided by the Lender erected in respect of the Project to contain an acknowledgement of the financing provided by the Lender, the size and format of such acknowledgement: (a) to be similar to that of other major providers of services in respect of the Project; and (b) to comply with municipal by-laws. Such sign shall be erected by the Borrower at its own cost and may be removed by the Borrower upon achievement of Total Completion.
- (21) Location of Operation Accounts – Maintain the Project Account in an account with the Lender during the term of this Commitment.
- (22) Non-Disturbance Agreement – In respect of any Lease where the Lender requests, use commercially reasonable efforts to obtain from the tenant under such Lease an attornment and non-disturbance agreement in a form acceptable to the Lender.
- (23) Acknowledgement and Assignment of Consultant Contracts and Construction Contracts- Use its commercially reasonable efforts to cause each counterparty to the Consultant Contracts and each Construction Contract (in the case of a Construction Contract, only where the contracted aggregate payments thereunder are in excess of \$1,000,000) to cause such counterparty to execute and deliver an acknowledgment (in the form provided by the Lender or such other form as may be acceptable to the Lender) of the assignment thereof in favour of the Lender.
- (24) Performance and Payment Bonds – Obtain and maintain all Performance and Payment Bonds required hereunder.
- (25) Building Permits – Obtain all necessary Permits to facilitate Construction in accordance with the Construction Schedule having regard to the staged Construction of the Project (it being acknowledged that Permits will be required to be delivered in respect of Construction relating to the excavation phase, in respect of the foundation phase and in respect of the above-ground

phase of Construction of the Project).

- (26) Takeout Financing – The Borrower shall provide the Lender with the first opportunity to provide takeout financing for the Project.
- (27) Environmental Remediation – The Borrower shall complete all environmental remediation of the Property required by the Lender within 8 weeks of the Closing Date and provide the Lender with satisfactory evidence of soil samples from the Property adhering to the applicable Ministry of Environment standards within 90 days of the completion of such environmental remediation.

NEGATIVE COVENANTS

So long as this Commitment is in force and except as otherwise permitted by the prior written consent of the Lender, the Borrower will not:

- (1) No Sale of Project – Other than the Disposition of other premises pursuant to Leases as permitted hereunder, Dispose of the Project or any part thereof or interest therein except as contemplated herein, unless approved by the Lender in writing.
- (2) No Transfer of Interest in Borrower – Permit any Disposition of any interest in the Borrower without giving 30 days' prior written notice to the Lender and obtaining the Lender's prior written consent.
- (3) No Consolidation, Amalgamation – Consolidate, amalgamate or merge with any other Person, enter into any corporate reorganization or other transaction intended to effect or otherwise permit a change in its existing corporate structure, liquidate, wind-up or dissolve itself, or permit any liquidation, winding-up or dissolution without the consent of the Lender in its sole and absolute discretion.
- (4) No Change of Name – Change its name without providing the Lender with 30 days' prior written notice thereof.
- (5) No Distributions – Make any Distribution until all Obligations under the Credit Facilities have been repaid in full (or, in the case of the LC Facility, any outstanding Letters of Credit have been fully cash collateralized on a dollar for dollar basis or are secured by the residual value in the Project (based on the estimated market value thereof as determined by the Lender) securing the aggregate face amount of such Letters of Credit granted in connection with such Project on a 1:1 basis) and the Lender has no further obligation to make Advances hereunder.
- (6) Amendments to Material Project Agreements – Except as otherwise contemplated herein, amend, vary or alter in any material way, consent to any assignment or transfer of, or waive or surrender any of its material rights or material entitlements under any Material Project Agreement.
- (7) Amendment of Project Budget – Without the prior written consent of the Lender not to be unreasonably withheld, and the concurrence of the Project Monitor, make cumulative positive or negative changes to the Project Budget including, for greater certainty, cumulative positive or negative changes to individual line items within such Project Budget (whether or not resulting in a change to the aggregate Budgeted Project Costs) and regardless of whether such changes are within the initial contingency budget, unless:
- (a) such changes do not exceed the lesser of (A) \$200,000 in the aggregate; (B) 10% of the approved Hard Costs portion of the Project Budget; and (C) 50% of the approved Hard Costs contingency portion of the Project Budget;
- (b) the Contingency Amount in such Project Budget continues to be reasonable and adequate to ensure Construction Completion of the Project as recommended by the Project Monitor; and
- (c) there is no adverse effect on the overall quality or change in the scope of the applicable Project stage as a result of the changes.

Upon any revision of a Project Budget, the Borrower will forthwith provide a copy to the Lender and its Project Monitor.

- (8) Amendment of Plans and Specifications – Revise the Plans and Specifications in any material respect, except with the consent of the Lender and its Project Monitor, such consent not to be unreasonably withheld. Upon revision of the Plans and Specifications, the Borrower will forthwith provide a copy to the Lender.
- (9) Amendment of Construction Schedule – Revise the Construction Schedule to permit completion of Construction later than that contemplated in the then current Construction Schedule, except with the consent of the Lender and its Project Monitor, acting reasonably, and provided, if required, the Borrower can demonstrate that it has contributed additional Project Equity sufficient to cover any increased Budgeted Project Costs arising in connection therewith. Upon revision of the Construction Schedule, the Borrower will forthwith provide a copy to the Lender and its Project Monitor.
- (10) Leasing – Enter into any Leases or renew, amend, terminate, forfeit or cancel any Leases unless such Leases, amendments, renewals, terminations, forfeitures or cancellations reflect in all material respects good business practice and such material terms as a prudent owner of a similar property would accept having regard to all relevant factors and the leasing practice in the market at the relevant time.
- (11) Concerning Leases Generally – Accept or require payment of rent or other monies payable by a tenant under any Lease that would result in more than one month of such rent or other monies being prepaid under such Lease other than:
- (a) prepaid rent or deposits on account of rent which represent the portion of the cost of construction of the relevant demised premises which exceeds the portion of such cost which was used as the basis for determining the basic rental otherwise payable under such Lease; or
 - (b) an amount representing a bona fide pre-calculation of any amount that is required to be paid under such Lease in addition to basic rental, including amounts payable with respect to Taxes and maintenance of the Project and overage and percentage rentals; or
 - (c) lease surrender payments and security deposits made by the tenant under such Lease.
- (12) Letters of Credit - Obtain letters of credit required for the Project other than Letters of Credit issued by the Lender under the LC Facility.
- (13) No Financial Assistance – Guarantee or otherwise provide for, on a direct, indirect or contingent basis, the payment of any monies or performance of any obligations of any other Person, except as may be contemplated by the Loan Documents and other than in the ordinary course of business of the Borrower.
- (14) No Further Encumbrances — Permit any further Encumbrances of the Property other than Permitted Encumbrances.

MANAGEMENT

If the management of the Project becomes unsatisfactory, in the Lender's sole opinion, the Lender may, after giving the Borrower 30 days' prior written notice to correct any such deficiency, appoint alternate management, with all costs in this regard being borne by the Borrower.

TAXES LEVIED AGAINST PROPERTY

With respect to Taxes levied against the Property: (1) the Lender may deduct from any Advance an amount sufficient to pay the Taxes which have become or will become due and payable on the date of such Advance or are unpaid at the date of such Advance; (2) the Borrower will pay all Taxes as they fall due and will provide the Lender with receipts confirming payment of same as it may require; (3) the Borrower shall, if

directed by the Lender, pay to the Lender in monthly instalments on the dates on which monthly instalments on the Loans are payable hereunder, sums which in the sole opinion of the Lender will be sufficient to enable it to pay the whole amount of Taxes on or before the due date for payment thereof or, if such amount is payable in instalments, on or before the due date for payment of the first instalment thereof; (4) the Lender agrees to apply such deduction and payments to the Taxes levied against the Property so long as the Borrower is not in Default, but nothing herein contained shall obligate the Lender to apply such payments on account of Taxes more often than yearly; provided, however, that if before any sum so paid to the Lender shall have been so applied, there shall be Default by the Borrower in respect of any monthly payments on the Loan, the Lender may apply such sum in or towards payment of the principal and/or interest in default; the Borrower shall transmit to the Lender the assessment notices, tax bills and other notices affecting the imposition of Taxes forthwith upon receipt; and (5) the Lender shall allow the Borrower interest on the average monthly balance standing in the account from time to time to the credit of the Borrower for payment of Taxes, at a rate per annum and at such times as the Lender may determine in its sole discretion, and the Borrower shall be charged interest at the interest rate applicable to the A Loan on the debit balance, if any, of Taxes in the account outstanding after payment of Taxes by the Lender until such debit balance is fully repaid.

COSTS AND FEES

Whether or not the transactions contemplated hereby are completed, the Borrower shall pay the legal fees and disbursements of the Lender's solicitors, and the costs incurred by the Lender or its consultants including, without limitation, in connection with the Loan Documents, including those related to fire and title insurance, appraisal and environmental reports, survey, inspection, monitoring and progress Advances. Such fees, disbursements and costs may be deducted from any Advance.

PROGRESS ADVANCE FEE

A fee of \$500 is payable on each Advance.

DISCHARGE FEE

A fee of \$1,000 is payable on the discharge of the Security.

ANNUAL REVIEW FEE

The Lender shall conduct a review of the Credit Facilities and Project each year during continuation of the Credit Facilities. The first annual review will be performed on February 28, 2020. A minimum annual review fee of \$2,500 will be charged by the Lender to the Borrower.

APPLICATION FEE

A fee of \$20,000 is acknowledged as received by the Lender. This fee is non-refundable and is earned by the Lender as compensation for costs incurred, including time expended in processing, approving and providing this Commitment, but excluding the Costs and Fees referred to above.

COMMITMENT FEE

A fee of \$83,538 shall be payable by the Borrower which fee is earned on the date hereof and is payable on the earlier of October 1, 2019, and the date of the first Advance.

BREACH FEE

In addition to any rights of the Lender pursuant to the Security or otherwise, the Borrower shall pay to the Lender a minimum fee of \$500 in respect of each covenant breached by the Borrower and/or the Guarantors pursuant to the Security with the obligation to pay each such to be secured by the Security.

APPRAISALS AND ASSESSMENTS

All appraisals, inspections, assessments and information with respect to the Property provided to the Lender are provided only for the purpose of assisting it in determining whether to approve the Credit Facilities, and no acceptance, use of or adoption of such appraisals, inspections, assessments or information by the Lender shall be construed as any agreement by it as to the value or condition of the Property or Project. The Borrower is responsible for all appraisal and assessment fees.

RENEWAL ON MATURITY

Upon the expiry of the term of the Construction Facility for reasons other than demand, at a time (1) when an amount remains owing under the Construction Facility for principal, (2) the Borrower is not in default under this Commitment, and (3) the Borrower has not agreed to a renewal or extension on terms satisfactory to the Lender, the Construction Facility shall renew, at the Lender's discretion, for two (2) further period of three (3) months each, from the expiry date of the term (or first renewal term, as applicable). A fee of 0.25% of the amount remaining owing under the Construction Facility shall be automatically earned by the Lender on the date of each such renewal and shall forthwith be paid by the Borrower to the Lender. Such amount may be deducted by the Lender from the Borrower's bank account. Any unpaid amounts shall be added to the Credit Facilities and secured by the Security.

REPORTING REQUIREMENTS

For the purposes of the Lender's annual review of the Credit Facilities and Project, the Borrower and Guarantors shall provide the following statements and information (collectively the "Statements") to the Lender:

- (1) notice to reader financial statements prepared by accountants acceptable to the Lender for the Borrower and Corporate Guarantors by January 31st together with copies of all tax filings and notices of assessments to confirm all taxes are paid up-to-date;
- (2) updated net worth statement for each of the Personal Guarantors together with supporting information as requested by the Lender by January 31st together with copies of all tax filings and notices of assessment to confirm all taxes are paid up-to-date as requested by the Lender;
- (3) current realty Taxes bill with confirmation that all required Taxes have been paid;
- (4) current insurance policy indicating the Lender as first mortgagee and as additional insured with respect to public liability insurance;
- (5) updated status report of the Construction, costs, and Interim Revenue;
- (6) updated rent roll for the Project together with copies of any new Leases; and
- (7) such other information pertinent to the Property and Project as the Lender may request.

LATE REPORTING

In the event that any of the Statements are not provided to the Lender within the time limited therefor, the Lender will assess penalty charges against the Borrower or the Guarantors. The Lender may request the Borrower or the Corporate Guarantors to provide the Lender with updated Statements at any time during a fiscal year of the Borrower or the Corporate Guarantors.

ASSIGNMENT AND SYNDICATION

Neither the Borrower nor the Guarantors shall have the right to assign any of its respective rights or obligations under this Commitment or in respect of the Credit Facilities to any Person. The Borrower and Guarantors agree that the Lender may transfer and assign, without their consent and without notice to them, the Lender's rights and obligations under the Credit Facilities and Loan Documents to any Person. The Lender may, at any time before or after the first Advance, syndicate, securitize or grant participation interests in the Credit Facilities and Loan Documents without the consent of the Borrower and Guarantors

or notice to them. The Borrower and Guarantors agree that the Lender may disclose confidential information relating to the Credit Facilities and Loan Documents, including any financial information provided by them at any time or otherwise relating to the Property and Project and any plans, drawings or other documentation or information regarding the Property and Project, to any Person in connection with any of the transactions contemplated in this paragraph.

CONSENT TO DISCLOSURE

The Borrower hereby consents (such consent to remain in force as long as the Credit Facilities are outstanding) to any Governmental Authority or other Person having information relating to HST or any other amount required to be paid by the Borrower, where the failure to pay such other amount could give rise to a claim ranking or capable of ranking in priority to the Security, releasing such information to the Lender at any time upon its request. The Borrower shall provide signed third party authorizations in support of the foregoing at any time upon the Lender's request.

LENDER'S EXPENSES AND ADMINISTRATION FEES

The Borrower shall pay all costs, charges and expenses incurred by the Lender in connection with the operation or enforcement of this Commitment or the Security, including costs of registration of financing statements or financing change statements and searches in connection therewith, periodic property inspections and Taxes verifications and other similar costs, and any fees or charges of agents or other Persons retained by the Lender for the purpose of conducting such activities on its behalf. In addition the Borrower shall pay the administration fees in connection with the administration of the Credit Facilities by the Lender, including the provision of mortgage statements and discharges, processing late payments, and cheques or automatic debits which are dishonoured or not accepted, the amount of each such administration fee being a liquidated amount to cover administrative costs and not a penalty. If the Borrower fails to pay any such costs, charges or expenses upon demand, they will be added to the outstanding Loans and shall be secured by the Security.

LENDER'S RECORDS

The Lender shall keep accounts showing the status of the Credit Facilities and records of the sums borrowed, principal and interest repayments and all other sums due under this Commitment. In the absence of manifest error, the Lender's records shall constitute conclusive evidence of the Borrower's indebtedness to the Lender hereunder.

PAYMENTS TO GOVERNMENT AUTHORITIES

As long as the Credit Facilities are outstanding, the Borrower shall pay, when due, all amounts owing to any Governmental Authority which, if unpaid, would give such authority recourse for such amounts ranking in priority to the Security.

TIME

Time is of the essence hereof.

AMENDMENT

This Commitment shall only be amended by agreement in writing executed by all the parties hereto.

WAIVER

Any failure by the Lender to exercise any rights or remedies under the Loan Documents shall not constitute a waiver thereof.

