



COURT FILE NUMBER 2003-06728

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLANTIFF **ROMSPEN MORTGAGE LIMITED PARTNERSHIP
AND ROMSPEN INVESTMENT CORPORATION**

DEFENDANTS **3443 ZEN GARDEN LIMITED PARTNERSHIP, LOT
11 GP LTD., LOT 11 LIMITED PARTNERSHIP, ECO-
INDUSTRIAL BUSINESS PARK INC., ABSOLUTE
ENERGY RESOURCES INC., ABSOLUTE
ENVIRONMENTAL WATER MANAGEMENT INC.
AND DANIEL ALEXANDER WHITE**

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT **BORDEN LADNER GERVAIS LLP
1900, 520 Third Avenue S.W.
Calgary, Alberta T2P 0R3**

Josef Krüger, QC/Kevin E. Barr
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File Number: 443063-000012

AFFIDAVIT OF WESLEY ROITMAN

Sworn on April 17, 2020

I, WESLEY ROITMAN, of Toronto, Ontario, SWEAR AND SAY THAT:

Introduction

1. I am Managing General Partner of Romspen Investment Corporation, the manager and administrative agent for Romspen Mortgage Limited Partnership ("RMLP") (collectively "Romspen"). As such, I have personal knowledge of the matters and facts hereinafter sworn to,

except where stated to be based on information and belief, and where so stated, I verily believe the same to be true.

2. Capitalized terms not expressly defined herein shall have the same meaning as those terms defined in my Affidavits sworn on March 30 and April 1, 2020.
3. This Affidavit has been sworn during the COVID-19 pandemic.

The Alberta Security

4. Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a true copy of the mortgage granted by GP in its capacity as general partner for LP, and in its own capacity, dated April 17, 2018 in the sum of USD \$40,000,000.00.
5. Attached hereto and marked as **Exhibit "B"** to this my Affidavit is a true copy of General Security Agreement granted by each of GP and LP dated April 17, 2018.
6. Attached hereto and marked as **Exhibit "C"** to this my Affidavit is a true copy of the mortgage granted by Eco-Industrial dated April 17, 2018 in the sum of USD \$40,000,000.00.
7. Attached hereto and marked as **Exhibit "D"** to this my Affidavit is a true copy of the General Security Agreement granted by Eco-Industrial dated April 17, 2018.
8. Attached hereto and marked as **Exhibit "E"** to this my Affidavit is a true copy of the General Security Agreement granted by Absolute Energy dated April 17, 2018.
9. Attached hereto and marked as **Exhibit "F"** to this my Affidavit is a true copy of the General Security Agreement granted by Absolute Environmental dated April 17, 2018.
10. Attached hereto and marked as **Exhibit "G"** to this my Affidavit is a true copy of the General Security Agreement granted by White dated April 17, 2018.
11. Attached hereto and marked as **Exhibit "H"** to this my Affidavit is a true copy of the Guarantee granted by GP and LP dated April 17, 2018.
12. Attached hereto and marked as **Exhibit "I"** to this my Affidavit is a true copy of the Guarantee granted by Eco-Industrial dated April 17, 2018.

13. Attached hereto and marked as **Exhibit "J"** to this my Affidavit is a true copy of the Guarantee granted by Absolute Energy dated April 17, 2018.
14. Attached hereto and marked as **Exhibit "K"** to this my Affidavit is a true copy of the Guarantee granted by Absolute Environmental dated April 17, 2018.
15. Attached hereto and marked as **Exhibit "L"** to this my Affidavit is a true copy of the Guarantee granted by White dated April 17, 2018.

Notices

16. Attached hereto and marked as **Exhibit "M"** to this my Affidavit is a true copy of a Notice of Default dated October 11, 2019 issued by Romspen's United States counsel, Foley & Lardner LLP, to, among others, each of Zen Garden, GP, LP, Eco-Industrial, Absolute Energy, Absolute Environmental and White.
17. Attached hereto and marked as **Exhibit "N"** to this my Affidavit is a true copy of a Notice of Default dated October 23, 2019 issued by Foley & Lardner LLP to, among others, each of Zen Garden, GP, LP, Eco-Industrial, Absolute Energy, Absolute Environmental and White.

United States Bankruptcy Proceedings

18. Attached hereto and marked as **Exhibit "O"** to this my Affidavit is a true copy of an "Expedited Motion of Petitioning Creditors for Order Requiring the Appointment a Chapter 11 Trustee" in respect of Zen Garden filed in the United States Bankruptcy Court for the Western District of Texas Austin Division.
19. Attached hereto and marked as **Exhibit "P"** to this my Affidavit is a true copy of an "Order Requiring Appointment of a Chapter 11 Trustee" in respect of Zen Garden granted by United States Bankruptcy Judge H. Christopher Mott in the United States Bankruptcy Court for the Western District of Texas Austin Division on April 15, 2020 (the "**Mott Order**").
20. I am advised by Thomas C. Scannell of Foley & Lardner LLP, and do verily, believe that neither Zen Garden nor White opposed granting of the Mott Order.

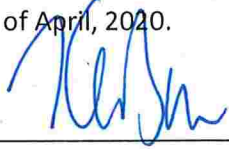
- 21. I am advised by Thomas C. Scannell of Foley & Lardner LLP, and do verily, believe that neither Zen Garden nor White opposed granting of the Mott Order.
- 22. I am further advised by Thomas C. Scannell of Foley & Lardner LLP, and do verily believe, that Zen Garden's petitioning creditors, together with Romspen, are in the process of making the necessary arrangements to appoint a Chapter 11 Trustee in accordance with the Mott Order.

Conclusion

- 23. This Affidavit was sworn using video technology due to the COVID-19 pandemic.
- 24. In advance of swearing this Affidavit, I have shown the Notary Public the front and back of my current government-issued photo identification.
- 25. I do verily believe that this Affidavit has been sworn in compliance with NPP#2020-01 issued by the Court of Queen's Bench on January 28, 2020.
- 26. I am authorized to swear this Affidavit on behalf on Romspen.
- 27. I make this Affidavit for no improper purpose.
- 28. I make this Affidavit in support of an Order appointing a Receiver and Manager or, in the alternative, an Interim Receiver over each of:

- (i) GP;
- (ii) LP;
- (iii) Absolute Environmental;
- (iv) Absolute Energy;
- (v) Eco-Industrial; and
- (vi) White.

SWORN BEFORE ME at Toronto, Ontario, this)
17 day of April, 2020.)



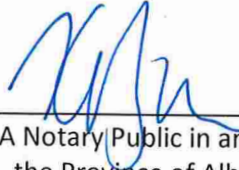
_____)
A Notary Public in and for the Province of)
Alberta)

_____)
WESLEY ROITMAN

KEVIN E. BARR
Barrister & Solicitor



This is Exhibit "A" referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

MORTGAGE

Made at the City of Edmonton, in the Province of Alberta, as of the 17th day of April, 2018 in pursuance of "The Land Titles Act".

LOT 11 GP LTD., acting in its capacity as General Partner for LOT 11 LIMITED PARTNERSHIP, as "Mortgagor", being, registered as owner of an estate in fee simple in possession, subject however, to such encumbrances, liens and interests as are notified by memorandum underwritten or endorsed hereon in those certain pieces of land situate in the Province of Alberta, being composed of the lands and premises more particularly described in Schedule "A" annexed hereto and forming a part hereof, which lands are jointly hereinafter sometimes referred to as the "lands" or the "said lands" or the "mortgaged property" or the "mortgaged premises", all of which terms shall be deemed to include all improvements now or hereafter made thereon.

AND WHEREAS in consideration of ROMSPEN INVESTMENT CORPORATION, as trustee, of 162 Cumberland Street, Suite 300, Toronto, ON, M5R 3N5, who and whose successors and assigns are hereinafter included in the expression the "Mortgagee" dealing with 3443 Zen Garden Limited Partnership (hereinafter referred to as the "Borrower"), the Mortgagor has, inter alia, pursuant to a written Guarantee dated the 17th day of April, 2018 (hereinafter called the "Guarantee") guaranteed the payment to the Mortgagee of all present and future debts and liabilities, direct or indirect or otherwise of the Borrower to the Mortgagee, together with interest thereon or on so much thereof shall from time to time remain unpaid;

AND WHEREAS for the same consideration as aforesaid, the Mortgagor has agreed to grant to the Mortgagee this mortgage as additional and collateral security for the observance and performance of its obligations, covenants and agreements to guarantee as set forth in the Guarantee;

AND WHEREAS the Mortgagor has agreed to grant this mortgage in favour of the Mortgagee in the sum of FORTY MILLION US DOLLARS (US\$40,000,000.00) DOLLARS of lawful money, as additional and collateral security to the Mortgagee for the obligations of the Mortgagor to the Mortgagee under the Guarantee;

NOW THEREFORE the Mortgagor for good and valuable consideration and for the purposes above mentioned does hereby covenant with the Mortgagee:

1. That the Mortgagor shall pay to the Mortgagee in lawful money of the United States of America, the principal sum lent to the Borrower as aforesaid with interest thereon at the rate hereinafter provided for on the date of demand by the Mortgagee pursuant to the Guarantee.
 - (a) Intentionally Deleted.
 - (b) Intentionally Deleted.
That for the purposes of this mortgage:
 - (c) Intentionally Deleted.
 - (d) "Indebtedness" shall be interpreted in its most comprehensive sense, and without limiting its generality, shall include, pursuant to the Guarantee, any and all advances at any time and from time to time made by or on behalf of Romspen Mortgage Limited Partnership or the Mortgagee to or on behalf or on account of or at the direction of the Borrower, and all debts, obligations or liabilities of the Borrower to or in favour of Romspen Mortgage Limited Partnership or the Mortgagee or for which Romspen Mortgage Limited Partnership may become responsible;
 - (e) "Interest Rate" means 12% percent per annum calculated and compounded monthly, not in advance.
 - (f) "Loan Agreement" means the agreement between the Borrower and Romspen Mortgage Limited Partnership dated April 27, 2018, as it may be amended from time to time, under which credit facilities are provided by Romspen Mortgage Limited Partnership to the Borrower.

- (g) "Moneys" means the Indebtedness and all other sums due, owing or payable or which may become due, owing or payable under the Loan Agreement, any of the Security, this Mortgage or otherwise;
- (h) Intentionally Deleted
- (i) "Security" means any documents other than this Mortgage now held or hereafter held by the Mortgagee, as security relating to the Moneys or any other liabilities or obligations of the Mortgagor to the Mortgagee.
- (j) Intentionally Deleted

2. That save as hereinafter described, the Mortgagor will pay when and as same fall due, all taxes, rates, liens, charges, encumbrances or claims (hereinafter sometimes referred to as "taxes") which are or may be or become charges or claims against the mortgaged premises, on or in respect of this mortgage. The Mortgagor shall pay to the Mortgagee on each date on which a payment is due hereunder an additional amount estimated by the Mortgagee required to pay the full amount of taxes when they next become due. The Mortgagor further covenants and agrees to transmit to the Mortgagee the tax bills and other notices affecting the imposition of taxes forthwith after the receipt of same by him and to provide evidence of payment within thirty (30) days of the due date for payment.

Should the Mortgagor become in default of its obligation in this Paragraph 2, the Mortgagee shall have the right itself to pay the taxes and the amount so paid, as aforesaid, by the Mortgagee shall be secured hereby and shall (together with interest thereon at the Interest Rate) be a charge on the mortgaged premises, and shall bear interest at the Interest Rate until paid, all such monies to be repayable to the Mortgagee on demand, or if not demanded repayable on the next ensuing instalment (whether principal or interest).

3. That the Mortgagee may, without further authority and from time to time as the Mortgagee may desire, make advances of principal monies to be secured under this mortgage in:
- (a) An amount or amounts, which when added at the date next ensuing upon which taxes become due and payable to those portions of the then paid up monthly instalments under Paragraph 2, will be sufficient to pay and discharge the taxes;
 - (b) An amount or amounts sufficient to defray interest accrued hereunder and unpaid from time to time; and
 - (c) An amount or amounts equal to estimated interest on account of the principal sum hereunder including an initial interest reserve pursuant to the Loan Agreement;

and upon making such advances, will have the right to apply such advances for the purpose described in this Paragraph 3 for which they were advanced. Nothing herein shall obligate the Mortgagee to make the advances in this Paragraph 3 described.

4. That the Mortgagor shall pay to the Mortgagee interest as aforesaid and all interest on becoming overdue shall be forthwith treated, as to payment of interest thereon, as principal and shall bear interest thereon at the aforesaid rate computed with rests and compounded at each interest date as well after as before maturity of this mortgage and all such interest shall be a charge on the mortgaged premises; and in the event of non-payment of any of the monies hereby secured at the time herein set for payment thereof the Mortgagor will, so long as any part thereof remains unpaid, pay interest at the said rate from day to day on the same.
5. That the Mortgagor shall forthwith insure and keep insured during the continuance of this security the mortgaged property together with such other insurance required by the Mortgagee, all as more particularly set out in section 13 of the Schedule of Additional Provisions.

All such insurance shall:

- (aa) be carried in a company or companies to be approved by the Mortgagee;
- (bb) be in a form acceptable to the Mortgagee; and
- (cc) where applicable, grant permission for partial occupancy;
- (dd) provide that the insurer will neither terminate or alter the policy to the prejudice of Mortgagee except by registered letter giving notification of thirty (30) days.

The loss for all such policies shall be solely made payable to the Mortgagee as first loss payee respecting the lands for which this Mortgage is a first charge and a second loss payee respecting the lands for which this Mortgage is a second charge with the Mortgagee's mortgage clause affixed to each policy by the insurer. The Mortgagor shall pay all premiums and sums of money necessary for such purpose as the same shall become due, and shall not do anything which might cause the policy to be voided, and does hereby assign and deliver to the Mortgagee the policy or policies of insurance and all renewal receipts and renewals thereto appertaining and will deliver evidence of renewal to the Mortgagee at least fifteen (15) days prior to the expiration of any policy.

The Mortgagor shall maintain, at all times, a sufficient amount of insurance to meet the requirements of any "stated amount co-insurance clause" contained in any policy of insurance, so as to prevent it from becoming a co-insurer under the terms of such policy.

In the event of any breach of the foregoing covenants respecting insurance the Mortgagee may, at its option, effect such insurance on behalf of and at the cost of the Mortgagor, and at the option of the Mortgagee, the whole of the monies hereby secured remaining unpaid shall forthwith become due and payable. Forthwith on the happening of any loss or damage as aforesaid (notwithstanding any law, equity or statute to the contrary, and in particular, the Alberta Insurance Act and The Fire Prevention (Metropolis) Act, 1774 (14 Geo. 3 C.78), all rights and benefits of the Mortgagor thereunder being hereby expressly waived) the Mortgagor, at the expense of the Mortgagor, will furnish all necessary proofs and do all necessary acts to enable the Mortgagee to obtain payment of the insurance monies and any such insurance monies received by the Mortgagee:

- (i) shall, if the Mortgagee is not in default hereunder, be applied in repairing or rebuilding the said premises; and
- (ii) if the Mortgagor is in default hereunder may, at the option of the Mortgagee, be applied in repairing or rebuilding the said premises, or be applied to the payment of the monies hereby secured (whether or not any amount is then due) in such manner as the Mortgagee may determine or be paid to the Mortgagor or any person appearing by the registered title to be the owner of the said lands or partly in one way and partly in another.

This provision shall be in addition to any statutory covenants implied in this mortgage.

That pending application of any insurance monies, the said monies shall be deemed to form part of the lands and shall be subject to the charges created by this mortgage.

The Mortgagor hereby irrevocably appoints the Mortgagee as attorney on its behalf to do all acts and things on behalf of and in the name of the Mortgagor to settle all insurance claims and to receive the proceeds of all monies payable under any insurance policy and to give effectual receipts therefor, and in so doing, the Mortgagee shall have no liability to the Mortgagor for any act so done by the Mortgagee.

6. That all erections, buildings, machinery, plant and improvements whatsoever, including furnaces, boilers, water heaters and all plumbing, air-conditioning, ventilating and heating equipment, elevators, escalators and lifts, carpets, electric light fixtures, storm windows and storm doors, window screens and screen doors, and all apparatus and equipment appurtenant thereto, which are now or which shall hereafter be put upon the mortgaged premises, are or shall thereafter be deemed to be fixtures and a part of the realty and the security for the monies hereby secured, even

though not attached otherwise than by their own weight. The Mortgagor shall not commit any act of waste thereon, and shall at all times during the continuance of this security the same repair, maintain, restore, mend, keep, make good, finish, add to and put in order. In the event of any loss or damage thereto or destruction thereof the Mortgagee may give notice to the Mortgagor to repair, rebuild or reinstate the same within a time to be determined by the Mortgagee and to be stated in such notice. If the Mortgagor fails to so repair, rebuild or reinstate the same within such time, such failure shall constitute a breach of covenant hereunder and thereupon the mortgage monies shall, at the option of the Mortgagee, become immediately due and payable without demand by the Mortgagee upon the Mortgagor. The Mortgagee may repair, rebuild or reinstate the mortgaged premises at the cost of the Mortgagor and charge all sums of money determined by the Mortgagee to be properly paid therefor to the mortgage account, all notwithstanding any law, equity or statute to the contrary, and in particular, The Alberta Insurance Act and The Fire Prevention (Metropolis) Act, 1774 (14 Geo. 3 c.78), all rights and benefits of the Mortgagor thereunder being hereby expressly waived. This provision shall be in addition to any statutory covenants implied in this mortgage.

7. That the Mortgagor further covenants and agrees with the Mortgagee that:

- (a) The Mortgagor has good title to the said lands free from all encumbrances (save as endorsed hereon);
- (b) The Mortgagor has the right to mortgage the lands;
- (c) On default the Mortgagee shall have quiet possession of the lands free from all encumbrances (save as endorsed hereon);
- (d) The Mortgagor shall execute such further assurances of the lands as may be requisite;
- (e) The Mortgagor has done no act to encumber the lands (save as endorsed hereon).

8. That the Mortgagor shall not:

- (a) lease (other than in accordance with the terms of this mortgage), sell, convey, transfer, mortgage or otherwise dispose of the mortgaged property or any part thereof at any time during the currency of this mortgage to a purchaser, transferee or assignee (save for sales of individual lots as specifically permitted by the Loan Agreement);
- (b) alter the use of the within mortgaged premises from that originally contemplated;
- (c) if the Mortgagor is a corporation, allow any change of ownership of the capital stock of the corporation, whether legal or beneficial, from that disclosed to the Mortgagee at the time of acceptance of the Loan Agreement;
- (d) register against the lands and premises a mortgage or other charge other than notified by memorandum underwritten or endorsed herein,

without the written consent of the Mortgagee first had and obtained, which consent the Mortgagee may not unreasonably or arbitrarily withhold.

9. (a) That in the event the Mortgagor shall make an approved sale or other voluntary or involuntary disposition of the said lands at any time during the currency of this mortgage, the Mortgagor shall procure the execution and delivery by the purchaser of an agreement with the Mortgagee whereby such permitted purchaser assumes an undertaking to pay the monies owing under this mortgage according to the terms hereof and to be bound by, observe and perform all covenants, agreements, conditions, stipulations and provisions herein contained or implied, and to attorn and to become a tenant of the Mortgagee of the said lands under the terms of the attornment clause set out in this mortgage, and in default of the execution and delivery of such agreement by the purchaser, all monies then remaining owing under this mortgage shall in addition to any other remedy available to the Mortgagee hereunder, at the option of the Mortgagee, become immediately due and payable together with one month's additional interest as set out in section 1.

- (b) Notwithstanding the above, the Mortgagor shall be entitled to partial discharges of this Mortgage on the sale of individual lots in accordance with the provisions of the Loan Agreement.
10. That in the event of non-payment of the mortgage monies or any part thereof at the time of falling due of same under the terms of this mortgage, or in the event of non-payment of interest or of any further amounts as provided for in this mortgage, or in the event of default or apprehended default being made in any of the covenants, agreements, provisos or stipulations otherwise expressed or implied herein or in the Loan Agreement or if the Mortgagor shall become bankrupt or insolvent or shall be subject to the provisions of the *Bankruptcy and Insolvency Act*, the *Companies' Creditors Arrangement Act*, the *Winding-up and Restructuring Act* or any other Act for the benefit of creditors or go into liquidation either voluntarily or under an order of a court of competent jurisdiction, or make a general assignment for the benefit of its creditors or otherwise acknowledge its insolvency, or upon the registration of any builders' lien against the said lands, which lien remains undischarged for a period of thirty (30) days after notice of the registration thereof is given to the Mortgagor, or if any buildings or other improvements being erected on the said lands are allowed to remain unfinished, abandoned or left vacant:
- (a) The Mortgagee at its option may, at the expense of the Mortgagor, and when and to such extent as the Mortgagee deems advisable, observe and perform or cause to be observed and performed such covenant, agreement, proviso or stipulation;
 - (b) The Mortgagee may send or employ an inspector to inspect and report upon the value, state and condition of the mortgaged premises and a solicitor to examine the report upon the title to the same;
 - (c) The Mortgagee may enter into possession of the mortgaged premises and whether in or out of possession collect the rents and profits therefrom, and make any demise or lease of the said premises or any part thereof for such terms and periods and at such rents as the Mortgagee shall think proper, and the power of sale hereunder may be exercised before or after and subject to any such demise or lease;
 - (d) The Mortgagee at such time or times as it may deem necessary and without the concurrence of any other person through its servants, agents or contractors may enter upon the said lands and may make such arrangements for repairing or putting in order any buildings or other improvements on the mortgaged premises, or for inspecting, taking care of, leasing, collecting the rents of and managing generally the said lands as it may deem expedient, all costs, charges and expenses incurred by the Mortgagee in so doing, including allowances for the time and service of any agent of the Mortgagee or other person appointed for the above purposes or in connection therewith shall be secured hereby and shall (together with interest thereon at the Interest Rate) be a charge on the mortgaged premises, shall bear interest at the Interest Rate until paid, all such monies to be repayable to the Mortgagee on demand, or if not demanded, then repayable without demand on the next ensuing instalment (whether for interest or principal);
 - (e) The Mortgagee shall have full power, right and license to enter, seize and distress upon the mortgaged premises, or any part thereof, and by distress warrant to recover by way of rent reserved as in the case of demise of the premises as much of the mortgage monies as shall from time to time be or remain in arrears and unpaid, together with all costs, charges and expenses attending such levy or distress as in like cases of distress for rent;
 - (f) The Mortgagee may sell and dispose of the mortgaged premises with or without entering into possession of the same and with or without notice to the Mortgagor or any party interested in the mortgaged premises; and all remedies competent may be resorted to; and all the rights, powers and privileges granted to or conferred upon the Mortgagee under and by virtue of any statute or by this mortgage may be exercised; and any notice may be effectually given by delivering such notice or mailing such notice by single registered mail to the Mortgagor at the address of the Mortgagor shown hereinafter; and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made of the mortgaged premises hereunder, and the Mortgagee may

sell, transfer and convey any part of the mortgaged premises, on such terms of credit or part cash and part credit secured by contract or agreement for sale or mortgage, or otherwise, as shall appear to the Mortgagee most advantageous and for such prices as can reasonably be obtained therefor; and in the event of a sale on credit or for part cash and part credit, whether by way of contract for sale or by conveyance or transfer and mortgage, the Mortgagee is not to be accountable for or charged with any monies until the same shall be actually received in cash; and sales may be made from time to time on parts of the mortgaged premises to satisfy interest or parts of the principal overdue, leaving the principal or parts thereof to run with interest payable as aforesaid; and the Mortgagee may make any stipulations as to title or evidence or commencement of title or otherwise as the Mortgagee shall deem proper, and may buy in or rescind or vary any contract for sale; and on any sale or resale, the Mortgagee shall not be answerable for any loss occasioned thereby; and for any such purposes the Mortgagee may make and execute all agreements and assurances that the Mortgagee shall deem advisable or necessary; and in case of any sale held by the Mortgagee under and by virtue of the laws of the Province of Alberta under the power of sale herein contained shall prove abortive, the Mortgagee may take foreclosure proceedings in respect of the said lands in accordance with the provisions of the laws of the Province of Alberta in that regard; and in the event of any deficiency on account of monies secured by this mortgage remaining due to the Mortgagee after realizing all of the said lands by sale or otherwise then the Mortgagor will pay to the Mortgagee on demand the amount of such deficiency with interest at the rate aforesaid;

- (g) The whole of the unpaid balance of the mortgage monies, interest and all other amounts due hereunder or under the Loan Agreement shall, at the option of the Mortgagee, become due and payable;
 - (h) The Mortgagor agrees that the Mortgagee may exercise one or all of the remedies set out in this paragraph 10 without prejudice to its rights to pursue other or additional remedies and that the choice of one remedy shall not constitute an election of remedies.
11. That notwithstanding anything contained herein to the contrary, the improvements now erected, upon or under the said lands (including without limitation any fixed improvements) (hereinafter referred to as the "improvements" or the "said improvements") shall form part of the security for the full amount of the monies secured by this mortgage.
 12. That the giving and taking of this Mortgage shall in no way merge or affect any other security or securities that may have been, or that may hereafter be given in respect of any amounts secured by this Mortgage or any part thereof, or impair or affect any such security or securities or any remedy thereon, and all rights or remedies which the Mortgagee now has or may hereafter have against the Mortgagor or any other person or entity are hereby reserved, and the Mortgagor agrees that the taking of a judgment or judgments under any of the covenants or agreements herein contained or under any such security or securities or the entering into any arrangement (including the granting of time), compromise, release or discharge or the termination of any cause, claim or right whatsoever by the Mortgagee with the Mortgagor or any other person or entity, to the exclusion of the Mortgagor or any other person or entity, whether prejudicial or beneficial to any one or more of them, shall not operate as a merger of such covenants and agreements or affect the rights or remedies of the Mortgagee under the said covenants herein contained or under any other such security or securities, or of the Mortgagee's security herein by way of a charge against the mortgaged premises, or affect the Mortgagee's right to interest at the rate prescribed herein on any amounts owing to the Mortgagee under the covenants contained in this Mortgage, or under any other security or securities, it being understood and agreed that interest at the rate prescribed herein shall run and be included and payable on any Judgment or other proceedings taken herein and that any such judgment shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until such judgment shall have been fully paid and satisfied.
 13. That the Mortgagee may at any time release any part of the mortgaged premises, or any of the covenants and agreements herein contained, or any collateral security, either with or without any consideration therefor, and without being accountable for the value thereof, or for any money

except what is actually received, and without thereby releasing or affecting any other of the mortgaged premises or any of the other covenants or agreements herein contained or releasing any surety or other security, and no person shall have any right to require the mortgage monies to be apportioned.

14. The mortgage shall take effect forthwith upon execution of these presents. That should the Mortgagee advance the said principal sum or any part thereof at any future date or dates, the amount of such advances when so made shall be secured hereby and repayable with interest as herein provided.
15. That:
 - (a) The Mortgagee or agent of the Mortgagee may at any time and from time to time enter upon the said lands to inspect the said lands and buildings and other improvements thereon and to inspect the books of the Mortgagor, insofar as they relate to the Lands, make extracts therefrom and generally conduct such examination of the books of account of the Mortgagor, insofar as they relate to the Lands, as the Mortgagee may deem fit;
 - (b) The Mortgagee shall not by virtue of these presents be deemed a mortgagee in possession of the mortgaged premises and shall be liable to account for only such rents as actually come into its hands less proper collection charges in respect thereof and that the Mortgagee shall apply such rents to the principal, interest or other charges due hereunder and if the Mortgagor is not in default under any covenant, proviso or agreement contained herein the Mortgagee shall pay to the Mortgagor the excess of such rents collected over the amounts which will be due to the Mortgagee hereunder (as estimated by the Mortgagee) during the portion of the term to which such rents relate;
 - (c) The Mortgagor within ten (10) days after receipt of a request to do so, shall certify to the Mortgagee or any person designated by the Mortgagee the amount of principal then due hereunder, the date to which interest is paid, that it has no right of a set-off against the monies due hereunder, or, if it has such a right of set-off, the amount thereof and that there have been no amendments hereof or if there have been any such amendments specifying them;
 - (d) All improvements shall be situate wholly within the boundaries of the mortgaged property;
 - (e) Any improvements constructed on the said lands have been constructed in accordance with and in due compliance with the requirements of all regulatory authorities having jurisdiction in that regard and that any improvements to be constructed shall only be constructed in strict accordance with plans and specifications first approved by the Mortgagee and to standards acceptable to the Mortgagee;
 - (f) The Mortgagor shall not use the mortgaged premises or permit them to be used for a purpose other than that disclosed to the Mortgagee in the Loan Agreement without the consent of the Mortgagee;
 - (g) All management fees, and development fees paid by the Mortgagor or to persons associated or affiliated with the Mortgagor, as those terms are used in the Alberta Business Corporations Act, shall be subject to the prior approval of the Mortgagee in its sole and absolute discretion.
16. That all Solicitor's, Inspector's, Consultant's (including the Architect's), Valuator's, Surveyor's and other fees and expenses for drawing and registering this mortgage and for examining the mortgaged premises and the title thereto, and for making or maintaining this mortgage a first charge respecting the lands for which this Mortgage is a first charge and a second charge respecting the lands for which this Mortgage is a second charge on the mortgaged premises (save as endorsed hereon) or incurred as a result of default hereunder or of endeavouring to collect with

or without suit any money payable hereunder, or of taking, recovering or keeping possession of the said lands, and generally in any other proceeding, matter or thing taken or done to protect or realize the security or any other security for this loan, together with all sums which the Mortgagee may and does from time to time advance, expend or incur hereunder as principal, insurance premiums, taxes, rates or in or toward payment of prior liens, charges, encumbrances or claims charged or to be charged against the mortgaged premises, including, without limitation, notwithstanding that the costs thereof may exceed the principal sum secured hereunder, and in inspecting, leasing, managing or improving the mortgaged premises or in maintaining, repairing, restoring or completing the mortgaged premises, including the price or value of any goods of any sort or description supplied to be used on the mortgaged premises, and in exercising or enforcing or attempting to enforce or in pursuance of any right, power, remedy or purpose hereunder or subsisting, and legal costs, as between solicitor and client, and also an allowance for the time, work and expenses of the Mortgagee, for any purpose herein provided for and whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Mortgagor or otherwise shall be added to and become part of the principal sum secured hereby and shall (together with interest thereon at the Interest Rate) be a charge on the mortgaged premises, shall bear interest at the Interest Rate until paid, all such monies to be repayable to the Mortgagee on demand, or if not demanded, then repayable without demand on the next ensuing instalment (whether for interest or principal).

17. That in the event of the mortgage monies advanced hereunder, or any part thereof, being applied to the payment of any charge or encumbrance, the Mortgagee shall be subrogated to all the rights of, and stand in the position of and be entitled to all the equities of the party so paid off whether such charge or encumbrance has or has not been discharged, and the decision of the Mortgagee as to the validity or amount of any advance or disbursement made under this mortgage or of any claim so paid off shall be final and binding upon the Mortgagor.
18. That the Mortgagee shall not be charged with any monies receivable or collectible out of the mortgaged premises or otherwise except those actually received, and all revenue of the said premises received or collected by the Mortgagee from any source other than payment by the Mortgagor may at the option of the Mortgagee be retained in a suspense account or used in maintaining or insuring or improving the mortgaged premises, or in payment of taxes or other charges against the mortgaged premises, or applied on the mortgage account, and the Mortgagee shall not be under any liability to pay interest on any sums in a suspense account.
19. That any discharge of this mortgage shall be prepared by the solicitor of the Mortgagee and the Mortgagee shall have a reasonable time after receipt of payment in full within which to have prepared and to execute such discharge, and a tender of the mortgage monies shall not entitle the Mortgagor to receive such discharge, and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Mortgagee, and all legal and other expenses for the preparation and execution of such discharge shall, if allowed in law, be borne by the Mortgagor.
20. That all payments to be made to the Mortgagee shall be made to Romspen Investment Corporation at 162 Cumberland Street, Suite 300, Toronto, ON, M5R 3N5 or at such other address at which the Mortgagee shall require payment to be made. All payments under this Mortgage shall be made before 1:00 o'clock Toronto time on any day on which the payment is made. In the event the payment is made after 1:00 o'clock on any particular day, it is understood and agreed that the said payment will be deemed to have been made on the next business day following the date on which payment is made. All payments made by mail shall be deemed received on the day and at the time of actual delivery to the Mortgagee at the address at which the Mortgagee shall require payment to be made; provided however that any payments made by mail and actually delivered to the Mortgagee after 1:00 o'clock on any particular day shall be deemed to have been made on the next business day following the date on which payment was actually received.
21. That for better securing the punctual payment of the Moneys; Interest and other costs and charges as set out herein, the Mortgagor hereby attorns and becomes tenant to the Mortgagee of the mortgaged premises at a monthly rental equivalent to the monthly instalments secured hereby, the

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

22. That if this mortgage is subordinate to that certain prior mortgage or mortgages referred to by the Memorandum of Encumbrances set out in Schedule "C" annexed hereto and forming a part hereof (which prior or other mortgage is in this Paragraph 22 collectively and individually referred to as the "Prior Mortgage"), then with respect to the Prior Mortgage, the Mortgagor covenants that it is not now in default nor will it default in observance or performance of any of the covenants, agreements, provisos and stipulations expressed or implied therein and agrees:
- (a) to request the mortgagee of the Prior Mortgage to forthwith send to the Mortgagee by personal delivery or by post, copies of all notices which the mortgagee of the Prior Mortgage may send to the Mortgagor pertaining to any default under the Prior Mortgage or pertaining to any other matter of which the Mortgagor should be notified, and the Mortgagor shall forthwith deliver or cause to be delivered to the Mortgagee copies of any notices which it may receive from the mortgagee of the Prior Mortgage or otherwise with respect to the Prior Mortgage;
 - (b) to perform and carry out all of the covenants and agreements which the Mortgagor has pursuant to the provisions of the Prior Mortgage, agreed to observe, perform and carry out;
 - (c) that default on the part of the Mortgagor under the provisions of subparagraphs (a) or (b) hereof shall constitute default under this mortgage;
 - (d) that on default on the part of the Mortgagor under the provisions of subparagraphs (a) or (b) hereof or, without limiting the generality of the foregoing, the Mortgagor making default in any of its obligations under the Prior Mortgage, then, notwithstanding anything herein otherwise expressed or implied, the Mortgagee shall have the right, at its option, but shall not be obligated, to pay on account of the Prior Mortgage, any or all of the amount owing with respect thereto, and any such amount so paid by the Mortgagee shall be secured hereby and shall (together with interest thereon at the Interest Rate) be a charge on the mortgaged premises, shall bear interest at the Interest Rate until paid, all such monies to be repayable to the Mortgagee on demand, or if not demanded, then repayable without demand on the date for payment of the next ensuing instalment (whether for interest or principal);
 - (e) for the purposes of tendering any arrears or other sums payable to a holder of a Prior Mortgage, the Mortgagor hereby irrevocably appoints the Mortgagee its agent for such purpose and irrevocably directs the Mortgagee to tender such monies to the holder of the Prior Mortgage in the name of and on behalf of the Mortgagor. In this regard the Mortgagor hereby assigns unto the Mortgagee its equity of redemption, if any, with respect to the said Prior Mortgage together with the statutory right of redemption given to the Mortgagor by the provisions of the Law of Property Act of Alberta. It is the intention of the Mortgagor and the Mortgagee that the Mortgagee shall have the same rights and powers as the Mortgagor under and pursuant to the terms of the Prior Mortgage so that the Mortgagee will be in a position to take whatever steps are necessary to bring the Prior Mortgage into good standing once a default has occurred thereunder. This assignment is not intended to encompass the Mortgagor's entire interest in the said Prior Mortgage, but only to the extent

hereinbefore stipulated. Nothing herein shall create an obligation upon the Mortgagee to cure any default on behalf of the Mortgagor.

23. That the waiver by the Mortgagee of the performance of any covenant, proviso, condition or agreement herein contained or implied, shall not abrogate such covenant, proviso, condition or agreement or be a waiver of any subsequent breach of the same.
24. That no extension of time given or alteration of interest rate or alteration of principal repayments made by the Mortgagee to the Mortgagor or its assigns or any one claiming under it or any other dealing by the Mortgagee with the owner of the said lands shall in any way prejudice or affect the rights of the Mortgagee against the Mortgagor or any other person.
25. That without prejudice to any rights of the Mortgagee against the Mortgagor or any other persons liable for the payment of the monies hereby secured, this mortgage may be renewed by an agreement in writing at, before or after maturity, for any term, with or without a change in the rate of interest notwithstanding that there may be subsequent mortgages or encumbrancers. It shall not be necessary to register any such agreement in order to retain priority of this mortgage provided, however, that the Mortgagee may at any time, at its option, register a caveat under and by virtue of such renewal agreement. Nothing herein shall obligate the Mortgagee to renew or extend this mortgage.
26. That the Mortgagee, without the consent of the Mortgagor, may assign in whole or in part the debt hereunder, this mortgage and any security collateral to this mortgage.
27. That the Mortgagor and each of the corporate parties providing a guarantee as more particularly set out in the Loan Agreement (hereinafter jointly called the "Guarantor") shall deliver or cause to be delivered to the Mortgagee within one hundred and twenty (120) days following the end of each fiscal year throughout the currency of this mortgage, a true and complete copy of all financial statements for the fiscal year then ended of the Mortgagor and Guarantor. Included in the financial statements of the Mortgagor and Guarantor shall be statements of income and operating expenses in respect of the improvements. The Mortgagee will be included in the mailing list of all published reports of the Mortgagor and Guarantor. The Mortgagee shall be allowed whenever it deems necessary on reasonable notice and during business hours to enter upon the offices or premises of the Mortgagor and Guarantor and inspect the books and records thereof in relation to the within property and make abstracts therefrom and generally conduct such examination of books and records as it may deem fit.
28. That the Mortgagor further covenants and agrees with the Mortgagee as follows:
 - (a) The Mortgagor acknowledges that it has been advised by its counsel as to the meaning of Sections 49 and 52 of The Expropriation Act, Revised Statutes of Alberta, 2000, and being fully aware that under the terms of the said Act the Mortgagee may be restricted to recovering the market value of this mortgage at the date of any expropriation, the Mortgagor hereby waives the provisions of Sections 49 and 52 of The Expropriation Act and further waives any provisions which may be enacted and in force from time to time in replacement of or in addition to the provisions of the said Sections 49 and 52 of The Expropriation Act;
 - (b) In the event that the said lands, or any part thereof which are secured by this mortgage are condemned or expropriated to an extent which, in the Mortgagee's sole discretion, materially affects this mortgage security or any collateral security therefor, the full amount of the principal and interest and any other monies secured by this mortgage then outstanding, shall, at the election of the Mortgagee be deemed to become due and payable in full on the day before the said lands were expropriated and interest shall accrue thereon, at the aforesaid rate, until the Mortgagee has been paid in full and the Mortgagor shall be stopped from denying otherwise;

- (c) The Mortgagor will pay or cause to be paid to the Mortgagee, upon the request of the Mortgagee and from any expropriation the whole of the proceeds thereof and if the Mortgagee elects to accelerate the term of the mortgage pursuant to subparagraph (b) above, together with such additional funds as will retire the full amount of the principal and interest and any other monies then outstanding hereunder;
 - (d) That the Mortgagor, immediately upon obtaining knowledge of the institution of any proceedings for the expropriation of the said lands or any part thereof, will notify the Mortgagee of such proceedings;
 - (e) Any monies awarded by an order of the Surface Rights Board with respect to all or any part of the said lands to the extent of the full amount of the indebtedness upon this mortgage and obligation secured hereby remaining unpaid, are hereby assigned by the Mortgagor and shall be paid forthwith to the Mortgagee, its successors and assigns.
29. That the Mortgagor, being aware of the provisions of the Law of Property Act of Alberta, being Chapter L-7 of The Revised Statutes of Alberta, 2000, as amended, whereby it is provided that in all cases, EXCEPT where a mortgage is given by a corporation, in any action brought upon any mortgage of land, the remedy of the Mortgagee is limited to the land alone, and no action shall lie on the covenant for payment contained in such mortgage, and that any waiver or release given of the rights, benefits or protection under and by virtue of the relevant provisions of the said Law of Property Act is against public policy and void, the said Mortgagor, BEING A CORPORATION does expressly agree with the Mortgagee that in the event of any default in the payment of indebtedness secured hereunder or otherwise howsoever and/or in any other security held by the Mortgagee, then the Mortgagee may proceed against the Mortgagor upon its covenant for payment, in accordance with the terms hereof, and may realize on any and all securities held by it, simultaneously or otherwise, as it in its absolute discretion may decide.
- 30.
- (a) For the purpose of this mortgage:
 - (i) "Hazardous Materials" means any hazardous substance or any pollutant or contaminant, toxic or dangerous waste, substance or material;
 - (ii) "Environmental Laws" means any laws now or hereafter in force with respect to Hazardous Materials.
 - (b) The Mortgagor warrants that to the best its knowledge:
 - (i) the mortgaged premises and the improvements thereon are free of any Hazardous Materials on, under or within;
 - (ii) no underground storage tanks system has ever been constructed, exists, or remains in use in connection with the mortgaged premises;
 - (iii) the mortgaged premises and its existing and prior uses comply and at all times did comply with, and the Mortgagor is not in violation of, and has not violated in connection with the ownership use, maintenance or operation of the mortgaged premises and the improvements thereon and the conduct of business related thereto, and applicable Environmental Laws;
 - (iv) the Mortgagor and the tenants (if any) of the mortgaged premises have operated the mortgaged premises and the improvements thereon and thereunder and have handled, used, stored, treated, shipped and disposed of all Hazardous Materials in strict compliance with all applicable Environmental Laws so that the mortgaged premises and the improvements thereon and thereunder are at all times suitable for the intended uses thereof at the time of entering into this mortgage;

- (v) none of the Mortgagor, its tenants, or any other person, including but not limited to prior owners, occupants and tenants of the mortgaged premises, have received any notice or advice of any enforcement action arising from the existence, release, emanation, discharge, leakages or seepage or escape from, through or under the mortgaged premises any Hazardous Materials in breach of Environmental Laws;
 - (vi) no condition exists, as to any parcel of property contiguous with or in close proximity to the mortgaged premises and which would require disclosure pursuant to the foregoing warranties if such other parcel or parcels of property were included in the mortgaged premises.
- (c) The Mortgagor shall cause to be conducted environmental assessments, audits and other inspections with respect to the mortgaged premises and the business of the Mortgagor and the obligation of the Mortgagee to advance funds hereunder shall be subject to the Mortgagee receiving reports satisfactory to the Mortgagee in its sole discretion and subject to the Mortgagee being satisfied in its sole discretion that there are no environmental matters that are adverse to the value of the mortgaged premises or the business of the Mortgagor.
- (d) The Mortgagor represents, covenants and warrants in favour of the Mortgagee, its successors and assigns, that:
- (i) neither the Mortgagor, nor any other person, will permit any Hazardous Materials to be placed, held, located, or disposed from, in, on, under, above or at the mortgaged premises;
 - (ii) the Mortgagor will operate its business and assets in accordance with all applicable Environmental laws and will not cause or permit any activities on the mortgaged premises which directly or indirectly could result in the mortgaged premises or any adjacent property, air, or water being contaminated with Hazardous Materials;
 - (iii) the Mortgagor will permit the Mortgagee to conduct (at Mortgagor's expense) inspections, appraisals, assessments and audits of all or any of the Mortgagor's records, business and assets at any time and from time to time to ensure compliance with the Mortgagor's covenants herein;
 - (iv) The Mortgagor will provide written notice to the Mortgagee immediately upon the Mortgagor becoming aware that the mortgaged premises or any adjacent property, water or land is being or has been contaminated with Hazardous Materials or if there has been any breach of any applicable Environmental Laws.
- (e) The Mortgagor hereby indemnifies the Mortgagee, its officers, directors, employees, agents and its shareholders and agrees to hold each of them harmless from and against any losses, liabilities, damages, costs, expenses and claims of every nature and kind whatsoever relating to any Hazardous Materials placed, held, located or disposed of in, on, under or from the mortgaged premises including without limitation, the cost of defending and/or counterclaiming or claiming against third parties in respect of any action (all on the basis as between a solicitor and his own client on a full indemnity basis) and any cost, liability or damage arising out of any action against the Mortgagee or a settlement of any action entered into by the Mortgagee (with or without the consent of the Mortgagor) which may be paid or incurred with respect to, or as a direct or indirect result of the presence in, on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the mortgaged premises or into or upon the land, the atmosphere or any water course, body of water, or wetland, of any Hazardous Materials as a result of a breach by the Mortgagor of its covenants herein set out or the breach of any Environmental Laws.

- (f) The provisions hereof shall survive the satisfaction and release of the security for, and payment and satisfaction of, the indebtedness and liability of the Mortgagor to the Mortgagee pursuant to this mortgage and shall also survive realization on the security by way of order absolute for foreclosure.
31. That each and every term, covenant and condition contained in the Loan Agreement and each and every undertaking of the Mortgagor contained in every other instrument, security, document or charge delivered to the Mortgagee pursuant to the terms of the Loan Agreement, shall be deemed to be contained herein to the same extent and effect as if recited herein in full.
32. In the event of any conflict between any provision(s) contained in this Mortgage and in any one or more of the securities which are collateral to this Mortgage or in the Loan Agreement giving rise to this Mortgage, the Loan Agreement shall prevail.
33. Default under any prior or subsequent loan of the Mortgagor or any Guarantor to the Mortgagee shall constitute a default under this loan and default under this loan shall constitute default under any prior or subsequent loan of the Mortgagor and any Guarantor to the Mortgagee.
34. It is specifically acknowledged and agreed that the within Mortgage may provide for a revolving line of credit up to the maximum principal sum of **FORTY MILLION US DOLLARS (US\$40,000,000.00)** and shall be a continuous charge notwithstanding the balance owing hereunder may be fluctuating and even may, from time to time and at any time, be or have been reduced to a nil balance and notwithstanding monies advanced may be repaid and further advanced as made and shown from time to time and such continuous mortgage and charge shall be security for the principal sum, interest and other charges due and owing hereunder from time to time. The Mortgage (being a mortgage that provides for a revolving line of credit up to a specific principal sum) shall obtain priority in accordance with Section 104 of The Land Titles Act for all advances and obligations.
36. That when the context makes it possible the word "Mortgagee" wherever it occurs in this mortgage shall include the successors and assigns of the Mortgagee and where applicable the mortgage insurer, its successors and assigns, and the word "Mortgagor" shall include the heirs, executors, administrators, successors and assigns of the Mortgagor respectively and the word "person" shall include any body corporate or politic; and the words in the singular include the plural and words in the masculine gender include females and all covenants herein contained or implied are to be construed as both joint and several; and the heirs, executors, administrators, successors and assigns of any party executing this mortgage are jointly and severally bound by the covenants, provisos and agreements herein contained or implied. Reference to any statute shall include any successor thereto.
37. That if the rate of interest payable hereunder is a variable rate of interest, reference to the "mortgage rate", "rate", "interest", "prescribed rate", "aforesaid rate" or similar terms, shall in the case of default by the Mortgagor, or in the case that the Mortgagor is liable to the Mortgagee for interest on any amount pursuant to the terms of this Mortgage, such words and phrases shall be deemed to be a reference to the rate of interest applicable to the principal sum secured hereunder on the date that interest commences to accrue hereunder, which rate of interest shall thereafter be varied on the same terms as the rate of interest applicable to the principal sum secured hereunder.
38. That if any provision of this mortgage or the application thereof to any circumstances shall be held to be invalid or unenforceable, then the remaining provisions of this mortgage, or the application thereof to other circumstances shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law.
39. **Schedules "A", "B" and "C"** are incorporated into and form a part of this Mortgage.
40. The Mortgagor acknowledges that the Mortgagee is or may act as a Trustee for one or more beneficial owners of or investors in this Mortgage and that the Mortgagor shall be under no
- KSR

obligation to disclose the identity of such beneficial owners or investors or other particulars relating to such trust.