GOVERNING LAW

This Commitment shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

SURVIVAL

The terms and conditions of this Commitment shall survive the execution and registration of the Security and there shall be no merger of these provisions or conditions in the Security; provided that in the event of any conflict between the provisions of this Commitment and the Security, the provisions of this Commitment shall prevail to the extent necessary to remove such conflict. Notwithstanding the foregoing, in the event that the Security contains remedies which are in addition to the remedies set forth in this Commitment, the existence of such additional remedies in the Security shall not constitute a conflict or inconsistency with the provisions of this Commitment.

NOTICES

Any notice or demand or other written communication hereunder shall be given by facsimile or delivered by courier or registered mail. A facsimile communication shall be deemed received on the Business Day following its transmission. A letter delivered by courier or by registered mail shall be deemed received when delivered to the receiving party at the address shown on page 1 hereof. Each party shall be bound by any notice given as provided hereunder and entitled to act in accordance therewith.

INTERPRETATION

In this Commitment (1) words denoting the singular include the plural and vice versa and words denoting any gender include all genders; (2) the word "including" shall mean "including, without limitation,"; (3) the word "will" shall be construed to have the same meaning and effect as the word "shall"; (4) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced from time to time, and any successor statute thereto; (5) any reference to this Commitment, the Security or other concomitant agreement or instrument shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto from time to time; (6) any reference to the Lender, Borrower, Guarantors and any other Person shall include their respective heirs, estate trustees, legal representatives, successors and assigns; and reference to a "corporation" shall include a company or other form of body corporate; (7) all dollar amounts are expressed in Canadian dollars; (8) the division of this Commitment into separate sections and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Commitment; (9) 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; and (10) if more than one Person is named as, or otherwise becomes liable for or assumes the obligations and liabilities of the Borrower or Guarantors, then the obligations and liabilities of all such Persons shall be joint and several, unless otherwise provided herein. This Commitment is intended to supplement and not derogate from the Security or any other Loan Document.

ANNOUNCEMENTS

The Borrower irrevocably acknowledges and agrees that, at any time following the Closing Date, the Lender may announce the closing of the transaction and include details of the transaction in its external public communications, which communications may (a) disclose the Borrower's name, the amount and purpose of the Credit Facilities, the Closing Date and any other non-confidential facts related to the relationship between the parties; and (b) be made in any and all media or formats now or hereafter known or developed.

ADDITIONAL LOAN TERMS

The definitions attached as Schedule "A" to this Commitment shall form a part hereof as if incorporated herein.

LENDER APPROVED SOLICITORS

Philip Taylor
Chaitons LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario
416 218 1125

[The remainder of this page is intentionally blank. Signature page follows.]

ACCEPTANCE:

The terms of this Commitment are open for acceptance by the Borrower and Guarantors by executing the original hereof where indicated below and delivering it to the Lender's head office at 5255 Yonge Street, 4th Floor, Toronto, Ontario M2N 6P4, on or before 5:00 p.m. on August 20, 2019, after which date and time this Commitment shall lapse and become null and void.

Yours truly,

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DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Per: [Signature]
Name: Mark Perkins
Title: Senior Vice President, Commercial Finance

OW
F.R.

Per: [Signature]
Name: Riz Ahmad
Title: Chief Risk Officer

Address for Service:

5255 Yonge Street, 4th Floor
Toronto, ON
M2N 6P4
Email: commercialadmin@duca.com

ACCEPTED on: August 20, 2019..

33 LAIRD INC.

Per: [Signature]
Name: Jason Birnboim
Title: President

Per: [Signature]
Name: Barry Godfrey
Title: Secretary

I/We have authority to bind the Corporation.

Address for Service: 2323 Yonge Street, Suite 605, Toronto, Ontario M4P 2C6, Telephone No. 416-781-3924, Email: bgodfrey@qaestus.ca

The undersigned Guarantors have read, understand and accept the terms and conditions of this Commitment.

ACCEPTED on: August 20, 2019.

BEAUX PROPERTIES INTERNATIONAL INC.

Per: _____
Name: Jason Birnboim
Title: President

I have authority to bind the Corporation.
Address for Service: 5140 Yonge Street, Suite 2360, Toronto, Ontario M2N 6L7, Telephone No. _____,
Email: jason@beauxproperties.com

QUAESTUS MANAGEMENT CORP.

Per: _____
Name: Barry Godfrey
Title: President

I have authority to bind the Corporation.
Address for Service: 2323 Yonge Street, Suite 605, Toronto, Ontario M4P 2C6, Telephone No. 416-781-3924, Email: bgodfrey@quaestus.ca

Witness: _____
Barry Godfrey

Address for Service: 91 St Germain Avenue, Toronto, Ontario M5M 1V9, Telephone No. 416-781-3924, Email: bgodfrey@quaestus.ca

Witness: _____
Kartik Ganatra

Address for Service: 3124 Lakeshore Road, Burlington, Ontario L7N 1A4, Telephone No. 905-635-7159
Email: kganatra@sealinkltd.ca

SCHEDULE "A"**ADDITIONAL LOAN TERMS**

Attached to and forming part of a commitment letter dated August 16, 2019 among DUCA Financial Services Credit Union Ltd., as Lender, 33 Laird Inc., as Borrower, Beaux Properties International Inc. and Quaestus Management Corp., as Corporate Guarantors, and Barry Godfrey and Kartik Ganatra, as Personal Guarantors.

DEFINITIONS

For the purpose of this Commitment, the following terms and phrases shall have the following meanings:

- (1) **"Advance"** means any advance hereunder by way of a Loan or the issuance of a Letter of Credit.
- (2) **"AMLA"** means the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada).
- (3) **"Applicable Law"** means (a) any domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, rule, regulation, restriction or by-law (zoning or otherwise); (b) any judgment, order, writ, injunction, decision, ruling, decree or award; (c) any regulatory policy, practice, guideline or directive; or (d) any franchise, licence, qualification, authorization, consent, exemption, waiver, right, permit or other approval of any Governmental Authority, binding on or affecting the Person, in each case whether or not having the force of law.
- (4) **"Appraisal"** means a report prepared by an Appraiser who will be engaged based on a mandate letter, and containing assumptions acceptable to the Lender.
- (5) **"Appraiser"** means an Accredited Appraiser Canadian Institute (AACI) designated real estate appraiser acceptable to the Lender.
- (6) **"Arm's Length"** has the meaning ascribed to such term as set out in section 251 of the Income Tax Act (Canada).
- (7) **"Borrower"** means 33 Laird Inc. and includes any beneficial owner of the Property.
- (8) **"Budgeted Project Costs"** means the costs associated with acquisition of the Property and all budgeted Hard Costs and Soft Costs described as a line item in the Project Budget, including any Contingency Amount of budgeted Hard Costs and Soft Costs reviewed by the Project Monitor and approved by the Lender.
- (9) **"Business Day"** means any day other than a Saturday, Sunday or any statutory or civic holiday observed in the Province of Ontario.
- (10) **"Centurion"** means Centurion Mortgage Capital Corporation.
- (11) **"Certificate of Total Completion"** means a certificate to be issued by the Project Monitor, certifying that all required work under each Construction Contract in respect of the Project has been fully completed (pursuant to the Form 5 Declaration of Last Supply under subsection 31 (5) of the Construction Act obtained by the Project Monitor from each Contractor or the publication of a certificate of substantial performance under the Construction Act), and accompanied by a certificate or report issued by each of the major Consultants involved in the Construction of the Project confirming that the Construction of the Project that falls within the purview of its control, supervision or responsibility has been completed in accordance with the Ontario Building Code and the applicable zoning and building by-laws of the City of Toronto, in substantial conformity with the approved Plans and Specifications and related Material Project Agreements and certificates of substantial performance pursuant to the Construction Act have been published as required by such Act.

- (12) **“Charge”** means a collateral mortgage in the principal amount of \$22,000,000 registered against title to the Property on May 1, 2017 as Instrument No. AT4550601, granted by the Borrower in favour of the Lender constituting a first charge on the Property as amended to increase the principal amount to \$28,000,000, increase the interest rate to 24% per annum and update the Lender’s mortgage schedule.
- (13) **“Construction”** means the design and construction of the Project in accordance with the Plans and Specifications.
- (14) **“Construction Completion”** means the date on which the Borrower has received all relevant occupancy permits and passed inspections required by Governmental Authorities.
- (15) **“Construction Contracts”** means all contracts, subcontracts and agreements entered into by or on behalf of the Borrower relating to the Construction, including contracts, subcontracts and agreements relating to the supply of materials or services to or for the Project.
- (16) **“Construction Act”** means the *Construction Act* (Ontario).
- (17) **“Construction Management Agreement”** means the construction management agreement made between the Construction Manager and Borrower, as the same may be modified, amended or restated as permitted by the Lender.
- (18) **“Construction Manager”** means the manager appointed by the Borrower under the Construction Management Agreement and approved by the Lender.
- (19) **“Construction Schedule”** means the construction schedule provided to and approved by the Lender and its Project Monitor, as it may be amended from time to time with the consent of the Lender.
- (20) **“Consultant Contracts”** means the contracts entered into by or on behalf of the Borrower and each of the Consultants.
- (21) **“Consultants”** means, as applicable, the architect, mechanical and electrical consultant, engineer, geotechnical and environmental engineer and other consultants retained by or on behalf of the Borrower in connection with the Construction, as approved by the Lender.
- (22) **“Contingency Amount”** means, with respect to the Project Budget, the amount, if any, of any contingency provided in respect of the calculation of Project Costs.
- (23) **“Contractors”** means the contractors, sub-contractors and suppliers retained by or on behalf of the Borrower in connection with the Construction of the Project and **“Contractor”** means any one of the Contractors.
- (24) **“Cost Overruns”** means the excess of the current Project Budget over the initial Project Budget.
- (25) **“Costs-in-Place”** means Land Costs, Hard costs and Soft costs incurred at any time.
- (26) **“Costs-in-Place Margin”** has the meaning ascribed thereto in the section of the Commitment headed “Availability”.
- (27) **“Cost-to-Complete”** means, at any given date, that amount calculated by the Project Monitor after consulting with the Borrower and approved by the Lender, which is the amount of all Project Costs not then incurred.
- (28) **“Default”** means any non-compliance by the Borrower or Guarantors with the covenants, agreements, terms and conditions set out in the Loan Documents beyond any applicable cure periods.

- (29) **“Development Management Agreement”** means the development management agreement made between the Development Manager and Borrower, as the same may be modified, amended or restated as permitted by the Lender.
- (30) **“Development Manager”** means the manager appointed under the Development Management Agreement and approved by the Lender.
- (31) **“Disposition”** means, with respect to a Person, any sale, assignment, transfer, conveyance, lease, license or other disposition of any nature or kind whatsoever of any property or of any right, title or interest in or to any property, and the verb **“Dispose”** has a corresponding meaning.
- (32) **“Distribution”** means:
- (a) any payment, declaration of dividend or other distribution, whether in cash or property to any holder of shares, limited partnership units or other equity interests of any class of such Person; or
 - (b) any repurchase, redemption, retraction or other retirement or purchase for cancellation of shares of such Person, or of any options, warrants or other rights to acquire any of such shares,
- and the verb **“Distribute”** has a corresponding meaning.
- (33) **“Encumbrance”** means, with respect to any Person, any mortgage, debenture, pledge, hypothec, lien, charge, assignment by way of security, hypothecation or security interest granted or permitted by such Person or arising by operation of law, in respect of any of such Person's property, or any consignment by way of security or capital lease (or a lease that should be treated as such) of property by such Person as consignee or lessee, as the case may be, or any other security agreement, trust or arrangement having the effect of security for the payment of any debt, liability or other obligation, and **“Encumbrances”**, **“Encumbrancer”**, **“Encumber”** and **“Encumbered”** have corresponding meanings.
- (34) **“Environmental Law”** means any Applicable Law relating to the environment, including those pertaining to:
- (a) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same of Hazardous Substances; and
 - (b) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handing and the like of Hazardous Substances, including those pertaining to occupational health and safety.
- (35) **“Force Majeure”** means any of the following events which prevents or materially impairs the Construction or operation of the Project and is not caused by and is beyond the reasonable control of the Borrower: acts of God, floods, earthquakes, tidal waves, hurricanes, windstorms, severe weather conditions, lightning, fire, wars (whether declared or not), riots, insurrections, rebellions, civil commotions, sabotage, partial or entire failure of utilities, strikes, walkouts or other labour disruptions, delays in transportation, accidents, shortages of and inability to procure labour, materials and supplies (after all commercially reasonable efforts have been made by the Borrower to obtain replacement for such labour, materials and supplies) or orders, legislation, regulations and directives of any Governmental Authorities. For greater certainty, lack of funds, the state of the market or any wilful or negligent act or omission on the part of the Borrower does not constitute Force Majeure.
- (36) **“GAAP”** means those accounting principles that are from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute.
- (37) **“Governmental Authority”** means any federal, provincial, municipal or other form of government or any political subdivision or agency thereof, any body or authority exercising any functions of government, and any court;

- (38) **“Hard Costs”** means amounts expended or to be expended for work, services or materials done, performed, placed or furnished in connection with the Construction of the Project, all as more particularly set out in the Project Budget (for greater certainty, Hard Costs shall not include amounts payable pursuant to the terms of the Construction Contracts).
- (39) **“Hazardous Substance”** means any substance or material that is prohibited, controlled or regulated by any Governmental Authority pursuant to any Environmental Law, including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes (including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law.
- (40) **“Holdback”** means any amount required to be retained by or on behalf of the Borrower in respect of the value of work, services and materials actually done, performed, placed or furnished on or in the Project in accordance with the Construction Act.
- (41) **“HST”** means the harmonized sales tax under the *Excise Tax Act* (Canada).
- (42) **“Interim Revenue”** means proceeds of sale, recovery of expenses or any other Project cash flow received or anticipated while any availability under the Credit Facilities exists or any Obligations remain outstanding under the Loan and Loan Documents recommended by the Project Monitor and approved by the Lender.
- (43) **“Land Costs”** means the purchase price of the land being \$8,490,050 plus associated costs.
- (44) **“Land Value”** means the deemed value of the Property, being \$8,700,000.
- (45) **“Lease”** means any lease, sublease, agreement to lease, accepted binding offer to lease, licence or right of occupation granted from time to time by or on behalf of the Borrower entitling the lessee, sublessee or grantee thereunder to use or occupy all or any part of the Project.
- (46) **“Letter of Credit”** means a standby letter of credit, commercial or letter of guarantee, as applicable, issued by the Lender under the LC Facility at the request and for the account of the Borrower under this Commitment.
- (47) **“Loan”** means any extension of credit by the Lender under this Commitment, except for any Letter of Credit.
- (48) **“Loan Documents”** means (1) this Commitment; (2) the Security; and (3) all present and future agreements, documents, certificates and instruments delivered by the Borrower or Guarantors to the Lender pursuant to or in respect of this Commitment or the Security, in each case as the same may from time to time be amended, and **“Loan Document”** means any one of the Loan Documents.
- (49) **“Material Adverse Change”** means any event or occurrence which, when considered individually or together with other events or occurrences, has a material adverse effect on (1) the business, assets, liabilities, operations, results of operations, condition (financial or other) or prospects of the Borrower, taken as a whole; (2) the Construction and/or operation of the Project; or (3) the ability of the Borrower to perform its Obligations under the Loan Documents in all material respects.
- (50) **“Material Licences”** means all licences, permits or approvals issued by any Governmental Authority, or any applicable stock exchange or securities commission, to the Borrower, and which are at any time on or after the date of this Commitment,
- (a) necessary or material to the business and operations of the Project (including the Construction of the Project), the breach or default of which would result in a Material Adverse Change, other than those not required or able to be obtained until a later stage of Construction or until Total Completion, provided those not obtained may be reasonably expected to be received in the ordinary course of business prior to the date when

required to complete the transactions provided for in the Material Project Agreements and to construct and operate the Project; or

- (b) designated by the Lender as a Material Licence with respect to the Project provided that the Lender has notified the Borrower of such designation.

(51) **“Material Project Agreements”** means:

- (a) the Construction Management Agreement;
- (b) the Development Management Agreement;
- (c) the Consultant Contracts;
- (d) the Construction Contracts;
- (e) each other operating contract with respect to the Project having a term more than one year and which contemplates payments in excess of \$500,000 per annum;
- (f) any insurance trust agreement;
- (g) any shared facilities and/or reciprocal easement agreements; and
- (h) the Plans and Specifications and all planning approvals, permits, licences, development agreements, site plan agreements, record of site condition and other material contracts with respect to the Project designated as Material Project Agreements by the Lender from time to time, provided that the Lender has notified the Borrower of such designation.

(52) **“Minimum Required Equity”** means an amount of Project Equity equal to the sum of:

- (a) \$3,744,855; and
- (b) Cost Overruns funded by the Borrower and/or Guarantor.

(53) **“Obligations”** means all obligations of the Borrower to the Lender under or in connection with the Loan Documents, including all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Borrower to the Lender in any currency or remaining unpaid by the Borrower to the Lender under or in connection with this Commitment or the other Loan Documents whether arising from dealings between the Lender and the Borrower, or from any other dealings or proceedings by which the Lender may be or become in any manner whatsoever a creditor or obligee of the Borrower or any of them pursuant to this Commitment or the Loan Documents, and wherever incurred, and whether incurred by the Borrower alone or with another or others and whether as principal or surety, and all interest, fees, legal and other costs, charges and expenses relating thereto.

(54) **“Performance and Payment Bonds”** means labour and material or performance bonds as may be required by the Lender in consultation with the Project Monitor (in each case, up to 50% of the amount of the relevant Construction Contract) issued by a surety acceptable to the Lender relating to all or a portion of the Construction, such bonds to be in customary form typically utilized within the construction industry and otherwise acceptable to the Lender (which bonds shall contain dual obligee riders in favour of the Lender) and in such amount as may be required hereunder.

(55) **“Permits”** means all permits, consents, orders, waivers, applications, authorizations, licences, certificates, approvals, registrations, franchises, rights, privileges and exemptions or the like issued or granted by any Governmental Authority or by any third party with respect to the Project (including any Permits relating to Environmental Laws).

(56) **“Permitted Encumbrances”** means, with respect to the Property, the following:

- (a) liens for Taxes, rates, assessments or other governmental charges or levies not yet due, or for which instalments have been paid based on reasonable estimates pending final assessments, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person, provided that, if the aggregate amount being contested is in excess of \$100,000, the Borrower shall have deposited with the Lender collateral satisfactory to the Lender to secure the payment of such Taxes and assessments.
- (b) undetermined or inchoate liens, rights of distress and charges incidental to construction, maintenance or current operations that have not at such time been filed or exercised and of which the Lender has not been given notice, or that relate to obligations not due or payable, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person;
- (c) reservations, limitations, provisos and conditions expressed in any original grant from the Crown or other grants of real or immovable property, or interests therein, that do not materially affect the use of the affected land for the purpose for which it is used by that Person;
- (d) permits, reservations, covenants, servitudes, right of access or user licences, easements, rights of way and rights in the nature of easements (including licences, easements, rights of way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electric light and power, or telephone, telecommunication, television and telegraph conduits, poles, wires and cables) that do not materially impair the use of the affected land for the purpose for which it is used by that Person, or in respect of which satisfactory arrangements have been made for relocation so that such use will not in the aggregate, be materially and adversely impaired, or which that Person is bound to enter into pursuant to any agreement with a Governmental Authority or a counterparty to a Material Project Agreement entered into in connection with the development of the Project;
- (e) title defects, irregularities or other matters relating to title that are of a minor nature and that in the aggregate do not materially impair the use of the affected property for the purpose for which it is used by that Person;
- (f) the right reserved to or vested in any Governmental Authority by the terms of any lease, licence, franchise, grant or permit acquired by that Person or by any statutory provision to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- (g) the Encumbrance resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, employment insurance, surety or appeal bonds, costs of litigation when required by law, liens and claims incidental to current construction, mechanics', warehousemen's, carriers' and other similar liens, and public, statutory and other like obligations incurred in the ordinary course of business;
- (h) security given to a public utility or any Governmental Authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of its business;
- (i) the Encumbrance created by a judgment of a court of competent jurisdiction, or claim (excluding claims pursuant to the Construction Act) filed, against the Borrower as long as the judgment is being contested diligently and in good faith by appropriate proceedings by that Person, provided that if such judgment or claim is in the aggregate greater than \$250,000, the Borrower or Guarantors shall have either (A) in the case of any such judgment or claim, if acceptable to the Lender, deposited with the Lender collateral satisfactory to the Lender to secure the payment of such judgment or claim; or (B) posted a payment bond, or made payment into court of such amount as is necessary to remove such Encumbrance;

- (j) the Security;
 - (k) the Charge;
 - (l) encroachments by the Project or structures thereon over neighbouring lands (including public streets) and minor encroachments by neighbouring lands or structures thereon over the Property, so long as, in the former case, there are written agreements permitting such encroachments;
 - (m) subdivision, development, servicing and site plan agreements, undertakings and agreements made pursuant to applicable planning and development legislation, entered into with or made in favour of any Governmental Authority, or public or private utility relating to the Property;
 - (n) Leases relating to the Property that have been approved by the Lender or entered into in accordance with this Commitment and notices of them;
 - (o) all municipal by-laws and regulations and other municipal land use instruments, including official plans, zoning and building by-laws, restrictive covenants and other land use limitations, public or private, and other restrictions as to the use of the Property;
 - (p) Instrument No. AT4643103 registered on August 1, 2017, being a Heritage Designation By-Law registered by the City of Toronto;
 - (q) Instrument No. AT4815350 registered on March 5, 2018, being a Notice of Heritage Easement Agreement registered by the city of Toronto; and
 - (r) such other Encumbrances as are agreed to in writing by the Lender.
- (57) **“Person”** means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.
- (58) **“Plans and Specifications”** means the plans and specifications (including all structural, architectural, mechanical, electrical, landscape and interior design and specifications) pertaining to the development and Construction of the Project prepared by or at the direction of the Borrower and as approved by the Lender in consultation with the Project Monitor, as amended from time to time with the consent of the Lender.
- (59) **“Prime Rate”** means the annual rate of interest announced from time to time by the Lender as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada and designated by the Lender as its prime rate.
- (60) **“Project Account”** means the account maintained by the Borrower with the Lender in respect of which all revenues and expenses relating to the Project (and only the Project) will be paid into and from, as applicable.
- (61) **“Project Budget”** means the budget of all Project Costs which has specified a line by line itemization of Project Costs, including Contingency Amounts, as prepared by the Borrower, reviewed by the Project Monitor and approved by the Lender, as amended from time to time with the consent of the Lender.
- (62) **“Project Costs”** means the aggregate of all Hard Costs and all Soft Costs expended or to be expended to achieve Construction Completion in accordance with the Plans and Specifications and Construction Schedule.
- (63) **“Project Monitor”** means the consultant engaged by the Lender to advise and assist the Lender with respect to the Project or any part thereof.
- (64) **“Project Equity”** means, at any time and from time to time, the equity of the Borrower in the Project.

- (65) **"Release"** means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal, and the word **"Released"** has a corresponding meaning.
- (66) **"Security"** means the documents creating an Encumbrance in favour of the Lender, or any collateral held from time to time by the Lender in each case securing or intended to secure repayment of the Obligations, including all security described herein.
- (67) **"Soft Costs"** means all amounts expended or to be expended in respect of the Project for consultants, architects, taxes, surveys, construction insurance, bonding costs, legal fees, promotions of the Project, financing, leasing, pre-operating costs and all other costs related to the Project except Hard Costs and the cost of acquiring the Property (for greater certainty, Soft Costs includes fees, excluding reimbursements for Hard Costs, payable pursuant to the terms of Consultant Contracts).
- (68) **"Taxes"** means all present or future taxes, 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.
- (69) **"Total Completion"** means the date on which the Project Monitor is able to deliver the Certificate of Total Completion.

Tab I

FaceTime

This is **Exhibit "I"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*

A Commissioner, etc.

LRO # 80 Charge/Mortgage

Received as AT4550601 on 2017 05 01 at 09:47

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 2

Properties

<i>PIN</i>	10369 - 0198 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	LT 685 PL 2120 TWP OF YORK; PT LT 686 PL 2120 TWP OF YORK; PT LT 687 PL 2120 TWP OF YORK; PT LT 688 PL 2120 TWP OF YORK; PT LT 689 PL 2120 TWP OF YORK; PT LT 690 PL 2120 TWP OF YORK; PT LT 691 PL 2120 TWP OF YORK; PT LT 692 PL 2120 TWP OF YORK; PT LT 12 CON 3 FTB TWP OF YORK; PT LT 13 CON 3 FTB TWP OF YORK; PT LEASIDE RD PL 1535 TWP OF YORK AS IN TL46644; PT CANVARCO RD PL 2921 TWP OF YORK CLOSED BY EY173327, AS IN EY184825; TORONTO , CITY OF TORONTO		
<i>Address</i>	33 LAIRD DR EAST YORK		

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

<i>Name</i>	33 LAIRD INC.
<i>Address for Service</i>	5140 Yonge Street Suite 2360 Toronto, ON M2N 6L7

I, Jason Birnboim, President, and I, Barry Godfrey, Secretary, have the authority to bind the corporation.

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

Chargee(s)*Capacity**Share*

<i>Name</i>	DUCA FINANCIAL SERVICES CREDIT UNION LTD.
<i>Address for Service</i>	5290 Yonge Street Toronto, ON M2N 5P9

Statements

Schedule: See Schedules

Provisions

<i>Principal</i>	\$ 22,000,000.00	<i>Currency</i>	CDN
<i>Calculation Period</i>	monthly, not in advance		
<i>Balance Due Date</i>	On Demand		
<i>Interest Rate</i>	21% per annum		
<i>Payments</i>			
<i>Interest Adjustment Date</i>	2017 05 01		
<i>Payment Date</i>	first day of each and every month		
<i>First Payment Date</i>	2017 06 01		
<i>Last Payment Date</i>	2019 05 01		
<i>Standard Charge Terms</i>			
<i>Insurance Amount</i>	full insurable value		
<i>Guarantor</i>			

LRO # 80 Charge/Mortgage

Received as AT4550601 on 2017 05 01 at 09:47

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 2

Signed By

Denise Borzi	5000 Yonge Street, 10th Floor Toronto M2N 7E9	acting for Chargor(s)	Signed	2017 05 01
Tel	416-222-8888			
Fax	416-218-1860			

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

Submitted By

CHAITONS LLP	5000 Yonge Street, 10th Floor Toronto M2N 7E9			2017 05 01
Tel	416-222-8888			
Fax	416-218-1860			

Fees/Taxes/Payment

Statutory Registration Fee	\$63.35
Total Paid	\$63.35

SCHEDULE - ADDITIONAL PROVISIONS
(Collateral Mortgages- Commercial or Residential Lands)

Any reference to the "Computer Field" in this Charge means a computer data entry field in a charge registered pursuant to Part 111 of the *Land Registration Reform Act* (Ontario) into which the terms and conditions of this Charge may be inserted.

1. Definitions

In this Schedule, the following terms shall have the following meanings:

"Applicable Laws" means all applicable federal, provincial or municipal laws, statutes, regulations, rules, by-laws, policies and guidelines, orders, permits, licences, authorizations and approvals.

"Bankruptcy Legislation" means any present or future bankruptcy or insolvency legislation, including where applicable the *Bankruptcy and Insolvency Act* (Canada) and the *Companies' Creditors Arrangement Act* (Canada).

"Business Day" means any day other than a Saturday, Sunday or any statutory or civic holiday observed in the Province of Ontario.

"Charge" means the charge prepared in the electronic format and registered electronically pursuant to Part 111 of the LRRRA, including this Schedule and any other schedules thereto.

"Chargee" means DUCA Financial Services Credit Union Ltd.

"Chargor" means the person or persons indicated in the Computer Field of the Charge entitled "Chargor(s)".

"Costs" means all fees, costs, charges and expenses of the Chargee of and incidental to (a) the negotiation, preparation, execution and registration of the Charge and any other instruments connected therewith and every renewal or discharge thereof; (b) the collection of any amounts payable hereunder, enforcement of any covenants contained herein and the realization of the security herein contained; (c) procuring or attempting to procure payment of any Indebtedness or any other amounts due and payable hereunder including foreclosure, power of sale or execution proceedings commenced by the Chargee or any other party; (d) any inspection required to be made of the Mortgaged Premises, or review of plans, specifications and other documentation which may require the approval or consent of the Chargee; (e) all repairs and replacements required to be made to the Mortgaged Premises; (f) the Chargee having to go into possession of the Mortgaged Premises and secure, complete and equip the Fixtures or Improvements in any way in connection herewith; and (g) solicitors' costs, charges and expenses relating to any of the foregoing and any necessary examination of title to the Mortgaged Premises. For greater certainty, Costs shall (i) extend to and include legal costs incurred by the Chargee; (ii) be payable forthwith by the Chargor; and (iii) be a charge on the Mortgaged Premises. Costs include interest at the highest interest rate applicable to the Indebtedness on all such fees, costs, charges and expenses.

"Event of Default" has the meaning ascribed thereto in Section 12.

"Fixtures" includes all fixtures, buildings, erections, appurtenances, plants and improvements, fixed or otherwise, now or hereafter put on the Lands, including all fences, furnaces, oil burners, water heaters, electric light fixtures, window blinds, screen and storm doors and windows, and all air-conditioning, plumbing, cooling, ventilating, cooking, refrigeration and heating equipment and all other apparatus and equipment appurtenant to the Mortgaged Premises.

"Improvement" includes any construction, installation, alteration, addition, repair or demolition to any part of the Mortgaged Premises.

"Indebtedness" means all obligations, debts and liabilities, whether present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed now or at any time hereafter owing by the Chargor to the Chargee, whether as principal or surety, whether alone or jointly with any other person and in whatever name, style or form, whether otherwise secured or not and

whether arising from dealings between the Chargee and the Chargor or from other dealings or proceedings by which the Chargee may become a creditor of the Chargor and whether the same are from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again, and all interest, compound interest, damages and Costs, and all premiums of insurance upon the Improvements and Fixtures, Taxes and other amounts paid by the Chargee in accordance with the provisions of this Charge.

“**LRRA**” means the *Land Registration Reform Act* (Ontario)

“**Lands**” means the lands and premises described in the Computer Field of the Charge entitled “Properties”.

“**Lien**” means any mortgage, charge, pledge, hypothec, assignment, lien, lease, sublease, easement, preference, priority, trust or other security interest or encumbrance of any kind or nature whatsoever with respect to any property or asset, including any title reservations, limitations, provisos or conditions.

“**Mortgaged Premises**” means the Lands, Fixtures and Improvements.

“**Permitted Encumbrances**” means (a) Liens for Taxes not at the time due; and (b) any other Liens disclosed by the registered title to the Lands provided the same (i) do not, in the Chargee’s opinion, in the aggregate, materially impair the development, management, ownership, operation, value or marketability of the Mortgaged Premises or any part thereof; (ii) are materially complied with by the Chargor and the Mortgaged Premises; and (iii) do not, in the Chargee’s opinion, pose any threat to the Mortgaged Premises.