- 41. Without limiting the generality of anything contained in this Mortgage, including Section 33 a default of the Borrower or any affiliate pursuant to any credit facility granted to it by the Mortgagee shall be a deemed default hereunder, and any default hereunder shall be deemed to be a default pursuant to the other security granted by the Borrower or its affiliate;
- 42. That it is distinctly understood and agreed that this mortgage is given and taken as additional and collateral security for the payment of the indebtedness of the Mortgagor to the Mortgagee pursuant to the Guarantee and this mortgage shall not operate as a merger of the Guarantee or of any other collateral security given with respect to the indebtedness of the Mortgagor to the Mortgagee or of any simple contract debt or in any way suspend the payment of, affect or prejudice the rights, remedies or powers, legal or equitable, which the Mortgagee may hold in connection with the Mortgage granted by the Borrower or the Guarantee or in contract debt and is taken without prejudice to any other security which may be taken by the Mortgagee in addition, by way of renewal of, or in substitution for any future bill, note, obligation or security representing the indebtedness hereby secured or any part thereof, or be deemed a payment or satisfaction of the Guarantee or the said indebtedness or any part thereof or merge therein, nor shall the taking of a judgment or other proceedings under the Guarantee or renewal thereof or substitution therefor or judgment on any other security operating as a merger of the covenants or rights herein contained; and in the event of default, the Mortgagee may proceed separately under any of the security it holds or concurrently under all such security.
- 43. All references to the "Mortgagor" herein will include Lot 11 GP Ltd. in its own capacity and as General Partner for and on behalf of Lot 11 Limited Partnership.
- 44. That for better securing to the Mortgagee repayment in the manner aforesaid of the Indebtedness and other Moneys, the Mortgagor hereby mortgages to the Mortgagee all its estate and interest in the lands above described.

IN WITNESS WHEREOF the Mortgagor has hereunto affixed its corporate seal duly attested by the hands of its proper signing officers duly authorized in that behalf the day and year first above written.

LOT 11 GP LTD.

Per:  _____

Per: _____ c/s

LOT 11 LIMITED PARTNERSHIP by its general partner, LOT 11 GP LTD.

Per:  _____

Per: _____

ADDRESS OF MORTGAGOR:

1250 Hayter Road, Edmonton, Alberta T6S 1A2

KCS

- (f) The provisions hereof shall survive the satisfaction and release of the security for, and payment and satisfaction of, the indebtedness and liability of the Mortgagor to the Mortgagee pursuant to this mortgage and shall also survive realization on the security by way of order absolute for foreclosure.
31. That each and every term, covenant and condition contained in the Loan Agreement and each and every undertaking of the Mortgagor contained in every other instrument, security, document or charge delivered to the Mortgagee pursuant to the terms of the Loan Agreement, shall be deemed to be contained herein to the same extent and effect as if recited herein in full.
32. In the event of any conflict between any provision(s) contained in this Mortgage and in any one or more of the securities which are collateral to this Mortgage or in the Loan Agreement giving rise to this Mortgage, the Loan Agreement shall prevail.
33. Default under any prior or subsequent loan of the Mortgagor or any Guarantor to the Mortgagee shall constitute a default under this loan and default under this loan shall constitute default under any prior or subsequent loan of the Mortgagor and any Guarantor to the Mortgagee.
34. It is specifically acknowledged and agreed that the within Mortgage may provide for a revolving line of credit up to the maximum principal sum of ~~ONE HUNDRED TWENTY FIVE MILLION US DOLLARS (US\$125,000,000.00)~~ and shall be a continuous charge notwithstanding the balance owing hereunder may be fluctuating and even may, from time to time and at any time, be or have been reduced to a nil balance and notwithstanding monies advanced may be repaid and further advanced as made and shown from time to time and such continuous mortgage and charge shall be security for the principal sum, interest and other charges due and owing hereunder from time to time. The Mortgage (being a mortgage that provides for a revolving line of credit up to a specific principal sum) shall obtain priority in accordance with Section 104 of The Land Titles Act for all advances and obligations.
36. That when the context makes it possible the word "Mortgagee" wherever it occurs in this mortgage shall include the successors and assigns of the Mortgagee and where applicable the mortgage insurer, its successors and assigns, and the word "Mortgagor" shall include the heirs, executors, administrators, successors and assigns of the Mortgagor respectively and the word "person" shall include any body corporate or politic; and the words in the singular include the plural and words in the masculine gender include females and all covenants herein contained or implied are to be construed as both joint and several; and the heirs, executors, administrators, successors and assigns of any party executing this mortgage are jointly and severally bound by the covenants, provisos and agreements herein contained or implied. Reference to any statute shall include any successor thereto.
37. That if the rate of interest payable hereunder is a variable rate of interest, reference to the "mortgage rate", "rate", "interest", "prescribed rate", "aforesaid rate" or similar terms, shall in the case of default by the Mortgagor, or in the case that the Mortgagor is liable to the Mortgagee for interest on any amount pursuant to the terms of this Mortgage, such words and phrases shall be deemed to be a reference to the rate of interest applicable to the principal sum secured hereunder on the date that interest commences to accrue hereunder, which rate of interest shall thereafter be varied on the same terms as the rate of interest applicable to the principal sum secured hereunder.
38. That if any provision of this mortgage or the application thereof to any circumstances shall be held to be invalid or unenforceable, then the remaining provisions of this mortgage, or the application thereof to other circumstances shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law.
39. Schedules "A", "B" and "C" are incorporated into and form a part of this Mortgage.
40. The Mortgagor acknowledges that the Mortgagee is or may act as a Trustee for one or more beneficial owners of or investors in this Mortgage and that the Mortgagor shall be under no

SCHEDULE "A"

MERIDIAN 4 RANGE 23 TOWNSHIP 53
SECTION 17
ALL THAT PORTION OF THE NORTH WEST QUARTER
WHICH LIES EAST OF THE RIGHT BANK OF THE NORTH SASKATCHEWAN RIVER
AS SHOWN ON A PLAN OF SURVEY OF THE SAID TOWNSHIP SIGNED AT EDMONTON
ON 25 APRIL, 1955 CONTAINING 45.84 HECTARES (113.26 ACRES) MORE OR LESS
EXCEPTING THEREOUT ALL MINES AND MINERALS

KEB

SCHEDULE "B"

SCHEDULE OF ADDITIONAL PROVISIONS

1. **ADDITIONAL FEES**

The following fees or any other fees, charges or costs, provided for herein, if not paid forthwith upon demand for payment being made, shall also constitute an Event of Default and shall be added to and become part of the debt hereby secured and shall bear interest at the rate set forth in this Loan Agreement.

(a) **STATEMENT FEE**

The Mortgagor shall pay for each mortgage statement requested by or on behalf of the Borrower or Covenantors and prepared and provided by the Mortgagee, a service fee of **\$200.00** plus applicable taxes.

(b) **LATE PAYMENT FEE**

The Mortgagor shall pay a late payment fee of **\$250.00** plus applicable taxes for each request made by the Borrower or Covenantors for mortgage payments that are late five (5) days or more.

(c) **ENFORCE SECURITY FEE**

In the event of an Event of Default, the Mortgagee may issue a Notice of Intention to Enforce Security under Section 244(1) of the Bankruptcy and Insolvency Act, in which event the Mortgagor shall pay a fee to the Lender of **\$750.00** plus applicable taxes.

(d) **INSURANCE FEE**

In the event that a certified copy of all policies of insurance on the mortgaged property have not been delivered to the Mortgagee within 14 days of either the cancellation of any policy of insurance, or any renewal thereof, or the Mortgagee requesting a copy of a policy of insurance, the Mortgagee shall be entitled to a service fee of **\$500.00** plus applicable taxes for each written inquiry which the Mortgagee makes to the Borrower, to an insurer or to an insurance broker pertaining to such cancellation or renewal, or resulting from the Borrower's non-performance of the within covenant. In the event that the Mortgagee arranges any insurance coverage with respect to the said mortgaged property, the Mortgagee in addition to the aforementioned service fee, shall be entitled to an additional service fee of **\$500.00** plus applicable taxes for arranging any replacement insurance coverage.

(e) **DISHONoured CHEQUES FEE**

In the event that any of the Borrower's/Mortgagor's cheques are not honoured when presented for payment to the bank or trust company on which they are drawn, the Borrower shall pay to the Mortgagee for each returned cheque a service fee of **\$200.00** plus applicable taxes plus all bank charges as a liquidated amount to reimburse the Mortgagee for its administrative costs with respect to the same. In the event that a cheque has not been honoured by the Borrower's/Mortgagor's bankers and is not forthwith replaced by the Borrower/Mortgagor, the Mortgagee shall be entitled to a further service fee of **\$100.00** plus applicable taxes for each written request made as a result of the Borrower/Mortgagor not forthwith replacing a dishonoured cheque.

(f) INSPECTION FEE

In the event that the Mortgagor requests an inspection of the Mortgaged property to be made by the Mortgagee or the Mortgagee conducts an inspection after an Event of Default by the Borrower or a Covenantor, or to preserve the security, then the Mortgagee shall be entitled to an inspection fee of \$1,000.00 plus applicable taxes for each such inspection.

2. DISCHARGE

Every discharge or partial discharge document shall be prepared by the Mortgagee or its solicitor, at a cost of the lesser of \$350.00 for each document or for each separate property. Discharge documents shall be delivered within a reasonable time after payment of the principal sum secured herein, together with accrued interest thereon, together with all outstanding fees and charges. Any payments received after 1:00 p.m. shall be deemed to have been received on the following banking day.

3. CHARGE DUE ON SALE OR FURTHER ENCUMBRANCE

In the event the Borrower sells, transfers or assigns the mortgaged property, or grants any further mortgage or encumbrance thereon without the prior written consent of the Mortgagee (such consent not to be unreasonably withheld), then, at the option of the Mortgagee, all monies hereby secured shall forthwith become due and payable. Where the Borrower is a corporation, the sale, transfer or any dealing with the shares of such corporation resulting in a change of control except pursuant to a testamentary will or the administration of an estate shall be deemed to be a sale or transfer. In the event that the Mortgagee consents to a transfer of the mortgaged property, the transferee will execute an agreement to assume the mortgage prepared by the Mortgagee at the Borrower's expense, which agreement will provide for the continued liability of the Borrower. The Borrower shall pay an assumption fee to be determined by the Mortgagee.

4. EXPROPRIATION

In the event that the mortgaged property or a substantial part thereof is expropriated by any government, government agency or government regulated entity, the Mortgagee shall, at its sole option, have the right to accelerate payment of the amounts secured by this Mortgage or any other security provided by the Borrower or any Covenantor to the Mortgagee or the Lender in connection with any amounts owing by the Borrower to the Lender and all such amounts so secured by this Mortgage shall immediately become due and payable together with all interest and other amounts secured by this Mortgage with interest thereon at the rate of interest provided in the Mortgage, until payment is made in full.

5. MORTGAGE NOT PAID WHEN DUE
INTENTIONALLY DELETED

6. FUTURE RENEWAL OR AMENDMENT

The loan described in the Loan Agreement and any security granted in connection therewith, including this Mortgage, may be renewed or amended by an agreement in writing with or without an increased rate of interest notwithstanding that there may be subsequent encumbrancers at the time of such renewal or amendment. It shall not be necessary to register any such agreement to retain priority for this Mortgage on such altered terms over any instrument registered subsequent to this Mortgage or other security granted by the Borrower or any Covenantor although the Mortgagee may require same. Any such agreement shall be effectual and binding on the Mortgagor and any such subsequent encumbrancer and shall take priority against such subsequent encumbrancer immediately upon execution by the Mortgagor. The Borrower shall pay all

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legal and administrative costs of the Mortgagee incurred in connection with any such agreement. The Mortgagor acknowledges that the provisions of this paragraph shall not confer any right of renewal on the Mortgagor.

7. OBLIGATION TO REPAIR AND RIGHT TO INSPECT

The Mortgagor covenants and agrees to keep the mortgaged property in good condition and repair according to the nature and description thereof, and the Mortgagee and the Mortgagee's agents may, whenever the Mortgagee reasonably deems it necessary, enter on and in the mortgaged property for the purpose of inspecting the same and to make any necessary repairs, including majors repairs; provided that the Mortgagee shall first advise the Mortgagor in writing of such repairs to be undertaken five (5) business days prior to any repair being commenced. The costs of such repairs and inspections shall be added to the debt secured by this Mortgage and shall be a part of the additional Mortgage on the mortgaged property in priority to all other claims against the mortgaged property subsequent to this Mortgage, and shall be payable forthwith, and shall bear interest at the Interest Rate set forth in this Mortgage until paid in full.

8. POSSESSION UPON DEFAULT

Upon default in payment of principal or interest under the Mortgage or non-performance of any of the terms and conditions herein, and such default or non-performance not being remedied within thirty (30) days of notice being given, the Mortgagee may enter into and taken possession of the mortgaged property and proceed legally under the applicable laws of Alberta to become the owner of the mortgaged property or to obtain an Order of the Court against the Borrower, the Covenantors or any of them .

9. PAYMENT OF OTHER CHARGES AND PERFORMANCE OF THEIR OBLIGATIONS BY THE LENDER

The Mortgagee may pay the amount owing on any encumbrance, priority or mortgage now or hereafter existing or which may arise or be claimed against the mortgaged property, and claiming priority over the Mortgagee's Mortgage, including any realty taxes, levies, or other rates on the said mortgaged property, and the Mortgagee may further pay all costs, charges and expenses which may be incurred in taking, recovering and keeping possession of the mortgaged property, and all solicitors' judicial and extra judicial fees or commissions for or in respect of the collection of any overdue instalments or any other monies whatsoever payable by the Mortgagor under the Mortgage, such costs to be as between solicitor and its own client, whether any action or other judicial proceeding to enforce such payment has been taken or not; and the amount so paid and the expenses of remedying a default or payment of insurance premiums for fire or other risks or hazards or for realty taxes, or for work on or repairs to the mortgaged property or for utility charges, heating costs, collection costs and any other expenses, costs or any monies paid, any or all of which shall be added to the debt secured by the Mortgage on the mortgaged property and shall bear interest at the rate of interest provided in the Mortgage, which shall be payable forthwith by the Mortgagor to the Mortgagee, and in the event of the Mortgagee paying any amount of money on the security of the mortgaged property, the Mortgagee shall be entitled to all the rights, equities and securities of the persons, entity or entities so paid and the Mortgagee is hereby authorized to retain any assignment or discharge thereof, without registration, for any period even if it is a longer period than six months if the Mortgagee deems it appropriate to do so. Furthermore, the Mortgagee may after any such payment accelerate payment of the amounts secured by the Mortgage and all such amounts secured by this Mortgage shall immediately become due and payable together with all interest and other amounts secured by this Mortgage with interest thereon at the rate of interest provided in the Mortgage, until payment is made in full.

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10. ASSIGNMENT OF RENTS, LEASES, ETC.

- (a) To further secure the indebtedness secured hereunder, the Mortgagor hereby assigns and transfers unto the Mortgagee all rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the mortgaged property or any part thereof (the "tenancies"), which may have been heretofore or may hereafter be made or agreed to, or which may be granted, it being the intention of the parties to establish an absolute transfer and assignment of all such rents, issues and profits under such tenancies and all the avails thereunder unto the Mortgagee. The Mortgagee however, until notice is sent to the tenants, acknowledges that the Mortgagor is entitled to collect the rentals of the mortgaged property.
- (b) The Mortgagor further covenants and agrees to execute and deliver at the request of the Mortgagee all further assurances and assignments with respect to such tenancies as the Mortgagee shall from time to time request, and to do all other acts with respect to such tenancies as requested by the Mortgagee.
- (c) In the event that the Mortgagee collects any payments of rent as a result of the Borrower's or any Covenantor's default, the Mortgagee shall be entitled to receive from such rent a management and servicing fee of five per cent (5%) of gross receipts received by the Mortgagee which the parties acknowledge is a just and equitable fee, and which shall be in addition to any charges or expenses incurred by the Mortgagee including fees and disbursements paid by the Mortgagee to a management company, real estate company or like person or entity retained by the Mortgagee to assist it to recover rents.
- (d) The Mortgagor covenants and agrees that no rent has been or will be paid by any person in possession of any portion of the mortgaged property in advance, and that no portion of the rents to accrue for any portion of the said mortgaged property have been or will be waived, released, reduced, discounted or otherwise discharged or compromised by the Mortgagor.
- (e) The Mortgagor will not do or omit to do any act which results in a breach of any tenancy in or upon the mortgaged property without the written consent of the Mortgagee.
- (f) The Mortgagor agrees that all leases, offers to lease, or lettings of the mortgaged property or any part thereof shall be bona fide and shall be at rates and on terms consistent with comparable space in the area of the mortgaged property, and provided further that the Mortgagor shall obtain the written consent of the Mortgagee prior to the execution of any lease, offer to lease, or any letting or tenancy agreement, such consent not to be unreasonably withheld.
- (g) Any entry upon the mortgaged property under the terms of this Mortgage shall not constitute the Mortgagee to be a Mortgagee in Possession in contemplation of law and the Mortgagee shall not become liable to account to the Mortgagor or to credit the Mortgagor with any monies on account of the Mortgage except those which shall come into its hands or into the hands of any agents appointed by it; and neither shall the Mortgagee be liable for failure to collect rents or revenues, it being agreed that the Mortgagee shall be under no obligation to take any action or proceeding or exercise any remedy for the collection or recovery of rents and revenues, or any part thereof, and then only, subject to all appropriate deductions and payments made out of the rents and revenues received from the mortgaged property as herein provided; nor shall the Mortgagee be liable to remedy any environmental contamination of the mortgaged property or to indemnify any party on account of the need to remedy an environmental contamination.
- (h) This assignment is taken only as additional security and neither the taking of this assignment nor any act in pursuance hereof shall make the Mortgagee liable in

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any way, as landlord or otherwise, for the performance or any covenants, obligations or liabilities under any lease, agreement to lease, letting or tenancy agreement.

11. APPOINTMENT OF RECEIVER

- (a) Any time after default hereunder the Mortgagee may in writing from time to time appoint a Receiver of the mortgaged property and may from time to time remove the said Receiver and appoint another in its stead, and any such Receiver appointed hereunder shall have the following powers:
 - (i) To take possession of the mortgaged property and to collect revenues from the same and for such purpose to enter onto or into the mortgaged property and for such purpose to do any act and take any proceedings in the name of the Mortgagor or otherwise as it shall deem necessary.
 - (ii) To carry on or concur in carrying on the business of the Mortgagor, and to employ and discharge agents, workers, accountants and others upon such terms and with such salaries, wages or remuneration as it shall think proper, and to repair and keep in repair the mortgaged property and to do any acts it deems appropriate for the carrying on of the business of the Mortgagor and the protection of the said mortgaged property.
 - (iii) To sell or lease or concur in the selling or the leasing of the mortgaged property, or any part thereof, and to carry any such sale or lease into effect by conveying in the name of or on behalf of the Mortgagor or otherwise; and any such sale may be made either at public auction or private sale as seen fit by the Receiver and any such sale may be made from time to time as to the whole or any part of parts of the mortgaged property; and the Receiver may make any stipulations as to matters of title or conveyance or the commencement of title or otherwise, as it shall deem proper; and it may buy or rescind or vary any contract for the sale of any part of the mortgaged property and it may resell the same; and it may sell any of the mortgaged property on such terms as to credit or part cash and part credit or otherwise as shall appear in its sole option to be most advantageous and at such prices as can reasonably be obtained therefor and in the event of a sale on credit neither it nor the Mortgagee shall be accountable for or charged with any monies until actually received by them.
 - (iv) To make any arrangement or compromise which the Receiver may think expedient or otherwise in the interest of the Mortgagee and to consent to any modification or change in or omission from the provisions of this Mortgage and to exchange any part or parts of the mortgaged property for any other property suitable for the purposes of the Mortgagee and upon such terms as may seem expedient and either with or without payment or exchange of money or with or without regard to the equality of the exchange or otherwise.
 - (v) To borrow money to carry on the business of the Mortgagor and to charge the whole or any part of the mortgaged property in such amounts as the Receiver may from time to time deem necessary and in so doing the Receiver may issue certificates that may be payable when the Receiver thinks expedient and shall bear interest as stated therein and the amounts from time to time payable under such certificates shall charge the mortgaged property in priority to this Mortgage.
 - (vi) To execute and prosecute all suits, proceedings and actions which the Receiver in its discretion considers necessary for the protection of the mortgaged property, to defend all suits, proceedings and actions against

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the Borrower or the Receiver, to appear in and conduct the prosecution and defence of any suit, proceeding or action then pending or thereafter instituted and to appeal any suit, proceeding or action.

- (vii) To execute and deliver to the purchaser of any part or parts of the mortgaged property, good and sufficient transfers for the same, the Receiver hereby being constituted the irrevocable attorney of the Borrower for the purpose of making such sale and executing such transfer, and any such sale made as aforesaid shall be a perpetual bar both in law and equity against the Mortgagor, and all other persons claiming the said property or any part or parts thereof by, from, through or under the Mortgagor, and the proceeds of any such sale shall be distributed in the manner hereinafter provided.
- (b) And it is agreed that no purchaser at any sale purporting to be made in pursuance of the aforesaid power shall be bound or concerned to see or inquire into whether any default has been made or continues, or whether any notice has been given, or as to the necessity or expediency of any stipulations subject to which such sale shall have been made, or otherwise as to the propriety of such sale or to the regularity of its proceedings, or the effect of not giving a notice that default has been made or continues, or that any required notice was not given, or that the sale is otherwise unnecessary, or improper or irregular; and notwithstanding any impropriety or irregularity or notice, or failure to give notice or the failure to do any act, shall not effect the effectiveness or propriety of any sale to a purchaser and such sale shall be deemed to be within the power of the Receiver and the Mortgagee and shall be a valid sale and the remedy if any of the Borrower, or of any party claiming by or under it, in respect of any alleged impropriety or irregularity whatsoever in any such sale shall be in damages only against a party other than the purchaser.
- (c) The net profits of the business of the Mortgagor or the sale of the same and the net proceeds of the sale of the mortgaged property or any part thereof shall be applied by the Receiver subject to the claims of any creditors ranking in priority to this Mortgagee's Rights and subject to any order of a court of competent jurisdiction:
 - (i) Firstly, in payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise by it of all or any of the powers aforesaid including the reasonable remuneration of the Receiver and all amounts properly payable by it;
 - (ii) Secondly, in payment of all costs, charges and expenses payable under the Mortgage;
 - (iii) Thirdly, in payment to the Mortgagee of all interest and arrears of interest;
 - (iv) Fourthly, in payment of the principal sum owing under the Mortgage;
 - (v) Fifthly, in payment to the Mortgagee of any other fees, expenses and other monies remaining unpaid under the Mortgage; and
 - (vi) Sixthly, any surplus shall be paid to the Mortgagor; provided that in the event that any party claims a security interest against all or a portion of the surplus, the Receiver shall make such disposition of all or a portion of the surplus to the claimant as the Receiver deems appropriate in the circumstances with the balance, if any then remaining, to the Mortgagor.
- (d) The Lender shall not be liable to the Receiver for its remuneration, costs, charges or expenses, and the Receiver shall not be liable for any loss howsoever arising unless the same shall be caused by its own gross negligence or willful

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default; and it shall, when so appointed, by notice in writing pursuant hereto, be deemed to be the agent of the Mortgagor and the later shall be solely responsible for its acts and defaults and for its remuneration.

- (e) Nothing shall obligate the Mortgagee or the Receiver to take possession, control or manage any property which may be or contain a pollutant or contaminant or cause or contribute to a discharge, release or deposit of a substance contrary to any applicable environmental legislation or, the regulations thereunder. Provided further that the Receiver shall not be or deemed to be a successor employer of the Mortgagor or any employer in or upon the mortgaged property under any legislation or agreement.

12. POSTPONEMENT OF CLAIMS BY GUARANTOR

All indebtedness and liability, present and future, of the Borrower to the Covenantor is hereby assigned to the Mortgagee and postponed to the repayment of all the monies secured by the within Mortgage, and all monies received by Covenantor in respect thereof shall be received in trust for the Mortgagee, the whole without limiting or lessening the liabilities of the Covenantors under their guarantees or any other security, and this assignment and postponement is independent of the said guarantees and shall remain in full effect until repayment in full to the Mortgagee of the monies secured by the Mortgage notwithstanding that the liabilities of the Covenantors under the within guarantees may have been discharged or terminated. All Covenantors and the Borrower acknowledge the assignment to the Mortgagee as set forth herein provided that nothing shall impose upon the Mortgagee any obligation to do anything to realize on the assigned debts and claims or to ensure that those debts or claims do not become statute barred by the operation of law relating to limitation of actions or otherwise.

13. INSURANCE

- (a) The Mortgagor covenants and agrees, notwithstanding anything herein contained, that at all times during the term of this Mortgage, the Mortgagor shall maintain the following insurance coverage on all improvements on the mortgaged property and with respect to the mortgaged property in general, and where applicable, the business conducted by the Mortgagor on and in the mortgaged property in accordance with requirements of the Mortgage, including:
 - (i) "All Risk" coverage with "By-laws" coverage in an amount satisfactory to the Mortgagee and including the endorsements for conflict, encumbrance, fire department service charges, environmental risk, immediate repairs, loss of control, debris removal, permission to enter and repair, release and subrogation, re-instatement of loss and unearned premium, waiver of terms and conditions and joint loss agreement;
 - (ii) where the mortgaged property is of a commercial or industrial nature, a comprehensive broad form boiler and machinery coverage on all electrical, mechanical and compression in an amount satisfactory to the Mortgagee;
 - (iii) comprehensive public liability coverage for personal injury, death, property damage or loss in an amount of not less than \$5,000,000 for each occurrence, or such other amount as the Mortgagee may stipulate in writing from time to time, for each occurrence; and
 - (iv) where a business is conducted at the Mortgaged property or there are tenants thereon, the insurance policy shall include business interruption or rental loss coverage on an insurable gross rents basis sufficient to cover 100% of the greater of the fair market value of the rents payable by

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the aforesaid business in a property comparable to the Mortgaged property or the actual gross annual rents payable for the Mortgaged property and, where the rents are on a fully net basis, on the equivalent gross rents for the same period.

- (b) The Mortgagor covenants with the Mortgagee to:
- (i) pay all insurance premiums for all insurance coverage when such premiums are due and payable;
 - (ii) to maintain authorization with current and any subsequent insurer to provide the Mortgagee with any information concerning the insurance coverage.
- (c) The Mortgagor covenants with the Mortgagee that all insurance policies shall:
- (i) be endorsed to show the Mortgagee as a loss payee as the Mortgagee's interests may appear and such policies shall provide that any loss shall be payable to the Mortgagee as the Mortgagee's interest may appear;
 - (ii) be with an insurer or insurers acceptable to the Mortgagee, acting reasonably, and each such policy shall be signed by the insurer or insurers, or agents or brokers authorized to sign on behalf of each insurer;
 - (iii) be without co-insurance or have a stated or stipulated amount co-insurance clause for an amount equal to or less than the policy limit;
 - (iv) grant permission of partial occupancy and stipulate that reconstruction shall not be limited to the same site;
 - (v) include a provision that the insurer shall give the Mortgagee a minimum thirty (30) days written notice of any material alteration to or cancellation of the policy and a minimum ten (10) days advice as to the renewal of the policy prior to the renewal;
 - (vi) contain standard approved IBC "standard mortgagee" clauses in favour of the Mortgagee approved by the Mortgagee;
 - (vii) contain By-laws coverage satisfactory to the Mortgagee.;
- (d) Notwithstanding anything contained in the Loan Agreement or this Mortgage, the Mortgagor covenants and agrees with the Mortgagee to obtain and maintain such other form or forms of insurance, including environmental liability coverage, as the Mortgagee may deem prudent, acting reasonably, upon written request therefore made by the Mortgagee.
- (e) The Mortgagor covenants with the Mortgagee to, on written request made therefore, deliver to the Mortgagee, at the Mortgagor's expense, a certificate, opinion or other satisfactory report prepared by a competent appraiser or independent insurance consultant selected by the Mortgagee as to the sufficiency or otherwise of any insurance coverage, and as to the type and amount thereof.
- (f) The Mortgagor agrees that any deviation from the requirements set forth in the Loan Agreement and the Mortgage for insurance coverage must be approved by the Mortgagee in writing, such approval not to be unreasonably withheld.
- (g) The Mortgagor covenants that the Mortgagor shall, forthwith on the written request of the Mortgagee, provide the Mortgagee with a certified copy of every insurance policy aforesaid, and on request, copies of any and all receipts of payment of insurance premiums therefore and the Mortgagor acknowledges and agrees that the Mortgagee shall have a hypothec on the proceeds of all the aforesaid insurance policies for all these amounts.

- (h) The Mortgagor covenants that, forthwith on the happening of any loss or damage, the Mortgagor shall furnish to the Mortgagee, at the Mortgagor's expense, all necessary information and proofs of loss and do all necessary acts to enable the Mortgagee to obtain payment of the insurance proceeds.
- (i) Any insurance proceeds received may, at the Mortgagee's option, be applied to rebuilding, reinstating or repairing the mortgaged property or to be paid to the Mortgagor or any other person appearing by the registered title to be the owner of the mortgaged property or be applied or partly paid in one way and partly in another, or it may be applied, in the sole discretion of the Mortgagee, in whole or in part on account of the amounts secured by this Mortgage, whether due or not then due.
- (j) The Mortgagor acknowledges and agrees that in the event that the Mortgagee takes out insurance coverage in respect of the mortgaged property for the aforementioned specified risks, or any other risks the Mortgagee shall not be bound to insure the interest of any other person whatsoever, or to pay any insurance premium on any insurance policy, or be responsible for any loss arising out of any defect in any insurance policy or failure of any insurer to pay for any loss thereunder.

14. REALTY TAXES

- (a) Realty taxes shall mean and include all taxes, rates, levies and assessments of whatever nature or kind, including local improvement rates and any and all interest and penalties thereon.
- (b) At the Mortgagee's request, the Mortgagor in addition to the aforesaid payments of principal and interest, covenants and agrees to pay realty taxes as hereinafter provided; the Mortgagee shall estimate the amount of the realty taxes chargeable against the said Mortgaged property payable in each year and the Mortgagor shall pay to the Mortgagee one-twelfth of the estimated annual amount together with the aforesaid payments of principal and interest in each and every month during the term of this Mortgage, commencing with the first payment date aforesaid and the Mortgagee shall apply such payments on account of the realty taxes so long as the Borrower and Covenantors are not in default under the Loan Agreement or any security entered into in connection therewith, but nothing herein contained shall obligate the Mortgagee to apply such payments on account of the realty taxes more often than yearly; provided, however, that if the Borrower shall pay any sum or sums to the Mortgagee to apply on the realty taxes, and if before the same shall have been so applied there shall be default by the Borrower in respect of any payment of principal or interest as contemplated in the Loan Agreement, the Mortgagee may at its option apply such sum or sums in or towards payments of the principal and/or interest in default. In the event that the realty taxes actually charged for any one year, together with any interest and penalties thereon, exceed the estimated amount, the Mortgagor shall pay to the Mortgagee on demand the amount required to make up the deficiency; and if the Mortgagor desires to take advantage of any discounts or to avoid any penalties in connection with the payment of realty taxes, the Mortgagor may pay to the Mortgagee such additional amounts as are required for that purpose; and the Mortgagor shall transmit to the Mortgagee forthwith after receiving them, the assessment notices for the realty taxes upon the mortgaged property.
- (c) In the event that the Mortgagee does not collect realty taxes from the Mortgagor as aforementioned, the Borrower shall upon demand, deliver to the Mortgagee proof in a form satisfactory to the Mortgagee that the realty taxes have been paid in full for the prior calendar year, and if the proof of same is not delivered to the Mortgagee within 14 days of demand for the same having been made, the Mortgagee may in addition to any other rights contained in the Mortgage, charge

a service fee of \$200.00 to the Mortgagor for each letter of demand mailed or delivered to the Mortgagor by the Mortgagee or on its behalf, for proof of payment of realty taxes, and the same for each enquiry made to the appropriate municipal realty tax department, which amount is a liquidated amount to cover the Mortgagee's administrative charges, and is not a penalty.

- (d) The Mortgagee may, unless payment has otherwise been made, deduct from the loan advances, the amount necessary to pay the current year's realty taxes and an amount which together with the monthly tax payments to be made to and including April of the following calendar year, will be sufficient to pay all the taxes for the following calendar year.
- (e) No monies paid to the Mortgagee pursuant to the provisions of this section shall be held in trust for or bear interest to the credit of the Borrower or any Covenantor.
- (f) In the event that the Mortgagor has not remitted realty tax instalments to the Mortgagee in an amount enabling the Mortgagee to maintain the realty taxes on the Mortgaged property in good standing, the Mortgagor shall at its own expense deliver to the Mortgagee on or before the 31st day of July in each year during the term of the loan contemplated in the Loan Agreement, or any renewal thereof, proof in a form satisfactory to the Mortgagee, such as a certificate of realty tax payment or cancelled cheques, that the realty taxes for the said calendar year have been paid in full. In the event that such proof is not delivered to the Mortgagee as aforementioned the Mortgagee shall be entitled to a service fee of \$200.00 plus applicable taxes for each request to the Mortgagor for such proof that is made by the Mortgagee acting reasonably, and further the failure to provide the aforementioned evidence shall constitute an act of default entitling the Mortgagee to pursue all legal remedies and to exercise any powers conferred by this Mortgage.
- (g) The within realty tax section is in addition to and without prejudice to the other provisions of the within Mortgage in regard to realty taxes.

15. POST-DATED CHEQUES

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16. BANKRUPTCY AND INSOLVENCY

- (a) The Mortgagor hereby waives and releases any right that it may have to receive from the Mortgagee notice of intention to enforce security pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act (Canada)* or any successor or substitute section or legislation. This waiver and release shall not be deemed or interpreted to be a prior consent to earlier enforcement of a security within the meaning of subsection 244(2.1) of the said Act.
- (b) The Mortgagor hereby acknowledges and agrees that the security held by the Mortgagee is not all or substantially all of the inventory, accounts receivable or other property of the Mortgagor acquired for or used in relation to any business carried on by the Mortgagor. The Mortgagor hereby further acknowledges and agrees that notwithstanding any act of the Mortgagee by way of appointment of any person or persons for the purposes of taking possession of the mortgaged property as agent on behalf of the Mortgagor or otherwise or by taking possession of the mortgaged property itself pursuant to any rights that the Mortgagee may have with respect hereto shall not constitute the Mortgagee or any such person, a receiver within the meaning of subsection 243(2) of the *Bankruptcy and Insolvency Act (Canada)* or any successor or substitute provision, and that any and all requirements of Part XI of that said Act as it may pertain to obligations of receivers shall not be applicable to the Mortgagee with respect to the transaction pursuant to which this Mortgage has been given or enforcement of this Mortgage or any other security held by the Mortgagee. The Mortgagor hereby acknowledges and agrees that no action shall lie against the Mortgagee as a receiver, manager or otherwise for any loss or damage arising from non-compliance with any obligations of a receiver pursuant to the provisions of the *Bankruptcy and Insolvency Act (Canada)* or any successor or substitute Federal or Provincial legislation, whether or not the Mortgagee had reasonable grounds to believe that the Mortgagor was not insolvent.
- (c) And the Mortgagor further acknowledges and agrees that any and all costs as may be incurred from time to time by the Mortgagee in order to effect compliance or avoid any adverse ramifications of the *Bankruptcy and Insolvency Act (Canada)* or any successor or substitute Federal or Provincial legislation shall be entirely for the account of the Mortgagor. The Mortgagee shall be entitled to incur any such costs, including any costs of its personnel in administering any requirements of the *Bankruptcy and Insolvency Act (Canada)* and to add the same to the indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Mortgagee for the indebtedness owing to the Mortgagee in the same manner and in the same priority as the principal secured hereunder.

17. RESIDENTIAL RENTAL PROPERTIES

- (a) The Mortgagor represents and warrants that with respect to such of the mortgaged property as may be residential rental property:
 - (i) All rents charged and deposits taken with respect to the property or any part thereof are lawful rents pursuant to the *Residential Tenancies Act (Alberta)* and all required rebates have been paid;
 - (ii) No applications, investigations or proceedings have been commenced or made pursuant to the *Residential Tenancies Act (Alberta)* with respect to the property or any residential rental unit or units on the mortgaged property.

- (iii) There are no outstanding orders or decisions made by the Province of Alberta or any board or commission with respect to the mortgaged property or any residential rental unit or units on the mortgaged property.
- (b) The Mortgagor agrees to comply with the terms of the *Residential Tenancies Act (Alberta)* as amended from time to time, and any legislation enacted in substitution thereof. In the event of breach of this covenant or in the event that any of the representations are warranties contained in this provision are false, the same shall constitute an Event of Default.

18. EVENTS OF DEFAULT

- (a) The Mortgagor covenants and agrees that notwithstanding any other provision in this Mortgage, the Mortgagee may deem this Mortgage to be in default in the event that the Mortgagor does or becomes subject to any of the following which is deemed to be an Event of Default:
 - (i) the Borrower fails to make a payment in accordance with Loan Agreement;
 - (ii) the Mortgagor fails to make any other payment required to be made under the Mortgage;
 - (iii) permits any other amount which is secured by this Mortgage, or any taxes, public utilities accounts or insurance premiums which are due and payable under this Mortgage, or otherwise due and payable by the Mortgagor and not in dispute, to remain unpaid after the Mortgagee has made written demand for payment thereof;
 - (iv) fails to insure the mortgaged property in accordance with the Mortgage;
 - (v) fails to observe or perform any covenant or agreement contained in this Mortgage;
 - (vi) makes any warranty or representation to the Mortgagee which is untrue in any material respect;
 - (vii) permits any lien, encumbrance or other claim capable of ranking in priority to the security created in favour of the Mortgagee to be recorded or registered against the mortgaged property which is not removed or satisfied in full within thirty (30) days of such recording or registration;
 - (viii) causes or permits any order to be made or any resolution to be passed or adopted, or any petition to be filed for the winding-up of the Mortgagor;
 - (ix) becomes insolvent, commits an act of bankruptcy, or if a petition in bankruptcy is filed against the Mortgagor which is not being disputed in good faith by the Mortgagor, or a proposal made by the Mortgagor under the *Bankruptcy and Insolvency Act (Canada)* is rejected by creditors;
 - (x) causes or permits a "stay order" to be issued pursuant to the *Companies Creditors Arrangement Act (Canada)* which prohibits the Mortgagee from enforcing this Mortgage;
 - (xi) is the subject of any execution, sequestration or any other judicial process, or any distress or similar process levied on the mortgaged property or against the Mortgagee which is not, in good faith, being disputed by the Mortgagor;
 - (xii) fails or refuses to comply with any term, condition or proviso of the Mortgage or any other security required pursuant to it;
 - (xiii) has made any material misrepresentation to the Mortgagee in any environmental proviso contained in the Mortgage or if there is any

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hazardous material, or environmental contamination, which, in the opinion of the Mortgagee, may reduce the market value of the mortgaged property;

- (xiv) commits or permits the commission of an event of default under any other security, priority or collateral security given or granted by it or the Borrower or any Covenantor to the Mortgagee pursuant to the terms and conditions of the Loan Agreement;
 - (xv) where the Mortgagor is a corporation, and there is a change in control of the Mortgagor without the prior written consent of the Mortgagee or the Mortgagor fails to maintain its corporate existence;
 - (xvi) permits the termination or surrender of any lease or tenancy agreement of the mortgaged property or any part thereof which has been assigned to the Mortgagee as collateral security, or permits any reduction in the term or rent of any such lease or tenancy agreement affecting the mortgaged property without the prior written consent of the Mortgagee;
 - (xvii) fails to negotiate with respect to, or renew, extend, modify or amend any lease or tenancy agreement affecting the mortgaged property in good faith, acting as a prudent landlord;
 - (xviii) neglects to keep the mortgaged property substantially in good condition and repair as aforesaid, or commits any act of waste, the determination of which the Mortgagee shall be the sole judge, acting reasonably, or allows any improvements on the mortgaged property to remain unfinished or without any work being done thereon for thirty (30) days;
 - (xix) permits or causes waste to the mortgaged property or otherwise causes or permits, by any act or omission, the value of the mortgaged property to decline;
 - (xx) abandons the mortgaged property or a substantial portion thereof, either physically or constructively, or otherwise leaves the mortgaged property vacant for more than ten (10) days;
 - (xxi) fails to comply with all applicable building, zoning and other municipal by-laws, statutory requirements and regulations (save and except for any such non-compliance which is, in good faith, contested by the Mortgagor with the municipality or other body having jurisdiction until the final disposition thereof against the Mortgagor);
 - (xxii) fails to comply with all applicable laws, regulations and by-laws which apply to the ownership, maintenance, repair, use and occupation of the mortgaged property;
 - (xxiii) commits or permits the commission of criminal activities on, in or under the mortgaged property.
 - (xxiv) fails to comply with any provision of any applicable law, regulation or governmental or quasi-governmental order or decree or the Mortgage;
- (b) On the occurrence of any Event of Default, the Mortgagee may at its sole option accelerate payment of the amounts secured by this Mortgage and all such amounts secured by this Mortgage shall immediately become due and payable together with all interest and other amounts secured by this Mortgage with interest thereon at the rate of interest provided in the Mortgage, until payment is made in full.

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- (c) Every Event of Default entitles the Mortgagee to exercise any and all rights and remedies available to it.
- (d) The Mortgagee may waive any Event of Default in writing at any time after the occurrence of such Event of Default; provided that any such waiver shall apply only to the particular Event of Default waived by the Mortgagee, and shall not operate as a general waiver or a waiver of any other or future Event of Default.

19. LOAN AGREEMENT

For the purpose of this Schedule, the Loan Agreement shall include any commitment to fund or to lend predating the Mortgage, including any document to which this Schedule has been attached.

20. RECOURSE

The Borrower covenants and agrees that on the occurrence of an Event of Default hereunder, the Mortgagee and Lender may, exact payment of all amounts due and exercise the rights granted to the Lender under the Loan Agreement and the Mortgagee under the Mortgage and otherwise pursuant to the laws of Alberta.

21. SECURITY INTEREST IN CHATTELS

- (a) All chattels, equipment, installations, erections, structures and improvements, fixed or otherwise, now or hereafter put upon the said mortgaged property and owned by the Mortgagor, including, but without limiting the generality of the foregoing, all drapes and curtains, lobby furniture, refrigerators, stoves, washers, dryers, heating equipment, air-conditioning and ventilation equipment, blinds, storm windows and doors, window screens, mirrors, shelving, railings, counters, cupboards, built-ins and the like, and all apparatus and equipment appurtenant thereto are and shall in addition to other fixtures be an accession to the freehold and a part of the realty, and shall be a portion of the security for the indebtedness contained in the Loan Agreement and the Mortgage.
- (b) The Mortgagor covenants and agrees to execute and deliver to the Mortgagee, on demand, a security interest in all such chattels, furnishings, equipment, appliances and all other similar personal property owned now or in the future owned by the Mortgagor and situate in or about the Mortgaged property. The form and content of such security interest shall be acceptable to the Mortgagee in its discretion. The Mortgagor agrees to pay all legal and other expenses incurred by the Mortgagee in connection with the registration of a financing statements under the *Personal Property Security Act (Alberta)* and replacement or successor legislation and all other documents relating to the security interest and any renewals thereof forthwith upon demand and such fees and expenses, together with interest thereon at the interest rate charged hereunder, paid forthwith by the Mortgagor and treated as Additional Fees as provided in Section 1 herein.

22. SPOUSAL CLAUSE

The Mortgagor covenants that it or the owner from time to time of the said mortgaged property that is not a corporation, will advise and keep advised the Mortgagee as to whether the Mortgagor or owner from time to time is a spouse and, if so, the name of the spouse; and further will advise and keep advised the Mortgagee of any change in spousal status and will forthwith, upon request, furnish the Mortgagee with such evidence in connection with spousal status and the name of the spouse, as the Mortgagee may from time to time require or request.

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23. STRATA LOT PROVISIONS

- (a) The Mortgagor shall deliver to the Mortgagee written notice of every meeting of the owners at least ten (10) business days prior to such meeting, such notice to specify the information required by law and declaration with respect to the giving of such notices.
- (b) The Mortgagor shall deliver to the Mortgagee copies of any or all of the strata corporation's current declaration, by-laws, regulations and rules and copies of all notices, minutes, resolutions, accounts, insurance policies, warranties, plans, list of assets of the strata corporation, all agreements relating to the management, operation, maintenance and repair of the mortgaged property, all financial records of the strata corporation relating to the operation of the strata corporation or the mortgaged property, budgets and other documents relating to the financial statements and to the affairs of the condominium corporation as the Mortgagor may receive from time to time, within ten (10) business days of the date that written notice is given to the Mortgagor requesting same.

24. INTEREST ONLY MONTHLY

Intentionally Deleted.

25. FURTHER ASSURANCES

The Mortgagor shall execute such further assurances of the mortgaged property and execute and deliver such collateral security and do such further acts as the Mortgagee may require to further perfect and secure this Mortgage and, in the event of default, the Mortgagor shall execute and deliver such further assurances and do such further acts, at the Mortgagor's expense, as may be required by the Mortgagee.

26. VALIDITY OF PROVISIONS

If any provision of the Loan Agreement or the Mortgage is held to any extent invalid or unenforceable, such provision shall be deemed to be severed herefrom and the remainder of the Loan Agreement or the Mortgage, as the case may be, other than a provision which is held invalid or unenforceable, will be unaffected.

27. INTERPRETATION

- (a) In the event of any conflict or inconsistency between the terms and conditions of this Schedule and the provisions of the balance of the Mortgage, to the extent permitted at law, the terms and conditions most favourable to the Mortgagee shall take priority and be applicable.
- (b) Any reference in the standard mortgage terms forming part of this Mortgage to the *Condominium Property Act (Alberta)* shall be interpreted as a reference to the *Condominium Property Act (Alberta)* as amended from time to time. If all or a portion of the mortgaged property is now or hereafter part of a strata plan, then to the fullest extent permitted by law, the Mortgagor irrevocably authorizes the Mortgagee to exercise any right that the Mortgagor may have pursuant to the by-laws of the strata corporation formed by the owners of strata lots in such strata plan and any right that the Mortgagor may have pursuant to the *Condominium Property Act (Alberta)* by the Mortgagee shall not be obligated to exercise any such right and if the Mortgagee does not exercise any such right the Mortgagor may do so.
- (c) Without limiting the generality of any other obligation of the Mortgagor to the Mortgagee, the Mortgagor will comply with all of the Mortgagor's obligations relating to the mortgaged property under any applicable law including, without

limitation, the Mortgagor's obligations under the *Condominium Property Act (Alberta)*.

- (d) The taking of judgment or judgments on any of the covenants herein contained shall not operate as a merger of such covenants or affect the Mortgagee's right to interest at the rates and times herein provided. Any such judgment shall provide that interest thereon shall be computed at the same rates and in the same manner as herein provided until the said judgment shall have been fully paid and satisfied.
- (e) This Mortgage shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and each of the parties submits to the jurisdiction of the courts of Edmonton, Alberta with respect to this Mortgage.
- (f) When used herein, "Covenantor" includes all guarantors described in the Loan Agreement.

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SCHEDULE "C"

MEMORANDUM OF PERMITTED PRIOR ENCUMBRANCES

5065KI	Utility Right of Way
5741RI	Caveat re Easement
942 024 246	Utility Right of Way
062 567 270	Caveat re Easement etc.
072 178 344	Discharge of Utility Right of Way
072 588 848	Utility Right of Way
082 014 748	Restrictive Covenant
082 124 683	Restrictive Covenant
082 124 690	Easement
082 124 692	Caveat re Easement
082 412 290	Caveat re Right of First Refusal
092 048 599	Easement
092 236 386	Caveat re Right of Way Agreement
112 318 970	Caveat re Right of Way Agreement
132 252 285	Caveat re Easement
132 283 373	Caveat re Deferred Reserve
132 283 380	Caveat re Easement and Restrictive Covenant
132 335 491	Mortgage in favour of Romspen Investment Corporation
132 335 492	Caveat re Assignment of Leases and Rents in favour of Romspen Investment Corporation.

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This is **Exhibit "B"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

GENERAL SECURITY AGREEMENT

Dated this 17 day of April, 2018.