“**person**” means any individual, general or limited partnership, joint venture, sole proprietorship, corporation, unincorporated association, trust, trustee, estate trustee, legal representative or governmental authority.

“**Prime**” and “**Prime Rate**” when referred to in the Computer Field of the Charge entitled “Interest Rate” means the annual rate of interest announced from time to time by DUCA Financial Services Credit Union Ltd. as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada and designated by the Chargee as its prime rate.

“**Principal Amount**” means the amount indicated in the Computer Field of the Charge entitled “Principal”.

“**Receiver**” shall include one or more of a receiver and a receiver and manager of all or any portion of the Mortgaged Premises appointed by the Chargee pursuant to this Charge.

“**Taxes**” means all taxes, rates and other impositions whatsoever which are now or may hereafter be imposed, charged or levied by any authority creating a lien or charge on the Mortgaged Premises or any part thereof.

“**Transfer**” means (a) any conveyance, assignment, transfer, sale, granting or creation of an option or trust with respect to, or other disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) any legal or beneficial interest in the Mortgaged Premises or any part thereof; or (b) any change in the effective voting control of any person comprising the Chargor or any beneficial or unregistered owner of any part of the Mortgaged Premises from that existing as of the date of this Charge (including any change of ownership of 50% or more of the voting securities representing an interest in any such person) and shall include any agreement to do or complete any of the matters referred to in (a) or (b) above.

2. Implied Covenants

The implied covenants deemed to be included in the Charge by sections 7(1) 1. iii., and 7(1) 2. of the LRRA are hereby varied by deleting therefrom the words “except as the records of the land registry office disclose” and substituting therefor “except Permitted Encumbrances”. The implied covenant deemed to be included in the Charge by section 7(1) 1. vii. of the LRRA is hereby varied to provide that “the Chargor or the Chargor’s successors will, before and after default,

execute and deliver such further assurances of the Mortgaged Premises and do such other acts, at the Chargor's expense, as may be required by the Chargee". The implied covenants deemed to be included in a charge under section 7(1) of the LRRRA are in addition to and shall not be interpreted to supersede or replace any of the covenants contained in this Charge which are covenants by the Chargor, for the Chargor and the Chargor's successors and assigns with the Chargee and the Chargee's successors and assigns. In the event of any conflict between any of the covenants implied by the LRRRA, and any other covenant or provision contained herein, the covenant or provision contained herein shall prevail.

3. Successors

Notwithstanding the definition of the word "successor" in the LRRRA, the word "successor" as used in this Charge shall include an heir, executor, administrator, estate trustee, personal representative or successor.

4. Charge

In consideration of the sum of \$10.00 and other good and valuable consideration (the receipt and sufficiency whereof are hereby acknowledged by the Chargor) and as a continuing security for the payment to the Chargee of the Indebtedness and to secure the performance of all the obligations of the Chargor hereunder, the Chargor hereby charges the Mortgaged Premises with payment to the Chargee of any ultimate outstanding balance of the Indebtedness due and remaining unpaid and the performance of the Chargor's obligations hereunder, provided that such security shall be limited to the aggregate of the Principal Amount, Costs and any other amounts payable hereunder, and with the powers of sale hereinafter expressed.

5. Defeasance

Provided this Charge to be void upon payment in full on demand of all the Indebtedness and the performance in full of all the obligations of the Chargor hereunder up to a maximum amount of the aggregate of the Principal Amount, Costs and any other amounts payable hereunder, together with Taxes and performance of statute labour, and observance and performance of all covenants, provisos and conditions herein contained.

6. Demand

In the event that the Chargor is called upon to pay any Indebtedness in accordance with its terms or if any Event of the Default has occurred which has not been remedied, the Chargor shall be obligated to pay and the Chargee shall be entitled to forthwith make demand for payment of all such Indebtedness and any other monies secured hereby.

7. Covenants of Chargor

The Chargor hereby covenants, agrees and declares as follows:

- (a) The Chargor has good title in fee simple to the Mortgaged Premises free of all encumbrances other than the Permitted Encumbrances.
- (b) The Chargor has the right to convey the Mortgaged Premises to the Chargee.
- (c) On default, the Chargee shall have quiet possession of the Mortgaged Premises, free from all encumbrances other than the Permitted Encumbrances.
- (d) The Chargor will execute at the Chargor's expense such further assurances of the Mortgaged Premises as may be requisite.
- (e) The Chargor has done no act to encumber the Mortgaged Premises, except the Permitted Encumbrances.
- (f) The Chargor shall pay as they fall due all Permitted Encumbrances and Taxes and shall not suffer any construction, statutory or other liens or rights of retention, other than Permitted Encumbrances, to remain outstanding upon any of the Mortgaged Premises. The Chargor shall, within one month from the date fixed for payment of the last instalment of Taxes in each year, furnish the Chargee, if requested by it, with receipted tax bills showing all such Taxes for the year have been paid in full.
- (g) The Chargor will insure, with insurance companies satisfactory to the Chargee, the Mortgaged Premises to the amount of not less than their full replacement cost in dollars of lawful money of Canada. Such insurance shall have "Extended Coverage" and "Replacement Cost" endorsements and include not only insurance against loss or damage by fire, but also insurance against loss or damage by war, the enemy, explosion, tempest, tornado, cyclone, lightning and such other risks or hazards as the Chargee may reasonably require at any time and from time to time and, if requested by the Chargee, against loss or damage from any other cause with insurers approved by the Chargee, and the Chargor will pay all premiums necessary for such purposes as

the same shall become due. The Chargee may require any such insurance to be cancelled and new insurance to be effected with insurance companies satisfactory to the Chargee. The loss under all policies or contracts of insurance shall be payable to the Chargee as mortgagee or as its interest may appear and such policies or contracts shall contain the Insurance Bureau of Canada standard mortgage clause and shall be in terms satisfactory to the Chargee. Evidence of continuation of all such insurance having been effected shall be produced to the Chargee, if requested by it, at least three Business Days before the expiration thereof, otherwise the Chargee may provide therefor and charge the premium paid to the Chargor and the same shall be payable forthwith and shall also be a charge upon the Mortgaged Premises.

(h) All Fixtures are and shall, immediately on being placed upon the Mortgaged Premises, become fixtures and a part of the Mortgaged Premises, and form a part of this security; and the Chargor hereby grants and releases to the Chargee all its claims upon the Mortgaged Premises subject to the aforesaid proviso for defeasance.

(i) The Chargee may distrain for arrears of interest, if any, and for overdue principal and any other sum payable hereunder. The Chargor waives the right to claim exceptions and agrees that the Chargee shall not be limited in the amount for which it may distrain.

(j) The Chargee may make any payment or cure any default under any Permitted Encumbrance and may pay and satisfy the whole or any part of any liens, Taxes, charges or encumbrances now or hereafter existing in respect of the Mortgaged Premises. In the event of the Chargee making any such payment or curing a default or satisfying any such liens, Taxes, charges or encumbrances it shall be entitled to all the equities and securities of the person or persons so paid and is hereby authorized to retain any discharge thereof without registration for so long as it may think fit so to do.

(k) The Chargor will keep the Mortgaged Premises in good condition and repair and shall not permit any act of waste to be committed upon the Mortgaged Premises; the Chargee may, whenever it deems it necessary or desirable, by its agent enter upon and inspect the same and in the event of a default hereunder the reasonable cost of such inspection shall be payable by the Chargor to the Chargee. If the Chargor neglects to keep the Mortgaged Premises in good condition and repair or commits or permits any act of waste on the Mortgaged Premises (as to which the Chargee shall be sole judge), the Chargee may make such repairs and replacements as it deems necessary.

(l) The Chargor shall diligently and continuously construct in a good and workmanlike manner any unfinished Fixtures and, in the event that any material amount of work is not done on such Fixtures for a period of ten consecutive days, the Chargee or its representatives may enter into the Mortgaged Premises and do any or all work which they may consider necessary or desirable to complete such Fixtures or to protect the same from deterioration.

(m) The Chargor shall not make any material Improvement, whether financed by the Chargee or otherwise, without the prior written consent of the Chargee and except in accordance with contracts, plans and specifications approved by the Chargee in writing prior to the commencement of work on the Improvement.

(n) The Chargor shall at all times comply with all Applicable Laws relating to it and the Mortgaged Premises, including all applicable zoning by-laws, rent control legislation and construction lien legislation.

8. Quiet Possession

Until default of payment, the Chargor shall have quiet possession of the Mortgaged Premises.

9. Waivers

The Chargee may waive any breach by the Chargor of any of the provisions contained in this Charge or any default by the Chargor in the observance or performance of any covenant or condition required to be observed or performed by the Chargor hereunder, provided that no such waiver by the Chargee shall extend to or be taken in any manner to affect any subsequent breach or default or the rights resulting therefrom.

10. Performance of Covenants

If the Chargor shall fail to perform any covenant on its part herein contained, the Chargee may in its absolute discretion perform any such covenant capable of being performed by it. If any such covenant requires the payment of money or if the Mortgaged Premises shall become subject to any encumbrance ranking in priority to the lien hereof other than a Permitted Encumbrance, the Chargee may make such payment or pay or discharge such encumbrance, but shall be under no obligation to do so. All sums so paid by the Chargee shall immediately be payable by the Chargor to the Chargee and shall constitute a charge upon the Mortgaged Premises. No such

performance or payment shall relieve the Chargor from any default hereunder or any consequences of such default.

11. Continuing and Additional Security

The security hereby constituted is a continuing security for the payment of all Indebtedness and the fulfillment of all the obligations of the Chargor hereunder and such security is in addition to any other security now or hereafter held by the Chargee. The taking of any action or proceedings or refraining from so doing, or any other dealings with any other security for the monies secured hereby, shall not release or affect the obligations of the Chargor hereunder or the charges created hereby.

12. Default

The security hereby created shall become enforceable in each of the following events (each event being herein called an "**Event of Default**"):

- (a) if the Chargee shall make an authorized and proper demand for payment of any Indebtedness or any other monies hereby secured and payment in full has not been received by the Chargee within the time limited therefor;
- (b) if the Chargor defaults in the performance or observance of any other covenant or condition herein contained and such default shall continue for 15 days after written notice thereof to the Chargor by the Chargee;
- (c) if there is any material misrepresentation or misstatement contained in any certificate or document delivered by the Chargor or any representative of the Chargor to the Chargee in connection with this Charge or the Indebtedness;
- (d) if a petition is filed under any Bankruptcy Legislation against the Chargor or an authorized assignment made or a Receiver appointed under any Bankruptcy Legislation or by or on behalf of a secured creditor of the Chargor or a proposal made to the creditors of the Chargor under any Bankruptcy Legislation;
- (e) if any execution, distress, sequestration or any other process of any court becomes enforceable against any of the property of the Chargor, or if a distress or like process is levied upon any of such property;
- (f) if the Chargor commits any act of bankruptcy;
- (g) if any portion of the Mortgaged Premises is expropriated by any governmental body or authority which the Chargee (in its sole discretion) considers material;
- (h) if a Transfer is made or permitted without the prior written consent of the Chargee in its sole discretion; or
- (i) if a Lien shall be created, issued, incurred or permitted to exist (by operation of law or otherwise and whether prior or subordinate to the security of this Charge) on any part of the Mortgaged Premises or any interest therein (except in favour of the Chargee as security for the Indebtedness) without the prior written consent of the Chargee in its sole discretion.

13. Remedies

Upon the happening of any Event of Default, in addition to any other rights or remedies available to it hereunder or at common law or in equity or pursuant to any statute, the Chargee shall have the following rights and powers:

- (a) To enter upon and possess all or any part of the Mortgaged Premises;
- (b) To preserve and maintain the Mortgaged Premises and make such replacements thereof and additions thereto as it shall deem advisable;
- (c) On default of payment for at least 15 days the Chargee or its agents or representatives may on giving the notice, if any, required hereby enter on and/or lease the Mortgaged Premises or on default of payment for at least 15 days may on at least 35 days' notice sell the Mortgaged Premises. In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable, it is agreed that notice may be effectually given by giving it in accordance herewith; and such notice shall be sufficient although not addressed to any person or persons by name or designation and notwithstanding that any person to be affected thereby may be unknown, unascertained or under disability. The Chargee may sell the Mortgaged Premises or any part thereof by public auction or private sale, for such price as can reasonably be obtained therefor, and on such terms as to credit and otherwise, and with such conditions of sale and stipulations as to title or evidence or commencement of title or otherwise, as it shall in its discretion deem proper, and in the event of any sale on credit or for part cash and part credit, the Chargee shall not be accountable for or charged with any monies until actually received. The Chargee may rescind or vary any contract of sale and may buy in and resell the Mortgaged Premises or any part thereof without being answerable for loss occasioned thereby.

No purchaser or lessee shall be bound to inquire into the legality, regularity or propriety of any sale or lease or be affected by notice of any irregularity or impropriety of any kind; and no lack of default or want of notice or other requirement or any irregularity or impropriety of any kind shall invalidate any sale or lease hereunder. The Chargee may sell or lease without entering into actual possession of the Mortgaged Premises and when it desires to take possession it may break locks and bolts and while in possession or upon any sale or lease the Chargee shall be accountable only for monies which are actually received by it. Sales may be made from time to time of parts of the Mortgaged Premises to satisfy any portion of the Indebtedness or other sums owing hereunder and leaving the Indebtedness or the residue thereof secured hereunder on the remaining Mortgaged Premises. The Chargor hereby appoints the Chargee its true and lawful attorney and agent to make application under the *Planning Act* (Ontario) and to do all things and execute all documents to effectually complete such sale. The Chargee may lease or take sale proceedings hereunder notwithstanding that other mortgage proceedings have been taken or are then pending; and

(d) To appoint by instrument any person or persons to be a Receiver of all or any portion of the undertaking, property and assets of the Chargor forming the Mortgaged Premises and all rents, issues, incomes and profits to be derived therefrom, to fix the Receiver's remuneration and from time to time to remove any Receiver so appointed and appoint another or others in its stead.

14. Receiver

Any Receiver shall have all of the powers of the Chargee set forth in this Charge and, in addition, shall have the following powers:

(a) To lease all or any portion of the Mortgaged Premises and for this purpose execute contracts in the name of the Chargor, which contracts shall be binding upon the Chargor and the Chargor hereby irrevocably constitutes such Receiver as its attorney for such purposes;

(b) To take possession of the Mortgaged Premises, collect all rents, issues, incomes and profits derived therefrom and realize upon any additional or collateral security granted by the Chargor to the Chargee and for that purpose may take any proceedings in the name of the Chargor or otherwise; and

(c) To carry on or concur in carrying on the business which the Chargor is conducting on and from the Mortgaged Premises and for that purpose the Receiver may borrow money on the security of the Mortgaged Premises in priority to this Charge.

Any Receiver appointed pursuant to the provisions hereof shall be deemed to be the agent of the Chargor for the purposes of (i) carrying on and managing the business and affairs of the Chargor; and (ii) establishing liability for all the acts or omissions of the Receiver while acting in any capacity hereunder and the Chargee shall not be liable for such acts or omissions; provided that, without restricting the generality of the foregoing, the Chargor irrevocably authorizes the Chargee to give instructions to the Receiver relating to the performance of its duties as set out herein.

15. Application of Monies

All monies actually received by the Chargee or the Receiver pursuant hereto shall be applied, subject to any claims of creditors of the Chargor ranking in priority to the charges created by this Charge, in the following manner: (a) First, in or towards payment of all applicable Costs; (b) Second, in or towards payment or satisfaction of any remaining Indebtedness in such order as the Chargee in its sole discretion may determine; and (c) Third, any surplus shall be paid to the Chargor or as required by Applicable Law.