The Debtor enters into this Agreement in favour of the Creditor as security for the payment and satisfaction of the Indebtedness, and the Debtor covenants, agrees, represents, warrants, acknowledges and grants in favour of the Creditor, as the case may be, as herein provided.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

For the purpose of this Agreement and any Schedules hereto:

- (1) any expression used herein whose first letter is capitalized shall (unless specifically defined in this Agreement) where defined in the Act have such meaning, notwithstanding that such first letter is not capitalized in the Act;
- (2) the following expressions used herein shall have the following meanings:
 - (a) "Act" - the Personal Property Security Act of Alberta and all regulations thereto, as amended from time to time or any substitution therefor;
 - (b) "Account Debtor" or "Account Debtors" - shall have the meaning given to them in Section 7 hereof;
 - (c) "Collateral" - shall have the meaning given to it in Section 2 hereof and shall include the whole or any part or parts thereof as the Creditor requires;
 - (d) "Court" - a court of competent jurisdiction;
 - (e) "Creditor" - **ROMSPEN INVESTMENT CORPORATION**, 162 Cumberland Street, Suite 300, Toronto, ON M5R 3N5;
 - (f) "Debtor" - collectively, LOT 11 LIMITED PARTNERSHIP and LOT 11 GP LTD.;
 - (g) "Debts" - all book accounts and book debts and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit and advices of credit, which are now due, payable, owing or accruing due to or owned by or which may hereafter become due, payable, owing or accruing due to or owned by the Debtor;
 - (h) "Default" or "Event of Default" - the occurrence of any event or condition provided for in Section 11 hereof;
 - (i) "Encumbrance" - a charge approved in writing by Creditor ranking in priority to the Security Interest;
 - (j) "Free and Clear" - Free and Clear of all liens, mortgages, security interests, demands, charges, pledges, encumbrances, equities, and adverse claims whatsoever, except for Encumbrances;
 - (k) "Indebtedness" shall be interpreted in its most comprehensive sense, whether incurred prior to, at the time of or subsequent to the entering into of this Agreement and without limiting its generality, shall include any and all Advances (whether fixed or revolving credits or otherwise) or other value and interest thereon at any time and from time to time made or granted by or on behalf of Creditor to or on behalf or on account of or at the direction of Debtor, and for the payment or satisfaction of all

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obligations, indebtedness or liabilities and interest thereon of Debtor to or in favour of Creditor, or for which Creditor may become responsible, whether direct, indirect, absolute, contingent or otherwise, present or future, extended or renewed, insured or not, voluntary or involuntary, matured or not, liquidated or unliquidated, wheresoever and howsoever incurred and any ultimate balance thereof and whether the same is from time to time reduced and thereafter incurred again, and whether Debtor may be liable individually or jointly with others, and whether as principal or surety or guarantor, and whether recovery upon such Indebtedness may be or hereafter become barred or unenforceable, and whether incurred by or arising from agreement, letters of credit (whether or not drawn upon), guarantee or dealings between Creditor and Debtor or others or by or from any agreement, letters of credit (whether or not drawn upon), guarantee or dealings within or outside the country with any third party or however otherwise incurred, and all interest, commission, costs, including without limitation legal costs of Creditor on a solicitor and his own client basis, charges and expenses of every nature and kind whatsoever (inclusive of those provided for in Section 13.6 hereof) which may be incurred, arise from or relate to the Indebtedness or the Collateral by which Creditor may be or become in any manner whatsoever a creditor of Debtor;

(l) "Security Interest" - the Security Interest granted under Section 2 hereof.

1.2 Number and Gender

Words importing the singular number shall include the plural and vice versa, words importing any gender shall include all genders, and "person" and words importing persons shall include natural persons, firms, partnerships, corporations, regulatory bodies and entities, legal or otherwise; "Agreement" or "hereof", "hereto", "herein", when used in this Agreement and any attached Schedules refer to this Agreement and to any Schedules attached hereto and not to any particular Sections, paragraphs sub-paragraphs or other portion hereof, and including any and every instrument supplemental hereto; and any reference to a paragraph, subparagraph or section by number of letter of the alphabet means the appropriate paragraph, subparagraph, or Section of this Agreement unless the context otherwise requires; and any reference to a Schedule by number of letter of the alphabet means the appropriate Schedule attached to this Agreement; the use of the term "contract" or "contracts" shall include verbal or written contracts, agreements, deeds, documents, instruments and indentures; the use of the term "law" or laws" shall include all federal, provincial and municipal laws, ordinances, by-laws, rules and regulations; any defined term shall, as the Creditor may require, be interpreted to mean the whole or any portion thereof.

1.3 Headings

Headings used in this Agreement are for convenience only and are not to be considered a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

2. SECURITY INTEREST

2.1 Security Interest

Debtor hereby grants to and in favour of Creditor, a security interest ("Security Interest") in all present and after-acquired personal property of the Debtor and all present and after-acquired real property of the corporations comprising the Debtor, including without limitation, goods, chattel paper, documents, accounts, intangibles, securities, monies, books and records and all replacements of, substitutions for and increases, additions and accessories to the foregoing and proceeds thereof, present and future.

2.2 Exception

The Security Interest shall not extend or apply to, and Collateral shall not include, the last day of the term of any lease or agreement therefor, now held or hereafter acquired by Debtor, but upon the enforcement of the Security Interest the Debtor shall stand possessed of such last day in trust for the Creditor to assign and dispose of the same to or as Creditor or any person acquiring such term shall direct.

2.3 Indebtedness Secured

The Security Interest secures payment and satisfaction of the Indebtedness; provided however, that if the Security Interest in the Collateral is not sufficient to satisfy the Indebtedness of the Debtor in full, the Debtor agrees that the Debtor shall continue to be liable for any indebtedness remaining outstanding and the Bank shall be entitled to pursue full payment and satisfaction thereof.

3. DEBTOR'S REPRESENTATIONS AND WARRANTIES

3.1 Debtor represents and warrants and so long as this Agreement remains in effect shall be deemed to continuously represent and warrant to Creditor that:

- (1) the Collateral is genuine and owned by Debtor, Free and Clear;
- (2) each Debt, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same ("Account Debtor"), and the amount represented by Debtor to Creditor from time to time as owing by each Account Debtor or by all Account Debtors will be the correct amount actually and unconditionally owing by such Account Debtor(s) and no Account Debtor will have any defence, set-off, claim or counterclaim against Debtor which can be asserted against Creditor, whether in any proceedings to enforce Collateral or otherwise;
- (3) the Debtor, if a corporation, has been and is:
 - (a) duly incorporated and organized or continued and organized or amalgamated and organized, as the case may be, and validly exists under the laws of Alberta and has full power and authority, corporate or otherwise, to execute, deliver and perform all of its obligations under this Agreement and to conduct its business and own its properties in all jurisdictions in which the Debtor presently carries on business or presently proposes to carry on business and Debtor has acquired all material licenses and effected all material registrations required in such jurisdictions and such licenses and registrations are in good standing; and
 - (b) all corporate action on the part of the Debtor, its directors or shareholders, necessary for the authorization, execution, delivery and performance of this Agreement has been duly taken, and
 - (c) the officers of Debtor executing this Agreement and any other instrument or agreement required hereunder hold the offices which they purport to hold and are fully authorized to execute the same;
- (4) the information given by Debtor on the execution page hereof is complete and accurate;
- (5) this Agreement when duly executed and delivered by Debtor will be a legal, valid and binding obligation of Debtor, enforceable against it in accordance with its terms, subject only as such enforcement may be limited by bankruptcy, insolvency and any other laws of general application, including the Act, affecting creditors' rights and by rules of equity governing enforceability by specific performance;
- (6) there is no provision contained in the constating documents, bylaws or similar documents of Debtor, if a corporation, and no contracts under which Debtor is obligated, nor to the

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knowledge of Debtor is there any law, or any judgment, decree or order of any Court or agency binding on Debtor which would be contravened by the execution and delivery of this Agreement, or by the performance of any provision, condition, covenant or other term hereof and in all circumstances where consent is required, such consent has been duly obtained;

- (7) there is no unsatisfied judgment, litigation, tax claim, proceeding or dispute pending, or, to the knowledge of Debtor, threatened, against or affecting Debtor or its property, the adverse determination of which might materially and adversely affect Debtor's financial condition or operations or impair Debtor's ability to perform its obligations hereunder or under any other instrument or agreement required hereunder;
- (8) the corporate records and minute book of Debtor contain complete and accurate minutes of all meetings of the directors and shareholders of Debtor held since its incorporation and all such meetings were duly called and held and the share certificate register, register of shareholders, register of transfers and register of directors of Debtor is substantially complete and accurate;
- (9) Debtor has duly filed in a timely manner all tax returns required to be filed by it and has paid all taxes as shown on such returns as being due and payable, including all assessments, re-assessments and other charges, penalties, interest or fines applicable to such returns, and Debtor has made adequate provision for the taxes which are payable during the current fiscal period for which tax returns are not yet required to be filed;

3.2 Debtor agrees to indemnify Creditor against and hold Creditor harmless from any and all claims, losses, damages or costs, including legal costs as between a solicitor and his own client, to which Creditor may be put or suffer by or as a result of any representation or warranty contained in Section 3.1 hereof being incorrect or breached.

4. COVENANTS OF DEBTOR

4.1 So long as this Agreement remains in effect, Debtor covenants and agrees:

- (1) to defend the Collateral against the claims and demands of all other persons claiming the same or an interest therein; to keep the Collateral Free and Clear and not to, except to the extent permitted under Section 5 hereof, sell, exchange, transfer, assign, lease or otherwise dispose of Collateral or any interest therein without the prior written consent of Creditor; and, subject to Section 7 hereof, use monies, available to Debtor;
- (2) to forthwith notify Creditor of:
 - (a) any change in the information contained herein or in the Schedules hereto relating to Debtor (including without limitation any change in the name of Debtor or any trade name or partnership under which Debtor may operate and in the case of a partnership any change therein), its business or Collateral;
 - (b) the details of any material acquisition of Collateral;
 - (c) the details of any claims or litigation affecting the Debtor or Collateral;
 - (d) any loss of or damage to Collateral;
 - (e) any default by any Account Debtor in payment or other performance of Account Debtor's obligations with respect to Collateral; and
 - (f) the return to or repossession by Debtor of Collateral;
- (3) to keep the Collateral in good order, condition and repair, to provide adequate storage facilities to protect the Collateral, not to permit the value of the Collateral to be impaired and in particular not to use Collateral in violation of the provisions of this Agreement or

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- any other agreement relating to Collateral or any policy insuring Collateral or any applicable law;
- (4) to pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of Debtor or Collateral as and when the same becomes due and payable;
 - (5) to insure and keep insured the Collateral for such periods, in such amounts, on such terms, with such companies and against loss or damage by fire (including so-called extended coverage) and such other risks as Creditor shall direct with loss payable to Creditor as its interests hereunder may appear, and to pay all premiums and other sums required to maintain such insurance;
 - (6) to insure itself against public liability in such amounts, on such terms, with such companies as Creditor shall require having regard to the nature of the business carried on from time to time by Debtor;
 - (7) to prevent Collateral, (save Inventory sold or leased as permitted hereby), from being or becoming an accession or fixture to other property not covered by this Agreement;
 - (8) to carry on and conduct the business of Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and to keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account for Debtor's business as well as accurate and complete records concerning Collateral, and mark any and all such records and Collateral at Creditor's request so as to indicate the Security Interest;
 - (9) to deliver to Creditor from time to time promptly upon request:
 - (a) any Documents of Title, Instruments, Securities and Chattel Paper constituting, representing or relating to Collateral;
 - (b) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to Collateral for the purpose of inspecting, auditing or copying the same;
 - (c) all financial statements prepared by or for Debtor regarding Debtor's business;
 - (d) all policies and certificates of insurance or other evidence satisfactory to Creditor of compliance with the obligations of Debtor to insure hereunder relating to Collateral; and
 - (e) such information concerning Collateral, Debtor and Debtor's business and affairs as Creditor may reasonably request including information respecting real property upon which the Collateral is to be affixed.
 - (10) Except with the consent of Creditor, not to:
 - (a) grant, create, assume or permit to exist any security interest, mortgage, pledge, charge, assignment, lien, lease or other security, whether fixed or floating, upon any of the Collateral other than the Security Interest and the Encumbrance;
 - (b) amalgamate or consolidate with any person;
 - (c) incorporate any subsidiary or affiliate corporation, whether wholly or partially owned by Debtor unless security agreements, in a form satisfactory to Creditor, are executed by such subsidiary or affiliate in favour of Creditor;
 - (d) permit any change to be made to the capital structure, management, ownership or business of Debtor which, in the opinion of Creditor, has or is reasonably likely to have a material adverse effect upon the position of Creditor under this Agreement.

5. USE AND VERIFICATION OF COLLATERAL

- 5.1 Subject to compliance with Debtor's covenants contained herein and Section 7 hereof, Debtor may, until Default, possess, operate, collect, use and enjoy and deal with Collateral in the ordinary course of Debtor's business in any manner not inconsistent with the provisions hereof; provided always that Creditor shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner Creditor may consider appropriate and Debtor agrees to furnish all assistance and information and to perform all such acts as Creditor may reasonably request in connection therewith and for such purpose Debtor hereby grants to Creditor or its agents access to all places where Collateral may be located and to all premises occupied by Debtor.

6. SECURITIES

- 6.1 If Collateral at any time includes Securities, Debtor authorizes Creditor to transfer the same or any part thereof into its own name or that of its nominee(s) so that Creditor or its nominee(s) may appear of record as the sole owner thereof; provided that, until Default, Creditor shall deliver promptly to Debtor all notices and communications received by it or its nominee(s) as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to Debtor or its order a proxy to vote and take all action with respect to such Securities. After Default, Debtor waives all rights to receive any notices or communications received by Creditor or its nominee(s) as such registered owner and agrees that no proxy issued by Creditor to Debtor or its order as aforesaid shall thereafter be effective.

7. COLLECTION OF DEBTS

- 7.1 Before or after Default, Creditor may notify all or any Account Debtors (herein collectively referred to as "Account Debtors" and individually as "Account Debtor") obligated to pay a Debt, Chattel Paper or Instrument constituting Collateral of the Security Interest and may also direct such Account Debtors to make all payments on Collateral to Creditor. Debtor acknowledges that any payments on or other proceeds of Collateral received by Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and whether before or after Default shall be received and held by Debtor in trust for Creditor and shall be turned over to Creditor upon request.

8. INCOME FROM AND INTEREST ON COLLATERAL

- 8.1 Until Default, Debtor reserves the right to receive any monies constituting income from or interest on Collateral and if Creditor receives any such monies prior to Default, Creditor shall either credit the same to the account of Debtor or pay the same promptly to Debtor.
- 8.2 After Default, Debtor will not request or receive any monies constituting income from or interest on Collateral and if Debtor receives any such monies without any request by it, Debtor will pay the same promptly to Creditor.

9. INCREASES, PROFITS, PAYMENTS OR DISTRIBUTIONS

- 9.1 Whether or not Default has occurred, Debtor authorizes Creditor:
- (1) to receive any increase in or profits on Collateral (other than money) and to hold the same as part of Collateral. Money so received shall be treated as income for the purposes of Section 8 hereof and dealt with accordingly;
 - (2) to receive any payment or distribution upon redemption or retirement or upon dissolution and liquidation of the issuer of Collateral; to surrender such Collateral in exchange therefor; and to hold any such payment or distribution as part of Collateral.

- 9.2 If Debtor receives any such increase in or profits on Collateral (other than money) or payments or distributions, Debtor shall deliver the same promptly to Creditor to be held by Creditor as herein provided.

10. DISPOSITION OF MONIES

- 10.1 Subject to any applicable requirements of the Act, all monies collected or received by Creditor pursuant to or in exercise of any right it possesses with respect to Collateral shall be applied on account of Indebtedness in such manner as Creditor deems best or, at the option of Creditor, may be held unappropriated in a collateral account or released to Debtor, all without prejudice to the liability of Debtor or the rights of Creditor hereunder, and any surplus shall be accounted for as required by law, and in the event of a deficiency Debtor shall remain liable for such deficiency.

11. EVENTS OF DEFAULT

- 11.1 The occurrence of any of the following events or conditions shall constitute Default under this Agreement:

- (1) the nonpayment when due, whether by acceleration or otherwise, of any principal or interest or other monies forming part of Indebtedness or the failure of Debtor to observe or perform any obligation, covenant, term, provision or condition contained in this Agreement or any other agreement, deed, indenture or arrangement between Debtor and Creditor;
- (2) the death of or declaration of incompetence by a Court with respect to Debtor, if an individual;
- (3) the bankruptcy or insolvency of Debtor; the filing against Debtor of a petition in bankruptcy, the making of an assignment for the benefit of creditors by Debtor; the appointment of a receiver, a receiver-manager or trustee for Debtor or for any assets of Debtor or the institution by or against Debtor of any other type of insolvency proceeding under the Bankruptcy and Insolvency Act or otherwise;
- (4) the institution by or against Debtor of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims or winding up of affairs of Debtor;
- (5) if any Encumbrance affecting Collateral or any part thereof becomes enforceable against Collateral;
- (6) if Debtor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets or a transfer, sale or lease of all or substantially all Collateral without the prior written consent of Creditor and without complying with applicable laws or commits or threatens to commit an act of bankruptcy;
- (7) if Debtor changes its name without the prior written consent of Creditor (such consent not to be unreasonably withheld);
- (8) if any execution, sequestration or other process of any Court becomes enforceable against Debtor or if a distress or analogous process is levied upon the assets of Debtor or any part thereof;
- (9) if any certificate, statement, representation, warranty or audit report heretofore or hereafter furnished by or on behalf of Debtor pursuant to or in connection with this Agreement or otherwise (including, without limitation, the representations and warranties contained herein) or as an inducement to Creditor to extend any credit to or to enter into this or any other agreement with Debtor, proves to have been false in any respect at the time as of which the facts therein set forth were stated or certified, or proves to have omitted any substantial contingent or unliquidated liability or claim against Debtor; or if upon the date of execution of this Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement,

warranty or audit report, which change has not been disclosed to Creditor at or prior to the time of such execution.

12. ACCELERATION

- 12.1 Creditor, in its sole discretion, may declare all or any part of Indebtedness (which is not by its terms payable on demand) to be immediately due and payable, without demand or notice of any kind, in the event of Default, or, if Creditor in good faith believes that the prospect of payment of all or any part of Indebtedness or performance of Debtor's obligations under this Agreement or any other agreement now or hereafter in effect between Debtor and Creditor is impaired.
- 12.2 The provisions of Section 12.1 are not intended in any way to affect any rights of Creditor with respect to Indebtedness which may now or hereafter be payable on demand.

13. REMEDIES

- 13.1 Creditor may take possession of, collect, demand, sue on, enforce and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof, and upon Default Creditor may appoint or re-appoint any person(s), whether an officer or officers or an employee or employees of Creditor or not, to be a receiver or receivers (a "Receiver", which term when used herein shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of Debtor and not Creditor, and Creditor shall not be in any way responsible for any misconduct, negligence, or nonfeasance on the part of any such Receiver, his servants, agents or employees.
- 13.2 Creditor shall have in addition to any other rights available to it, the right to provide in the instrument appointing the Receiver, all of the powers which can be given to a Receiver by the Court; provided however that unless otherwise specifically provided for in the instrument appointing a Receiver such Receiver shall have power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of the Collateral and to give valid and binding receipts and discharges therefor and in respect thereof.
- 13.3 To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including Debtor, enter upon, use and occupy all premises owned or occupied by Debtor wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on Debtor's business or as security for loans or advances to him or otherwise, as such Receiver shall, in his own discretion, determine. Except as may be otherwise directed by Creditor, all monies received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to Creditor. Every such Receiver may, in the discretion of Creditor, be vested with all or any of the rights and powers of Creditor.
- Any sale, lease or other disposition of Collateral hereunder may take place in such manner, at such time(s) and place(s), for such consideration and upon such terms and conditions as to credit or otherwise and as to upset or reserve bid or price, as Creditor or Receiver, as the case may be, and in particular and without limiting the foregoing any such sale, lease or other disposition of Collateral may take place whether or not Receiver or Creditor, as the case may be, has taken possession of Collateral and may be made by public auction, public tender or private contract with or without notice or advertising or any other formality all of which subject to the Act are waived by Debtor.
- 13.4 Debtor acknowledges that Creditor or any Receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and Debtor agrees

upon request from Creditor or any such Receiver to assemble and deliver possession of Collateral at such place or places as reasonably directed.

13.5 Creditor may, either directly or through its agents or nominees, exercise all the powers and rights given to a Receiver by virtue of the above sub-paragraphs and in addition to those rights granted herein and in any other agreement now or hereafter in effect between Debtor and Creditor and in addition to any other rights Creditor may have at law or in equity, Creditor shall have, both before and after Default, all rights and remedies of a secured party under the Act. Provided always, that Creditor shall:

- (1) not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute any proceedings for such purposes; and
- (2) have no obligation to take any steps to preserve rights against prior parties to any Instrument or Chattel Paper, whether part of Collateral or Proceeds and whether or not in Creditor's possession and shall not be liable or accountable for failure to do so.

13.6 Debtor agrees to pay all costs, charges and expenses reasonably incurred by Creditor or any Receiver appointed by it, whether directly or for services rendered (including reasonable solicitors' and auditors' costs and fees as between Creditor and its solicitors and/or auditors and other legal expenses and Receiver remuneration), in operating Debtor's accounts, in preparing or enforcing this Agreement, in taking and maintaining custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting Indebtedness and all such costs, charges and expenses together with any monies owing as a result of any borrowing by Creditor or any Receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.

13.7 Upon Default, Creditor may, either directly or through its agent(s) or nominee, exercise any or all of the powers and rights given to a Receiver by virtue of this Section 13.

14. FURTHER ASSURANCES AND ATTORNEY

14.1 Further Assurances

Debtor:

- (1) covenants and agrees to do, execute, acknowledge and deliver or cause to be done, executed, acknowledge and delivered all such financing statements, further assurances, documents, acts, matters and things with respect to Collateral or any part thereof as Creditor from time to time may reasonably require to give effect to this Agreement and to perfect the Security Interest, and Debtor further covenants and agrees to pay all costs for searches and filings in connection therewith; and
- (2) hereby authorizes Creditor to file such financing statements, financing change statements and other documents and do such acts, matters and things (including completing and adding Schedules hereto identifying Collateral or Encumbrance affecting Collateral or identifying the locations at which Debtor's business is carried on and Collateral and records relating thereto are situate) as Creditor may deem appropriate to perfect and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest.

14.2 Attorney

Debtor hereby constitutes and appoints any person selected by Creditor as its true and lawful attorney irrevocably with full power of substitution to do, make and execute all such statements, assurances, documents, acts, matters or things with the right to use the name of Debtor

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whenever and wherever it may be deemed necessary or expedient to protect Creditor's rights hereunder.

15. ATTACHMENT AND ADDITIONAL SECURITY

15.1 Attachment

Debtor acknowledges that Debtor and Creditor intend for the Security Interest to attach to Debtor's existing properties immediately upon execution of this Agreement (and in Debtor's property acquired subsequent thereto, immediately upon the Debtor acquiring an interest or rights therein) and that value has been given and that Debtor has (or in the case of after-acquired property, will have) rights in Collateral. The parties acknowledge and agree that this Agreement and the Security Interest are intended to be a "security agreement" and "security interest" respectively within the meaning of the Act.

15.2 Additional Security

This Agreement and the security afforded hereby is in addition to and not in substitution for any other security now or hereafter held by the Creditor and is intended to be a continuing security Agreement.

16. GENERAL

16.1 Additional Rights of Creditor

Without limiting any other rights of Creditor, Creditor shall have the following additional rights:

- (1) Whenever Indebtedness is immediately due and payable or Creditor has the right to declare Indebtedness to be immediately due and payable (whether or not it has been so declared), Creditor may, in its sole discretion, set off against Indebtedness any and all monies then owed to Debtor by Creditor in any capacity, whether due or not due, and Creditor shall be deemed to have exercised such right of set off immediately at the time of making its decision to do so even though any charge therefor is made or entered upon Creditor's records subsequent thereto.
- (2) All moneys collected or received by Creditor in respect of Collateral or on account of Indebtedness may be applied on account of such part(s) of Indebtedness as determined by Creditor and Creditor shall at all times and from time to time have the right to change any appropriation as Creditor may determine.
- (3) Upon Debtor's failure to perform any of its duties hereunder, Creditor may, but shall not be obligated to, perform any or all of such duties, and Debtor shall pay to Creditor, forthwith upon written demand therefor, an amount equal to the expense incurred by Creditor in so doing plus interest thereon from the date such expense is incurred until it is paid at the rate set out in the Loan Agreement dated _____, 2018 between Romspen Mortgage Limited Partnership, as lender, and 3443 Zen Garden Limited Partnership, as borrower, as it may be amended from time to time.
- (4) Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with Debtor, debtors of Debtor, sureties and others and with Collateral and other security as Creditor may see fit without prejudice to the liability of Debtor or Creditor's right to hold and realize the Security Interest.
- (5) Creditor may demand, collect and sue on Collateral in either Debtor's or Creditor's name, at Creditor's option, and may endorse Debtor's name on any and all cheques, commercial paper, and any other Instruments pertaining to or constituting Collateral.
- (6) No delay or omission by Creditor in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or

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remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy.

- (7) Creditor may remedy any Default by Debtor hereunder or with respect to any Indebtedness in any reasonable manner without waiving the Default remedied and without waiving any other prior or subsequent Default by Debtor. All rights and remedies of Creditor granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.
- (8) Nothing herein contained shall in any way obligate Creditor to advance any moneys to Debtor or grant, continue, renew, extend time for payment of or accept anything which constitutes or would constitute Indebtedness.

16.2 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, and Creditor or any assignee(s) directly or indirectly of Creditor may, without further notice to Debtor at any time assign this Agreement and the Security Interest created thereunder and Debtor expressly agrees that, with respect to any such assignment, re-assignment or transfer of this Agreement, the assignee or transferee shall have all of Creditor's rights and remedies under this Agreement and Debtor will not assert as a defence, counterclaim, set off, cross-complaint, or otherwise any claim, known or unknown, which Debtor now has or hereafter acquires against Creditor in any action commenced by an assignee or transferee of this Agreement and will pay the Indebtedness to the assignee or transferee at its place of business as the Indebtedness becomes due. If more than one Debtor executes this Agreement, the obligations of such Debtors hereunder shall be joint and several.

16.3 Amendment

Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Agreement shall be made except by a written agreement, executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.

16.4 Laws of Alberta to Govern

This Agreement for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and to be wholly performed therein and the Debtor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

16.5 Severability

In the event any provisions of this Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any Court, the remaining terms and provisions of this Agreement shall remain in full force and effect.

16.6 Notice

Whenever either party hereto is required or entitled to notify or direct the other or make a demand or request upon the other, such notice, direction, demand or request shall be in writing and delivered or faxed to the party for whom it is intended at the principal address or fax number, as the case may be, of such party or at such other address or fax number as shall be designated by such party in a written notice to the other party. Each such notice, direction, demand or request shall be deemed to have been received on the date of delivery or faxed transmission, as the case may be.

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16.7 Financing Statement

Debtor hereby waives its right to receive a copy of any financing statement or financing change statement registered by Creditor pursuant to this Agreement or any modification, renewal or extension thereof.

16.8 Copy of Agreement

Debtor acknowledges receipt of a copy of this Agreement.


IN WITNESS WHEREOF this Agreement is made this 17 day of April, 2018.

LOT 11 LIMITED PARTNERSHIP, by its general partner, LOT 11 GP LTD.

Per:  _____

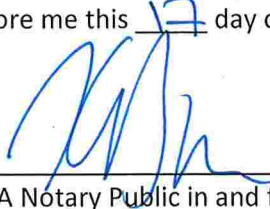
Per: _____

LOT 11 GP LTD.

Per:  _____

Per: _____

This is **Exhibit "C"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 7 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

MORTGAGE

Made at the City of Edmonton, in the Province of Alberta, as of the 17 day of April, 2018 in pursuance of "The Land Titles Act".

ECO-INDUSTRIAL BUSINESS PARK INC., as "Mortgagor", being, registered as owner of an estate in fee simple in possession, subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten or endorsed hereon in those certain pieces of land situate in the Province of Alberta, being composed of the lands and premises more particularly described in **Schedule "A"** annexed hereto and forming a part hereof, which lands are jointly hereinafter sometimes referred to as the "lands" or the "said lands" or the "mortgaged property" or the "mortgaged premises", all of which terms shall be deemed to include all improvements now or hereafter made thereon.

AND WHEREAS in consideration of **ROMSPEN INVESTMENT CORPORATION**, as trustee, of 162 Cumberland Street, Suite 300, Toronto, ON, M5R 3N5, who and whose successors and assigns are hereinafter included in the expression the "Mortgagee" dealing with **3443 Zen Garden Limited Partnership** (hereinafter referred to as the "Borrower"), the Mortgagor has, inter alia, pursuant to a written Guarantee dated the 17 day of April, 2018 (hereinafter called the "Guarantee") guaranteed the payment to the Mortgagee of all present and future debts and liabilities, direct or indirect or otherwise of the Borrower to the Mortgagee, together with interest thereon or on so much thereof shall from time to time remain unpaid;

AND WHEREAS for the same consideration as aforesaid, the Mortgagor has agreed to grant to the Mortgagee this mortgage as additional and collateral security for the observance and performance of its obligations, covenants and agreements to guarantee as set forth in the Guarantee;

AND WHEREAS the Mortgagor has agreed to grant this mortgage in favour of the Mortgagee in the sum of **FORTY MILLION US DOLLARS (US\$40,000,000.00) DOLLARS** of lawful money, as additional and collateral security to the Mortgagee for the obligations of the Mortgagor to the Mortgagee under the Guarantee;

NOW THEREFORE the Mortgagor for good and valuable consideration and for the purposes above mentioned does hereby covenant with the Mortgagee:

1. That the Mortgagor shall pay to the Mortgagee in lawful money of the United States of America, the principal sum lent to the Borrower as aforesaid with interest thereon at the rate hereinafter provided for on the date of demand by the Mortgagee pursuant to the Guarantee.
 - (a) Intentionally Deleted.
 - (b) Intentionally Deleted.
That for the purposes of this mortgage:
 - (c) Intentionally Deleted.
 - (d) "Indebtedness" shall be interpreted in its most comprehensive sense, and without limiting its generally, shall include, pursuant to the Guarantee, any and all advances at any time and from time to time made by or on behalf of Romspen Mortgage Limited Partnership or the Mortgagee to or on behalf or on account of or at the direction of the Borrower, and all debts, obligations or liabilities of the Borrower to or in favour of Romspen Mortgage Limited Partnership or the Mortgagee or for which Romspen Mortgage Limited Partnership may become responsible;
 - (e) "Interest Rate" means 12% percent per annum calculated and compounded monthly, not in advance.
 - (f) "Loan Agreement" means the agreement between the Borrower and Romspen Mortgage Limited Partnership dated April 27, 2018, as it may be amended from time to time, under which credit facilities are provided by Romspen Mortgage Limited Partnership to the Borrower;

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- (g) "Moneys" means the indebtedness and all other sums due, owing or payable or which may become due, owing or payable under the Loan Agreement, any of the Security, this Mortgage or otherwise;
- (h) Intentionally Deleted
- (i) "Security" means any documents other than this Mortgage now held or hereafter held by the Mortgagee, as security relating to the Moneys or any other liabilities or obligations of the Mortgagor to the Mortgagee.
- (j) Intentionally Deleted

2. That save as hereinafter described, the Mortgagor will pay when and as same fall due, all taxes, rates, liens, charges, encumbrances or claims (hereinafter sometimes referred to as "taxes") which are or may be or become charges or claims against the mortgaged premises, on or in respect of this mortgage. The Mortgagor shall pay to the Mortgagee on each date on which a payment is due hereunder an additional amount estimated by the Mortgagee required to pay the full amount of taxes when they next become due. The Mortgagor further covenants and agrees to transmit to the Mortgagee the tax bills and other notices affecting the imposition of taxes forthwith after the receipt of same by him and to provide evidence of payment within thirty (30) days of the due date for payment.

Should the Mortgagor become in default of its obligation in this Paragraph 2, the Mortgagee shall have the right itself to pay the taxes and the amount so paid, as aforesaid, by the Mortgagee shall be secured hereby and shall (together with interest thereon at the Interest Rate) be a charge on the mortgaged premises, and shall bear interest at the Interest Rate until paid, all such monies to be repayable to the Mortgagee on demand, or if not demanded repayable on the next ensuing instalment (whether principal or interest).

3. That the Mortgagee may, without further authority and from time to time as the Mortgagee may desire, make advances of principal monies to be secured under this mortgage in:
- (a) An amount or amounts, which when added at the date next ensuing upon which taxes become due and payable to those portions of the then paid up monthly instalments under Paragraph 2, will be sufficient to pay and discharge the taxes;
 - (b) An amount or amounts sufficient to defray interest accrued hereunder and unpaid from time to time; and
 - (c) An amount or amounts equal to estimated interest on account of the principal sum hereunder including an initial interest reserve pursuant to the Loan Agreement;

and upon making such advances, will have the right to apply such advances for the purpose described in this Paragraph 3 for which they were advanced. Nothing herein shall obligate the Mortgagee to make the advances in this Paragraph 3 described.

4. That the Mortgagor shall pay to the Mortgagee interest as aforesaid and all interest on becoming overdue shall be forthwith treated, as to payment of interest thereon, as principal and shall bear interest thereon at the aforesaid rate computed with rests and compounded at each interest date as well after as before maturity of this mortgage and all such interest shall be a charge on the mortgaged premises; and in the event of non-payment of any of the monies hereby secured at the time herein set for payment thereof the Mortgagor will, so long as any part thereof remains unpaid, pay interest at the said rate from day to day on the same.
5. That the Mortgagor shall forthwith insure and keep insured during the continuance of this security the mortgaged property together with such other insurance required by the Mortgagee, all as more particularly set out in section 13 of the Schedule of Additional Provisions.

All such insurance shall:

- (aa) be carried in a company or companies to be approved by the Mortgagee;
- (bb) be in a form acceptable to the Mortgagee; and
- (cc) where applicable, grant permission for partial occupancy;
- (dd) provide that the insurer will neither terminate or alter the policy to the prejudice of Mortgagee except by registered letter giving notification of thirty (30) days.

The loss for all such policies shall be solely made payable to the Mortgagee as first loss payee respecting the lands for which this Mortgage is a first charge and a second loss payee respecting the lands for which this Mortgage is a second charge with the Mortgagee's mortgage clause affixed to each policy by the insurer. The Mortgagor shall pay all premiums and sums of money necessary for such purpose as the same shall become due, and shall not do anything which might cause the policy to be voided, and does hereby assign and deliver to the Mortgagee the policy or policies of insurance and all renewal receipts and renewals thereto appertaining and will deliver evidence of renewal to the Mortgagee at least fifteen (15) days prior to the expiration of any policy.

The Mortgagor shall maintain, at all times, a sufficient amount of insurance to meet the requirements of any "stated amount co-insurance clause" contained in any policy of insurance, so as to prevent it from becoming a co-insurer under the terms of such policy.

In the event of any breach of the foregoing covenants respecting insurance the Mortgagee may, at its option, effect such insurance on behalf of and at the cost of the Mortgagor, and at the option of the Mortgagee, the whole of the monies hereby secured remaining unpaid shall forthwith become due and payable. Forthwith on the happening of any loss or damage as aforesaid (notwithstanding any law, equity or statute to the contrary, and in particular, the Alberta Insurance Act and The Fire Prevention (Metropolis) Act, 1774 (14 Geo. 3 C.78), all rights and benefits of the Mortgagor thereunder being hereby expressly waived) the Mortgagor, at the expense of the Mortgagor, will furnish all necessary proofs and do all necessary acts to enable the Mortgagee to obtain payment of the insurance monies and any such insurance monies received by the Mortgagee:

- (i) shall, if the Mortgagee is not in default hereunder, be applied in repairing or rebuilding the said premises; and
- (ii) if the Mortgagor is in default hereunder may, at the option of the Mortgagee, be applied in repairing or rebuilding the said premises, or be applied to the payment of the monies hereby secured (whether or not any amount is then due) in such manner as the Mortgagee may determine or be paid to the Mortgagor or any person appearing by the registered title to be the owner of the said lands or partly in one way and partly in another.

This provision shall be in addition to any statutory covenants implied in this mortgage.

That pending application of any insurance monies, the said monies shall be deemed to form part of the lands and shall be subject to the charges created by this mortgage.

The Mortgagor hereby irrevocably appoints the Mortgagee as attorney on its behalf to do all acts and things on behalf of and in the name of the Mortgagor to settle all insurance claims and to receive the proceeds of all monies payable under any insurance policy and to give effectual receipts therefor, and in so doing, the Mortgagee shall have no liability to the Mortgagor for any act so done by the Mortgagee.

6. That all erections, buildings, machinery, plant and improvements whatsoever, including furnaces, boilers, water heaters and all plumbing, air-conditioning, ventilating and heating equipment, elevators, escalators and lifts, carpets, electric light fixtures, storm windows and storm doors, window screens and screen doors, and all apparatus and equipment appurtenant thereto, which are now or which shall hereafter be put upon the mortgaged premises, are or shall thereafter be deemed to be fixtures and a part of the realty and the security for the monies hereby secured, even

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though not attached otherwise than by their own weight. The Mortgagor shall not commit any act of waste thereon, and shall at all times during the continuance of this security the same repair, maintain, restore, mend, keep, make good, finish, add to and put in order. In the event of any loss or damage thereto or destruction thereof the Mortgagee may give notice to the Mortgagor to repair, rebuild or reinstate the same within a time to be determined by the Mortgagee and to be stated in such notice. If the Mortgagor fails to so repair, rebuild or reinstate the same within such time, such failure shall constitute a breach of covenant hereunder and thereupon the mortgage monies shall, at the option of the Mortgagee, become immediately due and payable without demand by the Mortgagee upon the Mortgagor. The Mortgagee may repair, rebuild or reinstate the mortgaged premises at the cost of the Mortgagor and charge all sums of money determined by the Mortgagee to be properly paid therefor to the mortgage account, all notwithstanding any law, equity or statute to the contrary, and in particular, The Alberta Insurance Act and The Fire Prevention (Metropolis) Act, 1774 (14 Geo. 3 c.78), all rights and benefits of the Mortgagor thereunder being hereby expressly waived. This provision shall be in addition to any statutory covenants implied in this mortgage.

7. That the Mortgagor further covenants and agrees with the Mortgagee that:
- (a) The Mortgagor has good title to the said lands free from all encumbrances (save as endorsed hereon);
 - (b) The Mortgagor has the right to mortgage the lands;
 - (c) On default the Mortgagee shall have quiet possession of the lands free from all encumbrances (save as endorsed hereon);
 - (d) The Mortgagor shall execute such further assurances of the lands as may be requisite;
 - (e) The Mortgagor has done no act to encumber the lands (save as endorsed hereon).
8. That the Mortgagor shall not:
- (a) lease (other than in accordance with the terms of this mortgage), sell, convey, transfer, mortgage or otherwise dispose of the mortgaged property or any part thereof at any time during the currency of this mortgage to a purchaser, transferee or assignee (save for sales of individual lots as specifically permitted by the Loan Agreement);
 - (b) alter the use of the within mortgaged premises from that originally contemplated;
 - (c) if the Mortgagor is a corporation, allow any change of ownership of the capital stock of the corporation, whether legal or beneficial, from that disclosed to the Mortgagee at the time of acceptance of the Loan Agreement;
 - (d) register against the lands and premises a mortgage or other charge other than notified by memorandum underwritten or endorsed herein,
- without the written consent of the Mortgagee first had and obtained, which consent the Mortgagee may not unreasonably or arbitrarily withhold.
9. (a) That in the event the Mortgagor shall make an approved sale or other voluntary or involuntary disposition of the said lands at any time during the currency of this mortgage, the Mortgagor shall procure the execution and delivery by the purchaser of an agreement with the Mortgagee whereby such permitted purchaser assumes an undertaking to pay the monies owing under this mortgage according to the terms hereof and to be bound by, observe and perform all covenants, agreements, conditions, stipulations and provisions herein contained or implied, and to attorn and to become a tenant of the Mortgagee of the said lands under the terms of the attornment clause set out in this mortgage, and in default of the execution and delivery of such agreement by the purchaser, all monies then remaining owing under this mortgage shall in addition to any other remedy available to the Mortgagee hereunder, at the option of the Mortgagee, become immediately due and payable together with one month's additional interest as set out in section 1.

- (b) Notwithstanding the above, the Mortgagor shall be entitled to partial discharges of this Mortgage on the sale of individual lots in accordance with the provisions of the Loan Agreement.
10. That in the event of non-payment of the mortgage monies or any part thereof at the time of falling due of same under the terms of this mortgage, or in the event of non-payment of interest or of any further amounts as provided for in this mortgage, or in the event of default or apprehended default being made in any of the covenants, agreements, provisos or stipulations otherwise expressed or implied herein or in the Loan Agreement or if the Mortgagor shall become bankrupt or insolvent or shall be subject to the provisions of the *Bankruptcy and Insolvency Act*, the *Companies' Creditors Arrangement Act*, the *Winding-up and Restructuring Act* or any other Act for the benefit of creditors or go into liquidation either voluntarily or under an order of a court of competent jurisdiction, or make a general assignment for the benefit of its creditors or otherwise acknowledge its insolvency, or upon the registration of any builders' lien against the said lands, which lien remains undischarged for a period of thirty (30) days after notice of the registration thereof is given to the Mortgagor, or if any buildings or other improvements being erected on the said lands are allowed to remain unfinished, abandoned or left vacant:
- (a) The Mortgagee at its option may, at the expense of the Mortgagor, and when and to such extent as the Mortgagee deems advisable, observe and perform or cause to be observed and performed such covenant, agreement, proviso or stipulation;
- (b) The Mortgagee may send or employ an inspector to inspect and report upon the value, state and condition of the mortgaged premises and a solicitor to examine the report upon the title to the same;
- (c) The Mortgagee may enter into possession of the mortgaged premises and whether in or out of possession collect the rents and profits therefrom, and make any demise or lease of the said premises or any part thereof for such terms and periods and at such rents as the Mortgagee shall think proper; and the power of sale hereunder may be exercised before or after and subject to any such demise or lease;
- (d) The Mortgagee at such time or times as it may deem necessary and without the concurrence of any other person through its servants, agents or contractors may enter upon the said lands and may make such arrangements for repairing or putting in order any buildings or other improvements on the mortgaged premises, or for inspecting, taking care of, leasing, collecting the rents of and managing generally the said lands as it may deem expedient, all costs, charges and expenses incurred by the Mortgagee in so doing, including allowances for the time and service of any agent of the Mortgagee or other person appointed for the above purposes or in connection therewith shall be secured hereby and shall (together with interest thereon at the Interest Rate) be a charge on the mortgaged premises, shall bear interest at the Interest Rate until paid, all such monies to be repayable to the Mortgagee on demand, or if not demanded, then repayable without demand on the next ensuing instalment (whether for interest or principal);
- (e) The Mortgagee shall have full power, right and license to enter, seize and distress upon the mortgaged premises, or any part thereof, and by distress warrant to recover by way of rent reserved as in the case of demise of the premises as much of the mortgage monies as shall from time to time be or remain in arrears and unpaid, together with all costs, charges and expenses attending such levy or distress as in like cases of distress for rent;
- (f) The Mortgagee may sell and dispose of the mortgaged premises with or without entering into possession of the same and with or without notice to the Mortgagor or any party interested in the mortgaged premises; and all remedies competent may be resorted to; and all the rights, powers and privileges granted to or conferred upon the Mortgagee under and by virtue of any statute or by this mortgage may be exercised; and any notice may be effectually given by delivering such notice or mailing such notice by single registered mail to the Mortgagor at the address of the Mortgagor shown hereinafter; and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made of the mortgaged premises hereunder, and the Mortgagee may

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sell, transfer and convey any part of the mortgaged premises, on such terms of credit or part cash and part credit secured by contract or agreement for sale or mortgage, or otherwise, as shall appear to the Mortgagee most advantageous and for such prices as can reasonably be obtained therefor; and in the event of a sale on credit or for part cash and part credit, whether by way of contract for sale or by conveyance or transfer and mortgage, the Mortgagee is not to be accountable for or charged with any monies until the same shall be actually received in cash; and sales may be made from time to time on parts of the mortgaged premises to satisfy interest or parts of the principal overdue, leaving the principal or parts thereof to run with interest payable as aforesaid; and the Mortgagee may make any stipulations as to title or evidence or commencement of title or otherwise as the Mortgagee shall deem proper, and may buy in or rescind or vary any contract for sale; and on any sale or resale, the Mortgagee shall not be answerable for any loss occasioned thereby; and for any such purposes the Mortgagee may make and execute all agreements and assurances that the Mortgagee shall deem advisable or necessary; and in case of any sale held by the Mortgagee under and by virtue of the laws of the Province of Alberta under the power of sale herein contained shall prove abortive, the Mortgagee may take foreclosure proceedings in respect of the said lands in accordance with the provisions of the laws of the Province of Alberta in that regard; and in the event of any deficiency on account of monies secured by this mortgage remaining due to the Mortgagee after realizing all of the said lands by sale or otherwise then the Mortgagor will pay to the Mortgagee on demand the amount of such deficiency with interest at the rate aforesaid;

- (g) The whole of the unpaid balance of the mortgage monies, interest and all other amounts due hereunder or under the Loan Agreement shall, at the option of the Mortgagee, become due and payable;
 - (h) The Mortgagor agrees that the Mortgagee may exercise one or all of the remedies set out in this paragraph 10 without prejudice to its rights to pursue other or additional remedies and that the choice of one remedy shall not constitute an election of remedies.
11. That notwithstanding anything contained herein to the contrary, the improvements now erected, upon or under the said lands (including without limitation any fixed improvements) (hereinafter referred to as the "improvements" or the "said improvements") shall form part of the security for the full amount of the monies secured by this mortgage.
 12. That the giving and taking of this Mortgage shall in no way merge or affect any other security or securities that may have been, or that may hereafter be given in respect of any amounts secured by this Mortgage or any part thereof, or impair or affect any such security or securities or any remedy thereon, and all rights or remedies which the Mortgagee now has or may hereafter have against the Mortgagor or any other person or entity are hereby reserved, and the Mortgagor agrees that the taking of a judgment or judgments under any of the covenants or agreements herein contained or under any such security or securities or the entering into any arrangement (including the granting of time), compromise, release or discharge or the termination of any cause, claim or right whatsoever by the Mortgagee with the Mortgagor or any other person or entity, to the exclusion of the Mortgagor or any other person or entity, whether prejudicial or beneficial to any one or more of them, shall not operate as a merger of such covenants and agreements or affect the rights or remedies of the Mortgagee under the said covenants herein contained or under any other such security or securities, or of the Mortgagee's security herein by way of a charge against the mortgaged premises, or affect the Mortgagee's right to interest at the rate prescribed herein on any amounts owing to the Mortgagee under the covenants contained in this Mortgage, or under any other security or securities, it being understood and agreed that interest at the rate prescribed herein shall run and be included and payable on any Judgment or other proceedings taken herein and that any such judgment shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until such judgment shall have been fully paid and satisfied.
 13. That the Mortgagee may at any time release any part of the mortgaged premises, or any of the covenants and agreements herein contained, or any collateral security, either with or without any consideration therefor, and without being accountable for the value thereof, or for any money

except what is actually received, and without thereby releasing or affecting any other of the mortgaged premises or any of the other covenants or agreements herein contained or releasing any surety or other security, and no person shall have any right to require the mortgage monies to be apportioned.