16. Release, Extensions

The Chargee may in its sole discretion at all times release any part or parts of the Mortgaged Premises either with or without any consideration therefor, without responsibility therefor and without thereby releasing any other part of the Mortgaged Premises or any person from its obligations under this Charge, the Indebtedness or from any of the covenants herein contained and without being accountable to the Chargor for the value thereof or for any money except that actually received by the Chargee, it being expressly agreed that every part of the Mortgaged Premises into which it is or may hereafter be divided does and shall stand charged with the whole of the amount hereby secured. The Chargee may grant time, renewals, extensions, indulgences, releases and discharges to, may take additional securities, may give any securities up, may abstain from taking securities or from perfecting securities, may accept compositions, and may otherwise deal with the Chargor and all other persons and securities as the Chargee may see fit without prejudicing the rights of the Chargee under this Charge.

17. No Change in Rights

No sale or other dealing by the Chargor with the Mortgaged Premises or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or the Mortgaged Premises or the amount or terms of any Indebtedness or any guarantee thereof.

18. No Merger

The taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants.

19. Assignment of Rents

Subject to the proviso for defeasance, and as additional and separate continuing collateral security for the Chargor's obligations hereunder, the Chargor hereby assigns to the Chargee all present and future leases of the Mortgaged Premises or any part thereof, and all rents, issues, incomes and profits now or hereafter derived from the leases or the Mortgaged Premises or any part thereof, together with the benefit of all covenants, agreements and provisos contained in such leases. The Chargor will execute and deliver to the Chargee, from time to time, upon the request of the Chargee and at the expense of the Chargor, assignments in registrable form of all leases and rents relating to the Mortgaged Premises and such other notices or documents as may be required by the Chargee. Nothing in this Charge shall make the Chargee responsible for the collection of rents payable under any lease of the Mortgaged Premises or any part thereof or for the performance of any covenants, terms or conditions contained in any such lease. The Chargee shall be liable to account only for such rents as actually come into its hands after the deduction of collection charges in respect thereof and may apply such rents to the repayment of the Indebtedness.

20. Disclosure of Information

The Chargor acknowledges that the Chargee may be obliged to release information relating to this Charge and the Indebtedness and any amounts advanced thereunder or secured hereby. The Chargor hereby authorizes the Chargee to release all such information and any other information it may, from time to time, be required to release by Applicable Law to those entitled to such information.

21. Discharge

After payment in full of all Indebtedness and Costs, the Chargee shall within a reasonable period of time after receipt of a written request therefor from the Chargor, provide the Chargor with a discharge of the Charge or an assignment or transfer of the Charge if so required and directed by the Chargor; any such discharge, assignment or transfer shall be prepared by the Chargee at the expense of the Chargor.

22. Governing Law

This Charge shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

23. Notice

Any notice required or desired to be given hereunder or under any instrument supplemental or collateral hereto shall be in writing and may be given either by personally delivering the same or by sending the same by registered mail, postage prepaid, to the Chargor or the Chargee at its address for service indicated in the Computer Field of this Charge entitled "Chargor(s)" and "Chargee(s)" respectively. Any notice so delivered shall be conclusively deemed given when personally delivered and any notice so mailed shall be conclusively deemed given on the third Business Day following the day of mailing, provided that in the event of a known disruption of postal service, notice shall be given by personal delivery only. Any address for notice or payments may be changed by notice given pursuant hereto.

23. Condominium Provisions

If any part the Mortgaged Premises is a condominium unit (a) the Chargor shall promptly observe and perform all of its covenants, duties and obligations under or pursuant to the *Condominium Act* (Ontario) (the "CA") and the declaration, by-laws and rules of the condominium corporation created by registration of the declaration and the description relating thereto of which the condominium unit forms part (the "**Condominium Corporation**"); (b) the Chargor will pay promptly when due any and all contributions to common expenses and all other levies, charges

and assessments made, assessed or levied by or on behalf of the Condominium Corporation payable in respect of, or charged to the owner of, the Mortgaged Premises (all such common expenses, levies, charges, assessments are called "unit charges"); (c) upon request by the Chargee from time to time, the Chargor shall provide satisfactory proof to the Chargee that all unit charges have been paid in full; (d) if the Chargor does not pay any unit charges when due, then, without limiting any of other rights and remedies of the Chargee hereunder or otherwise at law or in equity, the Chargee may (but shall not be obligated to do so) pay the same and the amount so paid shall be added to the Indebtedness and secured by this Charge and shall be payable forthwith to the Chargee upon demand; (e) promptly following receipt thereof, the Chargor shall deliver to the Chargee copies of every notice, assessment, request, claim or demand, notice of meeting and all other documentation or information of any kind relating to the condominium unit or the Condominium Corporation received by the Chargor so that the Chargee receives them at least ten days prior to the date that any response, payment or other action is required; (f) any default by the Chargor under this section (regardless of any action or proceedings taken or proposed by the Condominium Corporation) shall be an Event of Default under this Charge; (g) the Chargor hereby irrevocably assigns to the Chargee, and irrevocably authorizes and empowers the Chargee to exercise, all rights of the Chargor as the owner of the Mortgaged Premises to vote or to consent to all matters relating to the affairs of the Condominium Corporation, provided however that (i) the Chargee may at any time and from time to time give notice in writing to the Chargor and to the Condominium Corporation that the Chargee does not intend to exercise the said right to vote or consent and in that event until the Chargee revokes such notice the Chargor may exercise the right to vote or consent in respect of all matters not requiring a unanimous resolution (any such notice may be for an indeterminate period of time or for a specific meeting or matter); (ii) the Chargee's right to vote and consent do not impose any obligation on the Chargee to consult with the Chargor as to the manner in which such right to vote or consent will be exercised or not exercised or to protect the Chargor's interests and the Chargee shall not be responsible for any exercise or failure to exercise the right to vote or consent; and (iii) neither this assignment and authorization in favour of the Chargee nor the exercise by the Chargee of the right to vote or consent shall constitute the Chargee a mortgagee in possession nor give rise to any liability on the part of the Chargee; (h) this Charge includes a mortgage, charge, assignment and sublease in favour of the Chargee of any lease or rights to occupy any parking space or spaces in the Mortgaged Premises demised to or reserved or designated for exclusive use by the Chargor or its condominium unit and of any lease or right to exclusive use of any common Mortgaged Premises or special privileges in respect thereof granted to the Chargor or its condominium unit; (i) without limiting the obligations of the Chargor hereunder, the Chargor shall cause the Condominium Corporation to maintain the insurance required by this Charge with respect to all the Mortgaged Premises which are governed by the CA for the benefit of the Chargee and shall cause the Condominium Corporation to comply fully with the terms of the required policies of insurance and the insurance provisions of the CA and the declaration, by-laws and rules of the Condominium Corporation; (j) in addition to the Events of Default set out herein, it shall be an Event of Default if (i) the government of the Mortgaged Premises by the Condominium Corporation or any part thereof by the CA is terminated; or (ii) a vote of the Condominium Corporation authorizes the sale of all or substantially of its property or assets or all or any part of its common elements which are all or any part of the Mortgaged Premises, or if any part of such common elements of the Condominium Corporation is expropriated; or (iii) the Condominium Corporation fails to comply with any provision of the CA or the declaration, by-laws or any of the rules of the Condominium Corporation; or (iv) the Condominium Corporation fails to insure the condominium units and the common elements governed by it in accordance with the CA and declaration and by-laws of the Condominium Corporation; or (v) in the Chargee's opinion, the Condominium Corporation fails to manage its property and assets in a prudent and businesslike manner and in keeping with the highest standards for similar properties in the locality in which the Mortgaged Premises are located.

24. Multi-Residential Properties

If the Mortgaged Premises are a multi-residential property, the Chargor represents and warrants with respect to the Mortgaged Premises as follows: (a) except as permitted by Applicable Laws in respect of residential housing (i) no demolition, conversion, renovation, repair or severance has taken place with respect to the Mortgaged Premises; and (ii) there have been no increases in the rental rate charged for any residential rental unit or units on the Mortgaged Premises; (b) in accordance with Applicable Laws in respect of residential housing (i) all rents charged with respect to the Mortgaged Premises are lawful rents and all required rebates have been paid; and (ii) all required filings have been made and were timely, accurate and complete; and (c) under Applicable Laws in respect of residential housing (i) no applications, investigations or proceedings have been

commenced or made; and (ii) there are no outstanding orders or decisions made by any governmental authority with respect to the Mortgaged Premises or any residential rental unit. On request by the Chargee, the Chargor shall provide a statutory declaration by an officer or director of the Chargor that the above representations and warranties are true and correct. The Chargor shall deliver to the Chargee on request all documents required to establish the legality of rents. The Chargor hereby authorizes all governmental authorities having jurisdiction over residential housing to release to the Chargee or its solicitors any and all information contained in their files. The Chargor shall comply with the provisions of all Applicable Laws while this Charge is continuing. Any breach of this covenant or any material incorrectness of any of the representations and warranties hereinabove contained shall be an Event of Default under this Charge.

25. Construction

In this Charge (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders; (b) the words "including", "includes" and "include" shall mean "including without limitation", "includes without limitation" and "include without limitation" respectively; (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced from time to time, and any successor statute thereto; (d) any reference to any agreement or instrument shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto from time to time; (e) reference to the Chargee, Chargor, any beneficial owner of the Mortgaged Premises, and any other person shall include their respective heirs, estate trustees, legal representatives, successors and assigns, and reference to a "corporation" shall include a company or other form of body corporate; (f) all dollar amounts are expressed in Canadian dollars; (g) the division of this Charge into separate sections and subsections, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Charge; (h) the Chargee's right to give or withhold any consent or approval, make any determination or exercise any discretion shall be exercised by the Chargee acting reasonably unless otherwise expressly provided, except that following an Event of Default, the Chargee shall be entitled to exercise the same in its sole discretion; (i) if more than one person is named as Chargor, or otherwise becomes liable for or assumes the obligations and liabilities of the Chargor, then the obligations and liabilities of all such persons shall be joint and several; (j) time shall be of the essence; (k) all obligations of the Chargor in this Charge will be deemed to be covenants by the Chargor in favour of the Chargee; and (l) in the event of any conflict or inconsistency between any provision of this Charge and the provisions of the commitment letter governing the loan between the Chargor and the Chargee, the commitment letter will prevail to the extent of any such conflict or inconsistency. The delivery of this Charge for registration by direct electronic transmission shall have the same effect for all purposes as if this Charge was in written form, signed by the Chargor and delivered to the Chargee.

08/14

Tab J

FaceTime

This is **Exhibit "J"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

BENEFICIARY'S CONSENT AND COVENANTS

BY:

33 LAIRD LIMITED PARTNERSHIP

Hereinafter called the "**Beneficiary**"

IN FAVOUR OF:

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

hereinafter called the "**Lender**"

DATED as of this 27th day of April, 2017.

WHEREAS 33 Laird Inc. (the "**Trustee**") is the registered owner of certain lands (the "**Lands**") municipally known as 33 Laird Drive, Toronto, Ontario and legally described in PIN 10369-0198 (LT), and is the holder of the legal interest in the Lands and in all buildings and improvements constructed thereon and in all present and future leases and other agreements pertaining thereto and in all present and future rents, revenues and other income derived therefrom and in all of the present and future undertaking, personal property now or hereafter situate on, used in connection with or arising from the business and affairs carried on, at or about the Lands and all parts, accessories, attachments or additions installed in or affixed or attached or related thereto, including, without limitation, any replacements or substitutions therefor, and all proceeds derived from any dealing therewith (collectively the "**Assets**");

AND WHEREAS the Trustee holds the Assets as nominee and bare trustee for and on behalf of the Beneficiary, as beneficial owner of the Assets;

AND WHEREAS the Lender agreed to extend a credit facility (the "**Loan**") in favour of the Beneficiary and Trustee, collectively as borrower, in the aggregate principal sum of \$21,834,000 together with interest thereon and upon such other terms and conditions as set forth in a letter of commitment dated March 17, 2017, as amended, restated or modified from time to time (the "**Commitment**");

NOW THEREFORE, in consideration of the Lender making the Loan and advancing funds thereunder, and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration now paid by the Lender to the Beneficiary (the receipt and sufficiency of which are hereby acknowledged by the Beneficiary), the Beneficiary does hereby represent, warrant, covenant and agree as follows:

1. Recitals True - The foregoing recitals are true and accurate both in substance and in fact.
2. Representations and Warranties - The Beneficiary hereby represents and warrants as follows:
 - a) that the Trustee holds an undivided 100% legal interest in the Assets as nominee and bare trustee for and on behalf of the Beneficiary, and that the Trustee has no beneficial rights, title or interest to any of the same and is only entitled to deal with the same in accordance with the express authorization and directions of the Beneficiary;

- b) that the Beneficiary is the only beneficial owner of the Assets;
 - c) that prior to execution of this Agreement and delivery of the same to the Lender, the Beneficiary and the Trustee understood the terms and conditions of the Commitment, the Charge/Mortgage of Land, the General Assignment of Rents, the Assignment of Material Project Agreements, the Assignment of Construction Management Agreement, the Assignment of Development Management Agreement, the Assignment of Retail Sales Agreements, the Undertaking re Cash Security, the Assignment of Insurance Monies, the General Security Agreement, the Environmental Indemnity, the Debt Service, Cost Overrun and Completion Agreement and all other security and loan documentation contemplated by and delivered to the Lender pursuant to the Commitment (hereinafter collectively called the "**Security Documents**"), and the Beneficiary has reviewed the same and their nature and intended legal effect and agrees to be bound by them as though an original party thereto;
 - d) that in executing and carrying out their respective obligations under the Commitment and the Security Documents, the Trustee and the Beneficiary are acting fully within the scope of their respective authority and in strict compliance with any and all agreements governing the relationship between the Trustee and the Beneficiary;
 - e) that any and all restrictions or conditions imposed by the Beneficiary upon the Trustee in relation to its authority to enter into the Loan and execute and carry out its obligations under the Commitment and to give security for the Loan (including all Security Documents) have been fully complied with; and
 - f) that there is no legal basis upon which the Beneficiary can contest the authority of the Trustee to execute and deliver to the Lender the Commitment and all of the Security Documents and to complete the Loan contemplated thereby.
3. Consent - The Beneficiary hereby unconditionally consents to the Trustee completing the Loan contemplated by the Commitment and to the execution and delivery to the Lender of the Security Documents and any other documentation as may be reasonably required from time to time by the Lender or its solicitors in connection with completion and ongoing administration of the Loan.
 4. Confirmation of Acts of the Trustee - The Beneficiary hereby acknowledges and agrees that, in addition to the Trustee holding the Assets as trustee for and on behalf of the Beneficiary, the Trustee also acts as agent on behalf of the Beneficiary and all covenants, agreements, undertakings and liabilities made or incurred by the Trustee pursuant to the Commitment and completion of the loan transaction contemplated thereby and pursuant to or under any of the Security Documents and other documents given to the Lender in connection therewith shall be fully binding upon and enforceable against the Beneficiary.
 5. Charge of Beneficial Interest - The Beneficiary hereby charges, pledges, assigns and creates a security interest in favour of the Lender in all of the rights, title and interest of the Beneficiary in and to the Assets as additional primary security for the Loan and the due and full performance by the Trustee of its obligations under and pursuant to the Commitment and the Security Documents, provided that nothing herein shall impose upon the Lender any of

the liabilities or obligations of the Beneficiary with respect to the Assets or any part thereof or under or pursuant to any agreements governing the relationship between the Trustee and the Beneficiary. The Beneficiary acknowledges and agrees that the provisions of this paragraph create a security interest within the meaning of the *Personal Property Security Act* (Ontario) which, as at the date hereof, has attached within the meaning of the said Act, and that the Beneficiary has received value within the meaning of the said Act.