14. The mortgage shall take effect forthwith upon execution of these presents. That should the Mortgagee advance the said principal sum or any part thereof at any future date or dates, the amount of such advances when so made shall be secured hereby and repayable with interest as herein provided.
15. That:
 - (a) The Mortgagee or agent of the Mortgagee may at any time and from time to time enter upon the said lands to inspect the said lands and buildings and other improvements thereon and to inspect the books of the Mortgagor, insofar as they relate to the Lands, make extracts therefrom and generally conduct such examination of the books of account of the Mortgagor, insofar as they relate to the Lands, as the Mortgagee may deem fit;
 - (b) The Mortgagee shall not by virtue of these presents be deemed a mortgagee in possession of the mortgaged premises and shall be liable to account for only such rents as actually come into its hands less proper collection charges in respect thereof and that the Mortgagee shall apply such rents to the principal, interest or other charges due hereunder and if the Mortgagor is not in default under any covenant, proviso or agreement contained herein the Mortgagee shall pay to the Mortgagor the excess of such rents collected over the amounts which will be due to the Mortgagee hereunder (as estimated by the Mortgagee) during the portion of the term to which such rents relate;
 - (c) The Mortgagor within ten (10) days after receipt of a request to do so, shall certify to the Mortgagee or any person designated by the Mortgagee the amount of principal then due hereunder, the date to which interest is paid, that it has no right of a set-off against the monies due hereunder, or, if it has such a right of set-off, the amount thereof and that there have been no amendments hereof or if there have been any such amendments specifying them;
 - (d) All improvements shall be situate wholly within the boundaries of the mortgaged property;
 - (e) Any improvements constructed on the said lands have been constructed in accordance with and in due compliance with the requirements of all regulatory authorities having jurisdiction in that regard and that any improvements to be constructed shall only be constructed in strict accordance with plans and specifications first approved by the Mortgagee and to standards acceptable to the Mortgagee;
 - (f) The Mortgagor shall not use the mortgaged premises or permit them to be used for a purpose other than that disclosed to the Mortgagee in the Loan Agreement without the consent of the Mortgagee;
 - (g) All management fees, and development fees paid by the Mortgagor or to persons associated or affiliated with the Mortgagor, as those terms are used in the Alberta Business Corporations Act, shall be subject to the prior approval of the Mortgagee in its sole and absolute discretion.
16. That all Solicitor's, Inspector's, Consultant's (including the Architect's), Valuator's, Surveyor's and other fees and expenses for drawing and registering this mortgage and for examining the mortgaged premises and the title thereto, and for making or maintaining this mortgage a first charge respecting the lands for which this Mortgage is a first charge and a second charge respecting the lands for which this Mortgage is a second charge on the mortgaged premises (save as endorsed hereon) or incurred as a result of default hereunder or of endeavouring to collect with

or without suit any money payable hereunder, or of taking, recovering or keeping possession of the said lands, and generally in any other proceeding, matter or thing taken or done to protect or realize the security or any other security for this loan, together with all sums which the Mortgagee may and does from time to time advance, expend or incur hereunder as principal, insurance premiums, taxes, rates or in or toward payment of prior liens, charges, encumbrances or claims charged or to be charged against the mortgaged premises, including, without limitation, notwithstanding that the costs thereof may exceed the principal sum secured hereunder, and in inspecting, leasing, managing or improving the mortgaged premises or in maintaining, repairing, restoring or completing the mortgaged premises, including the price or value of any goods of any sort or description supplied to be used on the mortgaged premises, and in exercising or enforcing or attempting to enforce or in pursuance of any right, power, remedy or purpose hereunder or subsisting, and legal costs, as between solicitor and client, and also an allowance for the time, work and expenses of the Mortgagee, for any purpose herein provided for and whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Mortgagor or otherwise shall be added to and become part of the principal sum secured hereby and shall (together with interest thereon at the Interest Rate) be a charge on the mortgaged premises, shall bear interest at the Interest Rate until paid, all such monies to be repayable to the Mortgagee on demand, or if not demanded, then repayable without demand on the next ensuing instalment (whether for interest or principal).

17. That in the event of the mortgage monies advanced hereunder, or any part thereof, being applied to the payment of any charge or encumbrance, the Mortgagee shall be subrogated to all the rights of, and stand in the position of and be entitled to all the equities of the party so paid off whether such charge or encumbrance has or has not been discharged, and the decision of the Mortgagee as to the validity or amount of any advance or disbursement made under this mortgage or of any claim so paid off shall be final and binding upon the Mortgagor.
18. That the Mortgagee shall not be charged with any monies receivable or collectible out of the mortgaged premises or otherwise except those actually received, and all revenue of the said premises received or collected by the Mortgagee from any source other than payment by the Mortgagor may at the option of the Mortgagee be retained in a suspense account or used in maintaining or insuring or improving the mortgaged premises, or in payment of taxes or other charges against the mortgaged premises, or applied on the mortgage account, and the Mortgagee shall not be under any liability to pay interest on any sums in a suspense account.
19. That any discharge of this mortgage shall be prepared by the solicitor of the Mortgagee and the Mortgagee shall have a reasonable time after receipt of payment in full within which to have prepared and to execute such discharge, and a tender of the mortgage monies shall not entitle the Mortgagor to receive such discharge, and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Mortgagee, and all legal and other expenses for the preparation and execution of such discharge shall, if allowed in law, be borne by the Mortgagor.
20. That all payments to be made to the Mortgagee shall be made to Romspen Investment Corporation at 162 Cumberland Street, Suite 300, Toronto, ON, M5R 3N5 or at such other address at which the Mortgagee shall require payment to be made. All payments under this Mortgage shall be made before 1:00 o'clock Toronto time on any day on which the payment is made. In the event the payment is made after 1:00 o'clock on any particular day, it is understood and agreed that the said payment will be deemed to have been made on the next business day following the date on which payment is made. All payments made by mail shall be deemed received on the day and at the time of actual delivery to the Mortgagee at the address at which the Mortgagee shall require payment to be made; provided however that any payments made by mail and actually delivered to the Mortgagee after 1:00 o'clock on any particular day shall be deemed to have been made on the next business day following the date on which payment was actually received.
21. That for better securing the punctual payment of the Moneys, Interest and other costs and charges as set out herein, the Mortgagor hereby attorns and becomes tenant to the Mortgagee of the mortgaged premises at a monthly rental equivalent to the monthly instalments secured hereby, the

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

22. That if this mortgage is subordinate to that certain prior mortgage or mortgages referred to by the Memorandum of Encumbrances set out in **Schedule "C"** annexed hereto and forming a part hereof (which prior or other mortgage is in this Paragraph 22 collectively and individually referred to as the "Prior Mortgage"), then with respect to the Prior Mortgage, the Mortgagor covenants that it is not now in default nor will it default in observance or performance of any of the covenants, agreements, provisos and stipulations expressed or implied therein and agrees:
- (a) to request the mortgagee of the Prior Mortgage to forthwith send to the Mortgagee by personal delivery or by post, copies of all notices which the mortgagee of the Prior Mortgage may send to the Mortgagor pertaining to any default under the Prior Mortgage or pertaining to any other matter of which the Mortgagor should be notified, and the Mortgagor shall forthwith deliver or cause to be delivered to the Mortgagee copies of any notices which it may receive from the mortgagee of the Prior Mortgage or otherwise with respect to the Prior Mortgage;
 - (b) to perform and carry out all of the covenants and agreements which the Mortgagor has pursuant to the provisions of the Prior Mortgage, agreed to observe, perform and carry out;
 - (c) that default on the part of the Mortgagor under the provisions of subparagraphs (a) or (b) hereof shall constitute default under this mortgage;
 - (d) that on default on the part of the Mortgagor under the provisions of subparagraphs (a) or (b) hereof or, without limiting the generality of the foregoing, the Mortgagor making default in any of its obligations under the Prior Mortgage, then, notwithstanding anything herein otherwise expressed or implied, the Mortgagee shall have the right, at its option, but shall not be obligated, to pay on account of the Prior Mortgage, any or all of the amount owing with respect thereto, and any such amount so paid by the Mortgagee shall be secured hereby and shall (together with interest thereon at the Interest Rate) be a charge on the mortgaged premises, shall bear interest at the Interest Rate until paid, all such monies to be repayable to the Mortgagee on demand, or if not demanded, then repayable without demand on the date for payment of the next ensuing instalment (whether for interest or principal);
 - (e) for the purposes of tendering any arrears or other sums payable to a holder of a Prior Mortgage, the Mortgagor hereby irrevocably appoints the Mortgagee its agent for such purpose and irrevocably directs the Mortgagee to tender such monies to the holder of the Prior Mortgage in the name of and on behalf of the Mortgagor. In this regard the Mortgagor hereby assigns unto the Mortgagee its equity of redemption, if any, with respect to the said Prior Mortgage together with the statutory right of redemption given to the Mortgagor by the provisions of the Law of Property Act of Alberta. It is the intention of the Mortgagor and the Mortgagee that the Mortgagee shall have the same rights and powers as the Mortgagor under and pursuant to the terms of the Prior Mortgage so that the Mortgagee will be in a position to take whatever steps are necessary to bring the Prior Mortgage into good standing once a default has occurred thereunder. This assignment is not intended to encompass the Mortgagor's entire interest in the said Prior Mortgage, but only to the extent

hereinbefore stipulated. Nothing herein shall create an obligation upon the Mortgagee to cure any default on behalf of the Mortgagor.

23. That the waiver by the Mortgagee of the performance of any covenant, proviso, condition or agreement herein contained or implied, shall not abrogate such covenant, proviso, condition or agreement or be a waiver of any subsequent breach of the same.
24. That no extension of time given or alteration of interest rate or alteration of principal repayments made by the Mortgagee to the Mortgagor or its assigns or any one claiming under it or any other dealing by the Mortgagee with the owner of the said lands shall in any way prejudice or affect the rights of the Mortgagee against the Mortgagor or any other person.
25. That without prejudice to any rights of the Mortgagee against the Mortgagor or any other persons liable for the payment of the monies hereby secured, this mortgage may be renewed by an agreement in writing at, before or after maturity, for any term, with or without a change in the rate of interest notwithstanding that there may be subsequent mortgagees or encumbrancers. It shall not be necessary to register any such agreement in order to retain priority of this mortgage provided, however, that the Mortgagee may at any time, at its option, register a caveat under and by virtue of such renewal agreement. Nothing herein shall obligate the Mortgagee to renew or extend this mortgage.
26. That the Mortgagee, without the consent of the Mortgagor, may assign in whole or in part the debt hereunder, this mortgage and any security collateral to this mortgage.
27. That the Mortgagor and each of the corporate parties providing a guarantee as more particularly set out in the Loan Agreement (hereinafter jointly called the "Guarantor") shall deliver or cause to be delivered to the Mortgagee within one hundred and twenty (120) days following the end of each fiscal year throughout the currency of this mortgage, a true and complete copy of all financial statements for the fiscal year then ended of the Mortgagor and Guarantor. Included in the financial statements of the Mortgagor and Guarantor shall be statements of income and operating expenses in respect of the improvements. The Mortgagee will be included in the mailing list of all published reports of the Mortgagor and Guarantor. The Mortgagee shall be allowed whenever it deems necessary on reasonable notice and during business hours to enter upon the offices or premises of the Mortgagor and Guarantor and inspect the books and records thereof in relation to the within property and make abstracts therefrom and generally conduct such examination of books and records as it may deem fit.
28. That the Mortgagor further covenants and agrees with the Mortgagee as follows:
 - (a) The Mortgagor acknowledges that it has been advised by its counsel as to the meaning of Sections 49 and 52 of The Expropriation Act, Revised Statutes of Alberta, 2000, and being fully aware that under the terms of the said Act the Mortgagee may be restricted to recovering the market value of this mortgage at the date of any expropriation, the Mortgagor hereby waives the provisions of Sections 49 and 52 of The Expropriation Act and further waives any provisions which may be enacted and in force from time to time in replacement of or in addition to the provisions of the said Sections 49 and 52 of The Expropriation Act;
 - (b) In the event that the said lands, or any part thereof which are secured by this mortgage are condemned or expropriated to an extent which, in the Mortgagee's sole discretion, materially affects this mortgage security or any collateral security therefor, the full amount of the principal and interest and any other monies secured by this mortgage then outstanding, shall, at the election of the Mortgagee be deemed to become due and payable in full on the day before the said lands were expropriated and interest shall accrue thereon, at the aforesaid rate, until the Mortgagee has been paid in full and the Mortgagor shall be estopped from denying otherwise;

- (c) The Mortgagor will pay or cause to be paid to the Mortgagee, upon the request of the Mortgagee and from any expropriation the whole of the proceeds thereof and if the Mortgagee elects to accelerate the term of the mortgage pursuant to subparagraph (b) above, together with such additional funds as will retire the full amount of the principal and interest and any other monies then outstanding hereunder;
 - (d) That the Mortgagor, immediately upon obtaining knowledge of the institution of any proceedings for the expropriation of the said lands or any part thereof, will notify the Mortgagee of such proceedings;
 - (e) Any monies awarded by an order of the Surface Rights Board with respect to all or any part of the said lands to the extent of the full amount of the indebtedness upon this mortgage and obligation secured hereby remaining unpaid, are hereby assigned by the Mortgagor and shall be paid forthwith to the Mortgagee, its successors and assigns.
29. That the Mortgagor, being aware of the provisions of the Law of Property Act of Alberta, being Chapter L-7 of The Revised Statutes of Alberta, 2000, as amended, whereby it is provided that in all cases, EXCEPT where a mortgage is given by a corporation, in any action brought upon any mortgage of land, the remedy of the Mortgagee is limited to the land alone, and no action shall lie on the covenant for payment contained in such mortgage, and that any waiver or release given of the rights, benefits or protection under and by virtue of the relevant provisions of the said Law of Property Act is against public policy and void, the said Mortgagor, BEING A CORPORATION does expressly agree with the Mortgagee that in the event of any default in the payment of indebtedness secured hereunder or otherwise howsoever and/or in any other security held by the Mortgagee, then the Mortgagee may proceed against the Mortgagor upon its covenant for payment, in accordance with the terms hereof, and may realize on any and all securities held by it, simultaneously or otherwise, as it in its absolute discretion may decide.
- 30.
- (a) For the purpose of this mortgage:
 - (i) "Hazardous Materials" means any hazardous substance or any pollutant or contaminant, toxic or dangerous waste, substance or material;
 - (ii) "Environmental Laws" means any laws now or hereafter in force with respect to Hazardous Materials.
 - (b) The Mortgagor warrants that to the best its knowledge:
 - (i) the mortgaged premises and the improvements thereon are free of any Hazardous Materials on, under or within;
 - (ii) no underground storage tanks system has ever been constructed, exists, or remains in use in connection with the mortgaged premises;
 - (iii) the mortgaged premises and its existing and prior uses comply and at all times did comply with, and the Mortgagor is not in violation of, and has not violated in connection with the ownership use, maintenance or operation of the mortgaged premises and the improvements thereon and the conduct of business related thereto, and applicable Environmental Laws;
 - (iv) the Mortgagor and the tenants (if any) of the mortgaged premises have operated the mortgaged premises and the improvements thereon and thereunder and have handled, used, stored, treated, shipped and disposed of all Hazardous Materials in strict compliance with all applicable Environmental Laws so that the mortgaged premises and the improvements thereon and thereunder are at all times suitable for the intended uses thereof at the time of entering into this mortgage;

- (v) none of the Mortgagor, its tenants, or any other person, including but not limited to prior owners, occupants and tenants of the mortgaged premises, have received any notice or advice of any enforcement action arising from the existence, release, emanation, discharge, leakages or seepage or escape from, through or under the mortgaged premises any Hazardous Materials in breach of Environmental Laws;
 - (vi) no condition exists, as to any parcel of property contiguous with or in close proximity to the mortgaged premises and which would require disclosure pursuant to the foregoing warranties if such other parcel or parcels of property were included in the mortgaged premises.
- (c) The Mortgagor shall cause to be conducted environmental assessments, audits and other inspections with respect to the mortgaged premises and the business of the Mortgagor and the obligation of the Mortgagee to advance funds hereunder shall be subject to the Mortgagee receiving reports satisfactory to the Mortgagee in its sole discretion and subject to the Mortgagee being satisfied in its sole discretion that there are no environmental matters that are adverse to the value of the mortgaged premises or the business of the Mortgagor.
- (d) The Mortgagor represents, covenants and warrants in favour of the Mortgagee, its successors and assigns, that:
- (i) neither the Mortgagor, nor any other person, will permit any Hazardous Materials to be placed, held, located, or disposed from, in, on, under, above or at the mortgaged premises;
 - (ii) the Mortgagor will operate its business and assets in accordance with all applicable Environmental laws and will not cause or permit any activities on the mortgaged premises which directly or indirectly could result in the mortgaged premises or any adjacent property, air, or water being contaminated with Hazardous Materials;
 - (iii) the Mortgagor will permit the Mortgagee to conduct (at Mortgagor's expense) inspections, appraisals, assessments and audits of all or any of the Mortgagor's records, business and assets at any time and from time to time to ensure compliance with the Mortgagor's covenants herein;
 - (iv) The Mortgagor will provide written notice to the Mortgagee immediately upon the Mortgagor becoming aware that the mortgaged premises or any adjacent property, water or land is being or has been contaminated with Hazardous Materials or if there has been any breach of any applicable Environmental Laws.
- (e) The Mortgagor hereby indemnifies the Mortgagee, its officers, directors, employees, agents and its shareholders and agrees to hold each of them harmless from and against any losses, liabilities, damages, costs, expenses and claims of every nature and kind whatsoever relating to any Hazardous Materials placed, held, located or disposed of in, on, under or from the mortgaged premises including without limitation, the cost of defending and/or counterclaiming or claiming against third parties in respect of any action (all on the basis as between a solicitor and his own client on a full indemnity basis) and any cost, liability or damage arising out of any action against the Mortgagee or a settlement of any action entered into by the Mortgagee (with or without the consent of the Mortgagor) which may be paid or incurred with respect to, or as a direct or indirect result of the presence in, on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the mortgaged premises or into or upon the land, the atmosphere or any water course, body of water, or wetland, of any Hazardous Materials as a result of a breach by the Mortgagor of its covenants herein set out or the breach of any Environmental Laws.

- (f) The provisions hereof shall survive the satisfaction and release of the security for, and payment and satisfaction of, the indebtedness and liability of the Mortgagor to the Mortgagee pursuant to this mortgage and shall also survive realization on the security by way of order absolute for foreclosure.
31. That each and every term, covenant and condition contained in the Loan Agreement and each and every undertaking of the Mortgagor contained in every other instrument, security, document or charge delivered to the Mortgagee pursuant to the terms of the Loan Agreement, shall be deemed to be contained herein to the same extent and effect as if recited herein in full.
32. In the event of any conflict between any provision(s) contained in this Mortgage and in any one or more of the securities which are collateral to this Mortgage or in the Loan Agreement giving rise to this Mortgage, the Loan Agreement shall prevail.
33. Default under any prior or subsequent loan of the Mortgagor or any Guarantor to the Mortgagee shall constitute a default under this loan and default under this loan shall constitute default under any prior or subsequent loan of the Mortgagor and any Guarantor to the Mortgagee.
34. It is specifically acknowledged and agreed that the within Mortgage may provide for a revolving line of credit up to the maximum principal sum of FORTY MILLION US DOLLARS (US\$40,000,000.00) and shall be a continuous charge notwithstanding the balance owing hereunder may be fluctuating and even may, from time to time and at any time, be or have been reduced to a nil balance and notwithstanding monies advanced may be repaid and further advanced as made and shown from time to time and such continuous mortgage and charge shall be security for the principal sum, interest and other charges due and owing hereunder from time to time. The Mortgage (being a mortgage that provides for a revolving line of credit up to a specific principal sum) shall obtain priority in accordance with Section 104 of The Land Titles Act for all advances and obligations.
36. That when the context makes it possible the word "Mortgagee" wherever it occurs in this mortgage shall include the successors and assigns of the Mortgagee and where applicable the mortgage insurer, its successors and assigns, and the word "Mortgagor" shall include the heirs, executors, administrators, successors and assigns of the Mortgagor respectively and the word "person" shall include any body corporate or politic; and the words in the singular include the plural and words in the masculine gender include females and all covenants herein contained or implied are to be construed as both joint and several; and the heirs, executors, administrators, successors and assigns of any party executing this mortgage are jointly and severally bound by the covenants, provisos and agreements herein contained or implied. Reference to any statute shall include any successor thereto.
37. That if the rate of interest payable hereunder is a variable rate of interest, reference to the "mortgage rate", "rate", "interest", "prescribed rate", "aforesaid rate" or similar terms, shall in the case of default by the Mortgagor, or in the case that the Mortgagor is liable to the Mortgagee for interest on any amount pursuant to the terms of this Mortgage, such words and phrases shall be deemed to be a reference to the rate of interest applicable to the principal sum secured hereunder on the date that interest commences to accrue hereunder, which rate of interest shall thereafter be varied on the same terms as the rate of interest applicable to the principal sum secured hereunder.
38. That if any provision of this mortgage or the application thereof to any circumstances shall be held to be invalid or unenforceable, then the remaining provisions of this mortgage, or the application thereof to other circumstances shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law.
39. Schedules "A", "B" and "C" are incorporated into and form a part of this Mortgage.
40. The Mortgagor acknowledges that the Mortgagee is or may act as a Trustee for one or more beneficial owners of or investors in this Mortgage and that the Mortgagor shall be under no

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41. Without limiting the generality of anything contained in this Mortgage, including Section 33 a default of the Borrower or any affiliate pursuant to any credit facility granted to it by the Mortgagee shall be a deemed default hereunder, and any default hereunder shall be deemed to be a default pursuant to the other security granted by the Borrower or its affiliate;
42. That it is distinctly understood and agreed that this mortgage is given and taken as additional and collateral security for the payment of the indebtedness of the Mortgagor to the Mortgagee pursuant to the Guarantee and this mortgage shall not operate as a merger of the Guarantee or of any other collateral security given with respect to the indebtedness of the Mortgagor to the Mortgagee or of any simple contract debt or in any way suspend the payment of, affect or prejudice the rights, remedies or powers, legal or equitable, which the Mortgagee may hold in connection with the Mortgage granted by the Borrower or the Guarantee or in contract debt and is taken without prejudice to any other security which may be taken by the Mortgagee in addition, by way of renewal of, or in substitution for any future bill, note, obligation or security representing the indebtedness hereby secured or any part thereof, or be deemed a payment or satisfaction of the Guarantee or the said indebtedness or any part thereof or merge therein, nor shall the taking of a judgment or other proceedings under the Guarantee or renewal thereof or substitution therefor or judgment on any other security operating as a merger of the covenants or rights herein contained; and in the event of default, the Mortgagee may proceed separately under any of the security it holds or concurrently under all such security.
43. That for better securing to the Mortgagee repayment in the manner aforesaid of the Indebtedness and other Moneys, the Mortgagor hereby mortgages to the Mortgagee all its estate and interest in the lands above described.

IN WITNESS WHEREOF the Mortgagor has hereunto affixed its corporate seal duly attested by the hands of its proper signing officers duly authorized in that behalf the day and year first above written.

ECO-INDUSTRIAL BUSINESS PARK INC.

Per: _____

Per: _____ c/s

ADDRESS OF MORTGAGOR:

1250 Hayter Road, Edmonton, Alberta T6S 1A2

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- (f) The provisions hereof shall survive the satisfaction and release of the security for, and payment and satisfaction of, the indebtedness and liability of the Mortgagor to the Mortgagee pursuant to this mortgage and shall also survive realization on the security by way of order absolute for foreclosure.
31. That each and every term, covenant and condition contained in the Loan Agreement and each and every undertaking of the Mortgagor contained in every other instrument, security, document or charge delivered to the Mortgagee pursuant to the terms of the Loan Agreement, shall be deemed to be contained herein to the same extent and effect as if recited herein in full.
32. In the event of any conflict between any provision(s) contained in this Mortgage and in any one or more of the securities which are collateral to this Mortgage or in the Loan Agreement giving rise to this Mortgage, the Loan Agreement shall prevail.
33. Default under any prior or subsequent loan of the Mortgagor or any Guarantor to the Mortgagee shall constitute a default under this loan and default under this loan shall constitute default under any prior or subsequent loan of the Mortgagor and any Guarantor to the Mortgagee.
34. It is specifically acknowledged and agreed that the within Mortgage may provide for a revolving line of credit up to the maximum principal sum of ~~ONE HUNDRED TWENTY FIVE MILLION US DOLLARS (US\$125,000,000.00)~~ and shall be a continuous charge notwithstanding the balance owing hereunder may be fluctuating and even may, from time to time and at any time, be or have been reduced to a nil balance and notwithstanding monies advanced may be repaid and further advanced as made and shown from time to time and such continuous mortgage and charge shall be security for the principal sum, interest and other charges due and owing hereunder from time to time. The Mortgage (being a mortgage that provides for a revolving line of credit up to a specific principal sum) shall obtain priority in accordance with Section 104 of The Land Titles Act for all advances and obligations.
36. That when the context makes it possible the word "Mortgagee" wherever it occurs in this mortgage shall include the successors and assigns of the Mortgagee and where applicable the mortgage insurer, its successors and assigns, and the word "Mortgagor" shall include the heirs, executors, administrators, successors and assigns of the Mortgagor respectively and the word "person" shall include any body corporate or politic; and the words in the singular include the plural and words in the masculine gender include females and all covenants herein contained or implied are to be construed as both joint and several; and the heirs, executors, administrators, successors and assigns of any party executing this mortgage are jointly and severally bound by the covenants, provisos and agreements herein contained or implied. Reference to any statute shall include any successor thereto.
37. That if the rate of interest payable hereunder is a variable rate of interest, reference to the "mortgage rate", "rate", "interest", "prescribed rate", "aforesaid rate" or similar terms, shall in the case of default by the Mortgagor, or in the case that the Mortgagor is liable to the Mortgagee for interest on any amount pursuant to the terms of this Mortgage, such words and phrases shall be deemed to be a reference to the rate of interest applicable to the principal sum secured hereunder on the date that interest commences to accrue hereunder, which rate of interest shall thereafter be varied on the same terms as the rate of interest applicable to the principal sum secured hereunder.
38. That if any provision of this mortgage or the application thereof to any circumstances shall be held to be invalid or unenforceable, then the remaining provisions of this mortgage, or the application thereof to other circumstances shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law.
39. Schedules "A", "B" and "C" are incorporated into and form a part of this Mortgage.
40. The Mortgagor acknowledges that the Mortgagee is or may act as a Trustee for one or more beneficial owners of or investors in this Mortgage and that the Mortgagor shall be under no obligation to disclose the identity of such beneficial owners or investors or other particulars relating to such trust.

SCHEDULE "A"

PLAN 8323217
LOT 3
CONTAINING 16.7 HECTARES(41.32 ACRES) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 0824009 AREA A - VALVE SITE 0.282 0.70
EXCEPTING THEREOUT ALL MINES AND MINERALS

MERIDIAN 4 RANGE 23 TOWNSHIP 53
SECTION 17
ALL THAT PORTION OF THE SOUTH WEST QUARTER
WHICH LIES NORTH OF THE NORTHERLY LIMIT OF RAILWAY PLAN 6073CL AND EAST
OF THE RIGHT BANK OF THE NORTH SASKATCHEWAN RIVER AS SHOWN ON A PLAN
OF SURVEY OF THE SAID TOWNSHIP SIGNED AT EDMONTON ON 25 APRIL, 1955
CONTAINING 43.80 HECTARES (108.24 ACRES) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 5725RS SUBDIVISION 16.3 40.27
B) PLAN 1323811 SUBDIVISION 3.745 9.25
C) PLAN 1624164 SUBDIVISION 5.36 13.24
EXCEPTING THEREOUT ALL MINES AND MINERALS

PLAN 8323217
LOT 2
CONTAINING 15.3 HECTARES(37.68 ACRES) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 8920981 - TRANSPORTATION/UTILITY 0.057 0.14
CORRIDOR RIGHT OF WAY
B) PLAN 1624164 SUBDIVISION 14.7 36.3
EXCEPTING THEREOUT ALL MINES AND MINERALS

MERIDIAN 4 RANGE 23 TOWNSHIP 53
SECTION 17
QUARTER NORTH EAST
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 8323217 - SUBDIVISION 16.72 41.32
B) PLAN 8920981 - RIGHT OF WAY 6.74 16.65
TRANSPORTATION/UTILITY CORRIDOR
C) PLAN 0824009 - VALVE SITE 4.40 10.87 AREA "A"
D) PLAN 0940748 - VALVE SITE 2.34 5.78 AREA "B"
E) PLAN 1025092 - VALVE SITE 24.95 61.65 AREA "A"
EXCEPTING THEREOUT ALL MINES AND MINERALS

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SCHEDULE "B"

SCHEDULE OF ADDITIONAL PROVISIONS

1. **ADDITIONAL FEES**

The following fees or any other fees, charges or costs, provided for herein, if not paid forthwith upon demand for payment being made, shall also constitute an Event of Default and shall be added to and become part of the debt hereby secured and shall bear interest at the rate set forth in this Loan Agreement.

(a) **STATEMENT FEE**

The Mortgagor shall pay for each mortgage statement requested by or on behalf of the Borrower or Covenantors and prepared and provided by the Mortgagee, a service fee of \$200.00 plus applicable taxes.

(b) **LATE PAYMENT FEE**

The Mortgagor shall pay a late payment fee of \$250.00 plus applicable taxes for each request made by the Borrower or Covenantors for mortgage payments that are late five (5) days or more.

(c) **ENFORCE SECURITY FEE**

In the event of an Event of Default, the Mortgagee may issue a Notice of Intention to Enforce Security under Section 244(1) of the Bankruptcy and Insolvency Act, in which event the Mortgagor shall pay a fee to the Lender of \$750.00 plus applicable taxes.

(d) **INSURANCE FEE**

In the event that a certified copy of all policies of insurance on the mortgaged property have not been delivered to the Mortgagee within 14 days of either the cancellation of any policy of insurance, or any renewal thereof, or the Mortgagee requesting a copy of a policy of insurance, the Mortgagee shall be entitled to a service fee of \$500.00 plus applicable taxes for each written inquiry which the Mortgagee makes to the Borrower, to an insurer or to an insurance broker pertaining to such cancellation or renewal, or resulting from the Borrower's non-performance of the within covenant. In the event that the Mortgagee arranges any insurance coverage with respect to the said mortgaged property, the Mortgagee in addition to the aforementioned service fee, shall be entitled to an additional service fee of \$500.00 plus applicable taxes for arranging any replacement insurance coverage.

(e) **DISHONoured CHEQUES FEE**

In the event that any of the Borrower's/Mortgagor's cheques are not honoured when presented for payment to the bank or trust company on which they are drawn, the Borrower shall pay to the Mortgagee for each returned cheque a service fee of \$200.00 plus applicable taxes plus all bank charges as a liquidated amount to reimburse the Mortgagee for its administrative costs with respect to the same. In the event that a cheque has not been honoured by the Borrower's/Mortgagor's bankers and is not forthwith replaced by the Borrower/Mortgagor, the Mortgagee shall be entitled to a further service fee of \$100.00 plus applicable taxes for each written request made as a result of the Borrower/Mortgagor not forthwith replacing a dishonoured cheque.

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(f) INSPECTION FEE

In the event that the Mortgagor requests an inspection of the Mortgaged property to be made by the Mortgagee or the Mortgagee conducts an inspection after an Event of Default by the Borrower or a Covenantor, or to preserve the security, then the Mortgagee shall be entitled to an inspection fee of \$1,000.00 plus applicable taxes for each such inspection.

2. DISCHARGE

Every discharge or partial discharge document shall be prepared by the Mortgagee or its solicitor, at a cost of the lesser of \$350.00 for each document or for each separate property. Discharge documents shall be delivered within a reasonable time after payment of the principal sum secured herein, together with accrued interest thereon, together with all outstanding fees and charges. Any payments received after 1:00 p.m. shall be deemed to have been received on the following banking day.

3. CHARGE DUE ON SALE OR FURTHER ENCUMBRANCE

In the event the Borrower sells, transfers or assigns the mortgaged property, or grants any further mortgage or encumbrance thereon without the prior written consent of the Mortgagee (such consent not to be unreasonably withheld), then, at the option of the Mortgagee, all monies hereby secured shall forthwith become due and payable. Where the Borrower is a corporation, the sale, transfer or any dealing with the shares of such corporation resulting in a change of control except pursuant to a testamentary will or the administration of an estate shall be deemed to be a sale or transfer. In the event that the Mortgagee consents to a transfer of the mortgaged property, the transferee will execute an agreement to assume the mortgage prepared by the Mortgagee at the Borrower's expense, which agreement will provide for the continued liability of the Borrower. The Borrower shall pay an assumption fee to be determined by the Mortgagee.

4. EXPROPRIATION

In the event that the mortgaged property or a substantial part thereof is expropriated by any government, government agency or government regulated entity, the Mortgagee shall, at its sole option, have the right to accelerate payment of the amounts secured by this Mortgage or any other security provided by the Borrower or any Covenantor to the Mortgagee or the Lender in connection with any amounts owing by the Borrower to the Lender and all such amounts so secured by this Mortgage shall immediately become due and payable together with all interest and other amounts secured by this Mortgage with interest thereon at the rate of interest provided in the Mortgage, until payment is made in full.

5. MORTGAGE NOT PAID WHEN DUE
INTENTIONALLY DELETED

6. FUTURE RENEWAL OR AMENDMENT

The loan described in the Loan Agreement and any security granted in connection therewith, including this Mortgage, may be renewed or amended by an agreement in writing with or without an increased rate of interest notwithstanding that there may be subsequent encumbrancers at the time of such renewal or amendment. It shall not be necessary to register any such agreement to retain priority for this Mortgage on such altered terms over any instrument registered subsequent to this Mortgage or other security granted by the Borrower or any Covenantor although the Mortgagee may require same. Any such agreement shall be effectual and binding on the Mortgagor and any such subsequent encumbrancer and shall take priority against such subsequent encumbrancer immediately upon execution by the Mortgagor. The Borrower shall pay all

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legal and administrative costs of the Mortgagee incurred in connection with any such agreement. The Mortgagor acknowledges that the provisions of this paragraph shall not confer any right of renewal on the Mortgagor.

7. OBLIGATION TO REPAIR AND RIGHT TO INSPECT

The Mortgagor covenants and agrees to keep the mortgaged property in good condition and repair according to the nature and description thereof, and the Mortgagee and the Mortgagee's agents may, whenever the Mortgagee reasonably deems it necessary, enter on and in the mortgaged property for the purpose of inspecting the same and to make any necessary repairs, including majors repairs; provided that the Mortgagee shall first advise the Mortgagor in writing of such repairs to be undertaken five (5) business days prior to any repair being commenced. The costs of such repairs and inspections shall be added to the debt secured by this Mortgage and shall be a part of the additional Mortgage on the mortgaged property in priority to all other claims against the mortgaged property subsequent to this Mortgage, and shall be payable forthwith, and shall bear interest at the Interest Rate set forth in this Mortgage until paid in full.

8. POSSESSION UPON DEFAULT

Upon default in payment of principal or interest under the Mortgage or non-performance of any of the terms and conditions herein, and such default or non-performance not being remedied within thirty (30) days of notice being given, the Mortgagee may enter into and taken possession of the mortgaged property and proceed legally under the applicable laws of Alberta to become the owner of the mortgaged property or to obtain an Order of the Court against the Borrower, the Covenantors or any of them .

9. PAYMENT OF OTHER CHARGES AND PERFORMANCE OF THEIR OBLIGATIONS BY THE LENDER

The Mortgagee may pay the amount owing on any encumbrance, priority or mortgage now or hereafter existing or which may arise or be claimed against the mortgaged property, and claiming priority over the Mortgagee's Mortgage, including any realty taxes, levies, or other rates on the said mortgaged property, and the Mortgagee may further pay all costs, charges and expenses which may be incurred in taking, recovering and keeping possession of the mortgaged property, and all solicitors' judicial and extra judicial fees or commissions for or in respect of the collection of any overdue instalments or any other monies whatsoever payable by the Mortgagor under the Mortgage, such costs to be as between solicitor and its own client, whether any action or other judicial proceeding to enforce such payment has been taken or not; and the amount so paid and the expenses of remedying a default or payment of insurance premiums for fire or other risks or hazards or for realty taxes, or for work on or repairs to the mortgaged property or for utility charges, heating costs, collection costs and any other expenses, costs or any monies paid, any or all of which shall be added to the debt secured by the Mortgage on the mortgaged property and shall bear interest at the rate of interest provided in the Mortgage, which shall be payable forthwith by the Mortgagor to the Mortgagee, and in the event of the Mortgagee paying any amount of money on the security of the mortgaged property, the Mortgagee shall be entitled to all the rights, equities and securities of the persons, entity or entities so paid and the Mortgagee is hereby authorized to retain any assignment or discharge thereof, without registration, for any period even if it is a longer period than six months if the Mortgagee deems it appropriate to do so. Furthermore, the Mortgagee may after any such payment accelerate payment of the amounts secured by the Mortgage and all such amounts secured by this Mortgage shall immediately become due and payable together with all interest and other amounts secured by this Mortgage with interest thereon at the rate of interest provided in the Mortgage, until payment is made in full.

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10. ASSIGNMENT OF RENTS, LEASES, ETC.

- (a) To further secure the indebtedness secured hereunder, the Mortgagor hereby assigns and transfers unto the Mortgagee all rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the mortgaged property or any part thereof (the "tenancies"), which may have been heretofore or may hereafter be made or agreed to, or which may be granted, it being the intention of the parties to establish an absolute transfer and assignment of all such rents, issues and profits under such tenancies and all the avails thereunder unto the Mortgagee. The Mortgagee however, until notice is sent to the tenants, acknowledges that the Mortgagor is entitled to collect the rentals of the mortgaged property.
- (b) The Mortgagor further covenants and agrees to execute and deliver at the request of the Mortgagee all further assurances and assignments with respect to such tenancies as the Mortgagee shall from time to time request, and to do all other acts with respect to such tenancies as requested by the Mortgagee.
- (c) In the event that the Mortgagee collects any payments of rent as a result of the Borrower's or any Covenantor's default, the Mortgagee shall be entitled to receive from such rent a management and servicing fee of five per cent (5%) of gross receipts received by the Mortgagee which the parties acknowledge is a just and equitable fee, and which shall be in addition to any charges or expenses incurred by the Mortgagee including fees and disbursements paid by the Mortgagee to a management company, real estate company or like person or entity retained by the Mortgagee to assist it to recover rents.
- (d) The Mortgagor covenants and agrees that no rent has been or will be paid by any person in possession of any portion of the mortgaged property in advance, and that no portion of the rents to accrue for any portion of the said mortgaged property have been or will be waived, released, reduced, discounted or otherwise discharged or compromised by the Mortgagor.
- (e) The Mortgagor will not do or omit to do any act which results in a breach of any tenancy in or upon the mortgaged property without the written consent of the Mortgagee.
- (f) The Mortgagor agrees that all leases, offers to lease, or lettings of the mortgaged property or any part thereof shall be bona fide and shall be at rates and on terms consistent with comparable space in the area of the mortgaged property, and provided further that the Mortgagor shall obtain the written consent of the Mortgagee prior to the execution of any lease, offer to lease, or any letting or tenancy agreement, such consent not to be unreasonably withheld.
- (g) Any entry upon the mortgaged property under the terms of this Mortgage shall not constitute the Mortgagee to be a Mortgagee in Possession in contemplation of law and the Mortgagee shall not become liable to account to the Mortgagor or to credit the Mortgagor with any monies on account of the Mortgage except those which shall come into its hands or into the hands of any agents appointed by it; and neither shall the Mortgagee be liable for failure to collect rents or revenues, it being agreed that the Mortgagee shall be under no obligation to take any action or proceeding or exercise any remedy for the collection or recovery of rents and revenues, or any part thereof, and then only, subject to all appropriate deductions and payments made out of the rents and revenues received from the mortgaged property as herein provided; nor shall the Mortgagee be liable to remedy any environmental contamination of the mortgaged property or to indemnify any party on account of the need to remedy an environmental contamination.
- (h) This assignment is taken only as additional security and neither the taking of this assignment nor any act in pursuance hereof shall make the Mortgagee liable in

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any way, as landlord or otherwise, for the performance or any covenants, obligations or liabilities under any lease, agreement to lease, letting or tenancy agreement.

11. APPOINTMENT OF RECEIVER

- (a) Any time after default hereunder the Mortgagee may in writing from time to time appoint a Receiver of the mortgaged property and may from time to time remove the said Receiver and appoint another in its stead, and any such Receiver appointed hereunder shall have the following powers:
- (i) To take possession of the mortgaged property and to collect revenues from the same and for such purpose to enter onto or into the mortgaged property and for such purpose to do any act and take any proceedings in the name of the Mortgagor or otherwise as it shall deem necessary.
 - (ii) To carry on or concur in carrying on the business of the Mortgagor, and to employ and discharge agents, workers, accountants and others upon such terms and with such salaries, wages or remuneration as it shall think proper, and to repair and keep in repair the mortgaged property and to do any acts it deems appropriate for the carrying on of the business of the Mortgagor and the protection of the said mortgaged property.
 - (iii) To sell or lease or concur in the selling or the leasing of the mortgaged property, or any part thereof, and to carry any such sale or lease into effect by conveying in the name of or on behalf of the Mortgagor or otherwise; and any such sale may be made either at public auction or private sale as seen fit by the Receiver and any such sale may be made from time to time as to the whole or any part of parts of the mortgaged property; and the Receiver may make any stipulations as to matters of title or conveyance or the commencement of title or otherwise, as it shall deem proper; and it may buy or rescind or vary any contract for the sale of any part of the mortgaged property and it may resell the same; and it may sell any of the mortgaged property on such terms as to credit or part cash and part credit or otherwise as shall appear in its sole option to be most advantageous and at such prices as can reasonably be obtained therefor and in the event of a sale on credit neither it nor the Mortgagee shall be accountable for or charged with any monies until actually received by them.
 - (iv) To make any arrangement or compromise which the Receiver may think expedient or otherwise in the interest of the Mortgagee and to consent to any modification or change in or omission from the provisions of this Mortgage and to exchange any part or parts of the mortgaged property for any other property suitable for the purposes of the Mortgagee and upon such terms as may seem expedient and either with or without payment or exchange of money or with or without regard to the equality of the exchange or otherwise.
 - (v) To borrow money to carry on the business of the Mortgagor and to charge the whole or any part of the mortgaged property in such amounts as the Receiver may from time to time deem necessary and in so doing the Receiver may issue certificates that may be payable when the Receiver thinks expedient and shall bear interest as stated therein and the amounts from time to time payable under such certificates shall charge the mortgaged property in priority to this Mortgage.
 - (vi) To execute and prosecute all suits, proceedings and actions which the Receiver in its discretion considers necessary for the protection of the mortgaged property, to defend all suits, proceedings and actions against

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the Borrower or the Receiver, to appear in and conduct the prosecution and defence of any suit, proceeding or action then pending or thereafter instituted and to appeal any suit, proceeding or action.

- (vii) To execute and deliver to the purchaser of any part or parts of the mortgaged property, good and sufficient transfers for the same, the Receiver hereby being constituted the irrevocable attorney of the Borrower for the purpose of making such sale and executing such transfer, and any such sale made as aforesaid shall be a perpetual bar both in law and equity against the Mortgagor, and all other persons claiming the said property or any part or parts thereof by, from, through or under the Mortgagor, and the proceeds of any such sale shall be distributed in the manner hereinafter provided.
- (b) And it is agreed that no purchaser at any sale purporting to be made in pursuance of the aforesaid power shall be bound or concerned to see or inquire into whether any default has been made or continues, or whether any notice has been given, or as to the necessity or expediency of any stipulations subject to which such sale shall have been made, or otherwise as to the propriety of such sale or to the regularity of its proceedings, or the effect of not giving a notice that default has been made or continues, or that any required notice was not given, or that the sale is otherwise unnecessary, or improper or irregular; and notwithstanding any impropriety or irregularity or notice, or failure to give notice or the failure to do any act, shall not effect the effectiveness or propriety of any sale to a purchaser and such sale shall be deemed to be within the power of the Receiver and the Mortgagee and shall be a valid sale and the remedy if any of the Borrower, or of any party claiming by or under it, in respect of any alleged impropriety or irregularity whatsoever in any such sale shall be in damages only against a party other than the purchaser.
- (c) The net profits of the business of the Mortgagor or the sale of the same and the net proceeds of the sale of the mortgaged property or any part thereof shall be applied by the Receiver subject to the claims of any creditors ranking in priority to this Mortgagee's Rights and subject to any order of a court of competent jurisdiction:
 - (i) Firstly, in payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise by it of all or any of the powers aforesaid including the reasonable remuneration of the Receiver and all amounts properly payable by it;
 - (ii) Secondly, in payment of all costs, charges and expenses payable under the Mortgage;
 - (iii) Thirdly, in payment to the Mortgagee of all interest and arrears of interest;
 - (iv) Fourthly, in payment of the principal sum owing under the Mortgage;
 - (v) Fifthly, in payment to the Mortgagee of any other fees, expenses and other monies remaining unpaid under the Mortgage; and
 - (vi) Sixthly, any surplus shall be paid to the Mortgagor; provided that in the event that any party claims a security interest against all or a portion of the surplus, the Receiver shall make such disposition of all or a portion of the surplus to the claimant as the Receiver deems appropriate in the circumstances with the balance, if any then remaining, to the Mortgagor.
- (d) The Lender shall not be liable to the Receiver for its remuneration, costs, charges or expenses, and the Receiver shall not be liable for any loss howsoever arising unless the same shall be caused by its own gross negligence or willful

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default; and it shall, when so appointed, by notice in writing pursuant hereto, be deemed to be the agent of the Mortgagor and the later shall be solely responsible for its acts and defaults and for its remuneration.

- (e) Nothing shall obligate the Mortgagee or the Receiver to take possession, control or manage any property which may be or contain a pollutant or contaminant or cause or contribute to a discharge, release or deposit of a substance contrary to any applicable environmental legislation or, the regulations thereunder. Provided further that the Receiver shall not be or deemed to be a successor employer of the Mortgagor or any employer in or upon the mortgaged property under any legislation or agreement.

12. POSTPONEMENT OF CLAIMS BY GUARANTOR

All indebtedness and liability, present and future, of the Borrower to the Covenantor is hereby assigned to the Mortgagee and postponed to the repayment of all the monies secured by the within Mortgage, and all monies received by Covenantor in respect thereof shall be received in trust for the Mortgagee, the whole without limiting or lessening the liabilities of the Covenantors under their guarantees or any other security, and this assignment and postponement is independent of the said guarantees and shall remain in full effect until repayment in full to the Mortgagee of the monies secured by the Mortgage notwithstanding that the liabilities of the Covenantors under the within guarantees may have been discharged or terminated. All Covenantors and the Borrower acknowledge the assignment to the Mortgagee as set forth herein provided that nothing shall impose upon the Mortgagee any obligation to do anything to realize on the assigned debts and claims or to ensure that those debts or claims do not become statute barred by the operation of law relating to limitation of actions or otherwise.

13. INSURANCE

- (a) The Mortgagor covenants and agrees, notwithstanding anything herein contained, that at all times during the term of this Mortgage, the Mortgagor shall maintain the following insurance coverage on all improvements on the mortgaged property and with respect to the mortgaged property in general, and where applicable, the business conducted by the Mortgagor on and in the mortgaged property in accordance with requirements of the Mortgage, including:
 - (i) "All Risk" coverage with "By-laws" coverage in an amount satisfactory to the Mortgagee and including the endorsements for conflict, encumbrance, fire department service charges, environmental risk, immediate repairs, loss of control, debris removal, permission to enter and repair, release and subrogation, re-instatement of loss and unearned premium, waiver of terms and conditions and joint loss agreement;
 - (ii) where the mortgaged property is of a commercial or industrial nature, a comprehensive broad form boiler and machinery coverage on all electrical, mechanical and compression in an amount satisfactory to the Mortgagee;
 - (iii) comprehensive public liability coverage for personal injury, death, property damage or loss in an amount of not less than \$5,000,000 for each occurrence, or such other amount as the Mortgagee may stipulate in writing from time to time, for each occurrence; and
 - (iv) where a business is conducted at the Mortgaged property or there are tenants thereon, the insurance policy shall include business interruption or rental loss coverage on an insurable gross rents basis sufficient to cover 100% of the greater of the fair market value of the rents payable by

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the aforesaid business in a property comparable to the Mortgaged property or the actual gross annual rents payable for the Mortgaged property and, where the rents are on a fully net basis, on the equivalent gross rents for the same period.