6. Subordination of Beneficial Interest - The Beneficiary hereby subordinates and postpones all of its rights, title and interest in and to the Assets in favour of all of the Lender's rights, title and interest in and to the Assets under and pursuant to the Commitment and the Security Documents. Without limiting the intended generality of the foregoing, the Beneficiary hereby acknowledges and agrees that:

- a) all rights, title and interest of the Lender pursuant to the Commitment;
- b) all rights, title and interest of the Lender under and pursuant to the Security Documents and all registrations effected with respect to any of the same;
- c) all amounts advanced by the Lender under and secured by the Commitment and the Security Documents; and
- d) the entitlement of the Lender to realize upon and receive all rents, rentals and other income arising out of or from the use or occupation of the Lands or any part or parts thereof, in accordance with the provisions of the General Assignment of Rents;

have undisputed priority in all respects over all rights, title and interest which the Beneficiary may have in and to the Assets under or pursuant to any and all agreements governing the relationship between the Trustee and the Beneficiary.

7. Further Assurances - The Beneficiary hereby covenants and agrees to give and execute such further assurances with respect to this Agreement, the Commitment, the Security Documents, and/or the Assets as may be required to evidence the true meaning, intent and spirit of this Agreement or as may be otherwise reasonably required by the Lender.

8. Release and Re-Assignment - The release of the Lender's security interests in the Lands and Assets pursuant to the Beneficial Charge and the Security Documents, including, but not limited to, the registration of a full discharge of the Charge/Mortgage of Land on title to the Lands in favour of the Lender, shall constitute a complete and final re-assignment of all of the rights, title and interest of the Lender in and to the Assets to the Beneficiary without any further action by or documentation from the Lender.

9. Headings, Gender, Number and Applicable Law - The headings set forth in this Agreement are inserted for convenience and reference only and shall in no way define or limit the intent or interpretation of any of the provisions hereof. This Agreement shall be read and construed with all changes of gender and number of the party or parties referred to in each case as required by the context and shall be governed by and interpreted in accordance with the laws of the Province of Ontario.

10. Severability - If any provision of this Agreement or the application thereof to any person or

circumstances is to any extent held or rendered invalid, unenforceable or illegal, the same shall be considered separate and severable herefrom and all other provisions of this Agreement shall remain in full force and effect and be binding upon the Beneficiary.

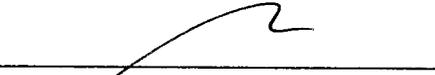
11. Successors and Assigns - This Agreement and the provisions hereof shall extend to, be binding upon the Beneficiary and her successors, permitted assigns, heirs and legal representations and enure to the benefit of the Lender and its successors and assigns.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

DATED as of the date first written above.

**33 LAIRD LIMITED PARTNERSHIP, by its General Partner
33 LAIRD GP INC.**

Per: 
Name: Jason Birnboim
Title: President

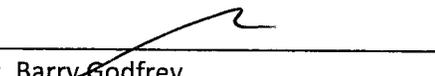
Per: 
Name: Barry Godfrey
Title: Secretary

We have authority to bind the partnership.

The foregoing is hereby acknowledged and agreed to by the undersigned as of the date first written above.

33 LAIRD INC.

Per: 
Name: Jason Birnboim
Title: President

Per: 
Name: Barry Godfrey
Title: Secretary

We have authority to bind the corporation.

Tab K

FaceTime

This is **Exhibit "K"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

ACKNOWLEDGEMENT, CONFIRMATION AND AMENDING AGREEMENT

TO: DUCA Financial Services Credit Union Ltd. (the “**Lender**”)

RE: The Lender loan in the principal amount of \$24,706,965 to 33 Laird Inc. (the “**Borrower**”)
33 Laird Drive, Toronto, Ontario (the “**Property**”)

DATED as of the 26th day of September, 2019.

RECITALS:

- A.** The Lender extended loans or established one or more credit facilities in the principal amount of \$21,834,000 in favour of the Borrower subject to certain terms and conditions as set out in a commitment letter dated as of March 17, 2017 (collectively, the “**Existing Commitment**”).
- B.** As collateral security for its indebtedness and liabilities to the Lender relating to the Existing Commitment, the Borrower, Beaux Properties International Inc. (“**Beaux**”), Quaestus Management Corp. (“**Quaestus**”), Barry Godfrey (“**Godfrey**”) and Kartik Ganatra (“**Ganatra**”) granted certain security (as amended, modified or replaced from time to time), including, without limitation, the security set out in Schedule “A” attached hereto (collectively, the “**Existing Security**”).
- C.** The Lender has agreed to amend the Existing Commitment to the Borrower subject to the terms and conditions set out in an amended and restated commitment letter dated August 16, 2019 (the “**Commitment Letter**”).
- D.** The Borrower has agreed that the Existing Security shall secure all present and future obligations of the Borrower to the Lender arising pursuant to or in connection with the loan contemplated by the Commitment Letter (collectively the “**Obligations**”).

NOW THEREFORE THIS ACKNOWLEDGEMENT AND CONFIRMATION WITNESSES THAT for value received, and intending to be legally bound, the Borrower hereby agrees with the Lender as follows:

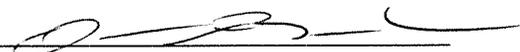
1. The undersigned acknowledge and agree that the recitals are true and form a part of this Acknowledgement and Confirmation.
2. The undersigned acknowledge and agree that all references to “\$21,834,000” in the Existing Security are hereby deleted and replaced with reference to “\$24,706,965”.
3. The undersigned acknowledge and agree that all references to the Existing Commitment in the Existing Security shall mean the Commitment Letter;
4. Beaux, Quaestus, Godfrey and Ganatra each acknowledge and agree that the unconditional guarantees and postponements of claim granted by: (i) Beaux; (ii) Godfrey and Quaestus; and (iii) Ganatra, each in favour of the Lender in respect of the Existing Commitment are hereby increased from \$3,333,334 to \$3,500,000, in addition to their respective obligations under, *inter alia*, the environmental indemnity and debt service, cost overrun and completion undertaking and guarantee.

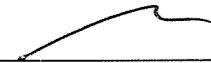
5. The undersigned confirm that save and except as amended herein, the Existing Security: (a) has not been discharged, waived or varied except as provided herein; (b) is binding upon each them a party thereto; (c) is valid and enforceable in accordance with its written terms and it shall constitute; and (d) shall be held by the Lender as, general and continuing security for the payment and fulfillment of all of the indebtedness, liabilities and obligations of the Borrower, present or future, direct or indirect, contingent or not, matured or not, including, without limitation, the Obligations.
6. The Existing Security shall be deemed to be amended *mutatis mutandis* as provided herein, and are also hereby amended *pro tanto* to give effect to this Acknowledgement and Confirmation.
7. This Acknowledgement and Confirmation shall be binding upon the undersigned and their respective successors and permitted assigns and shall enure to the benefit of the Lender and its successors and assigns.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK. SIGNATURE PAGES FOLLOW.]

DATED as of the date first written above.

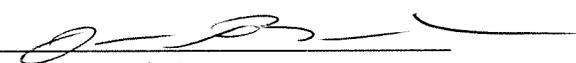
33 LAIRD INC.

Per: 
Name: Jason Birnboim
Title: President

Per: 
Name: Barry Godfrey
Title: Secretary

We have authority to bind the Corporation.

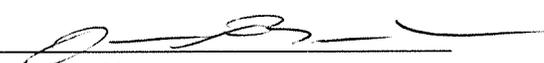
**33 LAIRD LIMITED PARTNERSHIP, BY ITS GENERAL PARTNER
33 LAIRD GP INC.**

Per: 
Name: Jason Birnboim
Title: President

Per: 
Name: Barry Godfrey
Title: Secretary

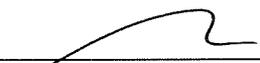
We have authority to bind the Corporation.

BEAUX PROPERTIES INTERNATIONAL INC.

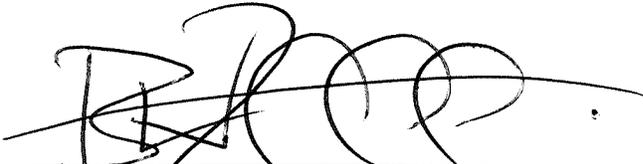
Per: 
Name: Jason Birnboim
Title: President

I have authority to bind the Corporation.

QUAESTUS MANAGEMENT CORP.

Per: 
Name: Barry Godfrey
Title: President

I have authority to bind the Corporation.



Witness: Boris Zayachkowski



Barry Godfrey



Witness: Kim Havenaar



Kartik Ganatra

The foregoing is hereby acknowledged and agreed to this 26th day of September, 2019.

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Per: 
Name: Riz Ahmad
Title: Chief Risk Officer

Per: _____
Name:
Title:

Schedule "A"
Existing Security

1. Charge/Mortgage of Land dated May 1, 2017 from the Borrower in favour of the Lender secured over the Property.
2. General Assignment of Rents dated May 1, 2017 from the Borrower in favour of the Lender secured over the Property.
3. Off-Title General Assignment of Rents dated May 1, 2017 from the Borrower in favour of the Lender.
4. General Security Agreement dated May 1, 2017 from the Borrower in favour of the Lender.
5. Assignment of Insurance Monies dated April 27, 2017 from the Borrower in favour of the Lender.
6. Assignment of Material Project Agreements dated April 27, 2017 from the Borrower in favour of the Lender.
7. Specific Assignment of Construction Management Agreement dated April 27, 2017 from the Borrower in favour of the Lender.
8. Specific Assignment of Development Management Agreement dated April 27, 2017 from the Borrower in favour of the Lender.
9. Assignment of Retail Sales Agreements dated April 27, 2017 from the Borrower in favour of the Lender.
10. Assignment of Construction Contracts dated April 27, 2017 from the Borrower in favour of the Lender.
11. Undertaking and Covenant re Cash Security dated April 7, 2017 from the Borrower in favour of the Lender.
12. Beneficiary's Consent and Covenants dated April 27, 2017 from 33 Laird Limited Partnership (the "LP") in favour of the Lender.
13. Environmental Indemnity dated April 27, 2017 from the Borrower, the LP, Beaux Properties International Inc. and Quaestus Management Corp. (collectively, the "**Corporate Guarantors**") and Barry Godfrey and Kartik Ganatra (collectively, the "**Personal Guarantors**") in favour of the Lender.
14. Undertaking and Agreement to Fund Cost Overruns and Debt Service Agreement dated April 27, 2017 from the Borrower, the LP, the Corporate Guarantors and the Personal Guarantors (collectively, the "**Guarantors**").

15. Undertaking and Covenant re Equity Withdrawal dated April 7, 2017 from the Borrower, the LP and the Guarantors in favour of the Lender.
16. Limited Guarantee dated April 27, 2017 from Beaux Properties International Inc. in favour of the Lender.
17. Limited Guarantee dated April 27, 2017 from Kartik Ganatra in favour of the Lender.
18. Joint and Several Limited Guarantee dated April 27, 2017 from Quaestus Management Corp. and Barry Godfrey in favour of the Lender.

Tab L

FaceTime

This is **Exhibit "L"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

LRO # 80 **Construction Lien**Registered as **AT5569465** on 2020 11 12 at 11:29

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 1

Properties

PIN 10369 - 0360 LT
Description PART LOTS 685, 686, 687, 688, 689, 690 AND 691 PLAN 2120, PART LOTS 12 & 13 CONCESSION 3 FROM THE BAY (YORK), PART LEASIDE ROAD PLAN 1535 AND PART CANVARCO ROAD PLAN 2921 (CLOSED BY BYLAW 627 AS IN EY173327), PARTS 2, 3, 4 & 5 PLAN 66R30829; TOGETHER WITH AN EASEMENT OVER PARTS 1 & 6, PLAN 66R30829 AS IN AT5243556; SUBJECT TO AN EASEMENT IN GROSS OVER PART 3, PLAN 66R30829 AS IN AT5243558; CITY OF TORONTO
Address TORONTO

Consideration

Consideration \$113,336.92

Claimant(s)

Name MAXXWEL & CO. INC.
Address for Service c/o Margie Strub Construction Law LLP
 1000-21 St. Clair Avenue E.
 Toronto, ON M4T 1L9
 Attention: John Margie

I, Max Marzetti, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Max Marzetti, have the authority to bind the corporation.

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

Statements

Name and Address of Owner SEE SCHEDULE. Name and address of person to whom lien claimant supplied services or materials : Aztec Structural Restoration Inc., 11 Holland Drive, Unit #1, Bolton ON L7E 1G7. Time within which services or materials were supplied from 2019/07/20 to 2020/09/30 Short description of services or materials that have been supplied : Survey existing structure, develop erection/fabrication drawings, fabricate and supply structural steel items only, erect structural steel. Contract price or subcontract price : \$1,287,985.84. Amount claimed as owing in respect of services or materials that have been supplied : \$113,336.92.

The lien claimant claims a lien against the interest of every person identified as an owner of the premises described in said PIN to this lien Schedule: NAMES AND ADDRESSES OF OWNERS: 1) 33 Laird Inc., 3080 Yonge Street, Suite 6060, Toronto, ON M4N 3N1. 2) Sealink J.V. Ltd., 17 Main Street North, PO Box 1396 Waterdown, Ontario L0R 2H0.3) Beaux Properties International Inc., 5140 Yonge Street, Suite 2360, Toronto, Ontario M2N 6L7.

Signed By

Darina Mishiyev 21 St. Clair Avenue East, Suite 100 acting for Signed 2020 11 12
 Toronto Applicant(s)
 M4T 1L9

Tel 647-792-0010

Fax 855-940-4101

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

Submitted By

MARGIE STRUB CONSTRUCTION LAW LLP 21 St. Clair Avenue East, Suite 100 2020 11 12
 Toronto
 M4T 1L9

Tel 647-792-0010

Fax 855-940-4101

Fees/Taxes/Payment

Statutory Registration Fee \$65.30
Total Paid \$65.30

Tab M

FaceTime

This is **Exhibit "M"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*

A Commissioner, etc.

Enquiry Result

File Currency: 08DEC 2020



Show All Pages

All Pages ▾



Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	33 LAIRD LIMITED PARTNERSHIP								
File Currency	08DEC 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	726410367	1	1	1	2	07APR 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
726410367		001	1		20170407 1139 1590 1356	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	33 LAIRD LIMITED PARTNERSHIP								
	Address			City	Province	Postal Code			
	2323 YONGE STREET, SUITE 605			TORONTO	ON	M4P 2C9			
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	DUCA FINANCIAL SERVICES CREDIT UNION LTD.								
	Address			City	Province	Postal Code			
	5290 YONGE STREET			TORONTO	ON	M2N 5P9			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				
Motor Vehicle Description	Year	Make		Model		V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	CHAITONS LLP (DB/52340)								
	Address			City	Province	Postal Code			
	5000 YONGE STREET, 10TH FLOOR			TORONTO	ON	M2N 7E9			

Type of Search	Business Debtor								
Search Conducted On	33 LAIRD LIMITED PARTNERSHIP								
File Currency	08DEC 2020								
	File Number	Family	of Families	Page	of Pages				
	726410367	1	1	2	2				
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number	Registered Under			
		01	001		20190911 1452 1590 4962				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	726410367			B RENEWAL	2				
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name				33 LAIRD LIMITED PARTNERSHIP				
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name		Initial	Surname				
	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address			City	Province	Postal Code			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make		Model		V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	CHAITONS LLP (DB/52340)								
	Address			City	Province	Postal Code			
	5000 YONGE STREET, 10TH FLOOR			TORONTO	ON	M2N 7E9			

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Web Page ID: **WEnqResult**

System Date: **09DEC2020**

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Business Debtor Enquiry

File Currency: **08DEC 2020****Search Criteria: 33 LAIRD GP INC.****No Match.****No registered financing statement or registered claim for lien was found for this enquiry.**[New Enquiry](#)

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[ServiceOntario Contact Centre](#)Web Page ID: **WNoMatch001**System Date: **09DEC2020**

Last Modified: November 03, 2019

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Enquiry Result

File Currency: 08DEC 2020



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Note: All pages have been returned.