- (b) The Mortgagor covenants with the Mortgagee to:
 - (i) pay all insurance premiums for all insurance coverage when such premiums are due and payable;
 - (ii) to maintain authorization with current and any subsequent insurer to provide the Mortgagee with any information concerning the insurance coverage.
- (c) The Mortgagor covenants with the Mortgagee that all insurance policies shall:
 - (i) be endorsed to show the Mortgagee as a loss payee as the Mortgagee's interests may appear and such policies shall provide that any loss shall be payable to the Mortgagee as the Mortgagee's interest may appear;
 - (ii) be with an insurer or insurers acceptable to the Mortgagee, acting reasonably, and each such policy shall be signed by the insurer or insurers, or agents or brokers authorized to sign on behalf of each insurer;
 - (iii) be without co-insurance or have a stated or stipulated amount co-insurance clause for an amount equal to or less than the policy limit;
 - (iv) grant permission of partial occupancy and stipulate that reconstruction shall not be limited to the same site;
 - (v) include a provision that the insurer shall give the Mortgagee a minimum thirty (30) days written notice of any material alteration to or cancellation of the policy and a minimum ten (10) days advice as to the renewal of the policy prior to the renewal;
 - (vi) contain standard approved IBC "standard mortgagee" clauses in favour of the Mortgagee approved by the Mortgagee;
 - (vii) contain By-laws coverage satisfactory to the Mortgagee.;
- (d) Notwithstanding anything contained in the Loan Agreement or this Mortgage, the Mortgagor covenants and agrees with the Mortgagee to obtain and maintain such other form or forms of insurance, including environmental liability coverage, as the Mortgagee may deem prudent, acting reasonably, upon written request therefore made by the Mortgagee.
- (e) The Mortgagor covenants with the Mortgagee to, on written request made therefore, deliver to the Mortgagee, at the Mortgagor's expense, a certificate, opinion or other satisfactory report prepared by a competent appraiser or independent insurance consultant selected by the Mortgagee as to the sufficiency or otherwise of any insurance coverage, and as to the type and amount thereof.
- (f) The Mortgagor agrees that any deviation from the requirements set forth in the Loan Agreement and the Mortgage for insurance coverage must be approved by the Mortgagee in writing, such approval not to be unreasonably withheld.
- (g) The Mortgagor covenants that the Mortgagor shall, forthwith on the written request of the Mortgagee, provide the Mortgagee with a certified copy of every insurance policy aforesaid, and on request, copies of any and all receipts of payment of insurance premiums therefore and the Mortgagor acknowledges and agrees that the Mortgagee shall have a hypothec on the proceeds of all the aforesaid insurance policies for all these amounts.

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- (h) The Mortgagor covenants that, forthwith on the happening of any loss or damage, the Mortgagor shall furnish to the Mortgagee, at the Mortgagor's expense, all necessary information and proofs of loss and do all necessary acts to enable the Mortgagee to obtain payment of the insurance proceeds.
- (i) Any insurance proceeds received may, at the Mortgagee's option, be applied to rebuilding, reinstating or repairing the mortgaged property or to be paid to the Mortgagor or any other person appearing by the registered title to be the owner of the mortgaged property or be applied or partly paid in one way and partly in another, or it may be applied, in the sole discretion of the Mortgagee, in whole or in part on account of the amounts secured by this Mortgage, whether due or not then due.
- (j) The Mortgagor acknowledges and agrees that in the event that the Mortgagee takes out insurance coverage in respect of the mortgaged property for the aforementioned specified risks, or any other risks the Mortgagee shall not be bound to insure the interest of any other person whatsoever, or to pay any insurance premium on any insurance policy, or be responsible for any loss arising out of any defect in any insurance policy or failure of any insurer to pay for any loss thereunder.

14. REALTY TAXES

- (a) Realty taxes shall mean and include all taxes, rates, levies and assessments of whatever nature or kind, including local improvement rates and any and all interest and penalties thereon.
- (b) At the Mortgagee's request, the Mortgagor in addition to the aforesaid payments of principal and interest, covenants and agrees to pay realty taxes as hereinafter provided; the Mortgagee shall estimate the amount of the realty taxes chargeable against the said Mortgaged property payable in each year and the Mortgagor shall pay to the Mortgagee one-twelfth of the estimated annual amount together with the aforesaid payments of principal and interest in each and every month during the term of this Mortgage, commencing with the first payment date aforesaid and the Mortgagee shall apply such payments on account of the realty taxes so long as the Borrower and Covenantors are not in default under the Loan Agreement or any security entered into in connection therewith, but nothing herein contained shall obligate the Mortgagee to apply such payments on account of the realty taxes more often than yearly; provided, however, that if the Borrower shall pay any sum or sums to the Mortgagee to apply on the realty taxes, and if before the same shall have been so applied there shall be default by the Borrower in respect of any payment of principal or interest as contemplated in the Loan Agreement, the Mortgagee may at its option apply such sum or sums in or towards payments of the principal and/or interest in default. In the event that the realty taxes actually charged for any one year, together with any interest and penalties thereon, exceed the estimated amount, the Mortgagor shall pay to the Mortgagee on demand the amount required to make up the deficiency; and if the Mortgagor desires to take advantage of any discounts or to avoid any penalties in connection with the payment of realty taxes, the Mortgagor may pay to the Mortgagee such additional amounts as are required for that purpose; and the Mortgagor shall transmit to the Mortgagee forthwith after receiving them, the assessment notices for the realty taxes upon the mortgaged property.
- (c) In the event that the Mortgagee does not collect realty taxes from the Mortgagor as aforementioned, the Borrower shall upon demand, deliver to the Mortgagee proof in a form satisfactory to the Mortgagee that the realty taxes have been paid in full for the prior calendar year, and if the proof of same is not delivered to the Mortgagee within 14 days of demand for the same having been made, the Mortgagee may in addition to any other rights contained in the Mortgage, charge

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a service fee of \$200.00 to the Mortgagor for each letter of demand mailed or delivered to the Mortgagor by the Mortgagee or on its behalf, for proof of payment of realty taxes, and the same for each enquiry made to the appropriate municipal realty tax department, which amount is a liquidated amount to cover the Mortgagee's administrative charges, and is not a penalty.

- (d) The Mortgagee may, unless payment has otherwise been made, deduct from the loan advances, the amount necessary to pay the current year's realty taxes and an amount which together with the monthly tax payments to be made to and including April of the following calendar year, will be sufficient to pay all the taxes for the following calendar year.
- (e) No monies paid to the Mortgagee pursuant to the provisions of this section shall be held in trust for or bear interest to the credit of the Borrower or any Covenantor.
- (f) In the event that the Mortgagor has not remitted realty tax instalments to the Mortgagee in an amount enabling the Mortgagee to maintain the realty taxes on the Mortgaged property in good standing, the Mortgagor shall at its own expense deliver to the Mortgagee on or before the 31st day of July in each year during the term of the loan contemplated in the Loan Agreement, or any renewal thereof, proof in a form satisfactory to the Mortgagee, such as a certificate of realty tax payment or cancelled cheques, that the realty taxes for the said calendar year have been paid in full. In the event that such proof is not delivered to the Mortgagee as aforementioned the Mortgagee shall be entitled to a service fee of \$200.00 plus applicable taxes for each request to the Mortgagor for such proof that is made by the Mortgagee acting reasonably, and further the failure to provide the aforementioned evidence shall constitute an act of default entitling the Mortgagee to pursue all legal remedies and to exercise any powers conferred by this Mortgage.
- (g) The within realty tax section is in addition to and without prejudice to the other provisions of the within Mortgage in regard to realty taxes.

15. POST-DATED CHEQUES

Intentionally Deleted.

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16. BANKRUPTCY AND INSOLVENCY

- (a) The Mortgagor hereby waives and releases any right that it may have to receive from the Mortgagee notice of intention to enforce security pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act (Canada)* or any successor or substitute section or legislation. This waiver and release shall not be deemed or interpreted to be a prior consent to earlier enforcement of a security within the meaning of subsection 244(2.1) of the said Act.
- (b) The Mortgagor hereby acknowledges and agrees that the security held by the Mortgagee is not all or substantially all of the inventory, accounts receivable or other property of the Mortgagor acquired for or used in relation to any business carried on by the Mortgagor. The Mortgagor hereby further acknowledges and agrees that notwithstanding any act of the Mortgagee by way of appointment of any person or persons for the purposes of taking possession of the mortgaged property as agent on behalf of the Mortgagor or otherwise or by taking possession of the mortgaged property itself pursuant to any rights that the Mortgagee may have with respect hereto shall not constitute the Mortgagee or any such person, a receiver within the meaning of subsection 243(2) of the *Bankruptcy and Insolvency Act (Canada)* or any successor or substitute provision, and that any and all requirements of Part XI of that said Act as it may pertain to obligations of receivers shall not be applicable to the Mortgagee with respect to the transaction pursuant to which this Mortgage has been given or enforcement of this Mortgage or any other security held by the Mortgagee. The Mortgagor hereby acknowledges and agrees that no action shall lie against the Mortgagee as a receiver, manager or otherwise for any loss or damage arising from non-compliance with any obligations of a receiver pursuant to the provisions of the *Bankruptcy and Insolvency Act (Canada)* or any successor or substitute Federal or Provincial legislation, whether or not the Mortgagee had reasonable grounds to believe that the Mortgagor was not insolvent.
- (c) And the Mortgagor further acknowledges and agrees that any and all costs as may be incurred from time to time by the Mortgagee in order to effect compliance or avoid any adverse ramifications of the *Bankruptcy and Insolvency Act (Canada)* or any successor or substitute Federal or Provincial legislation shall be entirely for the account of the Mortgagor. The Mortgagee shall be entitled to incur any such costs, including any costs of its personnel in administering any requirements of the *Bankruptcy and Insolvency Act (Canada)* and to add the same to the indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Mortgagee for the indebtedness owing to the Mortgagee in the same manner and in the same priority as the principal secured hereunder.

17. RESIDENTIAL RENTAL PROPERTIES

- (a) The Mortgagor represents and warrants that with respect to such of the mortgaged property as may be residential rental property:
 - (i) All rents charged and deposits taken with respect to the property or any part thereof are lawful rents pursuant to the *Residential Tenancies Act (Alberta)* and all required rebates have been paid;
 - (ii) No applications, investigations or proceedings have been commenced or made pursuant to the *Residential Tenancies Act (Alberta)* with respect to the property or any residential rental unit or units on the mortgaged property.

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- (iii) There are no outstanding orders or decisions made by the Province of Alberta or any board or commission with respect to the mortgaged property or any residential rental unit or units on the mortgaged property.
- (b) The Mortgagor agrees to comply with the terms of the *Residential Tenancies Act (Alberta)* as amended from time to time, and any legislation enacted in substitution thereof. In the event of breach of this covenant or in the event that any of the representations are warranties contained in this provision are false, the same shall constitute an Event of Default.

18. EVENTS OF DEFAULT

- (a) The Mortgagor covenants and agrees that notwithstanding any other provision in this Mortgage, the Mortgagee may deem this Mortgage to be in default in the event that the Mortgagor does or becomes subject to any of the following which is deemed to be an Event of Default:
 - (i) the Borrower fails to make a payment in accordance with Loan Agreement;
 - (ii) the Mortgagor fails to make any other payment required to be made under the Mortgage;
 - (iii) permits any other amount which is secured by this Mortgage, or any taxes, public utilities accounts or insurance premiums which are due and payable under this Mortgage, or otherwise due and payable by the Mortgagor and not in dispute, to remain unpaid after the Mortgagee has made written demand for payment thereof;
 - (iv) fails to insure the mortgaged property in accordance with the Mortgage;
 - (v) fails to observe or perform any covenant or agreement contained in this Mortgage;
 - (vi) makes any warranty or representation to the Mortgagee which is untrue in any material respect;
 - (vii) permits any lien, encumbrance or other claim capable of ranking in priority to the security created in favour of the Mortgagee to be recorded or registered against the mortgaged property which is not removed or satisfied in full within thirty (30) days of such recording or registration;
 - (viii) causes or permits any order to be made or any resolution to be passed or adopted, or any petition to be filed for the winding-up of the Mortgagor;
 - (ix) becomes insolvent, commits an act of bankruptcy, or if a petition in bankruptcy is filed against the Mortgagor which is not being disputed in good faith by the Mortgagor, or a proposal made by the Mortgagor under the *Bankruptcy and Insolvency Act (Canada)* is rejected by creditors;
 - (x) causes or permits a "stay order" to be issued pursuant to the *Companies Creditors Arrangement Act (Canada)* which prohibits the Mortgagee from enforcing this Mortgage;
 - (xi) is the subject of any execution, sequestration or any other judicial process, or any distress or similar process levied on the mortgaged property or against the Mortgagee which is not, in good faith, being disputed by the Mortgagor;
 - (xii) fails or refuses to comply with any term, condition or proviso of the Mortgage or any other security required pursuant to it;
 - (xiii) has made any material misrepresentation to the Mortgagee in any environmental proviso contained in the Mortgage or if there is any

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hazardous material, or environmental contamination, which, in the opinion of the Mortgagee, may reduce the market value of the mortgaged property;

- (xiv) commits or permits the commission of an event of default under any other security, priority or collateral security given or granted by it or the Borrower or any Covenantor to the Mortgagee pursuant to the terms and conditions of the Loan Agreement;
 - (xv) where the Mortgagor is a corporation, and there is a change in control of the Mortgagor without the prior written consent of the Mortgagee or the Mortgagor fails to maintain its corporate existence;
 - (xvi) permits the termination or surrender of any lease or tenancy agreement of the mortgaged property or any part thereof which has been assigned to the Mortgagee as collateral security, or permits any reduction in the term or rent of any such lease or tenancy agreement affecting the mortgaged property without the prior written consent of the Mortgagee;
 - (xvii) fails to negotiate with respect to, or renew, extend, modify or amend any lease or tenancy agreement affecting the mortgaged property in good faith, acting as a prudent landlord;
 - (xviii) neglects to keep the mortgaged property substantially in good condition and repair as aforesaid, or commits any act of waste, the determination of which the Mortgagee shall be the sole judge, acting reasonably, or allows any improvements on the mortgaged property to remain unfinished or without any work being done thereon for thirty (30) days;
 - (xix) permits or causes waste to the mortgaged property or otherwise causes or permits, by any act or omission, the value of the mortgaged property to decline;
 - (xx) abandons the mortgaged property or a substantial portion thereof, either physically or constructively, or otherwise leaves the mortgaged property vacant for more than ten (10) days;
 - (xxi) fails to comply with all applicable building, zoning and other municipal by-laws, statutory requirements and regulations (save and except for any such non-compliance which is, in good faith, contested by the Mortgagor with the municipality or other body having jurisdiction until the final disposition thereof against the Mortgagor);
 - (xxii) fails to comply with all applicable laws, regulations and by-laws which apply to the ownership, maintenance, repair, use and occupation of the mortgaged property;
 - (xxiii) commits or permits the commission of criminal activities on, in or under the mortgaged property.
 - (xxiv) fails to comply with any provision of any applicable law, regulation or governmental or quasi-governmental order or decree or the Mortgage;
- (b) On the occurrence of any Event of Default, the Mortgagee may at its sole option accelerate payment of the amounts secured by this Mortgage and all such amounts secured by this Mortgage shall immediately become due and payable together with all interest and other amounts secured by this Mortgage with interest thereon at the rate of interest provided in the Mortgage, until payment is made in full.

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- (c) Every Event of Default entitles the Mortgagee to exercise any and all rights and remedies available to it.
- (d) The Mortgagee may waive any Event of Default in writing at any time after the occurrence of such Event of Default; provided that any such waiver shall apply only to the particular Event of Default waived by the Mortgagee, and shall not operate as a general waiver or a waiver of any other or future Event of Default.

19. LOAN AGREEMENT

For the purpose of this Schedule, the Loan Agreement shall include any commitment to fund or to lend predating the Mortgage, including any document to which this Schedule has been attached.

20. RECOURSE

The Borrower covenants and agrees that on the occurrence of an Event of Default hereunder, the Mortgagee and Lender may, exact payment of all amounts due and exercise the rights granted to the Lender under the Loan Agreement and the Mortgage under the Mortgage and otherwise pursuant to the laws of Alberta.

21. SECURITY INTEREST IN CHATTELS

- (a) All chattels, equipment, installations, erections, structures and improvements, fixed or otherwise, now or hereafter put upon the said mortgaged property and owned by the Mortgagor, including, but without limiting the generality of the foregoing, all drapes and curtains, lobby furniture, refrigerators, stoves, washers, dryers, heating equipment, air-conditioning and ventilation equipment, blinds, storm windows and doors, window screens, mirrors, shelving, railings, counters, cupboards, built-ins and the like, and all apparatus and equipment appurtenant thereto are and shall in addition to other fixtures be an accession to the freehold and a part of the realty, and shall be a portion of the security for the indebtedness contained in the Loan Agreement and the Mortgage.
- (b) The Mortgagor covenants and agrees to execute and deliver to the Mortgagee, on demand, a security interest in all such chattels, furnishings, equipment, appliances and all other similar personal property owned now or in the future owned by the Mortgagor and situate in or about the Mortgaged property. The form and content of such security interest shall be acceptable to the Mortgagee in its discretion. The Mortgagor agrees to pay all legal and other expenses incurred by the Mortgagee in connection with the registration of a financing statements under the *Personal Property Security Act (Alberta)* and replacement or successor legislation and all other documents relating to the security interest and any renewals thereof forthwith upon demand and such fees and expenses, together with interest thereon at the interest rate charged hereunder, paid forthwith by the Mortgagor and treated as Additional Fees as provided in Section 1 herein.

22. SPOUSAL CLAUSE

The Mortgagor covenants that it or the owner from time to time of the said mortgaged property that is not a corporation, will advise and keep advised the Mortgagee as to whether the Mortgagor or owner from time to time is a spouse and, if so, the name of the spouse; and further will advise and keep advised the Mortgagee of any change in spousal status and will forthwith, upon request, furnish the Mortgagee with such evidence in connection with spousal status and the name of the spouse, as the Mortgagee may from time to time require or request.

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23. STRATA LOT PROVISIONS

- (a) The Mortgagor shall deliver to the Mortgagee written notice of every meeting of the owners at least ten (10) business days prior to such meeting, such notice to specify the information required by law and declaration with respect to the giving of such notices.
- (b) The Mortgagor shall deliver to the Mortgagee copies of any or all of the strata corporation's current declaration, by-laws, regulations and rules and copies of all notices, minutes, resolutions, accounts, insurance policies, warranties, plans, list of assets of the strata corporation, all agreements relating to the management, operation, maintenance and repair of the mortgaged property, all financial records of the strata corporation relating to the operation of the strata corporation or the mortgaged property, budgets and other documents relating to the financial statements and to the affairs of the condominium corporation as the Mortgagor may receive from time to time, within ten (10) business days of the date that written notice is given to the Mortgagor requesting same.

24. INTEREST ONLY MONTHLY

Intentionally Deleted.

25. FURTHER ASSURANCES

The Mortgagor shall execute such further assurances of the mortgaged property and execute and deliver such collateral security and do such further acts as the Mortgagee may require to further perfect and secure this Mortgage and, in the event of default, the Mortgagor shall execute and deliver such further assurances and do such further acts, at the Mortgagor's expense, as may be required by the Mortgagee.

26. VALIDITY OF PROVISIONS

If any provision of the Loan Agreement or the Mortgage is held to any extent invalid or unenforceable, such provision shall be deemed to be severed herefrom and the remainder of the Loan Agreement or the Mortgage, as the case may be, other than a provision which is held invalid or unenforceable, will be unaffected.

27. INTERPRETATION

- (a) In the event of any conflict or inconsistency between the terms and conditions of this Schedule and the provisions of the balance of the Mortgage, to the extent permitted at law, the terms and conditions most favourable to the Mortgagee shall take priority and be applicable.
- (b) Any reference in the standard mortgage terms forming part of this Mortgage to the *Condominium Property Act (Alberta)* shall be interpreted as a reference to the *Condominium Property Act (Alberta)* as amended from time to time. If all or a portion of the mortgaged property is now or hereafter part of a strata plan, then to the fullest extent permitted by law, the Mortgagor irrevocably authorizes the Mortgagee to exercise any right that the Mortgagor may have pursuant to the by-laws of the strata corporation formed by the owners of strata lots in such strata plan and any right that the Mortgagor may have pursuant to the *Condominium Property Act (Alberta)* by the Mortgagee shall not be obligated to exercise any such right and if the Mortgagee does not exercise any such right the Mortgagor may do so.
- (c) Without limiting the generality of any other obligation of the Mortgagor to the Mortgagee, the Mortgagor will comply with all of the Mortgagor's obligations relating to the mortgaged property under any applicable law including, without

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limitation, the Mortgagor's obligations under the *Condominium Property Act (Alberta)*.

- (d) The taking of judgment or judgments on any of the covenants herein contained shall not operate as a merger of such covenants or affect the Mortgagee's right to interest at the rates and times herein provided. Any such judgment shall provide that interest thereon shall be computed at the same rates and in the same manner as herein provided until the said judgment shall have been fully paid and satisfied.
- (e) This Mortgage shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and each of the parties submits to the jurisdiction of the courts of Edmonton, Alberta with respect to this Mortgage.
- (f) When used herein, "Covenantor" includes all guarantors described in the Loan Agreement.

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SCHEDULE "C"

MEMORANDUM OF PERMITTED PRIOR ENCUMBRANCES

Plan 8323217, Lot 3:

4191HP	Utility Right of Way
5886MA	Caveat re Easement
7650OP	Caveat
752 007 020	Caveat
772 191 417	Caveat
802 171 446	Caveat re Easement
802 171 447	Caveat re Easement
802 171 448	Caveat re Easement
832 311 627	Utility Right of Way
832 311 631	Easement
832 311 632	Caveat re Easement
082 014 748	Restrictive Covenant
082 124 683	Restrictive Covenant
082 124 690	Easement
082 124 692	Caveat re Easement
082 255 334	Caveat re Easement
082 412 290	Caveat re Right of First Refusal
082 416 050	Easement
082 511 093	Caveat re Agreement Charging Land
092 359 572	Certificate of Lis Pendens affecting Caveat 082 511 093
092 359 573	Certificate of Lis Pendens affecting Caveat 082 511 093
092 359 574	Certificate of Lis Pendens affecting Caveat 082 511 093
092 359 575	Certificate of Lis Pendens affecting Caveat 082 511 093
092 365 601	Certificate of Lis Pendens affecting Caveat 082 511 093
102 414 416	Caveat re Easement
112 318 970	Caveat re Right of Way Agreement
132 173 346	Caveat re Right of Way Agreement
132 250 234	Caveat re Easement
132 252 285	Caveat re Easement
162 259 031	Partial Discharge of Easement 082 416 050
162 356 039	Caveat re Easement

SW 17-53-23-W4:

2121MS	Utility Right of Way
5741RI	Caveat re Easement
5117RU	Caveat re Easement
802 161 061	Utility Right of Way
912 164 346	Utility Right of Way
942 024 246	Utility Right of Way

062 567 270	Caveat re Easement
072 588 848	Utility Right of Way
082 014 748	Restrictive Covenant
082 124 683	Restrictive Covenant
082 124 690	Easement
082 124 692	Caveat re Easement
092 048 599	Easement
092 236 386	Caveat re Right of Way Agreement
132 104 704	Caveat re Easement
132 173 342	Caveat re Right of First Refusal
132 250 234	Caveat re Easement
132 252 285	Caveat re Easement
132 283 372	Caveat re Deferred Reserve
132 283 379	Caveat re Easement and Restrictive Covenant
132 283 380	Caveat re Easement and Restrictive Covenant
162 342 180	Easement
162 356 039	Caveat re Easement

Plan 8323217, Lot 2:

553HT	Utility Right of Way
7756JH	Caveat
3569LT	Easement
6696LW	Caveat re Easement
5886MA	Caveat re Easement
7650OP	Caveat
752 007 020	Caveat
772 191 417	Caveat re Easement
802 171 446	Caveat re Easement
802 171 447	Caveat re Easement
802 171 448	Utility Right of Way
922 173 319	Easement
082 014 748	Restrictive Covenant
082 124 683	Restrictive Covenant
082 124 689	Easement
082 124 690	Easement
082 124 694	Easement
082 239 404	Easement
092 048 599	Easement
122 128 408	Caveat re Easement
132 173 335	Caveat re Right of Way Agreement
162 356 039	Caveat re Easement

NE 17-53-23-W4:

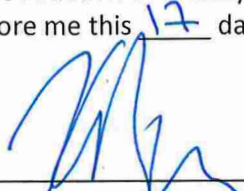
032 286 748	Caveat re Surface Lease
032 419 836	Caveat re Lease Amending Agreement

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042 041 133	Caveat re Amending Agreement
052 105 372	Zoning Regulations
072 298 440	Utility Right of Way
072 318 379	Caveat re Lease Interest
082 014 748	Restrictive Covenant
082 124 683	Easement
082 239 404	Easement
082 255 334	Caveat re Easement
082 292 655	Easement
082 416 050	Easement
112 318 970	Caveat re Right of Way Agreement
132 252 285	Caveat re Easement
162 259 031	Partial Discharge of Easement 082416050

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This is **Exhibit "D"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor



GENERAL SECURITY AGREEMENT

Dated this 17 day of April, 2018.

The Debtor enters into this Agreement in favour of the Creditor as security for the payment and satisfaction of the Indebtedness, and the Debtor covenants, agrees, represents, warrants, acknowledges and grants in favour of the Creditor, as the case may be, as herein provided.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

For the purpose of this Agreement and any Schedules hereto:

- (1) any expression used herein whose first letter is capitalized shall (unless specifically defined in this Agreement) where defined in the Act have such meaning, notwithstanding that such first letter is not capitalized in the Act;
- (2) the following expressions used herein shall have the following meanings:
 - (a) "Act" - the Personal Property Security Act of Alberta and all regulations thereto, as amended from time to time or any substitution therefor;
 - (b) "Account Debtor" or "Account Debtors" - shall have the meaning given to them in Section 7 hereof;
 - (c) "Collateral" - shall have the meaning given to it in Section 2 hereof and shall include the whole or any part or parts thereof as the Creditor requires;
 - (d) "Court" - a court of competent jurisdiction;
 - (e) "Creditor" - **ROMSPEN INVESTMENT CORPORATION**, 162 Cumberland Street, Suite 300, Toronto, ON M5R 3N5;
 - (f) "Debtor" - **ECO-INDUSTRIAL BUSINESS PARK INC.**;
 - (g) "Debts" - all book accounts and book debts and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit and advices of credit, which are now due, payable, owing or accruing due to or owned by or which may hereafter become due, payable, owing or accruing due to or owned by the Debtor;
 - (h) "Default" or "Event of Default" - the occurrence of any event or condition provided for in Section 11 hereof;
 - (i) "Encumbrance" - a charge approved in writing by Creditor ranking in priority to the Security Interest;
 - (j) "Free and Clear" - Free and Clear of all liens, mortgages, security interests, demands, charges, pledges, encumbrances, equities, and adverse claims whatsoever, except for Encumbrances;
 - (k) "Indebtedness" shall be interpreted in its most comprehensive sense, whether incurred prior to, at the time of or subsequent to the entering into of this Agreement and without limiting its generality, shall include any and all Advances (whether fixed or revolving credits or otherwise) or other value and interest thereon at any time and from time to time made or granted by or on behalf of Creditor to or on behalf or on account of or at the direction of Debtor, and for the payment or satisfaction of all obligations, indebtedness or liabilities and interest thereon of Debtor to or

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in favour of Creditor, or for which Creditor may become responsible, whether direct, indirect, absolute, contingent or otherwise, present or future, extended or renewed, insured or not, voluntary or involuntary, matured or not, liquidated or unliquidated, wheresoever and howsoever incurred and any ultimate balance thereof and whether the same is from time to time reduced and thereafter incurred again, and whether Debtor may be liable individually or jointly with others, and whether as principal or surety or guarantor, and whether recovery upon such Indebtedness may be or hereafter become barred or unenforceable, and whether incurred by or arising from agreement, letters of credit (whether or not drawn upon), guarantee or dealings between Creditor and Debtor or others or by or from any agreement, letters of credit (whether or not drawn upon), guarantee or dealings within or outside the country with any third party or however otherwise incurred, and all interest, commission, costs, including without limitation legal costs of Creditor on a solicitor and his own client basis, charges and expenses of every nature and kind whatsoever (inclusive of those provided for in Section 13.6 hereof) which may be incurred, arise from or relate to the Indebtedness or the Collateral by which Creditor may be or become in any manner whatsoever a creditor of Debtor;

(i) "Security Interest" - the Security Interest granted under Section 2 hereof.

1.2 Number and Gender

Words importing the singular number shall include the plural and vice versa, words importing any gender shall include all genders, and "person" and words importing persons shall include natural persons, firms, partnerships, corporations, regulatory bodies and entities, legal or otherwise; "Agreement" or "hereof", "hereto", "herein", when used in this Agreement and any attached Schedules refer to this Agreement and to any Schedules attached hereto and not to any particular Sections, paragraphs sub-paragraphs or other portion hereof, and including any and every instrument supplemental hereto; and any reference to a paragraph, subparagraph or section by number of letter of the alphabet means the appropriate paragraph, subparagraph, or Section of this Agreement unless the context otherwise requires; and any reference to a Schedule by number of letter of the alphabet means the appropriate Schedule attached to this Agreement; the use of the term "contract" or "contracts" shall include verbal or written contracts, agreements, deeds, documents, instruments and indentures; the use of the term "law" or laws" shall include all federal, provincial and municipal laws, ordinances, by-laws, rules and regulations; any defined term shall, as the Creditor may require, be interpreted to mean the whole or any portion thereof.

1.3 Headings

Headings used in this Agreement are for convenience only and are not to be considered a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

2. SECURITY INTEREST

2.1 Security Interest

Debtor hereby grants to and in favour of Creditor, a security interest ("Security Interest") in all present and after-acquired personal property of the Debtor and all present and after-acquired real property of the corporations comprising the Debtor, including without limitation, goods, chattel paper, documents, accounts, intangibles, securities, monies, books and records and all replacements of, substitutions for and increases, additions and accessories to the foregoing and proceeds thereof, present and future.

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2.2 Exception

The Security Interest shall not extend or apply to, and Collateral shall not include, the last day of the term of any lease or agreement therefor, now held or hereafter acquired by Debtor, but upon the enforcement of the Security Interest the Debtor shall stand possessed of such last day in trust for the Creditor to assign and dispose of the same to or as Creditor or any person acquiring such term shall direct.

2.3 Indebtedness Secured

The Security Interest secures payment and satisfaction of the Indebtedness; provided however, that if the Security Interest in the Collateral is not sufficient to satisfy the Indebtedness of the Debtor in full, the Debtor agrees that the Debtor shall continue to be liable for any indebtedness remaining outstanding and the Bank shall be entitled to pursue full payment and satisfaction thereof.

3. DEBTOR'S REPRESENTATIONS AND WARRANTIES

3.1 Debtor represents and warrants and so long as this Agreement remains in effect shall be deemed to continuously represent and warrant to Creditor that:

- (1) the Collateral is genuine and owned by Debtor, Free and Clear;
- (2) each Debt, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same ("Account Debtor"), and the amount represented by Debtor to Creditor from time to time as owing by each Account Debtor or by all Account Debtors will be the correct amount actually and unconditionally owing by such Account Debtor(s) and no Account Debtor will have any defence, set-off, claim or counterclaim against Debtor which can be asserted against Creditor, whether in any proceedings to enforce Collateral or otherwise;
- (3) the Debtor, if a corporation, has been and is:
 - (a) duly incorporated and organized or continued and organized or amalgamated and organized, as the case may be, and validly exists under the laws of Alberta and has full power and authority, corporate or otherwise, to execute, deliver and perform all of its obligations under this Agreement and to conduct its business and own its properties in all jurisdictions in which the Debtor presently carries on business or presently proposes to carry on business and Debtor has acquired all material licenses and effected all material registrations required in such jurisdictions and such licenses and registrations are in good standing; and
 - (b) all corporate action on the part of the Debtor, its directors or shareholders, necessary for the authorization, execution, delivery and performance of this Agreement has been duly taken, and
 - (c) the officers of Debtor executing this Agreement and any other instrument or agreement required hereunder hold the offices which they purport to hold and are fully authorized to execute the same;
- (4) the information given by Debtor on the execution page hereof is complete and accurate;
- (5) this Agreement when duly executed and delivered by Debtor will be a legal, valid and binding obligation of Debtor, enforceable against it in accordance with its terms, subject only as such enforcement may be limited by bankruptcy, insolvency and any other laws of general application, including the Act, affecting creditors' rights and by rules of equity governing enforceability by specific performance;
- (6) there is no provision contained in the constating documents, bylaws or similar documents of Debtor, if a corporation, and no contracts under which Debtor is obligated, nor to the

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knowledge of Debtor is there any law, or any judgment, decree or order of any Court or agency binding on Debtor which would be contravened by the execution and delivery of this Agreement, or by the performance of any provision, condition, covenant or other term hereof and in all circumstances where consent is required, such consent has been duly obtained;

- (7) there is no unsatisfied judgment, litigation, tax claim, proceeding or dispute pending, or, to the knowledge of Debtor, threatened, against or affecting Debtor or its property, the adverse determination of which might materially and adversely affect Debtor's financial condition or operations or impair Debtor's ability to perform its obligations hereunder or under any other instrument or agreement required hereunder;
- (8) the corporate records and minute book of Debtor contain complete and accurate minutes of all meetings of the directors and shareholders of Debtor held since its incorporation and all such meetings were duly called and held and the share certificate register, register of shareholders, register of transfers and register of directors of Debtor is substantially complete and accurate;
- (9) Debtor has duly filed in a timely manner all tax returns required to be filed by it and has paid all taxes as shown on such returns as being due and payable, including all assessments, re-assessments and other charges, penalties, interest or fines applicable to such returns, and Debtor has made adequate provision for the taxes which are payable during the current fiscal period for which tax returns are not yet required to be filed;

3.2 Debtor agrees to indemnify Creditor against and hold Creditor harmless from any and all claims, losses, damages or costs, including legal costs as between a solicitor and his own client, to which Creditor may be put or suffer by or as a result of any representation or warranty contained in Section 3.1 hereof being incorrect or breached.

4. COVENANTS OF DEBTOR

4.1 So long as this Agreement remains in effect, Debtor covenants and agrees:

- (1) to defend the Collateral against the claims and demands of all other persons claiming the same or an interest therein; to keep the Collateral Free and Clear and not to, except to the extent permitted under Section 5 hereof, sell, exchange, transfer, assign, lease or otherwise dispose of Collateral or any interest therein without the prior written consent of Creditor; and, subject to Section 7 hereof, use monies, available to Debtor;
- (2) to forthwith notify Creditor of:
 - (a) any change in the information contained herein or in the Schedules hereto relating to Debtor (including without limitation any change in the name of Debtor or any trade name or partnership under which Debtor may operate and in the case of a partnership any change therein), its business or Collateral;
 - (b) the details of any material acquisition of Collateral;
 - (c) the details of any claims or litigation affecting the Debtor or Collateral;
 - (d) any loss of or damage to Collateral;
 - (e) any default by any Account Debtor in payment or other performance of Account Debtor's obligations with respect to Collateral; and
 - (f) the return to or repossession by Debtor of Collateral;
- (3) to keep the Collateral in good order, condition and repair, to provide adequate storage facilities to protect the Collateral, not to permit the value of the Collateral to be impaired and in particular not to use Collateral in violation of the provisions of this Agreement or

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any other agreement relating to Collateral or any policy insuring Collateral or any applicable law;

- (4) to pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of Debtor or Collateral as and when the same becomes due and payable;
- (5) to insure and keep insured the Collateral for such periods, in such amounts, on such terms, with such companies and against loss or damage by fire (including so-called extended coverage) and such other risks as Creditor shall direct with loss payable to Creditor as its interests hereunder may appear, and to pay all premiums and other sums required to maintain such insurance;
- (6) to insure itself against public liability in such amounts, on such terms, with such companies as Creditor shall require having regard to the nature of the business carried on from time to time by Debtor;
- (7) to prevent Collateral, (save Inventory sold or leased as permitted hereby), from being or becoming an accession or fixture to other property not covered by this Agreement;
- (8) to carry on and conduct the business of Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and to keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account for Debtor's business as well as accurate and complete records concerning Collateral, and mark any and all such records and Collateral at Creditor's request so as to indicate the Security Interest;
- (9) to deliver to Creditor from time to time promptly upon request:
 - (a) any Documents of Title, Instruments, Securities and Chattel Paper constituting, representing or relating to Collateral;
 - (b) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to Collateral for the purpose of inspecting, auditing or copying the same;
 - (c) all financial statements prepared by or for Debtor regarding Debtor's business;
 - (d) all policies and certificates of insurance or other evidence satisfactory to Creditor of compliance with the obligations of Debtor to insure hereunder relating to Collateral; and
 - (e) such information concerning Collateral, Debtor and Debtor's business and affairs as Creditor may reasonably request including information respecting real property upon which the Collateral is to be affixed.
- (10) Except with the consent of Creditor, not to:
 - (a) grant, create, assume or permit to exist any security interest, mortgage, pledge, charge, assignment, lien, lease or other security, whether fixed or floating, upon any of the Collateral other than the Security Interest and the Encumbrance;
 - (b) amalgamate or consolidate with any person;
 - (c) incorporate any subsidiary or affiliate corporation, whether wholly or partially owned by Debtor unless security agreements; in a form satisfactory to Creditor, are executed by such subsidiary or affiliate in favour of Creditor;
 - (d) permit any change to be made to the capital structure, management, ownership or business of Debtor which, in the opinion of Creditor, has or is reasonably likely to have a material adverse effect upon the position of Creditor under this Agreement.

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5. **USE AND VERIFICATION OF COLLATERAL**

- 5.1 Subject to compliance with Debtor's covenants contained herein and Section 7 hereof, Debtor may, until Default, possess, operate, collect, use and enjoy and deal with Collateral in the ordinary course of Debtor's business in any manner not inconsistent with the provisions hereof; provided always that Creditor shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner Creditor may consider appropriate and Debtor agrees to furnish all assistance and information and to perform all such acts as Creditor may reasonably request in connection therewith and for such purpose Debtor hereby grants to Creditor or its agents access to all places where Collateral may be located and to all premises occupied by Debtor.

6. **SECURITIES**

- 6.1 If Collateral at any time includes Securities, Debtor authorizes Creditor to transfer the same or any part thereof into its own name or that of its nominee(s) so that Creditor or its nominee(s) may appear of record as the sole owner thereof; provided that, until Default, Creditor shall deliver promptly to Debtor all notices and communications received by it or its nominee(s) as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to Debtor or its order a proxy to vote and take all action with respect to such Securities. After Default, Debtor waives all rights to receive any notices or communications received by Creditor or its nominee(s) as such registered owner and agrees that no proxy issued by Creditor to Debtor or its order as aforesaid shall thereafter be effective.

7. **COLLECTION OF DEBTS**

- 7.1 Before or after Default, Creditor may notify all or any Account Debtors (herein collectively referred to as "Account Debtors" and individually as "Account Debtor") obligated to pay a Debt, Chattel Paper or Instrument constituting Collateral of the Security Interest and may also direct such Account Debtors to make all payments on Collateral to Creditor. Debtor acknowledges that any payments on or other proceeds of Collateral received by Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and whether before or after Default shall be received and held by Debtor in trust for Creditor and shall be turned over to Creditor upon request.

8. **INCOME FROM AND INTEREST ON COLLATERAL**

- 8.1 Until Default, Debtor reserves the right to receive any monies constituting income from or interest on Collateral and if Creditor receives any such monies prior to Default, Creditor shall either credit the same to the account of Debtor or pay the same promptly to Debtor.
- 8.2 After Default, Debtor will not request or receive any monies constituting income from or interest on Collateral and if Debtor receives any such monies without any request by it, Debtor will pay the same promptly to Creditor.

9. **INCREASES, PROFITS, PAYMENTS OR DISTRIBUTIONS**

- 9.1 Whether or not Default has occurred, Debtor authorizes Creditor:
- (1) to receive any increase in or profits on Collateral (other than money) and to hold the same as part of Collateral. Money so received shall be treated as income for the purposes of Section 8 hereof and dealt with accordingly;
 - (2) to receive any payment or distribution upon redemption or retirement or upon dissolution and liquidation of the issuer of Collateral; to surrender such Collateral in exchange therefor; and to hold any such payment or distribution as part of Collateral.

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9.2 If Debtor receives any such increase in or profits on Collateral (other than money) or payments or distributions, Debtor shall deliver the same promptly to Creditor to be held by Creditor as herein provided.

10. **DISPOSITION OF MONIES**

10.1 Subject to any applicable requirements of the Act, all monies collected or received by Creditor pursuant to or in exercise of any right it possesses with respect to Collateral shall be applied on account of Indebtedness in such manner as Creditor deems best or, at the option of Creditor, may be held unappropriated in a collateral account or released to Debtor, all without prejudice to the liability of Debtor or the rights of Creditor hereunder, and any surplus shall be accounted for as required by law, and in the event of a deficiency Debtor shall remain liable for such deficiency.

11. **EVENTS OF DEFAULT**

11.1 The occurrence of any of the following events or conditions shall constitute Default under this Agreement:

- (1) the nonpayment when due, whether by acceleration or otherwise, of any principal or interest or other monies forming part of Indebtedness or the failure of Debtor to observe or perform any obligation, covenant, term, provision or condition contained in this Agreement or any other agreement, deed, indenture or arrangement between Debtor and Creditor;
- (2) the death of or declaration of incompetence by a Court with respect to Debtor, if an individual;
- (3) the bankruptcy or insolvency of Debtor; the filing against Debtor of a petition in bankruptcy, the making of an assignment for the benefit of creditors by Debtor; the appointment of a receiver, a receiver-manager or trustee for Debtor or for any assets of Debtor or the institution by or against Debtor of any other type of insolvency proceeding under the Bankruptcy and Insolvency Act or otherwise;
- (4) the institution by or against Debtor of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims or winding up of affairs of Debtor;
- (5) if any Encumbrance affecting Collateral or any part thereof becomes enforceable against Collateral;
- (6) if Debtor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets or a transfer, sale or lease of all or substantially all Collateral without the prior written consent of Creditor and without complying with applicable laws or commits or threatens to commit an act of bankruptcy;
- (7) if Debtor changes its name without the prior written consent of Creditor (such consent not to be unreasonably withheld);
- (8) if any execution, sequestration or other process of any Court becomes enforceable against Debtor or if a distress or analogous process is levied upon the assets of Debtor or any part thereof;
- (9) if any certificate, statement, representation, warranty or audit report heretofore or hereafter furnished by or on behalf of Debtor pursuant to or in connection with this Agreement or otherwise (including, without limitation, the representations and warranties contained herein) or as an inducement to Creditor to extend any credit to or to enter into this or any other agreement with Debtor, proves to have been false in any respect at the time as of which the facts therein set forth were stated or certified, or proves to have omitted any substantial contingent or unliquidated liability or claim against Debtor; or if upon the date of execution of this Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement,

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warranty or audit report, which change has not been disclosed to Creditor at or prior to the time of such execution.

12. ACCELERATION

- 12.1 Creditor, in its sole discretion, may declare all or any part of Indebtedness (which is not by its terms payable on demand) to be immediately due and payable, without demand or notice of any kind, in the event of Default, or, if Creditor in good faith believes that the prospect of payment of all or any part of Indebtedness or performance of Debtor's obligations under this Agreement or any other agreement now or hereafter in effect between Debtor and Creditor is impaired.
- 12.2 The provisions of Section 12.1 are not intended in any way to affect any rights of Creditor with respect to Indebtedness which may now or hereafter be payable on demand.

13. REMEDIES

- 13.1 Creditor may take possession of, collect, demand, sue on, enforce and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof, and upon Default Creditor may appoint or re-appoint any person(s), whether an officer or officers or an employee or employees of Creditor or not, to be a receiver or receivers (a "Receiver", which term when used herein shall include a receiver and manager) of Collateral (including any Interest, Income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of Debtor and not Creditor, and Creditor shall not be in any way responsible for any misconduct, negligence, or nonfeasance on the part of any such Receiver, his servants, agents or employees.
- 13.2 Creditor shall have in addition to any other rights available to it, the right to provide in the instrument appointing the Receiver, all of the powers which can be given to a Receiver by the Court; provided however that unless otherwise specifically provided for in the instrument appointing a Receiver such Receiver shall have power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of the Collateral and to give valid and binding receipts and discharges therefor and in respect thereof.
- 13.3 To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including Debtor, enter upon, use and occupy all premises owned or occupied by Debtor wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on Debtor's business or as security for loans or advances to him or otherwise, as such Receiver shall, in his own discretion, determine. Except as may be otherwise directed by Creditor, all monies received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to Creditor. Every such Receiver may, in the discretion of Creditor, be vested with all or any of the rights and powers of Creditor.
- Any sale, lease or other disposition of Collateral hereunder may take place in such manner, at such time(s) and place(s), for such consideration and upon such terms and conditions as to credit or otherwise and as to upset or reserve bid or price, as Creditor or Receiver, as the case may be, and in particular and without limiting the foregoing any such sale, lease or other disposition of Collateral may take place whether or not Receiver or Creditor, as the case may be, has taken possession of Collateral and may be made by public auction, public tender or private contract with or without notice or advertising or any other formality all of which subject to the Act are waived by Debtor.
- 13.4 Debtor acknowledges that Creditor or any Receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and Debtor agrees

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upon request from Creditor or any such Receiver to assemble and deliver possession of Collateral at such place or places as reasonably directed.

13.5 Creditor may, either directly or through its agents or nominees, exercise all the powers and rights given to a Receiver by virtue of the above sub-paragraphs and in addition to those rights granted herein and in any other agreement now or hereafter in effect between Debtor and Creditor and in addition to any other rights Creditor may have at law or in equity, Creditor shall have, both before and after Default, all rights and remedies of a secured party under the Act. Provided always, that Creditor shall:

- (1) not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute any proceedings for such purposes; and
- (2) have no obligation to take any steps to preserve rights against prior parties to any Instrument or Chattel Paper, whether part of Collateral or Proceeds and whether or not in Creditor's possession and shall not be liable or accountable for failure to do so.

13.6 Debtor agrees to pay all costs, charges and expenses reasonably incurred by Creditor or any Receiver appointed by it, whether directly or for services rendered (including reasonable solicitors' and auditors' costs and fees as between Creditor and its solicitors and/or auditors and other legal expenses and Receiver remuneration), in operating Debtor's accounts, in preparing or enforcing this Agreement, in taking and maintaining custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting Indebtedness and all such costs, charges and expenses together with any monies owing as a result of any borrowing by Creditor or any Receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.

13.7 Upon Default, Creditor may, either directly or through its agent(s) or nominee, exercise any or all of the powers and rights given to a Receiver by virtue of this Section 13.

14. FURTHER ASSURANCES AND ATTORNEY

14.1 Further Assurances

Debtor:

- (1) covenants and agrees to do, execute, acknowledge and deliver or cause to be done, executed, acknowledge and delivered all such financing statements, further assurances, documents, acts, matters and things with respect to Collateral or any part thereof as Creditor from time to time may reasonably require to give effect to this Agreement and to perfect the Security Interest, and Debtor further covenants and agrees to pay all costs for searches and filings in connection therewith; and
- (2) hereby authorizes Creditor to file such financing statements, financing change statements and other documents and do such acts, matters and things (including completing and adding Schedules hereto identifying Collateral or Encumbrance affecting Collateral or identifying the locations at which Debtor's business is carried on and Collateral and records relating thereto are situate) as Creditor may deem appropriate to perfect and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest.

14.2 Attorney

Debtor hereby constitutes and appoints any person selected by Creditor as its true and lawful attorney irrevocably with full power of substitution to do, make and execute all such statements, assurances, documents, acts, matters or things with the right to use the name of Debtor

whenever and wherever it may be deemed necessary or expedient to protect Creditor's rights hereunder.

15. **ATTACHMENT AND ADDITIONAL SECURITY**

15.1 **Attachment**

Debtor acknowledges that Debtor and Creditor intend for the Security Interest to attach to Debtor's existing properties immediately upon execution of this Agreement (and in Debtor's property acquired subsequent thereto, immediately upon the Debtor acquiring an interest or rights therein) and that value has been given and that Debtor has (or in the case of after-acquired property, will have) rights in Collateral. The parties acknowledge and agree that this Agreement and the Security Interest are intended to be a "security agreement" and "security interest" respectively within the meaning of the Act.

15.2 **Additional Security**

This Agreement and the security afforded hereby is in addition to and not in substitution for any other security now or hereafter held by the Creditor and is intended to be a continuing security Agreement.

16. **GENERAL**

16.1 **Additional Rights of Creditor**

Without limiting any other rights of Creditor, Creditor shall have the following additional rights:

- (1) Whenever Indebtedness is immediately due and payable or Creditor has the right to declare Indebtedness to be immediately due and payable (whether or not it has been so declared), Creditor may, in its sole discretion, set off against Indebtedness any and all monies then owed to Debtor by Creditor in any capacity, whether due or not due, and Creditor shall be deemed to have exercised such right of set off immediately at the time of making its decision to do so even though any charge therefor is made or entered upon Creditor's records subsequent thereto.
- (2) All moneys collected or received by Creditor in respect of Collateral or on account of Indebtedness may be applied on account of such part(s) of Indebtedness as determined by Creditor and Creditor shall at all times and from time to time have the right to change any appropriation as Creditor may determine.
- (3) Upon Debtor's failure to perform any of its duties hereunder, Creditor may, but shall not be obligated to, perform any or all of such duties, and Debtor shall pay to Creditor, forthwith upon written demand therefor, an amount equal to the expense incurred by Creditor in so doing plus interest thereon from the date such expense is incurred until it is paid at the rate set out in the Loan Agreement dated _____, 2018 between Romspen Mortgage Limited Partnership, as lender, and 3443 Zen Garden Limited Partnership, as borrower, as it may be amended from time to time.
- (4) Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with Debtor, debtors of Debtor, sureties and others and with Collateral and other security as Creditor may see fit without prejudice to the liability of Debtor or Creditor's right to hold and realize the Security Interest.
- (5) Creditor may demand, collect and sue on Collateral in either Debtor's or Creditor's name, at Creditor's option, and may endorse Debtor's name on any and all cheques, commercial paper, and any other Instruments pertaining to or constituting Collateral.
- (6) No delay or omission by Creditor in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or

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remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy.

- (7) Creditor may remedy any Default by Debtor hereunder or with respect to any Indebtedness in any reasonable manner without waiving the Default remedied and without waiving any other prior or subsequent Default by Debtor. All rights and remedies of Creditor granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.
- (8) Nothing herein contained shall in any way obligate Creditor to advance any moneys to Debtor or grant, continue, renew, extend time for payment of or accept anything which constitutes or would constitute Indebtedness.

16.2 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, and Creditor or any assignee(s) directly or indirectly of Creditor may, without further notice to Debtor at any time assign this Agreement and the Security Interest created thereunder and Debtor expressly agrees that, with respect to any such assignment, re-assignment or transfer of this Agreement, the assignee or transferee shall have all of Creditor's rights and remedies under this Agreement and Debtor will not assert as a defence, counterclaim, set off, cross-complaint, or otherwise any claim, known or unknown, which Debtor now has or hereafter acquires against Creditor in any action commenced by an assignee or transferee of this Agreement and will pay the Indebtedness to the assignee or transferee at its place of business as the Indebtedness becomes due. If more than one Debtor executes this Agreement, the obligations of such Debtors hereunder shall be joint and several.

16.3 Amendment

Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Agreement shall be made except by a written agreement, executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.

16.4 Laws of Alberta to Govern

This Agreement for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and to be wholly performed therein and the Debtor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

16.5 Severability

In the event any provisions of this Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any Court, the remaining terms and provisions of this Agreement shall remain in full force and effect.

16.6 Notice

Whenever either party hereto is required or entitled to notify or direct the other or make a demand or request upon the other, such notice, direction, demand or request shall be in writing and delivered or faxed to the party for whom it is intended at the principal address or fax number, as the case may be, of such party or at such other address or fax number as shall be designated by such party in a written notice to the other party. Each such notice, direction, demand or request shall be deemed to have been received on the date of delivery or faxed transmission, as the case may be.

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16.7 Financing Statement

Debtor hereby waives its right to receive a copy of any financing statement or financing change statement registered by Creditor pursuant to this Agreement or any modification, renewal or extension thereof.

16.8 Copy of Agreement

Debtor acknowledges receipt of a copy of this Agreement.

IN WITNESS WHEREOF this Agreement is made this 17 day of April, 2018.

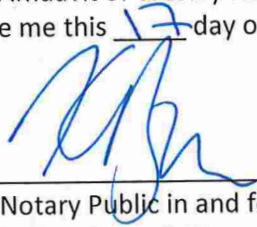
ECO-INDUSTRIAL BUSINESS PARK INC.

Per:  _____

Per: _____

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This is **Exhibit "E"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

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GENERAL SECURITY AGREEMENT

Dated this 17 day of April, 2018.

The Debtor enters into this Agreement in favour of the Creditor as security for the payment and satisfaction of the Indebtedness, and the Debtor covenants, agrees, represents, warrants, acknowledges and grants in favour of the Creditor, as the case may be, as herein provided.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

For the purpose of this Agreement and any Schedules hereto:

- (1) any expression used herein whose first letter is capitalized shall (unless specifically defined in this Agreement) where defined in the Act have such meaning, notwithstanding that such first letter is not capitalized in the Act;
- (2) the following expressions used herein shall have the following meanings:
 - (a) "Act" - the Personal Property Security Act of Alberta and all regulations thereto, as amended from time to time or any substitution therefor;
 - (b) "Account Debtor" or "Account Debtors" - shall have the meaning given to them in Section 7 hereof;
 - (c) "Collateral" - shall have the meaning given to it in Section 2 hereof and shall include the whole or any part or parts thereof as the Creditor requires;
 - (d) "Court" - a court of competent jurisdiction;
 - (e) "Creditor" - ROMSPEN INVESTMENT CORPORATION, 162 Cumberland Street, Suite 300, Toronto, ON M5R 3N5;
 - (f) "Debtor" - ABSOLUTE ENERGY RESOURCES INC.;
 - (g) "Debts" - all book accounts and book debts and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit and advices of credit, which are now due, payable, owing or accruing due to or owned by or which may hereafter become due, payable, owing or accruing due to or owned by the Debtor;
 - (h) "Default" or "Event of Default" - the occurrence of any event or condition provided for in Section 11 hereof;
 - (i) "Encumbrance" - a charge approved in writing by Creditor ranking in priority to the Security Interest;
 - (j) "Free and Clear" - Free and Clear of all liens, mortgages, security interests, demands, charges, pledges, encumbrances, equities, and adverse claims whatsoever, except for Encumbrances;
 - (k) "Indebtedness" shall be interpreted in its most comprehensive sense, whether incurred prior to, at the time of or subsequent to the entering into of this Agreement and without limiting its generality, shall include any and all Advances (whether fixed or revolving credits or otherwise) or other value and interest thereon at any time and from time to time made or granted by or on behalf of Creditor to or on behalf or on account of or at the direction of Debtor, and for the payment or satisfaction of all obligations, indebtedness or liabilities and interest thereon of Debtor to or

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in favour of Creditor, or for which Creditor may become responsible, whether direct, indirect, absolute, contingent or otherwise, present or future, extended or renewed, insured or not, voluntary or involuntary, matured or not, liquidated or unliquidated, wheresoever and howsoever incurred and any ultimate balance thereof and whether the same is from time to time reduced and thereafter incurred again, and whether Debtor may be liable individually or jointly with others, and whether as principal or surety or guarantor, and whether recovery upon such Indebtedness may be or hereafter become barred or unenforceable, and whether incurred by or arising from agreement, letters of credit (whether or not drawn upon), guarantee or dealings between Creditor and Debtor or others or by or from any agreement, letters of credit (whether or not drawn upon), guarantee or dealings within or outside the country with any third party or however otherwise incurred, and all interest, commission, costs, including without limitation legal costs of Creditor on a solicitor and his own client basis, charges and expenses of every nature and kind whatsoever (inclusive of those provided for in Section 13.6 hereof) which may be incurred, arise from or relate to the Indebtedness or the Collateral by which Creditor may be or become in any manner whatsoever a creditor of Debtor;

- (i) "Security Interest" - the Security Interest granted under Section 2 hereof.

1.2 Number and Gender

Words importing the singular number shall include the plural and vice versa, words importing any gender shall include all genders, and "person" and words importing persons shall include natural persons, firms, partnerships, corporations, regulatory bodies and entities, legal or otherwise; "Agreement" or "hereof", "hereto", "herein", when used in this Agreement and any attached Schedules refer to this Agreement and to any Schedules attached hereto and not to any particular Sections, paragraphs sub-paragraphs or other portion hereof, and including any and every instrument supplemental hereto; and any reference to a paragraph, subparagraph or section by number of letter of the alphabet means the appropriate paragraph, subparagraph, or Section of this Agreement unless the context otherwise requires; and any reference to a Schedule by number of letter of the alphabet means the appropriate Schedule attached to this Agreement; the use of the term "contract" or "contracts" shall include verbal or written contracts, agreements, deeds, documents, instruments and indentures; the use of the term "law" or "laws" shall include all federal, provincial and municipal laws, ordinances; by-laws, rules and regulations; any defined term shall, as the Creditor may require, be interpreted to mean the whole or any portion thereof.

1.3 Headings

Headings used in this Agreement are for convenience only and are not to be considered a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

2. SECURITY INTEREST

2.1 Security Interest

Debtor hereby grants to and in favour of Creditor, a security interest ("Security Interest") in all present and after-acquired personal property of the Debtor and all present and after-acquired real property of the corporations comprising the Debtor, including without limitation, goods, chattel paper, documents, accounts, intangibles, securities, monies, books and records and all replacements of, substitutions for and increases, additions and accessories to the foregoing and proceeds thereof, present and future.

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2.2 Exception

The Security Interest shall not extend or apply to, and Collateral shall not include, the last day of the term of any lease or agreement therefor, now held or hereafter acquired by Debtor, but upon the enforcement of the Security Interest the Debtor shall stand possessed of such last day in trust for the Creditor to assign and dispose of the same to or as Creditor or any person acquiring such term shall direct.

2.3 Indebtedness Secured

The Security Interest secures payment and satisfaction of the Indebtedness; provided however, that if the Security Interest in the Collateral is not sufficient to satisfy the Indebtedness of the Debtor in full, the Debtor agrees that the Debtor shall continue to be liable for any indebtedness remaining outstanding and the Bank shall be entitled to pursue full payment and satisfaction thereof.

3. DEBTOR'S REPRESENTATIONS AND WARRANTIES

3.1 Debtor represents and warrants and so long as this Agreement remains in effect shall be deemed to continuously represent and warrant to Creditor that:

- (1) the Collateral is genuine and owned by Debtor, Free and Clear;
- (2) each Debt, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same ("Account Debtor"), and the amount represented by Debtor to Creditor from time to time as owing by each Account Debtor or by all Account Debtors will be the correct amount actually and unconditionally owing by such Account Debtor(s) and no Account Debtor will have any defence, set-off, claim or counterclaim against Debtor which can be asserted against Creditor, whether in any proceedings to enforce Collateral or otherwise;
- (3) the Debtor, if a corporation, has been and is:
 - (a) duly incorporated and organized or continued and organized or amalgamated and organized, as the case may be, and validly exists under the laws of Alberta and has full power and authority, corporate or otherwise, to execute, deliver and perform all of its obligations under this Agreement and to conduct its business and own its properties in all jurisdictions in which the Debtor presently carries on business or presently proposes to carry on business and Debtor has acquired all material licenses and effected all material registrations required in such jurisdictions and such licenses and registrations are in good standing; and
 - (b) all corporate action on the part of the Debtor, its directors or shareholders, necessary for the authorization, execution, delivery and performance of this Agreement has been duly taken, and
 - (c) the officers of Debtor executing this Agreement and any other instrument or agreement required hereunder hold the offices which they purport to hold and are fully authorized to execute the same;
- (4) the information given by Debtor on the execution page hereof is complete and accurate;
- (5) this Agreement when duly executed and delivered by Debtor will be a legal, valid and binding obligation of Debtor, enforceable against it in accordance with its terms, subject only as such enforcement may be limited by bankruptcy, insolvency and any other laws of general application, including the Act, affecting creditors' rights and by rules of equity governing enforceability by specific performance;
- (6) there is no provision contained in the constating documents, bylaws or similar documents of Debtor, if a corporation, and no contracts under which Debtor is obligated, nor to the

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knowledge of Debtor is there any law, or any judgment, decree or order of any Court or agency binding on Debtor which would be contravened by the execution and delivery of this Agreement, or by the performance of any provision, condition, covenant or other term hereof and in all circumstances where consent is required, such consent has been duly obtained;

- (7) there is no unsatisfied judgment, litigation, tax claim, proceeding or dispute pending, or, to the knowledge of Debtor, threatened, against or affecting Debtor or its property, the adverse determination of which might materially and adversely affect Debtor's financial condition or operations or impair Debtor's ability to perform its obligations hereunder or under any other instrument or agreement required hereunder;
- (8) the corporate records and minute book of Debtor contain complete and accurate minutes of all meetings of the directors and shareholders of Debtor held since its incorporation and all such meetings were duly called and held and the share certificate register, register of shareholders, register of transfers and register of directors of Debtor is substantially complete and accurate;
- (9) Debtor has duly filed in a timely manner all tax returns required to be filed by it and has paid all taxes as shown on such returns as being due and payable, including all assessments, re-assessments and other charges, penalties, interest or fines applicable to such returns, and Debtor has made adequate provision for the taxes which are payable during the current fiscal period for which tax returns are not yet required to be filed;

3.2 Debtor agrees to indemnify Creditor against and hold Creditor harmless from any and all claims, losses, damages or costs, including legal costs as between a solicitor and his own client, to which Creditor may be put or suffer by or as a result of any representation or warranty contained in Section 3.1 hereof being incorrect or breached.

4. COVENANTS OF DEBTOR

4.1 So long as this Agreement remains in effect, Debtor covenants and agrees:

- (1) to defend the Collateral against the claims and demands of all other persons claiming the same or an interest therein; to keep the Collateral Free and Clear and not to, except to the extent permitted under Section 5 hereof, sell, exchange, transfer, assign, lease or otherwise dispose of Collateral or any interest therein without the prior written consent of Creditor; and, subject to Section 7 hereof, use monies, available to Debtor;
- (2) to forthwith notify Creditor of:
 - (a) any change in the information contained herein or in the Schedules hereto relating to Debtor (including without limitation any change in the name of Debtor or any trade name or partnership under which Debtor may operate and in the case of a partnership any change therein), its business or Collateral;
 - (b) the details of any material acquisition of Collateral;
 - (c) the details of any claims or litigation affecting the Debtor or Collateral;
 - (d) any loss of or damage to Collateral;
 - (e) any default by any Account Debtor in payment or other performance of Account Debtor's obligations with respect to Collateral; and
 - (f) the return to or repossession by Debtor of Collateral;
- (3) to keep the Collateral in good order, condition and repair, to provide adequate storage facilities to protect the Collateral, not to permit the value of the Collateral to be impaired and in particular not to use Collateral in violation of the provisions of this Agreement or

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any other agreement relating to Collateral or any policy insuring Collateral or any applicable law;

- (4) to pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of Debtor or Collateral as and when the same becomes due and payable;
- (5) to insure and keep insured the Collateral for such periods, in such amounts, on such terms, with such companies and against loss or damage by fire (including so-called extended coverage) and such other risks as Creditor shall direct with loss payable to Creditor as its interests hereunder may appear, and to pay all premiums and other sums required to maintain such insurance;
- (6) to insure itself against public liability in such amounts, on such terms, with such companies as Creditor shall require having regard to the nature of the business carried on from time to time by Debtor;
- (7) to prevent Collateral, (save Inventory sold or leased as permitted hereby), from being or becoming an accession or fixture to other property not covered by this Agreement;
- (8) to carry on and conduct the business of Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and to keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account for Debtor's business as well as accurate and complete records concerning Collateral, and mark any and all such records and Collateral at Creditor's request so as to indicate the Security Interest;
- (9) to deliver to Creditor from time to time promptly upon request:
 - (a) any Documents of Title, Instruments, Securities and Chattel Paper constituting, representing or relating to Collateral;
 - (b) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to Collateral for the purpose of inspecting, auditing or copying the same;
 - (c) all financial statements prepared by or for Debtor regarding Debtor's business;
 - (d) all policies and certificates of insurance or other evidence satisfactory to Creditor of compliance with the obligations of Debtor to insure hereunder relating to Collateral; and
 - (e) such information concerning Collateral, Debtor and Debtor's business and affairs as Creditor may reasonably request including information respecting real property upon which the Collateral is to be affixed.
- (10) Except with the consent of Creditor, not to:
 - (a) grant, create, assume or permit to exist any security interest, mortgage, pledge, charge, assignment, lien, lease or other security, whether fixed or floating, upon any of the Collateral other than the Security Interest and the Encumbrance;
 - (b) amalgamate or consolidate with any person;
 - (c) incorporate any subsidiary or affiliate corporation, whether wholly or partially owned by Debtor unless security agreements, in a form satisfactory to Creditor, are executed by such subsidiary or affiliate in favour of Creditor;
 - (d) permit any change to be made to the capital structure, management, ownership or business of Debtor which, in the opinion of Creditor, has or is reasonably likely to have a material adverse effect upon the position of Creditor under this Agreement.

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5. **USE AND VERIFICATION OF COLLATERAL**

- 5.1 Subject to compliance with Debtor's covenants contained herein and Section 7 hereof, Debtor may, until Default, possess, operate, collect, use and enjoy and deal with Collateral in the ordinary course of Debtor's business in any manner not inconsistent with the provisions hereof; provided always that Creditor shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner Creditor may consider appropriate and Debtor agrees to furnish all assistance and information and to perform all such acts as Creditor may reasonably request in connection therewith and for such purpose Debtor hereby grants to Creditor or its agents access to all places where Collateral may be located and to all premises occupied by Debtor.

6. **SECURITIES**

- 6.1 If Collateral at any time includes Securities, Debtor authorizes Creditor to transfer the same or any part thereof into its own name or that of its nominee(s) so that Creditor or its nominee(s) may appear of record as the sole owner thereof; provided that, until Default, Creditor shall deliver promptly to Debtor all notices and communications received by it or its nominee(s) as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to Debtor or its order a proxy to vote and take all action with respect to such Securities. After Default, Debtor waives all rights to receive any notices or communications received by Creditor or its nominee(s) as such registered owner and agrees that no proxy issued by Creditor to Debtor or its order as aforesaid shall thereafter be effective.

7. **COLLECTION OF DEBTS**

- 7.1 Before or after Default, Creditor may notify all or any Account Debtors (herein collectively referred to as "Account Debtors" and individually as "Account Debtor") obligated to pay a Debt, Chattel Paper or Instrument constituting Collateral of the Security Interest and may also direct such Account Debtors to make all payments on Collateral to Creditor. Debtor acknowledges that any payments on or other proceeds of Collateral received by Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and whether before or after Default shall be received and held by Debtor in trust for Creditor and shall be turned over to Creditor upon request.

8. **INCOME FROM AND INTEREST ON COLLATERAL**

- 8.1 Until Default, Debtor reserves the right to receive any monies constituting income from or interest on Collateral and if Creditor receives any such monies prior to Default, Creditor shall either credit the same to the account of Debtor or pay the same promptly to Debtor.
- 8.2 After Default, Debtor will not request or receive any monies constituting income from or interest on Collateral and if Debtor receives any such monies without any request by it, Debtor will pay the same promptly to Creditor.

9. **INCREASES, PROFITS, PAYMENTS OR DISTRIBUTIONS**

- 9.1 Whether or not Default has occurred, Debtor authorizes Creditor:
- (1) to receive any increase in or profits on Collateral (other than money) and to hold the same as part of Collateral. Money so received shall be treated as income for the purposes of Section 8 hereof and dealt with accordingly;
 - (2) to receive any payment or distribution upon redemption or retirement or upon dissolution and liquidation of the issuer of Collateral; to surrender such Collateral in exchange therefor; and to hold any such payment or distribution as part of Collateral.

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9.2 If Debtor receives any such increase in or profits on Collateral (other than money) or payments or distributions, Debtor shall deliver the same promptly to Creditor to be held by Creditor as herein provided.

10. DISPOSITION OF MONIES

10.1 Subject to any applicable requirements of the Act, all monies collected or received by Creditor pursuant to or in exercise of any right it possesses with respect to Collateral shall be applied on account of Indebtedness in such manner as Creditor deems best or, at the option of Creditor, may be held unappropriated in a collateral account or released to Debtor, all without prejudice to the liability of Debtor or the rights of Creditor hereunder, and any surplus shall be accounted for as required by law, and in the event of a deficiency Debtor shall remain liable for such deficiency.

11. EVENTS OF DEFAULT

11.1 The occurrence of any of the following events or conditions shall constitute Default under this Agreement:

- (1) the nonpayment when due, whether by acceleration or otherwise, of any principal or interest or other monies forming part of Indebtedness or the failure of Debtor to observe or perform any obligation, covenant, term, provision or condition contained in this Agreement or any other agreement, deed, indenture or arrangement between Debtor and Creditor;
- (2) the death of or declaration of incompetence by a Court with respect to Debtor, if an individual;
- (3) the bankruptcy or insolvency of Debtor; the filing against Debtor of a petition in bankruptcy, the making of an assignment for the benefit of creditors by Debtor; the appointment of a receiver, a receiver-manager or trustee for Debtor or for any assets of Debtor or the institution by or against Debtor of any other type of insolvency proceeding under the Bankruptcy and Insolvency Act or otherwise;
- (4) the institution by or against Debtor of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims or winding up of affairs of Debtor;
- (5) if any Encumbrance affecting Collateral or any part thereof becomes enforceable against Collateral;
- (6) if Debtor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets or a transfer, sale or lease of all or substantially all Collateral without the prior written consent of Creditor and without complying with applicable laws or commits or threatens to commit an act of bankruptcy;
- (7) if Debtor changes its name without the prior written consent of Creditor (such consent not to be unreasonably withheld);
- (8) if any execution, sequestration or other process of any Court becomes enforceable against Debtor or if a distress or analogous process is levied upon the assets of Debtor or any part thereof;
- (9) if any certificate, statement, representation, warranty or audit report heretofore or hereafter furnished by or on behalf of Debtor pursuant to or in connection with this Agreement or otherwise (including, without limitation, the representations and warranties contained herein) or as an inducement to Creditor to extend any credit to or to enter into this or any other agreement with Debtor, proves to have been false in any respect at the time as of which the facts therein set forth were stated or certified, or proves to have omitted any substantial contingent or unliquidated liability or claim against Debtor; or if upon the date of execution of this Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement,

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warranty or audit report, which change has not been disclosed to Creditor at or prior to the time of such execution.

12. ACCELERATION

- 12.1 Creditor, in its sole discretion, may declare all or any part of Indebtedness (which is not by its terms payable on demand) to be immediately due and payable, without demand or notice of any kind, in the event of Default, or, if Creditor in good faith believes that the prospect of payment of all or any part of Indebtedness or performance of Debtor's obligations under this Agreement or any other agreement now or hereafter in effect between Debtor and Creditor is impaired.
- 12.2 The provisions of Section 12.1 are not intended in any way to affect any rights of Creditor with respect to Indebtedness which may now or hereafter be payable on demand.

13. REMEDIES

- 13.1 Creditor may take possession of, collect, demand, sue on, enforce and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof, and upon Default Creditor may appoint or re-appoint any person(s), whether an officer or officers or an employee or employees of Creditor or not, to be a receiver or receivers (a "Receiver", which term when used herein shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of Debtor and not Creditor, and Creditor shall not be in any way responsible for any misconduct, negligence, or nonfeasance on the part of any such Receiver, his servants, agents or employees.
- 13.2 Creditor shall have in addition to any other rights available to it, the right to provide in the instrument appointing the Receiver, all of the powers which can be given to a Receiver by the Court; provided however that unless otherwise specifically provided for in the instrument appointing a Receiver such Receiver shall have power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of the Collateral and to give valid and binding receipts and discharges therefor and in respect thereof.
- 13.3 To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including Debtor, enter upon, use and occupy all premises owned or occupied by Debtor wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on Debtor's business or as security for loans or advances to him or otherwise, as such Receiver shall, in his own discretion, determine. Except as may be otherwise directed by Creditor, all monies received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to Creditor. Every such Receiver may, in the discretion of Creditor, be vested with all or any of the rights and powers of Creditor.
- Any sale, lease or other disposition of Collateral hereunder may take place in such manner, at such time(s) and place(s), for such consideration and upon such terms and conditions as to credit or otherwise and as to upset or reserve bid or price, as Creditor or Receiver, as the case may be, and in particular and without limiting the foregoing any such sale, lease or other disposition of Collateral may take place whether or not Receiver or Creditor, as the case may be, has taken possession of Collateral and may be made by public auction, public tender or private contract with or without notice or advertising or any other formality all of which subject to the Act are waived by Debtor.
- 13.4 Debtor acknowledges that Creditor or any Receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and Debtor agrees

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upon request from Creditor or any such Receiver to assemble and deliver possession of Collateral at such place or places as reasonably directed.

13.5 Creditor may, either directly or through its agents or nominees, exercise all the powers and rights given to a Receiver by virtue of the above sub-paragraphs and in addition to those rights granted herein and in any other agreement now or hereafter in effect between Debtor and Creditor and in addition to any other rights Creditor may have at law or in equity, Creditor shall have, both before and after Default, all rights and remedies of a secured party under the Act. Provided always, that Creditor shall:

- (1) not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute any proceedings for such purposes; and
- (2) have no obligation to take any steps to preserve rights against prior parties to any Instrument or Chattel Paper, whether part of Collateral or Proceeds and whether or not in Creditor's possession and shall not be liable or accountable for failure to do so.

13.6 Debtor agrees to pay all costs, charges and expenses reasonably incurred by Creditor or any Receiver appointed by it, whether directly or for services rendered (including reasonable solicitors' and auditors' costs and fees as between Creditor and its solicitors and/or auditors and other legal expenses and Receiver remuneration), in operating Debtor's accounts, in preparing or enforcing this Agreement, in taking and maintaining custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting Indebtedness and all such costs, charges and expenses together with any monies owing as a result of any borrowing by Creditor or any Receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.

13.7 Upon Default, Creditor may, either directly or through its agent(s) or nominee, exercise any or all of the powers and rights given to a Receiver by virtue of this Section 13.

14. FURTHER ASSURANCES AND ATTORNEY

14.1 Further Assurances

Debtor:

- (1) covenants and agrees to do, execute, acknowledge and deliver or cause to be done, executed, acknowledge and delivered all such financing statements, further assurances, documents, acts, matters and things with respect to Collateral or any part thereof as Creditor from time to time may reasonably require to give effect to this Agreement and to perfect the Security Interest, and Debtor further covenants and agrees to pay all costs for searches and filings in connection therewith; and
- (2) hereby authorizes Creditor to file such financing statements, financing change statements and other documents and do such acts, matters and things (including completing and adding Schedules hereto identifying Collateral or Encumbrance affecting Collateral or identifying the locations at which Debtor's business is carried on and Collateral and records relating thereto are situate) as Creditor may deem appropriate to perfect and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest.

14.2 Attorney

Debtor hereby constitutes and appoints any person selected by Creditor as its true and lawful attorney irrevocably with full power of substitution to do, make and execute all such statements, assurances, documents, acts, matters or things with the right to use the name of Debtor

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whenever and wherever it may be deemed necessary or expedient to protect Creditor's rights hereunder.

15. ATTACHMENT AND ADDITIONAL SECURITY

15.1 Attachment

Debtor acknowledges that Debtor and Creditor intend for the Security Interest to attach to Debtor's existing properties immediately upon execution of this Agreement (and in Debtor's property acquired subsequent thereto, immediately upon the Debtor acquiring an interest or rights therein) and that value has been given and that Debtor has (or in the case of after-acquired property, will have) rights in Collateral. The parties acknowledge and agree that this Agreement and the Security Interest are intended to be a "security agreement" and "security interest" respectively within the meaning of the Act.

15.2 Additional Security

This Agreement and the security afforded hereby is in addition to and not in substitution for any other security now or hereafter held by the Creditor and is intended to be a continuing security Agreement.

16. GENERAL

16.1 Additional Rights of Creditor

Without limiting any other rights of Creditor, Creditor shall have the following additional rights:

- (1) Whenever Indebtedness is immediately due and payable or Creditor has the right to declare Indebtedness to be immediately due and payable (whether or not it has been so declared), Creditor may, in its sole discretion, set off against Indebtedness any and all monies then owed to Debtor by Creditor in any capacity, whether due or not due, and Creditor shall be deemed to have exercised such right of set off immediately at the time of making its decision to do so even though any charge therefor is made or entered upon Creditor's records subsequent thereto.
- (2) All moneys collected or received by Creditor in respect of Collateral or on account of Indebtedness may be applied on account of such part(s) of Indebtedness as determined by Creditor and Creditor shall at all times and from time to time have the right to change any appropriation as Creditor may determine.
- (3) Upon Debtor's failure to perform any of its duties hereunder, Creditor may, but shall not be obligated to, perform any or all of such duties, and Debtor shall pay to Creditor, forthwith upon written demand therefor, an amount equal to the expense incurred by Creditor in so doing plus interest thereon from the date such expense is incurred until it is paid at the rate set out in the Loan Agreement dated _____, 2018 between Romspen Mortgage Limited Partnership, as lender, and 3443 Zen Garden Limited Partnership, as borrower, as it may be amended from time to time.
- (4) Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with Debtor, debtors of Debtor, sureties and others and with Collateral and other security as Creditor may see fit without prejudice to the liability of Debtor or Creditor's right to hold and realize the Security Interest.
- (5) Creditor may demand, collect and sue on Collateral in either Debtor's or Creditor's name, at Creditor's option, and may endorse Debtor's name on any and all cheques, commercial paper, and any other Instruments pertaining to or constituting Collateral.
- (6) No delay or omission by Creditor in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or

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remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy.

- (7) Creditor may remedy any Default by Debtor hereunder or with respect to any Indebtedness in any reasonable manner without waiving the Default remedied and without waiving any other prior or subsequent Default by Debtor. All rights and remedies of Creditor granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.
- (8) Nothing herein contained shall in any way obligate Creditor to advance any moneys to Debtor or grant, continue, renew, extend time for payment of or accept anything which constitutes or would constitute Indebtedness.

16.2 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, and Creditor or any assignee(s) directly or indirectly of Creditor may, without further notice to Debtor at any time assign this Agreement and the Security Interest created thereunder and Debtor expressly agrees that, with respect to any such assignment, re-assignment or transfer of this Agreement, the assignee or transferee shall have all of Creditor's rights and remedies under this Agreement and Debtor will not assert as a defence, counterclaim, set off, cross-complaint, or otherwise any claim, known or unknown, which Debtor now has or hereafter acquires against Creditor in any action commenced by an assignee or transferee of this Agreement and will pay the Indebtedness to the assignee or transferee at its place of business as the Indebtedness becomes due. If more than one Debtor executes this Agreement, the obligations of such Debtors hereunder shall be joint and several.

16.3 Amendment

Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Agreement shall be made except by a written agreement, executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.

16.4 Laws of Alberta to Govern

This Agreement for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and to be wholly performed therein and the Debtor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

16.5 Severability

In the event any provisions of this Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any Court, the remaining terms and provisions of this Agreement shall remain in full force and effect.

16.6 Notice

Whenever either party hereto is required or entitled to notify or direct the other or make a demand or request upon the other, such notice, direction, demand or request shall be in writing and delivered or faxed to the party for whom it is intended at the principal address or fax number, as the case may be, of such party or at such other address or fax number as shall be designated by such party in a written notice to the other party. Each such notice, direction, demand or request shall be deemed to have been received on the date of delivery or faxed transmission, as the case may be.

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16.7 Financing Statement

Debtor hereby waives its right to receive a copy of any financing statement or financing change statement registered by Creditor pursuant to this Agreement or any modification, renewal or extension thereof.

16.8 Copy of Agreement

Debtor acknowledges receipt of a copy of this Agreement.

IN WITNESS WHEREOF this Agreement is made this 17 day of April, 2018.

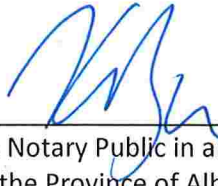
ABSOLUTE ENERGY RESOURCES INC.

Per:  _____

Per: _____

YSL

This is **Exhibit "F"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor



GENERAL SECURITY AGREEMENT

Dated this 17 day of April, 2018.

The Debtor enters into this Agreement in favour of the Creditor as security for the payment and satisfaction of the Indebtedness, and the Debtor covenants, agrees, represents, warrants, acknowledges and grants in favour of the Creditor, as the case may be, as herein provided.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

For the purpose of this Agreement and any Schedules hereto:

- (1) any expression used herein whose first letter is capitalized shall (unless specifically defined in this Agreement) where defined in the Act have such meaning, notwithstanding that such first letter is not capitalized in the Act;
- (2) the following expressions used herein shall have the following meanings:
 - (a) "Act" - the Personal Property Security Act of Alberta and all regulations thereto, as amended from time to time or any substitution therefor;
 - (b) "Account Debtor" or "Account Debtors" - shall have the meaning given to them in Section 7 hereof;
 - (c) "Collateral" - shall have the meaning given to it in Section 2 hereof and shall include the whole or any part or parts thereof as the Creditor requires;
 - (d) "Court" - a court of competent jurisdiction;
 - (e) "Creditor" - **ROMSPEN INVESTMENT CORPORATION**, 162 Cumberland Street, Suite 300, Toronto, ON M5R 3N5;
 - (f) "Debtor" - **ABSOLUTE ENVIRONMENTAL WASTE MANAGEMENT INC.**;
 - (g) "Debts" - all book accounts and book debts and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit and advices of credit, which are now due, payable, owing or accruing due to or owned by or which may hereafter become due, payable, owing or accruing due to or owned by the Debtor;
 - (h) "Default" or "Event of Default" - the occurrence of any event or condition provided for in Section 11 hereof;
 - (i) "Encumbrance" - a charge approved in writing by Creditor ranking in priority to the Security Interest;
 - (j) "Free and Clear" - Free and Clear of all liens, mortgages, security interests, demands, charges, pledges, encumbrances, equities, and adverse claims whatsoever, except for Encumbrances;
 - (k) "Indebtedness" shall be interpreted in its most comprehensive sense, whether incurred prior to, at the time of or subsequent to the entering into of this Agreement and without limiting its generality, shall include any and all Advances (whether fixed or revolving credits or otherwise) or other value and interest thereon at any time and from time to time made or granted by or on behalf of Creditor to or on behalf or on account of or at the direction of Debtor, and for the payment or satisfaction of all

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obligations, indebtedness or liabilities and interest thereon of Debtor to or in favour of Creditor, or for which Creditor may become responsible, whether direct, indirect, absolute, contingent or otherwise, present or future, extended or renewed, insured or not, voluntary or involuntary, matured or not, liquidated or unliquidated, wheresoever and howsoever incurred and any ultimate balance thereof and whether the same is from time to time reduced and thereafter incurred again, and whether Debtor may be liable individually or jointly with others, and whether as principal or surety or guarantor, and whether recovery upon such indebtedness may be or hereafter become barred or unenforceable, and whether incurred by or arising from agreement, letters of credit (whether or not drawn upon), guarantee or dealings between Creditor and Debtor or others or by or from any agreement, letters of credit (whether or not drawn upon), guarantee or dealings within or outside the country with any third party or however otherwise incurred, and all interest, commission, costs, including without limitation legal costs of Creditor on a solicitor and his own client basis, charges and expenses of every nature and kind whatsoever (inclusive of those provided for in Section 13.6 hereof) which may be incurred, arise from or relate to the indebtedness or the Collateral by which Creditor may be or become in any manner whatsoever a creditor of Debtor;

- (l) "Security Interest" - the Security Interest granted under Section 2 hereof.

1.2 Number and Gender

Words importing the singular number shall include the plural and vice versa, words importing any gender shall include all genders, and "person" and words importing persons shall include natural persons, firms, partnerships, corporations, regulatory bodies and entities, legal or otherwise; "Agreement" or "hereof", "hereto", "herein", when used in this Agreement and any attached Schedules refer to this Agreement and to any Schedules attached hereto and not to any particular Sections, paragraphs sub-paragraphs or other portion hereof, and including any and every instrument supplemental hereto; and any reference to a paragraph, subparagraph or section by number of letter of the alphabet means the appropriate paragraph, subparagraph, or Section of this Agreement unless the context otherwise requires; and any reference to a Schedule by number of letter of the alphabet means the appropriate Schedule attached to this Agreement; the use of the term "contract" or "contracts" shall include verbal or written contracts, agreements, deeds, documents, instruments and indentures; the use of the term "law" or laws" shall include all federal, provincial and municipal laws, ordinances, by-laws, rules and regulations; any defined term shall, as the Creditor may require, be interpreted to mean the whole or any portion thereof.

1.3 Headings

Headings used in this Agreement are for convenience only and are not to be considered a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

2. SECURITY INTEREST

2.1 Security Interest

Debtor hereby grants to and in favour of Creditor, a security interest ("Security Interest") in all present and after-acquired personal property of the Debtor and all present and after-acquired real property of the corporations comprising the Debtor, including without limitation, goods, chattel paper, documents, accounts, intangibles, securities, monies, books and records and all replacements of, substitutions for and increases, additions and accessories to the foregoing and proceeds thereof, present and future.

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2.2 Exception

The Security Interest shall not extend or apply to, and Collateral shall not include, the last day of the term of any lease or agreement therefor, now held or hereafter acquired by Debtor, but upon the enforcement of the Security Interest the Debtor shall stand possessed of such last day in trust for the Creditor to assign and dispose of the same to or as Creditor or any person acquiring such term shall direct.

2.3 Indebtedness Secured

The Security Interest secures payment and satisfaction of the Indebtedness; provided however, that if the Security Interest in the Collateral is not sufficient to satisfy the Indebtedness of the Debtor in full, the Debtor agrees that the Debtor shall continue to be liable for any indebtedness remaining outstanding and the Bank shall be entitled to pursue full payment and satisfaction thereof.

3. DEBTOR'S REPRESENTATIONS AND WARRANTIES

3.1 Debtor represents and warrants and so long as this Agreement remains in effect shall be deemed to continuously represent and warrant to Creditor that:

- (1) the Collateral is genuine and owned by Debtor, Free and Clear;
- (2) each Debt, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same ("Account Debtor"), and the amount represented by Debtor to Creditor from time to time as owing by each Account Debtor or by all Account Debtors will be the correct amount actually and unconditionally owing by such Account Debtor(s) and no Account Debtor will have any defence, set-off, claim or counterclaim against Debtor which can be asserted against Creditor, whether in any proceedings to enforce Collateral or otherwise;
- (3) the Debtor, if a corporation, has been and is:
 - (a) duly incorporated and organized or continued and organized or amalgamated and organized, as the case may be, and validly exists under the laws of Alberta and has full power and authority, corporate or otherwise, to execute, deliver and perform all of its obligations under this Agreement and to conduct its business and own its properties in all jurisdictions in which the Debtor presently carries on business or presently proposes to carry on business and Debtor has acquired all material licenses and effected all material registrations required in such jurisdictions and such licenses and registrations are in good standing; and
 - (b) all corporate action on the part of the Debtor, its directors or shareholders, necessary for the authorization, execution, delivery and performance of this Agreement has been duly taken, and
 - (c) the officers of Debtor executing this Agreement and any other instrument or agreement required hereunder hold the offices which they purport to hold and are fully authorized to execute the same;
- (4) the information given by Debtor on the execution page hereof is complete and accurate;
- (5) this Agreement when duly executed and delivered by Debtor will be a legal, valid and binding obligation of Debtor, enforceable against it in accordance with its terms, subject only as such enforcement may be limited by bankruptcy, insolvency and any other laws of general application, including the Act, affecting creditors' rights and by rules of equity governing enforceability by specific performance;
- (6) there is no provision contained in the constating documents, bylaws or similar documents of Debtor, if a corporation, and no contracts under which Debtor is obligated, nor to the

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knowledge of Debtor is there any law, or any judgment, decree or order of any Court or agency binding on Debtor which would be contravened by the execution and delivery of this Agreement, or by the performance of any provision, condition, covenant or other term hereof and in all circumstances where consent is required, such consent has been duly obtained;

- (7) there is no unsatisfied judgment, litigation, tax claim, proceeding or dispute pending, or, to the knowledge of Debtor, threatened, against or affecting Debtor or its property, the adverse determination of which might materially and adversely affect Debtor's financial condition or operations or impair Debtor's ability to perform its obligations hereunder or under any other instrument or agreement required hereunder;
- (8) the corporate records and minute book of Debtor contain complete and accurate minutes of all meetings of the directors and shareholders of Debtor held since its incorporation and all such meetings were duly called and held and the share certificate register, register of shareholders, register of transfers and register of directors of Debtor is substantially complete and accurate;
- (9) Debtor has duly filed in a timely manner all tax returns required to be filed by it and has paid all taxes as shown on such returns as being due and payable, including all assessments, re-assessments and other charges, penalties, interest or fines applicable to such returns, and Debtor has made adequate provision for the taxes which are payable during the current fiscal period for which tax returns are not yet required to be filed;

3.2 Debtor agrees to indemnify Creditor against and hold Creditor harmless from any and all claims, losses, damages or costs, including legal costs as between a solicitor and his own client, to which Creditor may be put or suffer by or as a result of any representation or warranty contained in Section 3.1 hereof being incorrect or breached.

4. COVENANTS OF DEBTOR

4.1 So long as this Agreement remains in effect, Debtor covenants and agrees:

- (1) to defend the Collateral against the claims and demands of all other persons claiming the same or an interest therein; to keep the Collateral Free and Clear and not to, except to the extent permitted under Section 5 hereof, sell, exchange, transfer, assign, lease or otherwise dispose of Collateral or any interest therein without the prior written consent of Creditor; and, subject to Section 7 hereof, use monies, available to Debtor;
- (2) to forthwith notify Creditor of:
 - (a) any change in the information contained herein or in the Schedules hereto relating to Debtor (including without limitation any change in the name of Debtor or any trade name or partnership under which Debtor may operate and in the case of a partnership any change therein), its business or Collateral;
 - (b) the details of any material acquisition of Collateral;
 - (c) the details of any claims or litigation affecting the Debtor or Collateral;
 - (d) any loss of or damage to Collateral;
 - (e) any default by any Account Debtor in payment or other performance of Account Debtor's obligations with respect to Collateral; and
 - (f) the return to or repossession by Debtor of Collateral;
- (3) to keep the Collateral in good order, condition and repair, to provide adequate storage facilities to protect the Collateral, not to permit the value of the Collateral to be impaired and in particular not to use Collateral in violation of the provisions of this Agreement or

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- any other agreement relating to Collateral or any policy insuring Collateral or any applicable law;
- (4) to pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of Debtor or Collateral as and when the same becomes due and payable;
 - (5) to insure and keep insured the Collateral for such periods, in such amounts, on such terms, with such companies and against loss or damage by fire (including so-called extended coverage) and such other risks as Creditor shall direct with loss payable to Creditor as its interests hereunder may appear, and to pay all premiums and other sums required to maintain such insurance;
 - (6) to insure itself against public liability in such amounts, on such terms, with such companies as Creditor shall require having regard to the nature of the business carried on from time to time by Debtor;
 - (7) to prevent Collateral, (save Inventory sold or leased as permitted hereby), from being or becoming an accession or fixture to other property not covered by this Agreement;
 - (8) to carry on and conduct the business of Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and to keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account for Debtor's business as well as accurate and complete records concerning Collateral, and mark any and all such records and Collateral at Creditor's request so as to indicate the Security Interest;
 - (9) to deliver to Creditor from time to time promptly upon request:
 - (a) any Documents of Title, Instruments, Securities and Chattel Paper constituting, representing or relating to Collateral;
 - (b) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to Collateral for the purpose of inspecting, auditing or copying the same;
 - (c) all financial statements prepared by or for Debtor regarding Debtor's business;
 - (d) all policies and certificates of insurance or other evidence satisfactory to Creditor of compliance with the obligations of Debtor to insure hereunder relating to Collateral; and
 - (e) such information concerning Collateral, Debtor and Debtor's business and affairs as Creditor may reasonably request including information respecting real property upon which the Collateral is to be affixed.
 - (10) Except with the consent of Creditor, not to:
 - (a) grant, create, assume or permit to exist any security interest, mortgage, pledge, charge, assignment, lien, lease or other security, whether fixed or floating, upon any of the Collateral other than the Security Interest and the Encumbrance;
 - (b) amalgamate or consolidate with any person;
 - (c) incorporate any subsidiary or affiliate corporation, whether wholly or partially owned by Debtor unless security agreements, in a form satisfactory to Creditor, are executed by such subsidiary or affiliate in favour of Creditor;
 - (d) permit any change to be made to the capital structure, management, ownership or business of Debtor which, in the opinion of Creditor, has or is reasonably likely to have a material adverse effect upon the position of Creditor under this Agreement.

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5. USE AND VERIFICATION OF COLLATERAL

5.1 Subject to compliance with Debtor's covenants contained herein and Section 7 hereof, Debtor may, until Default, possess, operate, collect, use and enjoy and deal with Collateral in the ordinary course of Debtor's business in any manner not inconsistent with the provisions hereof; provided always that Creditor shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner Creditor may consider appropriate and Debtor agrees to furnish all assistance and information and to perform all such acts as Creditor may reasonably request in connection therewith and for such purpose Debtor hereby grants to Creditor or its agents access to all places where Collateral may be located and to all premises occupied by Debtor.

6. SECURITIES

6.1 If Collateral at any time includes Securities, Debtor authorizes Creditor to transfer the same or any part thereof into its own name or that of its nominee(s) so that Creditor or its nominee(s) may appear of record as the sole owner thereof; provided that, until Default, Creditor shall deliver promptly to Debtor all notices and communications received by it or its nominee(s) as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to Debtor or its order a proxy to vote and take all action with respect to such Securities. After Default, Debtor waives all rights to receive any notices or communications received by Creditor or its nominee(s) as such registered owner and agrees that no proxy issued by Creditor to Debtor or its order as aforesaid shall thereafter be effective.

7. COLLECTION OF DEBTS

7.1 Before or after Default, Creditor may notify all or any Account Debtors (herein collectively referred to as "Account Debtors" and individually as "Account Debtor") obligated to pay a Debt, Chattel Paper or Instrument constituting Collateral of the Security Interest and may also direct such Account Debtors to make all payments on Collateral to Creditor. Debtor acknowledges that any payments on or other proceeds of Collateral received by Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and whether before or after Default shall be received and held by Debtor in trust for Creditor and shall be turned over to Creditor upon request.

8. INCOME FROM AND INTEREST ON COLLATERAL

8.1 Until Default, Debtor reserves the right to receive any monies constituting income from or interest on Collateral and if Creditor receives any such monies prior to Default, Creditor shall either credit the same to the account of Debtor or pay the same promptly to Debtor.

8.2 After Default, Debtor will not request or receive any monies constituting income from or interest on Collateral and if Debtor receives any such monies without any request by it, Debtor will pay the same promptly to Creditor.

9. INCREASES, PROFITS, PAYMENTS OR DISTRIBUTIONS

9.1 Whether or not Default has occurred, Debtor authorizes Creditor:

- (1) to receive any increase in or profits on Collateral (other than money) and to hold the same as part of Collateral. Money so received shall be treated as income for the purposes of Section 8 hereof and dealt with accordingly;
- (2) to receive any payment or distribution upon redemption or retirement or upon dissolution and liquidation of the issuer of Collateral; to surrender such Collateral in exchange therefor; and to hold any such payment or distribution as part of Collateral.

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- 9.2 If Debtor receives any such increase in or profits on Collateral (other than money) or payments or distributions, Debtor shall deliver the same promptly to Creditor to be held by Creditor as herein provided.

10. DISPOSITION OF MONIES

- 10.1 Subject to any applicable requirements of the Act, all monies collected or received by Creditor pursuant to or in exercise of any right it possesses with respect to Collateral shall be applied on account of Indebtedness in such manner as Creditor deems best or, at the option of Creditor, may be held unappropriated in a collateral account or released to Debtor, all without prejudice to the liability of Debtor or the rights of Creditor hereunder, and any surplus shall be accounted for as required by law, and in the event of a deficiency Debtor shall remain liable for such deficiency.