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File Currency	08DEC 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
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Business Debtor	Business Debtor Name					Ontario Corporation Number			
	33 LAIRD INC.								
	Address				City	Province	Postal Code		
	2323 YONGE STREET, SUITE 605				TORONTO	ON	M4P 2C9		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	DUCA FINANCIAL SERVICES CREDIT UNION LTD.								
	Address				City	Province	Postal Code		
	5290 YONGE STREET				TORONTO	ON	M2N 5P9		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	CHAITONS LLP (DB/52340)								
	Address				City	Province	Postal Code		
	5000 YONGE STREET, 10TH FLOOR				TORONTO	ON	M2N 7E9		

Type of Search	Business Debtor				
Search Conducted On	33 LAIRD INC.				
File Currency	08DEC 2020				
	File Number	Family	of Families	Page	of Pages
	726410295	1	2	2	4

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number	Registered Under
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Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period
	726410295			B RENEWAL	2	

Reference Debtor/ Transferor	First Given Name	Initial	Surname
	Business Debtor Name 33 LAIRD INC.		

Other Change	Other Change

Reason / Description	Reason / Description

Debtor/ Transferee	Date of Birth	First Given Name	Initial	Surname
	Business Debtor Name			Ontario Corporation Number
	Address			City Province Postal Code

Assignor Name	Assignor Name

Secured Party	Secured party, lien claimant, assignee
	Address City Province Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description

Registering Agent	Registering Agent or Secured Party/ Lien Claimant CHAITONS LLP (DB/52340)			
	Address	City	Province	Postal Code
	5000 YONGE STREET, 10TH FLOOR	TORONTO	ON	M2N 7E9

Type of Search	Business Debtor								
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File Currency	08DEC 2020								
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Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	33 LAIRD INC.								
	Address				City	Province	Postal Code		
	2323 YONGE STREET, SUITE 605				TORONTO	ON	M4P 2C9		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	DUCA FINANCIAL SERVICES CREDIT UNION LTD.								
	Address				City	Province	Postal Code		
	5290 YONGE STREET				TORONTO	ON	M2N 5P9		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	CHAITONS LLP (DB/52340)								
	Address				City	Province	Postal Code		
	5000 YONGE STREET, 10TH FLOOR				TORONTO	ON	M2N 7E9		

CONTINUED

Type of Search	Business Debtor				
Search Conducted On	33 LAIRD INC.				
File Currency	08DEC 2020				
	File Number	Family	of Families	Page	of Pages
	726410313	2	2	4	4

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number	Registered Under
		01	001		20190911 1452 1590 4963	

Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period
	726410313			B RENEWAL	2	

Reference Debtor/ Transferor	First Given Name	Initial	Surname
	Business Debtor Name		
	33 LAIRD INC.		

Other Change	Other Change

Reason / Description	Reason / Description

Debtor/ Transferee	Date of Birth	First Given Name	Initial	Surname
	Business Debtor Name			Ontario Corporation Number
	Address		City	Province Postal Code

Assignor Name	Assignor Name

Secured Party	Secured party, lien claimant, assignee			
	Address		City	Province Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description

Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	CHAITONS LLP (DB/52340)			
	Address		City	Province Postal Code
	5000 YONGE STREET, 10TH FLOOR		TORONTO	ON M2N 7E9

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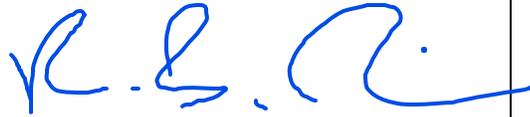
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Tab N

FaceTime

This is **Exhibit "N"** to the affidavit of Jason L. S. Birnboim sworn before me via ~~Zoom~~ this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.



DEVRY SMITH FRANK LLP
Lawyers & Mediators

Oren.Chaimovitch@devrylaw.ca

November 19, 2020

VIA REGISTERED, REGULAR MAIL

33 Laird Inc.
2323 Yonge Street, Suite 605
Toronto, Ontario, M4P 2C9

33 Laird Inc.
5140 Yonge Street, Suite 2360
Toronto, Ontario, M2N 6L7

33 Laird Limited Partnership, by its General Partner
33 Laird GP Inc.
2323 Yonge Street, Suite 605
Toronto, Ontario, M4P 2C9

33 Laird Inc.
6 Eglinton Ave. E., Suite 303
Toronto, Ontario, M4P 1A6

Dear Sirs:

**Re: DUCA Financial Services Credit Union Ltd. ("DUCA") loan to 33 Laird Inc.
secured, inter alia, by a charge over 33 Laird Drive, Toronto ON
Our File No.: DUCA0028**

As you are aware, we are lawyers for DUCA Financial Services Credit Union Ltd. ("DUCA"). According to our client's records, you are indebted to DUCA as of November 19, 2020 in the amount of \$13,856,171.66 made up as follows:

(a) Principal balance owing under Demand Loan:	\$13,079,280.17
(b) accrued interest on Demand Loan	\$47,342.49
(c) Letter(s) of Credit	\$706,965.00
(d) Extension Processing Fee	\$10,000.00
(e) Extension Fee	\$11,504.00
(f) discharge fee	\$1,000.00
(g) registration fee	<u>\$80.00</u>

(h) Total \$13,856,171.66

Interest continues to accrue from November 19, 2020 to the date of payment at \$2,491.71 per day.

Your indebtedness to DUCA is secured, *inter alia*, by a General Security Agreement dated May 1, 2017, as well as a Charge/Mortgage of Land registered in the Land Registry Office for the Land Titles Division of Toronto (No. 80) on May 1, 2017, as Instrument No. AT4550601 as amended by an Agreement Amending Charge/Mortgage of Land registered September 26, 2019 in the LRO as Instrument AT5247712 on the property municipally known as 33 Laird Drive, Toronto, Ontario.

We hereby demand payment of your indebtedness to our client. Unless payment of the total sum owing as aforesaid together with additional interest accrued and legal costs actually incurred to the date of payment, such legal costs currently estimated to be \$7,000.00, or other satisfactory arrangements therefor are made within 15 days from the date thereof, DUCA shall take such steps as it deems necessary or desirable to recover payment of your indebtedness in full without further demand upon or notice to you. Such proceedings may include enforcement of DUCA's security.

Enclosed please find our client's Notice of Intention to Enforce Security which is served upon you pursuant to section 244(1) of the *Bankruptcy and Insolvency Act*, as well as notice being provided to you pursuant to Section 63(4) of the *Personal Property Security Act*, R.S.O. 1990, as amended.

We advise that no intermediate acts, negotiations, or indulgences shall act as a waiver of our client's rights, or, demand for payment as herein set out, unless so expressly stated in writing.

Yours truly,

DEVRY SMITH FRANK LLP



Oren Chaimovitch
OHC:kj

Encl.

**NOTICE PURSUANT TO SECTION 63(4) OF THE
PERSONAL PROPERTY SECURITY ACT**

TO: Those persons set forth in Schedule "A" annexed hereto

TAKE NOTICE that default has been made in the payment of monies secured under the following security agreement (the "Security") granted by 33 Laird Inc. (the "Debtor") to DUCA Financial Services Credit Union Ltd. ("DUCA"):

- (a) a General Security Agreement dated May 1, 2017 in respect of which a financing statement was registered under the Personal Property Security Act (Ontario).

The collateral covered by the Security comprises all the undertaking, property and assets of the Debtors. (the "Collateral").

AND TAKE NOTICE that DUCA intends to dispose of the Collateral unless redeemed.

1. The amount required to satisfy the obligations secured by the Security as at November 19, 2020 is in the amount of \$ \$13,856,171.66 as more particularly set forth in Schedule "B" hereto plus interest thereon from November 19, 2020 to the date of payment at \$2,491.71 per day.
2. The estimated expenses of DUCA in taking, holding, preparing for disposition and disposing of the Collateral is \$15,000.00.
3. Upon receipt of payment, the payer will be credited with any rebates or allowances to which the Debtors may be entitled.
4. DUCA hereby gives you notice that upon payment of the amounts due as above-described together with additional interest accrued and expenses actually incurred to the date of payment you may redeem the Collateral.
5. Unless payment of the amounts due as above-described is received by the earlier of 15 days from the date you actually receive this notice or 25 days after this notice is served upon you by registered mail, DUCA will dispose of the Collateral by private sale, public tender, public auction or otherwise and the Debtors, as well as any other person liable for payment of the obligations secured will be liable for any deficiency.

This notice is given to you because you may have an interest in the Collateral and you may be entitled to redeem the same.

DATED at Toronto, Ontario, this 19th day of November, 2020.

DUCA FINANCIAL SERVICES CREDIT
UNION LTD.

by its lawyers,

Messrs. Devry Smith Frank LLP
95 Barber Greene Road, Suite 100
Toronto, Ontario M3C 3E9



Per:

OREN CHAIMOVITCH

SCHEDULE "A"

33 Laird Inc.
2323 Yonge Street, Suite 605
Toronto, Ontario M4P 2C9

33 Laird Inc.
5140 Yonge Street, Suite 2360
Toronto, Ontario M2N 6L7

Beaux Properties International Inc.
5140 Yonge Street, Suite 2360
Toronto, Ontario M2N 6L7

Quaestus Management Corp.
2323 Yonge Street, Suite 605
Toronto, Ontario M4P 2C9

Kartik Ganatra
3124 Lakeshore Road
Burlington ON L7N 1A4

Barry Godfrey
91 St. Germain Avenue
Toronto ON M5M 1V9

33 Laird Limited Partnership, by its General Partner
33 Laird GP Inc.
2323 Yonge Street, Suite 605
Toronto, Ontario M4P 2C9

33 Laird Inc.
6 Eglinton Ave. E., Suite 303
Toronto, Ontario, M4P 1A6

SCHEDULE "B"

(a) Principal balance owing under Demand Loan:	\$13,079,280.17
(b) accrued interest on Demand Loan	\$47,342.49
(c) Letter(s) of Credit	\$706,965.00
(d) Extension Processing Fee	\$10,000.00
(e) Extension Fee	\$11,504.00
(f) discharge fee	\$1,000.00
(g) registration fee	<u>\$80.00</u>
(h) Total	\$13,856,171.66

per diem: \$ 2,491.71

Tab O

FeaTime

This is **Exhibit "O"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

33 LAIRD INC., 33 LAIRD GP INC. AND 33 LAIRD LIMITED PARTNERSHIP
 Statement of Projected Cash Flows
 For the period November 29, 2020 to March 6, 2021

	Week 1 5-Dec-20 (projected)	Week 2 12-Dec-20 (projected)	Week 3 19-Dec-20 (projected)	Week 4 26-Dec-20 (projected)	Week 5 2-Jan-21 (projected)	Week 6 9-Jan-21 (projected)	Week 7 16-Jan-21 (projected)	Week 8 23-Jan-21 (projected)	Week 9 30-Jan-21 (projected)	Week 10 6-Feb-21 (projected)	Week 11 13-Feb-21 (projected)	Week 12 20-Feb-21 (projected)	Week 13 27-Feb-21 (projected)	Week 14 6-Mar-21 (projected)
Opening Cash Balance	\$ 17,446	\$ 14,396	\$ 11,396	\$ 8,140	\$ 5,140	\$ 34,867	\$ 37,148	\$ 33,892	\$ 30,892	\$ 14,954	\$ 11,904	\$ 8,904	\$ 5,808	\$ 4,133
Receipts														
DIP Loan Advances	-	-	62,957	20,985	20,985	20,985	20,985	20,985	20,985	20,985	20,985	20,985	20,985	20,985
HST Refunds	-	-	-	45,490	5,281	-	-	-	-	-	-	-	-	-
Total Receipts	-	-	62,957	20,985	66,475	26,266	20,985	20,985	20,985	20,985	20,985	20,985	20,985	20,985
Disbursements														
Banking and Financing Fees	50	-	-	-	50	-	-	-	-	50	-	-	-	50
Insurance - Property, Liability, Construction	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Utilities	-	-	256	-	-	256	-	-	700	-	-	96	-	-
Property Tax	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Security and Safety	-	-	-	-	4,238	-	-	-	-	3,763	-	-	-	3,763
Storage Costs - Construction Materials	-	-	-	-	8,475	-	-	-	8,475	-	-	-	-	8,475
Restructuring Professional Fees - Company Counsel	-	-	24,214	8,071	8,071	8,071	8,071	8,071	8,071	8,071	8,071	8,071	8,071	8,071
Restructuring Professional Fees - Trustee and its Counsel	-	-	38,743	12,914	12,914	12,914	12,914	12,914	12,914	12,914	12,914	12,914	12,914	12,914
Contingency	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Total Disbursements	3,050	3,000	66,213	23,985	36,748	23,985	24,241	23,985	36,923	24,035	23,985	24,081	36,223	24,035
Receipts over Disbursements	(3,050)	(3,000)	(3,256)	(3,000)	29,727	2,281	(3,256)	(3,000)	(15,938)	(3,050)	(3,000)	(3,096)	(1,675)	(3,050)
Closing Cash Balance	\$ 14,396	\$ 11,396	\$ 8,140	\$ 5,140	\$ 34,867	\$ 37,148	\$ 33,892	\$ 30,892	\$ 14,954	\$ 11,904	\$ 8,904	\$ 5,808	\$ 4,133	\$ 1,083

The Statement of Projected Cash Flows includes the Hypothetical and/or Probable Assumptions attached to this projected cash flow.
 This statement of projected cash flow should be read in conjunction with The Notes and Assumptions to the Statement of Projected Cash Flows attached.

This statement of projected cash flow is prepared by the debtors in accordance with s. 50.4(2)(a) of the Bankruptcy and Insolvency Act, and should be read in conjunction with the Trustee's Report.