11. EVENTS OF DEFAULT

- 11.1 The occurrence of any of the following events or conditions shall constitute Default under this Agreement:

- (1) the nonpayment when due, whether by acceleration or otherwise, of any principal or interest or other monies forming part of Indebtedness or the failure of Debtor to observe or perform any obligation, covenant, term, provision or condition contained in this Agreement or any other agreement, deed, indenture or arrangement between Debtor and Creditor;
- (2) the death of or declaration of incompetence by a Court with respect to Debtor, if an individual;
- (3) the bankruptcy or insolvency of Debtor; the filing against Debtor of a petition in bankruptcy, the making of an assignment for the benefit of creditors by Debtor; the appointment of a receiver, a receiver-manager or trustee for Debtor or for any assets of Debtor or the institution by or against Debtor of any other type of insolvency proceeding under the Bankruptcy and Insolvency Act or otherwise;
- (4) the institution by or against Debtor of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims or winding up of affairs of Debtor;
- (5) if any Encumbrance affecting Collateral or any part thereof becomes enforceable against Collateral;
- (6) if Debtor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets or a transfer, sale or lease of all or substantially all Collateral without the prior written consent of Creditor and without complying with applicable laws or commits or threatens to commit an act of bankruptcy;
- (7) if Debtor changes its name without the prior written consent of Creditor (such consent not to be unreasonably withheld);
- (8) if any execution, sequestration or other process of any Court becomes enforceable against Debtor or if a distress or analogous process is levied upon the assets of Debtor or any part thereof;
- (9) if any certificate, statement, representation, warranty or audit report heretofore or hereafter furnished by or on behalf of Debtor pursuant to or in connection with this Agreement or otherwise (including, without limitation, the representations and warranties contained herein) or as an inducement to Creditor to extend any credit to or to enter into this or any other agreement with Debtor, proves to have been false in any respect at the time as of which the facts therein set forth were stated or certified, or proves to have omitted any substantial contingent or unliquidated liability or claim against Debtor; or if upon the date of execution of this Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement,

warranty or audit report, which change has not been disclosed to Creditor at or prior to the time of such execution.

12. ACCELERATION

- 12.1 Creditor, in its sole discretion, may declare all or any part of Indebtedness (which is not by its terms payable on demand) to be immediately due and payable, without demand or notice of any kind, in the event of Default, or, if Creditor in good faith believes that the prospect of payment of all or any part of Indebtedness or performance of Debtor's obligations under this Agreement or any other agreement now or hereafter in effect between Debtor and Creditor is impaired.
- 12.2 The provisions of Section 12.1 are not intended in any way to affect any rights of Creditor with respect to Indebtedness which may now or hereafter be payable on demand.

13. REMEDIES

- 13.1 Creditor may take possession of, collect, demand, sue on, enforce and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof, and upon Default Creditor may appoint or re-appoint any person(s), whether an officer or officers or an employee or employees of Creditor or not, to be a receiver or receivers (a "Receiver", which term when used herein shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of Debtor and not Creditor, and Creditor shall not be in any way responsible for any misconduct, negligence, or nonfeasance on the part of any such Receiver, his servants, agents or employees.
- 13.2 Creditor shall have in addition to any other rights available to it, the right to provide in the instrument appointing the Receiver, all of the powers which can be given to a Receiver by the Court; provided however that unless otherwise specifically provided for in the instrument appointing a Receiver such Receiver shall have power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of the Collateral and to give valid and binding receipts and discharges therefor and in respect thereof.
- 13.3 To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including Debtor, enter upon, use and occupy all premises owned or occupied by Debtor wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on Debtor's business or as security for loans or advances to him or otherwise, as such Receiver shall, in his own discretion, determine. Except as may be otherwise directed by Creditor, all monies received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to Creditor. Every such Receiver may, in the discretion of Creditor, be vested with all or any of the rights and powers of Creditor.

Any sale, lease or other disposition of Collateral hereunder may take place in such manner, at such time(s) and place(s), for such consideration and upon such terms and conditions as to credit or otherwise and as to upset or reserve bid or price, as Creditor or Receiver, as the case may be, and in particular and without limiting the foregoing any such sale, lease or other disposition of Collateral may take place whether or not Receiver or Creditor, as the case may be, has taken possession of Collateral and may be made by public auction, public tender or private contract with or without notice or advertising or any other formality all of which subject to the Act are waived by Debtor.

- 13.4 Debtor acknowledges that Creditor or any Receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and Debtor agrees

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upon request from Creditor or any such Receiver to assemble and deliver possession of Collateral at such place or places as reasonably directed.

- 13.5 Creditor may, either directly or through its agents or nominees, exercise all the powers and rights given to a Receiver by virtue of the above sub-paragraphs and in addition to those rights granted herein and in any other agreement now or hereafter in effect between Debtor and Creditor and in addition to any other rights Creditor may have at law or in equity, Creditor shall have, both before and after Default, all rights and remedies of a secured party under the Act. Provided always, that Creditor shall:
- (1) not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute any proceedings for such purposes; and
 - (2) have no obligation to take any steps to preserve rights against prior parties to any Instrument or Chattel Paper, whether part of Collateral or Proceeds and whether or not in Creditor's possession and shall not be liable or accountable for failure to do so.
- 13.6 Debtor agrees to pay all costs, charges and expenses reasonably incurred by Creditor or any Receiver appointed by it, whether directly or for services rendered (including reasonable solicitors' and auditors' costs and fees as between Creditor and its solicitors and/or auditors and other legal expenses and Receiver remuneration), in operating Debtor's accounts, in preparing or enforcing this Agreement, in taking and maintaining custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting Indebtedness and all such costs, charges and expenses together with any monies owing as a result of any borrowing by Creditor or any Receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.
- 13.7 Upon Default, Creditor may, either directly or through its agent(s) or nominee, exercise any or all of the powers and rights given to a Receiver by virtue of this Section 13.

14. FURTHER ASSURANCES AND ATTORNEY

14.1 Further Assurances

Debtor:

- (1) covenants and agrees to do, execute, acknowledge and deliver or cause to be done, executed, acknowledge and delivered all such financing statements, further assurances, documents, acts, matters and things with respect to Collateral or any part thereof as Creditor from time to time may reasonably require to give effect to this Agreement and to perfect the Security Interest, and Debtor further covenants and agrees to pay all costs for searches and filings in connection therewith; and
- (2) hereby authorizes Creditor to file such financing statements, financing change statements and other documents and do such acts, matters and things (including completing and adding Schedules hereto identifying Collateral or Encumbrance affecting Collateral or identifying the locations at which Debtor's business is carried on and Collateral and records relating thereto are situate) as Creditor may deem appropriate to perfect and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest.

14.2 Attorney

Debtor hereby constitutes and appoints any person selected by Creditor as its true and lawful attorney irrevocably with full power of substitution to do, make and execute all such statements, assurances, documents, acts, matters or things with the right to use the name of Debtor

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whenever and wherever it may be deemed necessary or expedient to protect Creditor's rights hereunder.

15. ATTACHMENT AND ADDITIONAL SECURITY

15.1 Attachment

Debtor acknowledges that Debtor and Creditor intend for the Security Interest to attach to Debtor's existing properties immediately upon execution of this Agreement (and in Debtor's property acquired subsequent thereto, immediately upon the Debtor acquiring an interest or rights therein) and that value has been given and that Debtor has (or in the case of after-acquired property, will have) rights in Collateral. The parties acknowledge and agree that this Agreement and the Security Interest are intended to be a "security agreement" and "security interest" respectively within the meaning of the Act.

15.2 Additional Security

This Agreement and the security afforded hereby is in addition to and not in substitution for any other security now or hereafter held by the Creditor and is intended to be a continuing security Agreement.

16. GENERAL

16.1 Additional Rights of Creditor

Without limiting any other rights of Creditor, Creditor shall have the following additional rights:

- (1) Whenever Indebtedness is immediately due and payable or Creditor has the right to declare Indebtedness to be immediately due and payable (whether or not it has been so declared), Creditor may, in its sole discretion, set off against Indebtedness any and all monies then owed to Debtor by Creditor in any capacity, whether due or not due, and Creditor shall be deemed to have exercised such right of set off immediately at the time of making its decision to do so even though any charge therefor is made or entered upon Creditor's records subsequent thereto.
- (2) All moneys collected or received by Creditor in respect of Collateral or on account of Indebtedness may be applied on account of such part(s) of Indebtedness as determined by Creditor and Creditor shall at all times and from time to time have the right to change any appropriation as Creditor may determine.
- (3) Upon Debtor's failure to perform any of its duties hereunder, Creditor may, but shall not be obligated to, perform any or all of such duties, and Debtor shall pay to Creditor, forthwith upon written demand therefor, an amount equal to the expense incurred by Creditor in so doing plus interest thereon from the date such expense is incurred until it is paid at the rate set out in the Loan Agreement dated _____, 2018 between Romspen Mortgage Limited Partnership, as lender, and 3443 Zen Garden Limited Partnership, as borrower, as it may be amended from time to time.
- (4) Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with Debtor, debtors of Debtor, sureties and others and with Collateral and other security as Creditor may see fit without prejudice to the liability of Debtor or Creditor's right to hold and realize the Security Interest.
- (5) Creditor may demand, collect and sue on Collateral in either Debtor's or Creditor's name, at Creditor's option, and may endorse Debtor's name on any and all cheques, commercial paper, and any other Instruments pertaining to or constituting Collateral.
- (6) No delay or omission by Creditor in exercising any right or remedy hereunder in respect to any Indebtedness shall operate as a waiver

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remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy.

- (7) Creditor may remedy any Default by Debtor hereunder or with respect to any Indebtedness in any reasonable manner without waiving the Default remedied and without waiving any other prior or subsequent Default by Debtor. All rights and remedies of Creditor granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.
- (8) Nothing herein contained shall in any way obligate Creditor to advance any moneys to Debtor or grant, continue, renew, extend time for payment of or accept anything which constitutes or would constitute Indebtedness.

16.2 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, and Creditor or any assignee(s) directly or indirectly of Creditor may, without further notice to Debtor at any time assign this Agreement and the Security Interest created thereunder and Debtor expressly agrees that, with respect to any such assignment, re-assignment or transfer of this Agreement, the assignee or transferee shall have all of Creditor's rights and remedies under this Agreement and Debtor will not assert as a defence, counterclaim, set off, cross-complaint, or otherwise any claim, known or unknown, which Debtor now has or hereafter acquires against Creditor in any action commenced by an assignee or transferee of this Agreement and will pay the Indebtedness to the assignee or transferee at its place of business as the Indebtedness becomes due. If more than one Debtor executes this Agreement, the obligations of such Debtors hereunder shall be joint and several.

16.3 Amendment

Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Agreement shall be made except by a written agreement, executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.

16.4 Laws of Alberta to Govern

This Agreement for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and to be wholly performed therein and the Debtor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

16.5 Severability

In the event any provisions of this Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any Court, the remaining terms and provisions of this Agreement shall remain in full force and effect.

16.6 Notice

Whenever either party hereto is required or entitled to notify or direct the other or make a demand or request upon the other, such notice, direction, demand or request shall be in writing and delivered or faxed to the party for whom it is intended at the principal address or fax number, as the case may be, of such party or at such other address or fax number as shall be designated by such party in a written notice to the other party. Each such notice, direction, demand or request shall be deemed to have been received on the date of delivery or faxed transmission, as the case may be.

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16.7 Financing Statement

Debtor hereby waives its right to receive a copy of any financing statement or financing change statement registered by Creditor pursuant to this Agreement or any modification, renewal or extension thereof.

16.8 Copy of Agreement

Debtor acknowledges receipt of a copy of this Agreement.

IN WITNESS WHEREOF this Agreement is made this 17 day of April, 2018.

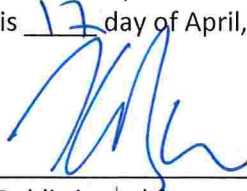
ABSOLUTE ENVIRONMENTAL WASTE
MANAGEMENT INC.

Per: _____

Per: _____

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This is Exhibit "G" referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

GENERAL SECURITY AGREEMENT

Dated this 17 day of April, 2018.

The Debtor enters into this Agreement in favour of the Creditor as security for the payment and satisfaction of the Indebtedness, and the Debtor covenants, agrees, represents, warrants, acknowledges and grants in favour of the Creditor, as the case may be, as herein provided.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

For the purpose of this Agreement and any Schedules hereto:

- (1) any expression used herein whose first letter is capitalized shall (unless specifically defined in this Agreement) where defined in the Act have such meaning, notwithstanding that such first letter is not capitalized in the Act;
- (2) the following expressions used herein shall have the following meanings:
 - (a) "Act" - the Personal Property Security Act of Alberta and all regulations thereto, as amended from time to time or any substitution therefor;
 - (b) "Account Debtor" or "Account Debtors" - shall have the meaning given to them in Section 7 hereof;
 - (c) "Collateral" - shall have the meaning given to it in Section 2 hereof and shall include the whole or any part or parts thereof as the Creditor requires;
 - (d) "Court" - a court of competent jurisdiction;
 - (e) "Creditor" - **ROMSPEN INVESTMENT CORPORATION**, 162 Cumberland Street, Suite 300, Toronto, ON M5R 3N5;
 - (f) "Debtor" - **DANIEL ALEXANDER WHITE**;
 - (g) "Debts" - all book accounts and book debts and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit and advices of credit, which are now due, payable, owing or accruing due to or owned by or which may hereafter become due, payable, owing or accruing due to or owned by the Debtor;
 - (h) "Default" or "Event of Default" - the occurrence of any event or condition provided for in Section 11 hereof;
 - (i) "Encumbrance" - a charge approved in writing by Creditor ranking in priority to the Security Interest;
 - (j) "Free and Clear" - Free and Clear of all liens, mortgages, security interests, demands, charges, pledges, encumbrances, equities, and adverse claims whatsoever, except for Encumbrances;
 - (k) "Indebtedness" shall be interpreted in its most comprehensive sense, whether incurred prior to, at the time of or subsequent to the entering into of this Agreement and without limiting its generality, shall include any and all Advances (whether fixed or revolving credits or otherwise) or other value and interest thereon at any time and from time to time made or granted by or on behalf of Creditor to or on behalf or on account of or at the direction of Debtor, and for the payment or satisfaction of all obligations, indebtedness or liabilities and interest thereon of Debtor to or

in favour of Creditor, or for which Creditor may become responsible, whether direct, indirect, absolute, contingent or otherwise, present or future, extended or renewed, insured or not, voluntary or involuntary, matured or not, liquidated or unliquidated, wheresoever and howsoever incurred and any ultimate balance thereof and whether the same is from time to time reduced and thereafter incurred again, and whether Debtor may be liable individually or jointly with others, and whether as principal or surety or guarantor, and whether recovery upon such Indebtedness may be or hereafter become barred or unenforceable, and whether incurred by or arising from agreement, letters of credit (whether or not drawn upon), guarantee or dealings between Creditor and Debtor or others or by or from any agreement, letters of credit (whether or not drawn upon), guarantee or dealings within or outside the country with any third party or however otherwise incurred, and all interest, commission, costs, including without limitation legal costs of Creditor on a solicitor and his own client basis, charges and expenses of every nature and kind whatsoever (inclusive of those provided for in Section 13.6 hereof) which may be incurred, arise from or relate to the Indebtedness or the Collateral by which Creditor may be or become in any manner whatsoever a creditor of Debtor;

(l) "Security Interest" - the Security Interest granted under Section 2 hereof.

1.2 Number and Gender

Words importing the singular number shall include the plural and vice versa, words importing any gender shall include all genders, and "person" and words importing persons shall include natural persons, firms, partnerships, corporations, regulatory bodies and entities, legal or otherwise; "Agreement" or "hereof", "hereto", "herein", when used in this Agreement and any attached Schedules refer to this Agreement and to any Schedules attached hereto and not to any particular Sections, paragraphs sub-paragraphs or other portion hereof, and including any and every Instrument supplemental hereto; and any reference to a paragraph, subparagraph or section by number of letter of the alphabet means the appropriate paragraph, subparagraph, or Section of this Agreement unless the context otherwise requires; and any reference to a Schedule by number of letter of the alphabet means the appropriate Schedule attached to this Agreement; the use of the term "contract" or "contracts" shall include verbal or written contracts, agreements, deeds, documents, instruments and indentures; the use of the term "law" or laws" shall include all federal, provincial and municipal laws, ordinances, by-laws, rules and regulations; any defined term shall, as the Creditor may require, be interpreted to mean the whole or any portion thereof.

1.3 Headings

Headings used in this Agreement are for convenience only and are not to be considered a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

2. SECURITY INTEREST

2.1 Security Interest

Debtor hereby grants to and in favour of Creditor, a security interest ("Security Interest") in all present and after-acquired personal property of the Debtor and all present and after-acquired real property of the corporations comprising the Debtor, including without limitation, goods, chattel paper, documents, accounts, intangibles, securities, monies, books and records and all replacements of, substitutions for and increases, additions and accessories to the foregoing and proceeds thereof, present and future.

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2.2 Exception

The Security Interest shall not extend or apply to, and Collateral shall not include, the last day of the term of any lease or agreement therefor, now held or hereafter acquired by Debtor, but upon the enforcement of the Security Interest the Debtor shall stand possessed of such last day in trust for the Creditor to assign and dispose of the same to or as Creditor or any person acquiring such term shall direct.

2.3 Indebtedness Secured

The Security Interest secures payment and satisfaction of the Indebtedness; provided however, that if the Security Interest in the Collateral is not sufficient to satisfy the Indebtedness of the Debtor in full, the Debtor agrees that the Debtor shall continue to be liable for any indebtedness remaining outstanding and the Bank shall be entitled to pursue full payment and satisfaction thereof.

3. DEBTOR'S REPRESENTATIONS AND WARRANTIES

3.1 Debtor represents and warrants and so long as this Agreement remains in effect shall be deemed to continuously represent and warrant to Creditor that:

- (1) the Collateral is genuine and owned by Debtor, Free and Clear;
- (2) each Debt, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same ("Account Debtor"), and the amount represented by Debtor to Creditor from time to time as owing by each Account Debtor or by all Account Debtors will be the correct amount actually and unconditionally owing by such Account Debtor(s) and no Account Debtor will have any defence, set-off, claim or counterclaim against Debtor which can be asserted against Creditor, whether in any proceedings to enforce Collateral or otherwise;
- (3) the Debtor, if a corporation, has been and is:
 - (a) duly incorporated and organized or continued and organized or amalgamated and organized, as the case may be, and validly exists under the laws of Alberta and has full power and authority, corporate or otherwise, to execute, deliver and perform all of its obligations under this Agreement and to conduct its business and own its properties in all jurisdictions in which the Debtor presently carries on business or presently proposes to carry on business and Debtor has acquired all material licenses and effected all material registrations required in such jurisdictions and such licenses and registrations are in good standing; and
 - (b) all corporate action on the part of the Debtor, its directors or shareholders, necessary for the authorization, execution, delivery and performance of this Agreement has been duly taken, and
 - (c) the officers of Debtor executing this Agreement and any other instrument or agreement required hereunder hold the offices which they purport to hold and are fully authorized to execute the same;
- (4) the information given by Debtor on the execution page hereof is complete and accurate;
- (5) this Agreement when duly executed and delivered by Debtor will be a legal, valid and binding obligation of Debtor, enforceable against it in accordance with its terms, subject only as such enforcement may be limited by bankruptcy, insolvency and any other laws of general application, including the Act, affecting creditors' rights and by rules of equity governing enforceability by specific performance;
- (6) there is no provision contained in the constating documents, bylaws or similar documents of Debtor, if a corporation, and no contracts under which Debtor is obligated, nor to the

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knowledge of Debtor is there any law, or any judgment, decree or order of any Court or agency binding on Debtor which would be contravened by the execution and delivery of this Agreement, or by the performance of any provision, condition, covenant or other term hereof and in all circumstances where consent is required, such consent has been duly obtained;

- (7) there is no unsatisfied judgment, litigation, tax claim, proceeding or dispute pending, or, to the knowledge of Debtor, threatened, against or affecting Debtor or its property, the adverse determination of which might materially and adversely affect Debtor's financial condition or operations or impair Debtor's ability to perform its obligations hereunder or under any other instrument or agreement required hereunder;
- (8) the corporate records and minute book of Debtor contain complete and accurate minutes of all meetings of the directors and shareholders of Debtor held since its incorporation and all such meetings were duly called and held and the share certificate register, register of shareholders, register of transfers and register of directors of Debtor is substantially complete and accurate;
- (9) Debtor has duly filed in a timely manner all tax returns required to be filed by it and has paid all taxes as shown on such returns as being due and payable, including all assessments, re-assessments and other charges, penalties, interest or fines applicable to such returns, and Debtor has made adequate provision for the taxes which are payable during the current fiscal period for which tax returns are not yet required to be filed;

3.2 Debtor agrees to indemnify Creditor against and hold Creditor harmless from any and all claims, losses, damages or costs, including legal costs as between a solicitor and his own client, to which Creditor may be put or suffer by or as a result of any representation or warranty contained in Section 3.1 hereof being incorrect or breached.

4. COVENANTS OF DEBTOR

4.1 So long as this Agreement remains in effect, Debtor covenants and agrees:

- (1) to defend the Collateral against the claims and demands of all other persons claiming the same or an interest therein; to keep the Collateral Free and Clear and not to, except to the extent permitted under Section 5 hereof, sell, exchange, transfer, assign, lease or otherwise dispose of Collateral or any interest therein without the prior written consent of Creditor; and, subject to Section 7 hereof, use monies, available to Debtor;
- (2) to forthwith notify Creditor of:
 - (a) any change in the information contained herein or in the Schedules hereto relating to Debtor (including without limitation any change in the name of Debtor or any trade name or partnership under which Debtor may operate and in the case of a partnership any change therein), its business or Collateral;
 - (b) the details of any material acquisition of Collateral;
 - (c) the details of any claims or litigation affecting the Debtor or Collateral;
 - (d) any loss of or damage to Collateral;
 - (e) any default by any Account Debtor in payment or other performance of Account Debtor's obligations with respect to Collateral; and
 - (f) the return to or repossession by Debtor of Collateral;
- (3) to keep the Collateral in good order, condition and repair, to provide adequate storage facilities to protect the Collateral, not to permit the value of the Collateral to be impaired and in particular not to use Collateral in violation of the provisions of this Agreement or

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any other agreement relating to Collateral or any policy insuring Collateral or any applicable law;

- (4) to pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of Debtor or Collateral as and when the same becomes due and payable;
- (5) to insure and keep insured the Collateral for such periods, in such amounts, on such terms, with such companies and against loss or damage by fire (including so-called extended coverage) and such other risks as Creditor shall direct with loss payable to Creditor as its interests hereunder may appear, and to pay all premiums and other sums required to maintain such insurance;
- (6) to insure itself against public liability in such amounts, on such terms, with such companies as Creditor shall require having regard to the nature of the business carried on from time to time by Debtor;
- (7) to prevent Collateral, (save inventory sold or leased as permitted hereby), from being or becoming an accession or fixture to other property not covered by this Agreement;
- (8) to carry on and conduct the business of Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and to keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account for Debtor's business as well as accurate and complete records concerning Collateral, and mark any and all such records and Collateral at Creditor's request so as to indicate the Security Interest;
- (9) to deliver to Creditor from time to time promptly upon request:
 - (a) any Documents of Title, Instruments, Securities and Chattel Paper constituting, representing or relating to Collateral;
 - (b) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to Collateral for the purpose of inspecting, auditing or copying the same;
 - (c) all financial statements prepared by or for Debtor regarding Debtor's business;
 - (d) all policies and certificates of insurance or other evidence satisfactory to Creditor of compliance with the obligations of Debtor to insure hereunder relating to Collateral; and
 - (e) such information concerning Collateral, Debtor and Debtor's business and affairs as Creditor may reasonably request including information respecting real property upon which the Collateral is to be affixed.
- (10) Except with the consent of Creditor, not to:
 - (a) grant, create, assume or permit to exist any security interest, mortgage, pledge, charge, assignment, lien, lease or other security, whether fixed or floating, upon any of the Collateral other than the Security Interest and the Encumbrance;
 - (b) amalgamate or consolidate with any person;
 - (c) incorporate any subsidiary or affiliate corporation, whether wholly or partially owned by Debtor unless security agreements, in a form satisfactory to Creditor, are executed by such subsidiary or affiliate in favour of Creditor;
 - (d) permit any change to be made to the capital structure, management, ownership or business of Debtor which, in the opinion of Creditor, has or is reasonably likely to have a material adverse effect upon the position of Creditor under this Agreement.

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5. **USE AND VERIFICATION OF COLLATERAL**

- 5.1 Subject to compliance with Debtor's covenants contained herein and Section 7 hereof, Debtor may, until Default, possess, operate, collect, use and enjoy and deal with Collateral in the ordinary course of Debtor's business in any manner not inconsistent with the provisions hereof; provided always that Creditor shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner Creditor may consider appropriate and Debtor agrees to furnish all assistance and information and to perform all such acts as Creditor may reasonably request in connection therewith and for such purpose Debtor hereby grants to Creditor or its agents access to all places where Collateral may be located and to all premises occupied by Debtor.

6. **SECURITIES**

- 6.1 If Collateral at any time includes Securities, Debtor authorizes Creditor to transfer the same or any part thereof into its own name or that of its nominee(s) so that Creditor or its nominee(s) may appear of record as the sole owner thereof; provided that, until Default, Creditor shall deliver promptly to Debtor all notices and communications received by it or its nominee(s) as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to Debtor or its order a proxy to vote and take all action with respect to such Securities. After Default, Debtor waives all rights to receive any notices or communications received by Creditor or its nominee(s) as such registered owner and agrees that no proxy issued by Creditor to Debtor or its order as aforesaid shall thereafter be effective.

7. **COLLECTION OF DEBTS**

- 7.1 Before or after Default, Creditor may notify all or any Account Debtors (herein collectively referred to as "Account Debtors" and individually as "Account Debtor") obligated to pay a Debt, Chattel Paper or Instrument constituting Collateral of the Security Interest and may also direct such Account Debtors to make all payments on Collateral to Creditor. Debtor acknowledges that any payments on or other proceeds of Collateral received by Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and whether before or after Default shall be received and held by Debtor in trust for Creditor and shall be turned over to Creditor upon request.

8. **INCOME FROM AND INTEREST ON COLLATERAL**

- 8.1 Until Default, Debtor reserves the right to receive any monies constituting income from or interest on Collateral and if Creditor receives any such monies prior to Default, Creditor shall either credit the same to the account of Debtor or pay the same promptly to Debtor.
- 8.2 After Default, Debtor will not request or receive any monies constituting income from or interest on Collateral and if Debtor receives any such monies without any request by it, Debtor will pay the same promptly to Creditor.

9. **INCREASES, PROFITS, PAYMENTS OR DISTRIBUTIONS**

- 9.1 Whether or not Default has occurred, Debtor authorizes Creditor:
- (1) to receive any increase in or profits on Collateral (other than money) and to hold the same as part of Collateral. Money so received shall be treated as income for the purposes of Section 8 hereof and dealt with accordingly;
 - (2) to receive any payment or distribution upon redemption or retirement or upon dissolution and liquidation of the issuer of Collateral; to surrender such Collateral in exchange therefor; and to hold any such payment or distribution as part of Collateral.

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- 9.2 If Debtor receives any such increase in or profits on Collateral (other than money) or payments or distributions, Debtor shall deliver the same promptly to Creditor to be held by Creditor as herein provided.

10. DISPOSITION OF MONIES

- 10.1 Subject to any applicable requirements of the Act, all monies collected or received by Creditor pursuant to or in exercise of any right it possesses with respect to Collateral shall be applied on account of Indebtedness in such manner as Creditor deems best or, at the option of Creditor, may be held unappropriated in a collateral account or released to Debtor, all without prejudice to the liability of Debtor or the rights of Creditor hereunder, and any surplus shall be accounted for as required by law, and in the event of a deficiency Debtor shall remain liable for such deficiency.

11. EVENTS OF DEFAULT

- 11.1 The occurrence of any of the following events or conditions shall constitute Default under this Agreement:

- (1) the nonpayment when due, whether by acceleration or otherwise, of any principal or interest or other monies forming part of Indebtedness or the failure of Debtor to observe or perform any obligation, covenant, term, provision or condition contained in this Agreement or any other agreement, deed, indenture or arrangement between Debtor and Creditor;
- (2) the death of or declaration of incompetence by a Court with respect to Debtor, if an individual;
- (3) the bankruptcy or insolvency of Debtor; the filing against Debtor of a petition in bankruptcy, the making of an assignment for the benefit of creditors by Debtor; the appointment of a receiver, a receiver-manager or trustee for Debtor or for any assets of Debtor or the institution by or against Debtor of any other type of insolvency proceeding under the Bankruptcy and Insolvency Act or otherwise;
- (4) the institution by or against Debtor of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims or winding up of affairs of Debtor;
- (5) if any Encumbrance affecting Collateral or any part thereof becomes enforceable against Collateral;
- (6) if Debtor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets or a transfer, sale or lease of all or substantially all Collateral without the prior written consent of Creditor and without complying with applicable laws or commits or threatens to commit an act of bankruptcy;
- (7) if Debtor changes its name without the prior written consent of Creditor (such consent not to be unreasonably withheld);
- (8) if any execution, sequestration or other process of any Court becomes enforceable against Debtor or if a distress or analogous process is levied upon the assets of Debtor or any part thereof;
- (9) if any certificate, statement, representation, warranty or audit report heretofore or hereafter furnished by or on behalf of Debtor pursuant to or in connection with this Agreement or otherwise (including, without limitation, the representations and warranties contained herein) or as an inducement to Creditor to extend any credit to or to enter into this or any other agreement with Debtor, proves to have been false in any respect at the time as of which the facts therein set forth were stated or certified, or proves to have omitted any substantial contingent or unliquidated liability or claim against Debtor; or if upon the date of execution of this Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement,

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warranty or audit report, which change has not been disclosed to Creditor at or prior to the time of such execution.

12. ACCELERATION

- 12.1 Creditor, in its sole discretion, may declare all or any part of Indebtedness (which is not by its terms payable on demand) to be immediately due and payable, without demand or notice of any kind, in the event of Default, or, if Creditor in good faith believes that the prospect of payment of all or any part of Indebtedness or performance of Debtor's obligations under this Agreement or any other agreement now or hereafter in effect between Debtor and Creditor is impaired.
- 12.2 The provisions of Section 12.1 are not intended in any way to affect any rights of Creditor with respect to Indebtedness which may now or hereafter be payable on demand.

13. REMEDIES

- 13.1 Creditor may take possession of, collect, demand, sue on, enforce and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof, and upon Default Creditor may appoint or re-appoint any person(s), whether an officer or officers or an employee or employees of Creditor or not, to be a receiver or receivers (a "Receiver", which term when used herein shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of Debtor and not Creditor, and Creditor shall not be in any way responsible for any misconduct, negligence, or nonfeasance on the part of any such Receiver, his servants, agents or employees.
- 13.2 Creditor shall have in addition to any other rights available to it, the right to provide in the instrument appointing the Receiver, all of the powers which can be given to a Receiver by the Court; provided however that unless otherwise specifically provided for in the instrument appointing a Receiver such Receiver shall have power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of the Collateral and to give valid and binding receipts and discharges therefor and in respect thereof.
- 13.3 To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including Debtor, enter upon, use and occupy all premises owned or occupied by Debtor wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on Debtor's business or as security for loans or advances to him or otherwise, as such Receiver shall, in his own discretion, determine. Except as may be otherwise directed by Creditor, all monies received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to Creditor. Every such Receiver may, in the discretion of Creditor, be vested with all or any of the rights and powers of Creditor.
- Any sale, lease or other disposition of Collateral hereunder may take place in such manner, at such time(s) and place(s), for such consideration and upon such terms and conditions as to credit or otherwise and as to upset or reserve bid or price, as Creditor or Receiver, as the case may be, and in particular and without limiting the foregoing any such sale, lease or other disposition of Collateral may take place whether or not Receiver or Creditor, as the case may be, has taken possession of Collateral and may be made by public auction, public tender or private contract with or without notice or advertising or any other formality all of which subject to the Act are waived by Debtor.
- 13.4 Debtor acknowledges that Creditor or any Receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and Debtor agrees

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upon request from Creditor or any such Receiver to assemble and deliver possession of Collateral at such place or places as reasonably directed.

- 13.5 Creditor may, either directly or through its agents or nominees, exercise all the powers and rights given to a Receiver by virtue of the above sub-paragraphs and in addition to those rights granted herein and in any other agreement now or hereafter in effect between Debtor and Creditor and in addition to any other rights Creditor may have at law or in equity, Creditor shall have, both before and after Default, all rights and remedies of a secured party under the Act. Provided always, that Creditor shall:
- (1) not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute any proceedings for such purposes; and
 - (2) have no obligation to take any steps to preserve rights against prior parties to any Instrument or Chattel Paper, whether part of Collateral or Proceeds and whether or not in Creditor's possession and shall not be liable or accountable for failure to do so.
- 13.6 Debtor agrees to pay all costs, charges and expenses reasonably incurred by Creditor or any Receiver appointed by it, whether directly or for services rendered (including reasonable solicitors' and auditors' costs and fees as between Creditor and its solicitors and/or auditors and other legal expenses and Receiver remuneration), in operating Debtor's accounts, in preparing or enforcing this Agreement, in taking and maintaining custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting Indebtedness and all such costs, charges and expenses together with any monies owing as a result of any borrowing by Creditor or any Receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.
- 13.7 Upon Default, Creditor may, either directly or through its agent(s) or nominee, exercise any or all of the powers and rights given to a Receiver by virtue of this Section 13.

14. FURTHER ASSURANCES AND ATTORNEY

14.1 Further Assurances

Debtor:

- (1) covenants and agrees to do, execute, acknowledge and deliver or cause to be done, executed, acknowledge and delivered all such financing statements, further assurances, documents, acts, matters and things with respect to Collateral or any part thereof as Creditor from time to time may reasonably require to give effect to this Agreement and to perfect the Security Interest, and Debtor further covenants and agrees to pay all costs for searches and filings in connection therewith; and
- (2) hereby authorizes Creditor to file such financing statements, financing change statements and other documents and do such acts, matters and things (including completing and adding Schedules hereto identifying Collateral or Encumbrance affecting Collateral or identifying the locations at which Debtor's business is carried on and Collateral and records relating thereto are situate) as Creditor may deem appropriate to perfect and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest.

14.2 Attorney

Debtor hereby constitutes and appoints any person selected by Creditor as its true and lawful attorney irrevocably with full power of substitution to do, make and execute all such statements, assurances, documents, acts, matters or things with the right to use the name of Debtor

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whenever and wherever it may be deemed necessary or expedient to protect Creditor's rights hereunder.

15. ATTACHMENT AND ADDITIONAL SECURITY

15.1 Attachment

Debtor acknowledges that Debtor and Creditor intend for the Security Interest to attach to Debtor's existing properties immediately upon execution of this Agreement (and in Debtor's property acquired subsequent thereto, immediately upon the Debtor acquiring an interest or rights therein) and that value has been given and that Debtor has (or in the case of after-acquired property, will have) rights in Collateral. The parties acknowledge and agree that this Agreement and the Security Interest are intended to be a "security agreement" and "security interest" respectively within the meaning of the Act.

15.2 Additional Security

This Agreement and the security afforded hereby is in addition to and not in substitution for any other security now or hereafter held by the Creditor and is intended to be a continuing security Agreement.

16. GENERAL

16.1 Additional Rights of Creditor

Without limiting any other rights of Creditor, Creditor shall have the following additional rights:

- (1) Whenever Indebtedness is immediately due and payable or Creditor has the right to declare Indebtedness to be immediately due and payable (whether or not it has been so declared), Creditor may, in its sole discretion, set off against Indebtedness any and all monies then owed to Debtor by Creditor in any capacity, whether due or not due, and Creditor shall be deemed to have exercised such right of set off immediately at the time of making its decision to do so even though any charge therefor is made or entered upon Creditor's records subsequent thereto.
- (2) All moneys collected or received by Creditor in respect of Collateral or on account of Indebtedness may be applied on account of such part(s) of Indebtedness as determined by Creditor and Creditor shall at all times and from time to time have the right to change any appropriation as Creditor may determine.
- (3) Upon Debtor's failure to perform any of its duties hereunder, Creditor may, but shall not be obligated to, perform any or all of such duties, and Debtor shall pay to Creditor, forthwith upon written demand therefor, an amount equal to the expense incurred by Creditor in so doing plus interest thereon from the date such expense is incurred until it is paid at the rate set out in the Loan Agreement dated _____, 2018 between Romspen Mortgage Limited Partnership, as lender, and 3443 Zen Garden Limited Partnership, as borrower, as it may be amended from time to time.
- (4) Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with Debtor, debtors of Debtor, sureties and others and with Collateral and other security as Creditor may see fit without prejudice to the liability of Debtor or Creditor's right to hold and realize the Security Interest.
- (5) Creditor may demand, collect and sue on Collateral in either Debtor's or Creditor's name, at Creditor's option, and may endorse Debtor's name on any and all cheques, commercial paper, and any other Instruments pertaining to or constituting Collateral.
- (6) No delay or omission by Creditor in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or

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remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy.

- (7) Creditor may remedy any Default by Debtor hereunder or with respect to any Indebtedness in any reasonable manner without waiving the Default remedied and without waiving any other prior or subsequent Default by Debtor. All rights and remedies of Creditor granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.
- (8) Nothing herein contained shall in any way obligate Creditor to advance any moneys to Debtor or grant, continue, renew, extend time for payment of or accept anything which constitutes or would constitute Indebtedness.

16.2 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, and Creditor or any assignee(s) directly or indirectly of Creditor may, without further notice to Debtor at any time assign this Agreement and the Security Interest created thereunder and Debtor expressly agrees that, with respect to any such assignment, re-assignment or transfer of this Agreement, the assignee or transferee shall have all of Creditor's rights and remedies under this Agreement and Debtor will not assert as a defence, counterclaim, set off, cross-complaint, or otherwise any claim, known or unknown, which Debtor now has or hereafter acquires against Creditor in any action commenced by an assignee or transferee of this Agreement and will pay the Indebtedness to the assignee or transferee at its place of business as the Indebtedness becomes due. If more than one Debtor executes this Agreement, the obligations of such Debtors hereunder shall be joint and several.

16.3 Amendment

Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Agreement shall be made except by a written agreement, executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.

16.4 Laws of Alberta to Govern

This Agreement for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and to be wholly performed therein and the Debtor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

16.5 Severability

In the event any provisions of this Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any Court, the remaining terms and provisions of this Agreement shall remain in full force and effect.

16.6 Notice

Whenever either party hereto is required or entitled to notify or direct the other or make a demand or request upon the other, such notice, direction, demand or request shall be in writing and delivered or faxed to the party for whom it is intended at the principal address or fax number, as the case may be, of such party or at such other address or fax number as shall be designated by such party in a written notice to the other party. Each such notice, direction, demand or request shall be deemed to have been received on the date of delivery or faxed transmission, as the case may be.

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16.7 Financing Statement

Debtor hereby waives its right to receive a copy of any financing statement or financing change statement registered by Creditor pursuant to this Agreement or any modification, renewal or extension thereof.

16.8 Copy of Agreement

Debtor acknowledges receipt of a copy of this Agreement.

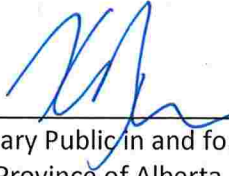
IN WITNESS WHEREOF this Agreement is made this ____ day of _____, 2018.



Daniel Alexander White

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This is **Exhibit "H"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 12 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

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GUARANTEE

RECITALS

WHEREAS:

- A. 3443 ZEN GARDEN LIMITED PARTNERSHIP (the "Borrower") has applied to ROMSPEN MORTGAGE LIMITED PARTNERSHIP ("RMLP") for a loan of up to ONE HUNDRED TWENTY FIVE MILLION US DOLLARS (US\$125,000,000.00) (the "Principal Sum") with interest thereon ("Interest") as defined and provided for and on the terms, covenants, conditions and provisos contained in that certain Loan Agreement between RMLP and the Borrower dated the 27 day of April, 2018 as it may be amended from time to time (collectively the "Loan Agreement");
- B. The Loan Agreement and any other documents or securities now held or hereafter held by RMLP or Romspen Investment Corporation (collectively, RMLP and Romspen Investment Corporation are referred to herein as the "Lender"), in respect of the payment of the Principal Sum and Interest thereon and all other monies ("Other Monies") secured, payable, due or owing or which may become secured, due, payable or owing thereunder (said Principal Sum, Interest and Other Monies hereinafter sometimes collectively referred to as "Moneys") are hereinafter sometimes collectively referred to as the "Security", the "Securities" or the "Security Documents";
- C. The Guarantor (as hereinafter defined) has agreed to execute these presents in consideration of the Lender agreeing to loan the Principal Sum to the Borrower.

NOW THEREFORE WITNESSETH that in consideration of the Lender agreeing to advance monies to the Borrower, and in consideration of the sum of \$2.00 paid by the Lender to the undersigned, and other good and valuable consideration, (the receipt and sufficiency whereof is hereby acknowledged by LOT 11 LIMITED PARTNERSHIP, by its general partner LOT 11 GP LTD. and LOT 11 GP LTD. in its own capacity (collectively, the "Guarantor"), the Guarantor covenants, promises and agrees in favour of and with the Lender that:

1. OBLIGATIONS OF GUARANTOR

1.1 Unconditional Guarantee

The Guarantor unconditionally and irrevocably guarantees to the Lender:

- (1) the due and punctual payment of all Moneys when the same become due, owing or payable; and
- (2) the due performance and observance of all covenants, obligations, conditions, stipulations and provisos of the Borrower and every guarantor or other person (other than the Lender) contained in the Security Documents.

1.2 Continuing and Absolute

- (1) The obligations of the Guarantor hereunder shall be continuing, binding and absolute obligations and shall be direct, unconditional, irrevocable and independent of all past, present or future obligations of the Borrower to the Lender and a fresh cause of action shall be deemed to arise in respect of each default hereunder or under the Security Documents or any one or more of them, and a separate action or actions may be brought or enforced against the Guarantor whether action is brought against the Borrower or whether the Borrower be joined in any such action or actions and without the necessity of joining or proceeding against or exhausting any remedy against the Borrower or any other person or one or more Securities or otherwise howsoever held by the Lender in respect of the Moneys or the obligations of the Guarantor hereunder or otherwise howsoever;
- (2) As between the Lender and the Guarantor, the Guarantor is and shall continue to be liable hereunder and under all the covenants (other than the Lender's) contained in the Security Documents notwithstanding the bankruptcy, insolvency or going into liquidation of the Borrower or any other party to the Security Documents, voluntarily or otherwise, and notwithstanding any transaction or dealing whatsoever which may take place between the

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Lender and the Borrower or any other person or any neglect, unlawful act or default of the Lender whatsoever which might otherwise operate as a discharge, whether partial or absolute, of the Guarantor and without restricting the generality of the foregoing notwithstanding the releasing in whole or in part of any property or assets mortgaged, charged or assigned, whether by fixed and specific mortgage, charge or assignment or otherwise, in or under the Security Documents;

- (3) This Guarantee is in addition to and not in substitution for any other guarantee by whomsoever given, at any time held by the Lender and any present or future obligations to the Lender incurred or arising otherwise than under a guarantee of the Guarantor or any other obligant, whether bound with or apart from the Borrower;
- (4) Should the Lender receive from the Guarantor a payment or payments in full or on account of the liability under this Guarantee, the Guarantor shall not be entitled to claim repayment against the Borrower or the Borrower's estate until the Lender's claims against the Borrower have been paid in full; in a case of liquidation, winding up or bankruptcy of the Borrower (whether voluntary or compulsory) or in the event that the Borrower shall make a bulk sale of any of the Borrower's assets within the bulk transfer provisions of any applicable legislation or any composition with creditors or scheme of arrangement, the Lender shall have the right to rank for its full claim and receive all dividends or other payments in respect thereof until its claim has been paid in full and the Guarantor shall continue in respect thereof until its claim has been paid in full and the Guarantor shall continue liable, up to the amount guaranteed, less any payments made by the Guarantor for any balance which may be owing to the Lender by the Borrower; and in the event of the valuation by the Lender of any of the Securities and/or the retention thereof by the Lender, such valuation and/or retention shall not, as between the Lender and the Guarantor, be considered as a purchase of such securities, or as a payment or satisfaction or reduction of the Moneys, or any part thereof.

2. DEFENCES

2.1 Waiver

The Guarantor hereby specifically waives any and all defences to any action brought to enforce this Guarantee or any part thereof at law or in equity, including without limitation the following:

- (1) **Extensions and Indulgences:** The Lender in its absolute discretion or in the absolute discretion of any authorized officer or agent of the Lender, and without diminishing the liability of the Guarantor, may from time to time grant any indulgences to the Borrower or any other person now or hereafter liable to the Lender in respect of the Moneys or any one or more of the obligations of the Borrower, the Guarantor or any other person contained in the Security Documents and may give up, modify, vary, exchange, renew or abstain from perfecting or taking advantage of any of the Security in whole or in part and may discharge any part or parts or accept any composition or arrangements or realize upon any of the Security in whole or in part when and in such manner as the Lender or any authorized officer or agent of the Lender may think expedient, and in no case whatsoever shall the Lender be responsible for any neglect, unlawful act or omission with respect to the Security or any part thereof.
- (2) **No Release for Forbearance Etc.:** That the Guarantor shall not be released or exonerated by time being given, or any other forbearance whatsoever whether as to time, performance or otherwise or by any release, discharge, loss or alteration in or dealing with all or any part of the Security or by any failure or delay in giving any notice or making any demand which may be required under this Guarantee or under any one or more of the Security Documents or by modification, amendment, deletion, variation or alteration in or departure from the provisions of any one or more of the Security Documents or by anything done, suffered or permitted by the Lender or any invalidity or unenforceability of, or any limitation on the liability of the Borrower, or on the method or terms of payment under, or any irregularity or other defect in any one or more of the Security Documents or any assignment or other transfer of all or any part of the Security or any interest therein, whether before or after any default under any one or more of the Security Documents or this Guarantee or any defence,

equity, set-off or counterclaim which the Borrower or the Guarantor may have or assert or any other matter or circumstance, whether or not the Guarantor shall have notice or knowledge of or consented to any one or more of the foregoing; and that the Lender shall not be bound either to seek or exhaust its recourse against the Borrower or against the property or assets of the Borrower or under the Security or any other person before being entitled to payment from the Guarantor and the Lender may abstain from taking any securities and may cease or refrain from giving credit or making loans or advances to the Borrower, and may apply all monies at any time received from the Borrower or other persons or from the Securities upon such part of the Moneys as the Lender deems best and change any such application in whole or in part from time to time as the Lender may see fit;

- (3) Statutes: The Guarantor will not, in any action brought against the Guarantor in respect of this Guarantee, plead or invoke any statute of limitation or law of prescription now or hereafter in force; all monies, advances, renewals, credits, accommodations, transactions and/or considerations in fact borrowed or obtained from the Lender shall be deemed to form part of the Moneys notwithstanding any lack or limitations of status or power, incapacity or disability of the Borrower or of the directors, partners or agents thereof, or that the Borrower may not be a legal or suable entity, or any irregularity, defect or informality in the borrowing or obtaining of such monies, advances, renewals, credits, accommodations, transactions and/or considerations, the whole whether known to the Lender or not; and any sum which may not be recoverable from the Guarantor on the footing of a guarantee shall be recoverable from the Guarantor as sole or principal debtor in respect thereof and shall be paid to the Lender;
- (4) Deemed Satisfaction of Debt: The Guarantor agrees that so long as any Moneys remain actually owing to the Lender, the Guarantor shall remain liable to pay such Moneys notwithstanding any deemed full satisfaction of a debt pursuant to any law or statute, including without limitation the Law of Property Act of Alberta or any successor or similar legislation, that might occur upon any Final Order for Foreclosure being taken on any mortgage or agreement for sale of realty property that may compromise in whole or in part the Security, it being the intention that the Guarantor shall not be entitled to rely upon any such deemed full satisfaction of a debt as a defence in payment of any Moneys payable pursuant to this Guarantee.

3. GENERAL

3.1 No Subrogation

The Guarantor will not at any time claim to be subrogated in any manner to the position of the Lender and will not claim the benefit of the Security, in whole or in part, until payment has been made in full by the Guarantor of all Moneys to the Lender and this Guarantee shall not be considered as wholly or partially satisfied by the payment or liquidation at any time or times of any sum or sums of money for the time being due or remaining unpaid to the Lender, and all dividends, compositions, proceeds of any Security valued and payments received by the Lender from the Borrower or from others or from estates shall be regarded for all purposes as payments in gross without any right on the part of the Guarantor to claim in reduction of the liability under this Guarantee the benefit of any such dividends, compositions, proceeds or payments or any of the Securities or proceeds thereof.