Per:  Matthew Lem, Licensed Insolvency Trustee
 MNP LTD., Trustee acting in re the Proposal of
 33 Laird Inc., 33 Laird GP Inc. & 33 Laird Limited Partnership

33 LAIRD INC.

33 LAIRD GP INC.

33 LAIRD LIMITED PARTNERSHIP

Dated: December 8, 2020

33 LAIRD INC., 33 LAIRD GP INC. AND 33 LAIRD LIMITED PARTNERSHIP
Statement of Projected Cash Flows
For the period November 29, 2020 to March 6, 2021

	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Week 14
7 day period ending:	5-Dec-20	12-Dec-20	19-Dec-20	26-Dec-20	2-Jan-21	9-Jan-21	16-Jan-21	23-Jan-21	30-Jan-21	6-Feb-21	13-Feb-21	20-Feb-21	27-Feb-21	6-Mar-21
	<i>(projected)</i>													
Opening Cash Balance	\$ 17 446	\$ 14 396	\$ 11 396	\$ 8 140	\$ 5 140	\$ 34 867	\$ 37 148	\$ 33 892	\$ 30 892	\$ 14 954	\$ 11 904	\$ 8 904	\$ 5 808	\$ 4 133
Receipts														
DIP Loan Advances	-	-	62 957	20 985	20 985	20 985	20 985	20 985	20 985	20 985	20 985	20 985	20 985	20 985
HST Refunds	-	-	-	-	45 490	5 281	-	-	-	-	-	-	13 563	-
Total Receipts	-	-	62 957	20 985	66 475	26 266	20 985	20 985	20 985	20 985	20 985	20 985	34 548	20 985
Disbursements														
Banking and Financing Fees	50	-	-	-	50	-	-	-	-	50	-	-	-	50
Insurance - Property, Liability, Construction	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Utilities	-	-	256	-	-	-	256	-	700	-	-	96	-	-
Property Tax	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Security and Safety	-	-	-	-	4 238	-	-	-	3 763	-	-	-	3 763	-
Storage Costs - Construction Materials	-	-	-	-	8 475	-	-	-	8 475	-	-	-	8 475	-
Restructuring Professional Fees - Company Counsel	-	-	24 214	8 071	8 071	8 071	8 071	8 071	8 071	8 071	8 071	8 071	8 071	8 071
Restructuring Professional Fees - Trustee and its Counsel	-	-	38 743	12 914	12 914	12 914	12 914	12 914	12 914	12 914	12 914	12 914	12 914	12 914
Contingency	3 000	3 000	3 000	3 000	3 000	3 000	3 000	3 000	3 000	3 000	3 000	3 000	3 000	3 000
Total Disbursements	3 050	3 000	66 213	23 985	36 748	23 985	24 241	23 985	36 923	24 035	23 985	24 081	36 223	24 035
Receipts over Disbursements	(3 050)	(3 000)	(3 256)	(3 000)	29 727	2 281	(3 256)	(3 000)	(15 938)	(3 050)	(3 000)	(3 096)	(1 675)	(3 050)
Closing Cash Balance	\$ 14 396	\$ 11 396	\$ 8 140	\$ 5 140	\$ 34 867	\$ 37 148	\$ 33 892	\$ 30 892	\$ 14 954	\$ 11 904	\$ 8 904	\$ 5 808	\$ 4 133	\$ 1 083

The Statement of Projected Cash Flows includes the Hypothetical and/or Probable Assumptions attached to this projected cash flow. This statement of projected cash flow should be read in conjunction with The Notes and Assumptions to the Statement of Projected Cash Flows attached.

This statement of projected cash flow is prepared by the debtors in accordance with s. 50.4(2)(a) of the *Bankruptcy and Insolvency Act* and should be read in conjunction with the Trustee's Report.

**MNP LTD., Trustee acting in re the Proposal of
33 Laird Inc., 33 Laird GP Inc. & 33 Laird Limited Partnership**

33 LAIRD INC.

33 LAIRD GP INC.

33 LAIRD LIMITED PARTNERSHIP

Per: _____
Matthew Lem, Licensed Insolvency Trustee

Per: _____
Jason Birnboim

Per: _____
Jason Birnboim

Per: _____
Jason Birnboim

Dated: December 8, 2020

33 LAIRD INC., 33 LAIRD GP INC. AND 33 LAIRD LIMITED PARTNERSHIP
The Notes and Assumptions to the Statement of Projected Cash Flows
For the period November 29, 2020 to March 6, 2021

A summary of the hypothetical and/or probable assumptions to the Statement of Projected Cash Flows are as follows:

- It is contemplated that during these Notice of Intention to Make a Proposal (NOI) proceedings, the 33 Laird Group will seek Court approval for a public sale and marketing process for all of its assets, while also seeking further financing options to replace DUCA Financial Services Credit Union Ltd. and to continue on the business, if possible, on or before the conclusion of the sale and marketing process.
- It is assumed that at the first court attendance, the 33 Laird Group will seek and the Court will grant an Order authorizing, *inter alia*, a debtor in possession (DIP) loan to fund the restructuring professional fees incurred in these proceedings. It is contemplated that the such DIP loan will be subordinate to the security interests held by the secured creditors, DUCA Financial Services Credit Union Ltd. and Centurion Mortgage Capital Corporation.
- The collection of HST refunds are based on management's best estimates and historical collection trends.
- The insurance has previously been paid in full with coverage extending to May 31, 2021.
- No municipal property tax payments are contemplated to be made in connection with the 2020 calendar year. Instalments for the calendar year 2021 are not expected to be due until end of March 2021 (outside the projected period).
- The disbursements are based on management's best estimates and historical purchase/payment trends. These disbursements are assumed to be generally paid on receipt of the goods and/or service, unless payment terms have currently been extended.
- The 33 Laird Group's lenders, DUCA Financial Services Credit Union Ltd. and Centurion Mortgage Capital Corporation, will defer all principal and interest payments pending the outcome of the contemplated sale process and concurrent pursuit of refinancing.
- The restructuring professional fees are based on estimates provided by the respective professionals to management assuming a public sale and marketing process while also concurrently seeking refinancing options during the NOI proceeding. The restructuring professional fees are contemplated to be funds through the DIP loan noted above.
- Pursuant to Section 69(1) of the *Bankruptcy and Insolvency Act*, all creditor's claims are subject to a stay of proceedings.

Tab P

FaceTime

This is **Exhibit "P"** to the affidavit of Jason L. S. Birnboim sworn before me via Zoom this 10th day of December, 2020 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.



6 Eglinton Avenue East Suite 303 Toronto, ON M4P 1A6 t. 416.222.7882 f. 416.222.9253
info@beauxproperties.com

TERM SHEET

**(FOR DISCUSSION PURPOSES ONLY)
(THIS IS NOT A COMMITMENT TO LEND MONEY)**

Borrower:	33 Laird Inc.
Property Address:	33 Laird Avenue, Toronto, ON
Lender:	BP Capital Inc.
Purpose:	DIP Financing
Type of Credit and Amount:	2 nd ranking secured DIP charge loan facility not to exceed \$250,000
Currency:	Canadian dollars
Availment:	The Borrower may avail the credit by way of a direct advance evidenced by demand Promissory Note.
Interest Rate and Repayment:	10% per annum, interest only
Term:	6 months
Prepayment:	The loan is open for prepayment
Arrangement/ Processing Fee:	nil
Drawdown:	On or after December 15, 2021 in approved draws
Other Fees:	The Borrower will pay to the Lender its reasonable legal fees , plus out-of-pocket disbursements and HST.
Security (in the Lender's standard format):	2 nd Position DIP charge
Conditions:	Approval by all Limited Partners of Borrower; court approval and charging order satisfactory to lender

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF 33 LAIRD INC. A CORPORATION INCORPORATED UNDER THE
ONTARIO *PROJECT CORPORATIONS ACT***

Estate No. 31-2693094

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

AFFIDAVIT OF JASON L. S. BIRNBOIM
(sworn December 10, 2020)

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto ON M5G 1V6

R. Brendan Bissell (LSO# 40354V)
Tel: (416) 597-6489
Fax: (416) 597-3370
Email: bissell@gsnh.com

Joël Turgeon (LSO #80984R)
Tel: (416) 597-6486
Email: turgeon@gsnh.com

Lawyers for 33 Laird Inc., 33 Laird GP Inc. and
33 Laird Limited Partnership

Tab 3

Estate No. 31-2693094

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

THE HONOURABLE MADAM)	WEDESNDAY, THE 16 TH
)	
JUSTICE CONWAY)	DAY OF DECEMBER, 2020

**IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF 33 LAIRD INC. A
CORPORATION INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

**ORDER
(procedural consolidation, extension of time to file a proposal,
debtor-in-possession charge)**

THIS MOTION made by 33 Laird Inc. (the “**Nominee**”) for an order (i) directing procedural consolidation of certain estate and court files, (ii) extending the time to file a proposal and (iii) granting a debtor in possession financing charge, was heard this day at 330 University Ave., Toronto, by videoconference due to COVID-19.

ON READING the affidavit of Jason L.S. Birnboim sworn December 10, 2020 (the “**Birnboim Affidavit**”) and the First Report of MNP Ltd. in its capacity as proposal trustee for the Nominee (in such capacity, the “**Trustee**”) dated December **[x]**, 2020 (the “**First Report**”) and upon hearing the submissions of counsel for the Nominee and the Trustee as well as those other parties present, as indicated in the counsel slip, no other parties being present although duly served as appears from the affidavit of service, filed:

NOTICE AND SERVICE

1. **THIS COURT ORDERS** that the time for service of the motion record in respect of this motion and the First Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

PROCEDURAL CONSOLIDATION

2. **THIS COURT ORDERS** that, without prejudice to the right of any party to seek or oppose substantive consolidation in respect of any or all of the following proceedings:

- (a) the present proceeding,
 - (b) the matter of the notice of intention to make a proposal of 33 Laird GP Inc. (“**GP**”), Estate and Court File No. 31-2693092, and
 - (c) the matter of the notice of intention to make a proposal of 33 Laird Limited Partnership (“**LP**”), Estate and Court File No. 31-2693095,
- (collectively, the “**NOI Proceedings**”)

the NOI Proceedings shall be procedurally consolidated and the Trustee shall be authorized and directed to administer the NOI Proceedings on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as trustee under the *Bankruptcy and Insolvency Act* (the “**BIA**”), including, without limitation, the following:

- (d) sending notices to creditors of the Nominee, GP and LP (collectively, the “**NOI Entities**”) pursuant to one consolidated notice;
- (e) calling and conducting any meetings of creditors of the NOI Entities pursuant to one combined advertisement and one meeting;
- (f) issuing consolidated reports in respect of the estates of the NOI Entities;
- (g) preparing, filing, advertising and distributing any and all filings and/or notices relating to the administration of the estates of the NOI Entities on a consolidated basis; and
- (h) bringing motions to this Honourable Court on a consolidated basis.

3. **THIS COURT ORDERS** that the single court file number 31-2693094 (the “**Consolidated Court File**”) and the following title of proceeding of shall be assigned to the NOI Proceedings:

“

**IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF 33 LAIRD INC. AND
33 LAIRD GP INC., CORPORATIONS
INCORPORATED UNDER THE ONTARIO
BUSINESS CORPORATIONS ACT, AND 33 LAIRD
LIMITED PARTNERSHIP, A LIMITED
PARTNERSHIP FORMED UNDER THE ONTARIO
*LIMITED PARTNERSHIPS ACT***

”

4. **THIS COURT ORDERS** that a copy of this Order shall be filed by the NOI Entities in the court file for each of the NOI Proceedings but that any other document required to be filed in any of the NOI Proceedings shall hereafter only be required to be filed in Court file number 31-2693094.

5. **THIS COURT ORDERS** that for avoidance of doubt, any motion, application or action, including the herein motion, in respect of the NOI Entities or any of them shall be brought and filed in the Consolidated Court File and if so brought and filed it shall be deemed brought and filed in each of the NOI Proceedings, as appropriate, without prejudice to any rules of civil procedure or otherwise that are applicable.

6. **THIS COURT ORDERS** that the procedural consolidation of the NOI Proceedings shall not:

- (a) affect the separate legal status and structures of any of the NOI Entities;
- (b) cause any of the NOI Entities to be liable for any claim for which it otherwise is not liable; or

- (c) affect the Trustee's or a creditor's right to seek to disallow any claim, including on the basis that such claim is a duplicative claim.

EXTENSION OF TIME TO FILE A PROPOSAL

7. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the period within which a proposal may be filed on behalf of any or all of the NOI Entities be and is hereby extended to February 11, 2021.

DIP FINANCING AND CHARGE

8. **THIS COURT ORDERS** that the NOI Entities are and each of them is hereby authorized and empowered to obtain and borrow under a credit facility from BP Capital Inc. (the "**DIP Lender**") in order to finance the NOI Entities' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$250,000 unless permitted by further Order of this Court.

9. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the term sheet attached Exhibit "P" to the Birnbiom Affidavit (the "**Term Sheet**"), filed.

10. **THIS COURT ORDERS** that the NOI Entities are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the NOI Entities are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

11. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the NOI Entities' current and future assets, undertakings and properties of every nature and kind whatsoever, and

wherever situate including all proceeds thereof (the “**Property**”). The DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraph 14 hereof.

12. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents; and
- (b) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the NOI Entities or any of them or the Property.

13. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the NOI Entities or any of them under the CCAA, or any proposal filed by the NOI Entities or any of them under the BIA, with respect to any advances made under the Term Sheet or the Definitive Documents.

14. **THIS COURT ORDERS** the following in respect of the DIP Lender’s Charge:

- (a) with respect to any item or part of the Property on which DUCA Financial Services Credit Union Ltd. (“**DUCA**”) holds a security interests, the DIP Lender’s Charge shall rank immediately after DUCA’s security interest, such that subject only to such DUCA’s security interest and any Encumbrance (as defined hereafter) that primes such DUCA’s security interest, the DIP Lender’s Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”), and

- (b) with respect to any item or part of the Property on which DUCA does not hold any security interest, the DIP Lender's Charge shall rank in priority to all other Encumbrances in favour of any Person.

15. **THIS COURT ORDERS** that the filing, registration or perfection of the DIP Lender's Charge shall not be required, and that the DIP Lender's Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the DIP Lender's Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

16. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the NOI Entities or any of them shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with the DIP Lender's Charge, unless the NOI Entities or any of them also obtains the prior written consent of the Trustee and the DIP Lender, or further Order of this Court.

17. **THIS COURT ORDERS** that the Term Sheet, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (each, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the DIP Lender's Charge nor the execution, delivery, perfection, registration or performance of the Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the NOI Entities or any of them of any Agreement to which it is a party;

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- (b) the DIP Lender shall have no liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the NOI Entities or any of them entering into the Term Sheet the creation of the DIP Lender's Charge, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the NOI Entities or any of them pursuant to this Order, the Term Sheet or the Definitive Documents, and the granting of the DIP Lender's Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

18. **THIS COURT ORDERS** that the DIP Lender's Charge created by this Order over leases of real property in Canada shall only be a charge in the NOI Entities' (or any of them) interest in such real property leases.

MISCELLANEOUS

19. **THIS COURT ORDERS** that the Trustee, counsel to Trustee and counsel to the NOI Entities shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the NOI Entities as part of the costs of these proceedings. The NOI Entities are hereby authorized and directed to pay the accounts of the Trustee, counsel for the Trustee and counsel for the NOI Entities. The Trustee and its counsel shall be authorized to immediately apply any such payments made by the NOI Entities to their fees and disbursements and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

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

as may be necessary or desirable to give effect to this Order, to grant representative status to the Trustee in any foreign proceeding, or to assist the NOI Entities and the Trustee and their respective agents in carrying out the terms of this Order.

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF 33 LAIRD INC. A CORPORATION
INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

Estate File No. 31-2693094

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced in TORONTO

ORDER
**(procedural consolidation, extension of time to file a
proposal, debtor-in-possession charge)**

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Lawyers for 33 Laird Inc., 33 Laird GP Inc. and
33 Laird Limited Partnership

Tab 4

Estate No. 31-2693094

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE
A PROPOSAL OF 33 LAIRD INC. A CORPORATION
INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

**SERVICE LIST
(as at December 10, 2020)**

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**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF 33 LAIRD INC. A CORPORATION INCORPORATED
UNDER THE ONTARIO *BUSINESS CORPORATIONS ACT***

Estate No. 31-2693094

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

**MOTION RECORD
(administrative consolidation, extension of time to
file a proposal, debtor-in-possession financing
charge)
(returnable December 16, 2020)**

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