3.2 Not Bound to Exhaust Remedies

The Lender shall not be bound to exhaust its recourse against the Borrower or any other person or any one or more of the Security it may hold before requiring payment from the Guarantor and the Lender may enforce the various remedies available to it and may realize upon the Security held by it or any part thereof in such order as the Lender may determine.

3.3 No Release or Release of Others

The release of any Guarantor, (if more than one) or any other person from his, its or their liability under this Guarantee or pursuant to any other guarantee, deed, document or agreement in favour of

the Lender shall not affect the liability of the Guarantor (or any of them, if more than one), not so released, which liability shall remain unimpaired and still in full force and effect as if the Guarantor(s) or any other person so released had not been a Guarantor of the Moneys or obligations of the Borrower or any part thereof, under any one or more of the Security Documents.

3.4 Action on Default

If default shall occur under any one or more of the Security Documents, the Lender shall in its sole discretion be at liberty to proceed against the Guarantor without any demand for payment being made by the Lender upon the Guarantor for payment, or payment of all or any portion of the Moneys owing or payable by virtue of this Guarantee or any one of the Security Documents and whether default or notice of default shall have occurred or shall have been given or not as to the Moneys or any portion thereof or under any one or more of the Security Documents and the Guarantor hereby waives any and all rights that it may have to any such notice or demand.

3.5 Not Affected by Change

This Guarantee and the obligations and liabilities of the Guarantor hereunder shall not be affected by the death or loss or diminution of capacity of the Guarantor or by any change in the name of the Borrower or, if applicable, in the membership of the Borrower's firm through the death or retirement of any one or more partners or the introduction of one or more partners, or otherwise howsoever, or by the acquisition of the Borrower's business by any person, or by any change whatsoever in the objects, capital structure or constitution of the Borrower, or by amalgamation, merger or otherwise howsoever.

3.6 Lien

In addition to all liens upon and right of set off against the monies, securities or other property of the Guarantor given to the Lender by law, the Lender shall have a lien upon and a right of set off against all monies, securities and other property of the Guarantor now or hereafter in the possession of the Lender; and every such lien or right of set off may be exercised without demand. No lien or right of set off shall be deemed to have been waived by any act or conduct on the part of the Lender or by any neglect to exercise such right of set off or to enforce such lien or by any delay in so doing, and every right of set off shall continue in full force and effect until such right of set off or lien is specifically waived or released by an instrument in writing executed by the Lender upon final satisfaction of the Moneys.

3.7 No Obligation Re Insurance

Notwithstanding anything set out in any of the Security Documents, the Lender shall not in any way be responsible for either the holding or the supervision of any insurance policies required to be maintained under any covenants to insure contained therein, or the verification of the compliance with respect to any such covenants to insure and that the Lender's permissive power to place insurance on the assets mortgaged to it is in its sole and absolute discretion. The Guarantor acknowledges that the Lender's action or lack of action in such holding, supervision, verification or in its permissive powers shall in no way diminish the Guarantor's liability hereunder.

3.8 Accounts

Any accounts settled or stated by or between the Lender and the Borrower or admitted by or on behalf of the Borrower may be adduced by the Lender and shall in that case be accepted by the Guarantor as conclusive evidence that the balance or amount thereof appearing is due by the Borrower to the Lender and if no account has been so settled, any account stated by the Lender shall be accepted by the Guarantor as conclusive evidence of the amount which at the date of the account so stated is due by the Borrower to the Lender or remains unpaid by the Borrower to the Lender.

3.9 Costs and Expenses

All costs and expenses incurred by the Lender relating to this Guarantee or the enforcement thereof against the Guarantor (or any of them, if more than one) including without limitation legal costs as between the Lender and its solicitor, shall be paid by the Guarantor (or any one or more of them, as the case may be, if more than one) and shall be included in any judgment obtained against the Guarantor (or any one or more of them, if more than one) under this Guarantee.

3.10 Judgment

Any judgment obtained against the Guarantor under this Guarantee shall provide for and shall bear Interest (at the rate provided for in the Loan Agreement) thereon, and such Interest shall run and be included and payable on any said judgment, until said judgment shall have been fully satisfied.

3.11 No Contingent Agreements

It is understood, agreed and acknowledged by the Guarantor, that the carrying out by the Guarantor of the covenants and obligations of the Guarantor hereunder is not in any way contingent upon the carrying out by the Borrower or the Lender or any other person of any of their respective obligations or liabilities under any one or more of the Security Documents or in any other instrument contained.

3.12 Operative

This Guarantee shall be operative and binding upon every signatory thereof notwithstanding the non-execution thereof by any other proposed signatory or signatories, and possession of this instrument by the Lender shall be conclusive evidence against the Guarantor that this instrument was not delivered in escrow or pursuant to any agreement that it should not be effective until any conditions precedent or subsequent had been complied with.

3.13 Administrators and Assigns

This Guarantee shall extend to and enure to the benefit of the Lender and if more than one, to each of them and their respective heirs, executors, administrators, legal representatives, assigns and successors, as the case may be, and, if the Security or any of them in whole or in part is assigned by the Lender, to its or their assigns, as the case may be, and reference herein to the undersigned or to the Guarantor is a reference to and shall be construed as including the undersigned, (and if more than one, this Guarantee and the liability hereunder shall be deemed to be both jointly and severally binding on each of the undersigned) and the heirs, executors, administrators, legal representatives, successors and assigns, as the case may be, of the undersigned, to and upon all of whom this Guarantee shall extend and be binding.

3.14 Applicable Law

This Guarantee has been made in Alberta and for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and entered into therein by parties domiciled and resident therein and to be wholly performed therein and the Guarantor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

3.15 Words and Phrases

In this Guarantee unless the Lender otherwise requires, words importing the singular number shall include the plural and vice versa; words importing the use of any gender shall include all genders; words such as "hereunder", "hereto", "hereof" and "herein" shall, unless the context clearly indicates the contrary, refer to the whole of this Guarantee and not to any particular paragraph or section hereof and the word "person" shall include a natural person, firm, partnership, corporation or other entity, whether legal or otherwise. The headings, if any, in this Guarantee are inserted for convenience of reference only and shall not unless otherwise required by the Lender affect the interpretation or construction hereof.

3.16 Severability

If any provision of this Guarantee or the application of such provision to any person or circumstance shall be held invalid or unenforceable, the remainder of this Guarantee, or the application of such

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provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

3.17 Recitals

The Recitals are incorporated herein and form a part hereof.

4. POSTPONEMENT

All debts and liabilities present and future of the Borrower to each party comprising the Guarantor are hereby assigned to the Lender and postponed to the Moneys and all monies received by any party comprising the Guarantor in respect thereof, shall be received in trust for the Lender and forthwith upon receipt shall be paid over to the Lender, the whole without in any way limiting or lessening the liability of the Guarantor hereunder, and this guarantee and postponement shall be deemed independent of this Guarantee and shall remain in full force and effect notwithstanding that the liability of the Guarantor under this Guarantee may be extinct and any reference to "this Guarantee" hereunder shall be deemed to refer to the whole hereof or solely to the guarantee portions hereof or solely to the assignment and postponement referred to in this Section 4, as the Lender may require.

5. ACKNOWLEDGMENT

The undersigned acknowledge having received a true copy of this Guarantee this 30th day of April, 2018.

LOT 11 LIMITED PARTNERSHIP, by its general partner, LOT 11 GP LTD.

Per: 
I/we have the authority to bind the Limited Partnership

Per: _____

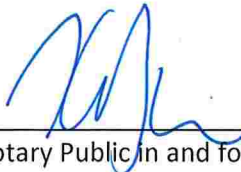
LOT 11 GP LTD.

Per: 
I/we have the authority to bind the Corporation

Per: _____

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This is **Exhibit "I"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

GUARANTEE

RECITALS

WHEREAS:

- A. 3443 ZEN GARDEN LIMITED PARTNERSHIP (the "Borrower") has applied to ROMSPEN MORTGAGE LIMITED PARTNERSHIP ("RMLP") for a loan of up to ONE HUNDRED TWENTY FIVE MILLION US DOLLARS (US\$125,000,000.00) (the "Principal Sum") with interest thereon ("Interest") as defined and provided for and on the terms, covenants, conditions and provisos contained in that certain Loan Agreement between RMLP and the Borrower dated the 27 day of April, 2018 as it may be amended from time to time (collectively the "Loan Agreement");
- B. The Loan Agreement and any other documents or securities now held or hereafter held by RMLP or Romspen Investment Corporation (collectively, RMLP and Romspen Investment Corporation are referred to herein as the "Lender"), in respect of the payment of the Principal Sum and Interest thereon and all other monies ("Other Monies") secured, payable, due or owing or which may become secured, due, payable or owing thereunder (said Principal Sum, Interest and Other Monies hereinafter sometimes collectively referred to as "Moneys") are hereinafter sometimes collectively referred to as the "Security", the "Securities" or the "Security Documents";
- C. The Guarantor (as hereinafter defined) has agreed to execute these presents in consideration of the Lender agreeing to loan the Principal Sum to the Borrower.

NOW THEREFORE WITNESSETH that in consideration of the Lender agreeing to advance monies to the Borrower, and in consideration of the sum of \$2.00 paid by the Lender to the undersigned, and other good and valuable consideration, (the receipt and sufficiency whereof is hereby acknowledged by ECO-INDUSTRIAL BUSINESS PARK INC. (the "Guarantor"), the Guarantor covenants, promises and agrees in favour of and with the Lender that:

1. OBLIGATIONS OF GUARANTOR

1.1 Unconditional Guarantee

The Guarantor unconditionally and irrevocably guarantees to the Lender:

- (1) the due and punctual payment of all Moneys when the same become due, owing or payable; and
- (2) the due performance and observance of all covenants, obligations, conditions, stipulations and provisos of the Borrower and every guarantor or other person (other than the Lender) contained in the Security Documents.

1.2 Continuing and Absolute

- (1) The obligations of the Guarantor hereunder shall be continuing, binding and absolute obligations and shall be direct, unconditional, irrevocable and independent of all past, present or future obligations of the Borrower to the Lender and a fresh cause of action shall be deemed to arise in respect of each default hereunder or under the Security Documents or any one or more of them, and a separate action or actions may be brought or enforced against the Guarantor whether action is brought against the Borrower or whether the Borrower be joined in any such action or actions and without the necessity of joining or proceeding against or exhausting any remedy against the Borrower or any other person or one or more Securities or otherwise howsoever held by the Lender in respect of the Moneys or the obligations of the Guarantor hereunder or otherwise howsoever;
- (2) As between the Lender and the Guarantor, the Guarantor is and shall continue to be liable hereunder and under all the covenants (other than the Lender's) contained in the Security Documents notwithstanding the bankruptcy, insolvency or going into liquidation of the Borrower or any other party to the Security Documents, voluntarily or otherwise, and notwithstanding any transaction or dealing whatsoever which may take place between the Lender and the Borrower or any other person or any neglect, unlawful act or default of the

Lender whatsoever which might otherwise operate as a discharge, whether partial or absolute, of the Guarantor and without restricting the generality of the foregoing notwithstanding the releasing in whole or in part of any property or assets mortgaged, charged or assigned, whether by fixed and specific Mortgage, charge or assignment or otherwise, in or under the Security Documents;

- (3) This Guarantee is in addition to and not in substitution for any other guarantee by whomsoever given, at any time held by the Lender and any present or future obligations to the Lender incurred or arising otherwise than under a guarantee of the Guarantor or any other obligant, whether bound with or apart from the Borrower;
- (4) Should the Lender receive from the Guarantor a payment or payments in full or on account of the liability under this Guarantee, the Guarantor shall not be entitled to claim repayment against the Borrower or the Borrower's estate until the Lender's claims against the Borrower have been paid in full; in a case of liquidation, winding up or bankruptcy of the Borrower (whether voluntary or compulsory) or in the event that the Borrower shall make a bulk sale of any of the Borrower's assets within the bulk transfer provisions of any applicable legislation or any composition with creditors or scheme of arrangement, the Lender shall have the right to rank for its full claim and receive all dividends or other payments in respect thereof until its claim has been paid in full and the Guarantor shall continue in respect thereof until its claim has been paid in full and the Guarantor shall continue liable, up to the amount guaranteed, less any payments made by the Guarantor for any balance which may be owing to the Lender by the Borrower; and in the event of the valuation by the Lender of any of the Securities and/or the retention thereof by the Lender, such valuation and/or retention shall not, as between the Lender and the Guarantor, be considered as a purchase of such securities, or as a payment or satisfaction or reduction of the Moneys, or any part thereof.

2. DEFENCES

2.1 Waiver

The Guarantor hereby specifically waives any and all defences to any action brought to enforce this Guarantee or any part thereof at law or in equity, including without limitation the following:

- (1) Extensions and Indulgences: The Lender in its absolute discretion or in the absolute discretion of any authorized officer or agent of the Lender, and without diminishing the liability of the Guarantor, may from time to time grant any indulgences to the Borrower or any other person now or hereafter liable to the Lender in respect of the Moneys or any one or more of the obligations of the Borrower, the Guarantor or any other person contained in the Security Documents and may give up, modify, vary, exchange, renew or abstain from perfecting or taking advantage of any of the Security in whole or in part and may discharge any part or parts or accept any composition or arrangements or realize upon any of the Security in whole or in part when and in such manner as the Lender or any authorized officer or agent of the Lender may think expedient, and in no case whatsoever shall the Lender be responsible for any neglect, unlawful act or omission with respect to the Security or any part thereof.
- (2) No Release for Forbearance Etc.: That the Guarantor shall not be released or exonerated by time being given, or any other forbearance whatsoever whether as to time, performance or otherwise or by any release, discharge, loss or alteration in or dealing with all or any part of the Security or by any failure or delay in giving any notice or making any demand which may be required under this Guarantee or under any one or more of the Security Documents or by modification, amendment, deletion, variation or alteration in or departure from the provisions of any one or more of the Security Documents or by anything done, suffered or permitted by the Lender or any invalidity or unenforceability of, or any limitation on the liability of the Borrower, or on the method or terms of payment under, or any irregularity or other defect in any one or more of the Security Documents or any assignment or other transfer of all or any part of the Security or any Interest therein, whether before or after any default under any one or more of the Security Documents or this Guarantee or any defence, equity, set-off or counterclaim which the Borrower or the Guarantor may have or assert or

any other matter or circumstance, whether or not the Guarantor shall have notice or knowledge of or consented to any one or more of the foregoing; and that the Lender shall not be bound either to seek or exhaust its recourse against the Borrower or against the property or assets of the Borrower or under the Security or any other person before being entitled to payment from the Guarantor and the Lender may abstain from taking any securities and may cease or refrain from giving credit or making loans or advances to the Borrower, and may apply all monies at any time received from the Borrower or other persons or from the Securities upon such part of the Moneys as the Lender deems best and change any such application in whole or in part from time to time as the Lender may see fit;

- (3) Statutes: The Guarantor will not, in any action brought against the Guarantor in respect of this Guarantee, plead or invoke any statute of limitation or law of prescription now or hereafter in force; all monies, advances, renewals, credits, accommodations, transactions and/or considerations in fact borrowed or obtained from the Lender shall be deemed to form part of the Moneys notwithstanding any lack or limitations of status or power, incapacity or disability of the Borrower or of the directors, partners or agents thereof, or that the Borrower may not be a legal or suable entity, or any irregularity, defect or informality in the borrowing or obtaining of such monies, advances, renewals, credits, accommodations, transactions and/or considerations, the whole whether known to the Lender or not; and any sum which may not be recoverable from the Guarantor on the footing of a guarantee shall be recoverable from the Guarantor as sole or principal debtor in respect thereof and shall be paid to the Lender;
- (4) Deemed Satisfaction of Debt: The Guarantor agrees that so long as any Moneys remain actually owing to the Lender, the Guarantor shall remain liable to pay such Moneys notwithstanding any deemed full satisfaction of a debt pursuant to any law or statute, including without limitation the Law of Property Act of Alberta or any successor or similar legislation, that might occur upon any Final Order for Foreclosure being taken on any Mortgage or agreement for sale of realty property that may compromise in whole or in part the Security, it being the intention that the Guarantor shall not be entitled to rely upon any such deemed full satisfaction of a debt as a defence in payment of any Moneys payable pursuant to this Guarantee.

3. GENERAL

3.1 No Subrogation

The Guarantor will not at any time claim to be subrogated in any manner to the position of the Lender and will not claim the benefit of the Security, in whole or in part, until payment has been made in full by the Guarantor of all Moneys to the Lender and this Guarantee shall not be considered as wholly or partially satisfied by the payment or liquidation at any time or times of any sum or sums of money for the time being due or remaining unpaid to the Lender, and all dividends, compositions, proceeds of any Security valued and payments received by the Lender from the Borrower or from others or from estates shall be regarded for all purposes as payments in gross without any right on the part of the Guarantor to claim in reduction of the liability under this Guarantee the benefit of any such dividends, compositions, proceeds or payments or any of the Securities or proceeds thereof.

3.2 Not Bound to Exhaust Remedies

The Lender shall not be bound to exhaust its recourse against the Borrower or any other person or any one or more of the Security it may hold before requiring payment from the Guarantor and the Lender may enforce the various remedies available to it and may realize upon the Security held by it or any part thereof in such order as the Lender may determine.

3.3 No Release or Release of Others

The release of any Guarantor, (if more than one) or any other person from his, its or their liability under this Guarantee or pursuant to any other guarantee, deed, document or agreement in favour of the Lender shall not affect the liability of the Guarantor (or any of them, if more than one), not so

released, which liability shall remain unimpaired and still in full force and effect as if the Guarantor(s) or any other person so released had not been a Guarantor of the Moneys or obligations of the Borrower or any part thereof, under any one or more of the Security Documents.

3.4 Action on Default

If default shall occur under any one or more of the Security Documents, the Lender shall in its sole discretion be at liberty to proceed against the Guarantor without any demand for payment being made by the Lender upon the Guarantor for payment, or payment of all or any portion of the Moneys owing or payable by virtue of this Guarantee or any one of the Security Documents and whether default or notice of default shall have occurred or shall have been given or not as to the Moneys or any portion thereof or under any one or more of the Security Documents and the Guarantor hereby waives any and all rights that it may have to any such notice or demand.

3.5 Not Affected by Change

This Guarantee and the obligations and liabilities of the Guarantor hereunder shall not be affected by the death or loss or diminution of capacity of the Guarantor or by any change in the name of the Borrower or, if applicable, in the membership of the Borrower's firm through the death or retirement of any one or more partners or the introduction of one or more partners, or otherwise howsoever, or by the acquisition of the Borrower's business by any person, or by any change whatsoever in the objects, capital structure or constitution of the Borrower, or by amalgamation, merger or otherwise howsoever.

3.6 Lien

In addition to all liens upon and right of set off against the monies, securities or other property of the Guarantor given to the Lender by law, the Lender shall have a lien upon and a right of set off against all monies, securities and other property of the Guarantor now or hereafter in the possession of the Lender; and every such lien or right of set off may be exercised without demand. No lien or right of set off shall be deemed to have been waived by any act or conduct on the part of the Lender or by any neglect to exercise such right of set off or to enforce such lien or by any delay in so doing, and every right of set off shall continue in full force and effect until such right of set off or lien is specifically waived or released by an instrument in writing executed by the Lender upon final satisfaction of the Moneys.

3.7 No Obligation Re Insurance

Notwithstanding anything set out in any of the Security Documents, the Lender shall not in any way be responsible for either the holding or the supervision of any insurance policies required to be maintained under any covenants to insure contained therein, or the verification of the compliance with respect to any such covenants to insure and that the Lender's permissive power to place insurance on the assets mortgaged to it is in its sole and absolute discretion. The Guarantor acknowledges that the Lender's action or lack of action in such holding, supervision, verification or in its permissive powers shall in no way diminish the Guarantor's liability hereunder.

3.8 Accounts

Any accounts settled or stated by or between the Lender and the Borrower or admitted by or on behalf of the Borrower may be adduced by the Lender and shall in that case be accepted by the Guarantor as conclusive evidence that the balance or amount thereof appearing is due by the Borrower to the Lender and if no account has been so settled, any account stated by the Lender shall be accepted by the Guarantor as conclusive evidence of the amount which at the date of the account so stated is due by the Borrower to the Lender or remains unpaid by the Borrower to the Lender.

3.9 Costs and Expenses

All costs and expenses incurred by the Lender relating to this Guarantee or the enforcement thereof against the Guarantor (or any of them, if more than one) including without limitation legal costs as

between the Lender and its solicitor, shall be paid by the Guarantor (or any one or more of them, as the case may be, if more than one) and shall be included in any judgment obtained against the Guarantor (or any one or more of them, if more than one) under this Guarantee.

3.10 Judgment

Any judgment obtained against the Guarantor under this Guarantee shall provide for and shall bear Interest (at the rate provided for in the Loan Agreement) thereon, and such Interest shall run and be included and payable on any said judgment, until said judgment shall have been fully satisfied.

3.11 No Contingent Agreements

It is understood, agreed and acknowledged by the Guarantor, that the carrying out by the Guarantor of the covenants and obligations of the Guarantor hereunder is not in any way contingent upon the carrying out by the Borrower or the Lender or any other person of any of their respective obligations or liabilities under any one or more of the Security Documents or in any other Instrument contained.

3.12 Operative

This Guarantee shall be operative and binding upon every signatory thereof notwithstanding the non-execution thereof by any other proposed signatory or signatories, and possession of this instrument by the Lender shall be conclusive evidence against the Guarantor that this instrument was not delivered in escrow or pursuant to any agreement that it should not be effective until any conditions precedent or subsequent had been complied with.

3.13 Administrators and Assigns

This Guarantee shall extend to and enure to the benefit of the Lender and if more than one, to each of them and their respective heirs, executors, administrators, legal representatives, assigns and successors, as the case may be, and, if the Security or any of them in whole or in part is assigned by the Lender, to its or their assigns, as the case may be, and reference herein to the undersigned or to the Guarantor is a reference to and shall be construed as including the undersigned, (and if more than one, this Guarantee and the liability hereunder shall be deemed to be both jointly and severally binding on each of the undersigned) and the heirs, executors, administrators, legal representatives, successors and assigns, as the case may be, of the undersigned, to and upon all of whom this Guarantee shall extend and be binding.

3.14 Applicable Law

This Guarantee has been made in Alberta and for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and entered into therein by parties domiciled and resident therein and to be wholly performed therein and the Guarantor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

3.15 Words and Phrases

In this Guarantee unless the Lender otherwise requires, words importing the singular number shall include the plural and vice versa; words importing the use of any gender shall include all genders; words such as "hereunder", "hereto", "hereof" and "herein" shall, unless the context clearly indicates the contrary, refer to the whole of this Guarantee and not to any particular paragraph or section hereof and the word "person" shall include a natural person, firm, partnership, corporation or other entity, whether legal or otherwise. The headings, if any, in this Guarantee are inserted for convenience of reference only and shall not unless otherwise required by the Lender affect the interpretation or construction hereof.

3.16 Severability

If any provision of this Guarantee or the application of such provision to any person or circumstance shall be held invalid or unenforceable, the remainder of this Guarantee, or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

3.17 Recitals

The Recitals are incorporated herein and form a part hereof.

4. POSTPONEMENT

All debts and liabilities present and future of the Borrower to each party comprising the Guarantor are hereby assigned to the Lender and postponed to the Moneys and all monies received by any party comprising the Guarantor in respect thereof, shall be received in trust for the Lender and forthwith upon receipt shall be paid over to the Lender, the whole without in any way limiting or lessening the liability of the Guarantor hereunder, and this guarantee and postponement shall be deemed independent of this Guarantee and shall remain in full force and effect notwithstanding that the liability of the Guarantor under this Guarantee may be extinct and any reference to "this Guarantee" hereunder shall be deemed to refer to the whole hereof or solely to the guarantee portions hereof or solely to the assignment and postponement referred to in this Section 4, as the Lender may require.

5. ACKNOWLEDGMENT

The undersigned acknowledges having received a true copy of this Guarantee this 17th day of April, 2018.

ECO-INDUSTRIAL BUSINESS PARK INC.

Per: 
I/we have the authority to bind the Corporation

Per: _____

1503

This is Exhibit "J" referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

GUARANTEE

RECITALS

WHEREAS:

- A. 3443 ZEN GARDEN LIMITED PARTNERSHIP (the "Borrower") has applied to ROMSPEN MORTGAGE LIMITED PARTNERSHIP ("RMLP") for a loan of up to ONE HUNDRED TWENTY FIVE MILLION US DOLLARS (US\$125,000,000.00) (the "Principal Sum") with interest thereon ("Interest") as defined and provided for and on the terms, covenants, conditions and provisos contained in that certain Loan Agreement between RMLP and the Borrower dated the 27 day of April, 2018 as it may be amended from time to time (collectively the "Loan Agreement");
- B. The Loan Agreement and any other documents or securities now held or hereafter held by RMLP or Romspen Investment Corporation (collectively, RMLP and Romspen Investment Corporation are referred to herein as the "Lender"), in respect of the payment of the Principal Sum and Interest thereon and all other monies ("Other Monies") secured, payable, due or owing or which may become secured, due, payable or owing thereunder (said Principal Sum, Interest and Other Monies hereinafter sometimes collectively referred to as "Moneys") are hereinafter sometimes collectively referred to as the "Security", the "Securities" or the "Security Documents";
- C. The Guarantor (as hereinafter defined) has agreed to execute these presents in consideration of the Lender agreeing to loan the Principal Sum to the Borrower.

NOW THEREFORE WITNESSETH that in consideration of the Lender agreeing to advance monies to the Borrower, and in consideration of the sum of \$2.00 paid by the Lender to the undersigned, and other good and valuable consideration, (the receipt and sufficiency whereof is hereby acknowledged by ABSOLUTE ENERGY RESOURCES INC. (the "Guarantor"), the Guarantor covenants, promises and agrees in favour of and with the Lender that:

1. OBLIGATIONS OF GUARANTOR

1.1 Unconditional Guarantee

The Guarantor unconditionally and irrevocably guarantees to the Lender:

- (1) the due and punctual payment of all Moneys when the same become due, owing or payable; and
- (2) the due performance and observance of all covenants, obligations, conditions, stipulations and provisos of the Borrower and every guarantor or other person (other than the Lender) contained in the Security Documents.

1.2 Continuing and Absolute

- (1) The obligations of the Guarantor hereunder shall be continuing, binding and absolute obligations and shall be direct, unconditional, irrevocable and independent of all past, present or future obligations of the Borrower to the Lender and a fresh cause of action shall be deemed to arise in respect of each default hereunder or under the Security Documents or any one or more of them, and a separate action or actions may be brought or enforced against the Guarantor whether action is brought against the Borrower or whether the Borrower be joined in any such action or actions and without the necessity of joining or proceeding against or exhausting any remedy against the Borrower or any other person or one or more Securities or otherwise howsoever held by the Lender in respect of the Moneys or the obligations of the Guarantor hereunder or otherwise howsoever;
- (2) As between the Lender and the Guarantor, the Guarantor is and shall continue to be liable hereunder and under all the covenants (other than the Lender's) contained in the Security Documents notwithstanding the bankruptcy, insolvency or going into liquidation of the Borrower or any other party to the Security Documents, voluntarily or otherwise, and notwithstanding any transaction or dealing whatsoever which may take place between the Lender and the Borrower or any other person or any neglect, unlawful act or default of the

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Lender whatsoever which might otherwise operate as a discharge, whether partial or absolute, of the Guarantor and without restricting the generality of the foregoing notwithstanding the releasing in whole or in part of any property or assets mortgaged, charged or assigned, whether by fixed and specific Mortgage, charge or assignment or otherwise, in or under the Security Documents;

- (3) This Guarantee is in addition to and not in substitution for any other guarantee by whomsoever given, at any time held by the Lender and any present or future obligations to the Lender incurred or arising otherwise than under a guarantee of the Guarantor or any other obligant, whether bound with or apart from the Borrower;
- (4) Should the Lender receive from the Guarantor a payment or payments in full or on account of the liability under this Guarantee, the Guarantor shall not be entitled to claim repayment against the Borrower or the Borrower's estate until the Lender's claims against the Borrower have been paid in full; in a case of liquidation, winding up or bankruptcy of the Borrower (whether voluntary or compulsory) or in the event that the Borrower shall make a bulk sale of any of the Borrower's assets within the bulk transfer provisions of any applicable legislation or any composition with creditors or scheme of arrangement, the Lender shall have the right to rank for its full claim and receive all dividends or other payments in respect thereof until its claim has been paid in full and the Guarantor shall continue in respect thereof until its claim has been paid in full and the Guarantor shall continue liable, up to the amount guaranteed, less any payments made by the Guarantor for any balance which may be owing to the Lender by the Borrower; and in the event of the valuation by the Lender of any of the Securities and/or the retention thereof by the Lender, such valuation and/or retention shall not, as between the Lender and the Guarantor, be considered as a purchase of such securities, or as a payment or satisfaction or reduction of the Moneys, or any part thereof.

2. DEFENCES

2.1 Waiver

The Guarantor hereby specifically waives any and all defences to any action brought to enforce this Guarantee or any part thereof at law or in equity, including without limitation the following:

- (1) Extensions and Indulgences: The Lender in its absolute discretion or in the absolute discretion of any authorized officer or agent of the Lender, and without diminishing the liability of the Guarantor, may from time to time grant any indulgences to the Borrower or any other person now or hereafter liable to the Lender in respect of the Moneys or any one or more of the obligations of the Borrower, the Guarantor or any other person contained in the Security Documents and may give up, modify, vary, exchange, renew or abstain from perfecting or taking advantage of any of the Security in whole or in part and may discharge any part or parts or accept any composition or arrangements or realize upon any of the Security in whole or in part when and in such manner as the Lender or any authorized officer or agent of the Lender may think expedient, and in no case whatsoever shall the Lender be responsible for any neglect, unlawful act or omission with respect to the Security or any part thereof.
- (2) No Release for Forbearance Etc.: That the Guarantor shall not be released or exonerated by time being given, or any other forbearance whatsoever whether as to time, performance or otherwise or by any release, discharge, loss or alteration in or dealing with all or any part of the Security or by any failure or delay in giving any notice or making any demand which may be required under this Guarantee or under any one or more of the Security Documents or by modification, amendment, deletion, variation or alteration in or departure from the provisions of any one or more of the Security Documents or by anything done, suffered or permitted by the Lender or any invalidity or unenforceability of, or any limitation on the liability of the Borrower, or on the method or terms of payment under, or any irregularity or other defect in any one or more of the Security Documents or any assignment or other transfer of all or any part of the Security or any Interest therein, whether before or after any default under any one or more of the Security Documents or this Guarantee or any defence, equity, set-off or counterclaim which the Borrower or the Guarantor may have or assert or

any other matter or circumstance, whether or not the Guarantor shall have notice or knowledge of or consented to any one or more of the foregoing; and that the Lender shall not be bound either to seek or exhaust its recourse against the Borrower or against the property or assets of the Borrower or under the Security or any other person before being entitled to payment from the Guarantor and the Lender may abstain from taking any securities and may cease or refrain from giving credit or making loans or advances to the Borrower, and may apply all monies at any time received from the Borrower or other persons or from the Securities upon such part of the Moneys as the Lender deems best and change any such application in whole or in part from time to time as the Lender may see fit;

- (3) Statutes: The Guarantor will not, in any action brought against the Guarantor in respect of this Guarantee, plead or invoke any statute of limitation or law of prescription now or hereafter in force; all monies, advances, renewals, credits, accommodations, transactions and/or considerations in fact borrowed or obtained from the Lender shall be deemed to form part of the Moneys notwithstanding any lack or limitations of status or power, incapacity or disability of the Borrower or of the directors, partners or agents thereof, or that the Borrower may not be a legal or suable entity, or any irregularity, defect or informality in the borrowing or obtaining of such monies, advances, renewals, credits, accommodations, transactions and/or considerations, the whole whether known to the Lender or not; and any sum which may not be recoverable from the Guarantor on the footing of a guarantee shall be recoverable from the Guarantor as sole or principal debtor in respect thereof and shall be paid to the Lender;
- (4) Deemed Satisfaction of Debt: The Guarantor agrees that so long as any Moneys remain actually owing to the Lender, the Guarantor shall remain liable to pay such Moneys notwithstanding any deemed full satisfaction of a debt pursuant to any law or statute, including without limitation the Law of Property Act of Alberta or any successor or similar legislation, that might occur upon any Final Order for Foreclosure being taken on any Mortgage or agreement for sale of realty property that may compromise in whole or in part the Security, it being the intention that the Guarantor shall not be entitled to rely upon any such deemed full satisfaction of a debt as a defence in payment of any Moneys payable pursuant to this Guarantee.

3. GENERAL

3.1 No Subrogation

The Guarantor will not at any time claim to be subrogated in any manner to the position of the Lender and will not claim the benefit of the Security, in whole or in part, until payment has been made in full by the Guarantor of all Moneys to the Lender and this Guarantee shall not be considered as wholly or partially satisfied by the payment or liquidation at any time or times of any sum or sums of money for the time being due or remaining unpaid to the Lender, and all dividends, compositions, proceeds of any Security valued and payments received by the Lender from the Borrower or from others or from estates shall be regarded for all purposes as payments in gross without any right on the part of the Guarantor to claim in reduction of the liability under this Guarantee the benefit of any such dividends, compositions, proceeds or payments or any of the Securities or proceeds thereof.

3.2 Not Bound to Exhaust Remedies

The Lender shall not be bound to exhaust its recourse against the Borrower or any other person or any one or more of the Security it may hold before requiring payment from the Guarantor and the Lender may enforce the various remedies available to it and may realize upon the Security held by it or any part thereof in such order as the Lender may determine.

3.3 No Release or Release of Others

The release of any Guarantor, (if more than one) or any other person from his, its or their liability under this Guarantee or pursuant to any other guarantee, deed, document or agreement in favour of the Lender shall not affect the liability of the Guarantor (or any of them, if more than one), not so

released, which liability shall remain unimpaired and still in full force and effect as if the Guarantor(s) or any other person so released had not been a Guarantor of the Moneys or obligations of the Borrower or any part thereof, under any one or more of the Security Documents.

3.4 Action on Default

If default shall occur under any one or more of the Security Documents, the Lender shall in its sole discretion be at liberty to proceed against the Guarantor without any demand for payment being made by the Lender upon the Guarantor for payment, or payment of all or any portion of the Moneys owing or payable by virtue of this Guarantee or any one of the Security Documents and whether default or notice of default shall have occurred or shall have been given or not as to the Moneys or any portion thereof or under any one or more of the Security Documents and the Guarantor hereby waives any and all rights that it may have to any such notice or demand.

3.5 Not Affected by Change

This Guarantee and the obligations and liabilities of the Guarantor hereunder shall not be affected by the death or loss or diminution of capacity of the Guarantor or by any change in the name of the Borrower or, if applicable, in the membership of the Borrower's firm through the death or retirement of any one or more partners or the introduction of one or more partners, or otherwise howsoever, or by the acquisition of the Borrower's business by any person, or by any change whatsoever in the objects, capital structure or constitution of the Borrower, or by amalgamation, merger or otherwise howsoever.

3.6 Lien

In addition to all liens upon and right of set off against the monies, securities or other property of the Guarantor given to the Lender by law, the Lender shall have a lien upon and a right of set off against all monies, securities and other property of the Guarantor now or hereafter in the possession of the Lender; and every such lien or right of set off may be exercised without demand. No lien or right of set off shall be deemed to have been waived by any act or conduct on the part of the Lender or by any neglect to exercise such right of set off or to enforce such lien or by any delay in so doing, and every right of set off shall continue in full force and effect until such right of set off or lien is specifically waived or released by an instrument in writing executed by the Lender upon final satisfaction of the Moneys.

3.7 No Obligation Re Insurance

Notwithstanding anything set out in any of the Security Documents, the Lender shall not in any way be responsible for either the holding or the supervision of any insurance policies required to be maintained under any covenants to insure contained therein, or the verification of the compliance with respect to any such covenants to insure and that the Lender's permissive power to place insurance on the assets mortgaged to it is in its sole and absolute discretion. The Guarantor acknowledges that the Lender's action or lack of action in such holding, supervision, verification or in its permissive powers shall in no way diminish the Guarantor's liability hereunder.

3.8 Accounts

Any accounts settled or stated by or between the Lender and the Borrower or admitted by or on behalf of the Borrower may be adduced by the Lender and shall in that case be accepted by the Guarantor as conclusive evidence that the balance or amount thereof appearing is due by the Borrower to the Lender and if no account has been so settled, any account stated by the Lender shall be accepted by the Guarantor as conclusive evidence of the amount which at the date of the account so stated is due by the Borrower to the Lender or remains unpaid by the Borrower to the Lender.

3.9 Costs and Expenses

All costs and expenses incurred by the Lender relating to this Guarantee or the enforcement thereof against the Guarantor (or any of them, if more than one) including without limitation legal costs as

between the Lender and its solicitor, shall be paid by the Guarantor (or any one or more of them, as the case may be, if more than one) and shall be included in any judgment obtained against the Guarantor (or any one or more of them, if more than one) under this Guarantee.

3.10 Judgment

Any judgment obtained against the Guarantor under this Guarantee shall provide for and shall bear Interest (at the rate provided for in the Loan Agreement) thereon, and such Interest shall run and be included and payable on any said judgment, until said judgment shall have been fully satisfied.

3.11 No Contingent Agreements

It is understood, agreed and acknowledged by the Guarantor, that the carrying out by the Guarantor of the covenants and obligations of the Guarantor hereunder is not in any way contingent upon the carrying out by the Borrower or the Lender or any other person of any of their respective obligations or liabilities under any one or more of the Security Documents or in any other instrument contained.

3.12 Operative

This Guarantee shall be operative and binding upon every signatory thereof notwithstanding the non-execution thereof by any other proposed signatory or signatories, and possession of this instrument by the Lender shall be conclusive evidence against the Guarantor that this instrument was not delivered in escrow or pursuant to any agreement that it should not be effective until any conditions precedent or subsequent had been complied with.

3.13 Administrators and Assigns

This Guarantee shall extend to and enure to the benefit of the Lender and if more than one, to each of them and their respective heirs, executors, administrators, legal representatives, assigns and successors, as the case may be, and, if the Security or any of them in whole or in part is assigned by the Lender, to its or their assigns, as the case may be, and reference herein to the undersigned or to the Guarantor is a reference to and shall be construed as including the undersigned, (and if more than one, this Guarantee and the liability hereunder shall be deemed to be both jointly and severally binding on each of the undersigned) and the heirs, executors, administrators, legal representatives, successors and assigns, as the case may be, of the undersigned, to and upon all of whom this Guarantee shall extend and be binding.

3.14 Applicable Law

This Guarantee has been made in Alberta and for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and entered into therein by parties domiciled and resident therein and to be wholly performed therein and the Guarantor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

3.15 Words and Phrases

In this Guarantee unless the Lender otherwise requires, words importing the singular number shall include the plural and vice versa; words importing the use of any gender shall include all genders; words such as "hereunder", "hereto", "hereof" and "herein" shall, unless the context clearly indicates the contrary, refer to the whole of this Guarantee and not to any particular paragraph or section hereof and the word "person" shall include a natural person, firm, partnership, corporation or other entity, whether legal or otherwise. The headings, if any, in this Guarantee are inserted for convenience of reference only and shall not unless otherwise required by the Lender affect the interpretation or construction hereof.

3.16 Severability

If any provision of this Guarantee or the application of such provision to any person or circumstance shall be held invalid or unenforceable, the remainder of this Guarantee, or the application of such

provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

3.17 **Recitals**

The Recitals are incorporated herein and form a part hereof.

4. **POSTPONEMENT**

All debts and liabilities present and future of the Borrower to each party comprising the Guarantor are hereby assigned to the Lender and postponed to the Moneys and all monies received by any party comprising the Guarantor in respect thereof, shall be received in trust for the Lender and forthwith upon receipt shall be paid over to the Lender, the whole without in any way limiting or lessening the liability of the Guarantor hereunder, and this guarantee and postponement shall be deemed independent of this Guarantee and shall remain in full force and effect notwithstanding that the liability of the Guarantor under this Guarantee may be extinct and any reference to "this Guarantee" hereunder shall be deemed to refer to the whole hereof or solely to the guarantee portions hereof or solely to the assignment and postponement referred to in this Section 4, as the Lender may require.

5. **ACKNOWLEDGMENT**

The undersigned acknowledges having received a true copy of this Guarantee this 17th day of April, 2018.

ABSOLUTE ENERGY RESOURCES INC.

Per: 
I/we have the authority to bind the Corporation

Per: _____

KCD

This is **Exhibit "K"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

**GUARANTEE
RECITALS**

WHEREAS:

- A. **3443 ZEN GARDEN LIMITED PARTNERSHIP** (the "**Borrower**") has applied to **ROMSPEN MORTGAGE LIMITED PARTNERSHIP ("RMLP")** for a loan of up to ONE HUNDRED TWENTY FIVE MILLION US DOLLARS (US\$125,000,000.00) (the "**Principal Sum**") with interest thereon ("**Interest**") as defined and provided for and on the terms, covenants, conditions and provisos contained in that certain Loan Agreement between RMLP and the Borrower dated the 27 day of April, 2018 as it may be amended from time to time (collectively the "**Loan Agreement**");
- B. The Loan Agreement and any other documents or securities now held or hereafter held by RMLP or Romspen Investment Corporation (collectively, RMLP and Romspen Investment Corporation are referred to herein as the "**Lender**"), in respect of the payment of the Principal Sum and Interest thereon and all other monies ("**Other Monies**") secured, payable, due or owing or which may become secured, due, payable or owing thereunder (said Principal Sum, Interest and Other Monies hereinafter sometimes collectively referred to as "**Moneys**") are hereinafter sometimes collectively referred to as the "**Security**", the "**Securities**" or the "**Security Documents**";
- C. The Guarantor (as hereinafter defined) has agreed to execute these presents in consideration of the Lender agreeing to loan the Principal Sum to the Borrower.

NOW THEREFORE WITNESSETH that in consideration of the Lender agreeing to advance monies to the Borrower, and in consideration of the sum of \$2.00 paid by the Lender to the undersigned, and other good and valuable consideration, (the receipt and sufficiency whereof is hereby acknowledged by ABSOLUTE ENVIRONMENTAL WASTE MANAGEMENT INC. (the "**Guarantor**"), the Guarantor covenants, promises and agrees in favour of and with the Lender that:

1. OBLIGATIONS OF GUARANTOR

1.1 Unconditional Guarantee

The Guarantor unconditionally and irrevocably guarantees to the Lender:

- (1) the due and punctual payment of all Moneys when the same become due, owing or payable; and
- (2) the due performance and observance of all covenants, obligations, conditions, stipulations and provisos of the Borrower and every guarantor or other person (other than the Lender) contained in the Security Documents.

1.2 Continuing and Absolute

- (1) The obligations of the Guarantor hereunder shall be continuing, binding and absolute obligations and shall be direct, unconditional, irrevocable and independent of all past, present or future obligations of the Borrower to the Lender and a fresh cause of action shall be deemed to arise in respect of each default hereunder or under the Security Documents or any one or more of them, and a separate action or actions may be brought or enforced against the Guarantor whether action is brought against the Borrower or whether the Borrower be joined in any such action or actions and without the necessity of joining or proceeding against or exhausting any remedy against the Borrower or any other person or one or more Securities or otherwise howsoever held by the Lender in respect of the Moneys or the obligations of the Guarantor hereunder or otherwise howsoever;
- (2) As between the Lender and the Guarantor, the Guarantor is and shall continue to be liable hereunder and under all the covenants (other than the Lender's) contained in the Security Documents notwithstanding the bankruptcy, insolvency or going into liquidation of the Borrower or any other party to the Security Documents, voluntarily or otherwise, and notwithstanding any transaction or dealing whatsoever which may take place between the Lender and the Borrower or any other person or any neglect, unlawful act or default of the

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Lender whatsoever which might otherwise operate as a discharge, whether partial or absolute, of the Guarantor and without restricting the generality of the foregoing notwithstanding the releasing in whole or in part of any property or assets mortgaged, charged or assigned, whether by fixed and specific Mortgage, charge or assignment or otherwise, in or under the Security Documents;

- (3) This Guarantee is in addition to and not in substitution for any other guarantee by whomsoever given, at any time held by the Lender and any present or future obligations to the Lender incurred or arising otherwise than under a guarantee of the Guarantor or any other obligant, whether bound with or apart from the Borrower;
- (4) Should the Lender receive from the Guarantor a payment or payments in full or on account of the liability under this Guarantee, the Guarantor shall not be entitled to claim repayment against the Borrower or the Borrower's estate until the Lender's claims against the Borrower have been paid in full; in a case of liquidation, winding up or bankruptcy of the Borrower (whether voluntary or compulsory) or in the event that the Borrower shall make a bulk sale of any of the Borrower's assets within the bulk transfer provisions of any applicable legislation or any composition with creditors or scheme of arrangement, the Lender shall have the right to rank for its full claim and receive all dividends or other payments in respect thereof until its claim has been paid in full and the Guarantor shall continue in respect thereof until its claim has been paid in full and the Guarantor shall continue liable, up to the amount guaranteed, less any payments made by the Guarantor for any balance which may be owing to the Lender by the Borrower; and in the event of the valuation by the Lender of any of the Securities and/or the retention thereof by the Lender, such valuation and/or retention shall not, as between the Lender and the Guarantor, be considered as a purchase of such securities, or as a payment or satisfaction or reduction of the Moneys, or any part thereof.

2. DEFENCES

2.1 Waiver

The Guarantor hereby specifically waives any and all defences to any action brought to enforce this Guarantee or any part thereof at law or in equity, including without limitation the following:

- (1) Extensions and Indulgences: The Lender in its absolute discretion or in the absolute discretion of any authorized officer or agent of the Lender, and without diminishing the liability of the Guarantor, may from time to time grant any indulgences to the Borrower or any other person now or hereafter liable to the Lender in respect of the Moneys or any one or more of the obligations of the Borrower, the Guarantor or any other person contained in the Security Documents and may give up, modify, vary, exchange, renew or abstain from perfecting or taking advantage of any of the Security in whole or in part and may discharge any part or parts or accept any composition or arrangements or realize upon any of the Security in whole or in part when and in such manner as the Lender or any authorized officer or agent of the Lender may think expedient, and in no case whatsoever shall the Lender be responsible for any neglect, unlawful act or omission with respect to the Security or any part thereof.
- (2) No Release for Forbearance Etc.: That the Guarantor shall not be released or exonerated by time being given, or any other forbearance whatsoever whether as to time, performance or otherwise or by any release, discharge, loss or alteration in or dealing with all or any part of the Security or by any failure or delay in giving any notice or making any demand which may be required under this Guarantee or under any one or more of the Security Documents or by modification, amendment, deletion, variation or alteration in or departure from the provisions of any one or more of the Security Documents or by anything done, suffered or permitted by the Lender or any invalidity or unenforceability of, or any limitation on the liability of the Borrower, or on the method or terms of payment under, or any irregularity or other defect in any one or more of the Security Documents or any assignment or other transfer of all or any part of the Security or any Interest therein, whether before or after any default under any one or more of the Security Documents or this Guarantee or any defence, equity, set-off or counterclaim which the Borrower or the Guarantor may have or assert or

any other matter or circumstance, whether or not the Guarantor shall have notice or knowledge of or consented to any one or more of the foregoing; and that the Lender shall not be bound either to seek or exhaust its recourse against the Borrower or against the property or assets of the Borrower or under the Security or any other person before being entitled to payment from the Guarantor and the Lender may abstain from taking any securities and may cease or refrain from giving credit or making loans or advances to the Borrower, and may apply all monies at any time received from the Borrower or other persons or from the Securities upon such part of the Moneys as the Lender deems best and change any such application in whole or in part from time to time as the Lender may see fit;

- (3) Statutes: The Guarantor will not, in any action brought against the Guarantor in respect of this Guarantee, plead or invoke any statute of limitation or law of prescription now or hereafter in force; all monies, advances, renewals, credits, accommodations, transactions and/or considerations in fact borrowed or obtained from the Lender shall be deemed to form part of the Moneys notwithstanding any lack or limitations of status or power, incapacity or disability of the Borrower or of the directors, partners or agents thereof, or that the Borrower may not be a legal or suable entity, or any irregularity, defect or informality in the borrowing or obtaining of such monies, advances, renewals, credits, accommodations, transactions and/or considerations, the whole whether known to the Lender or not; and any sum which may not be recoverable from the Guarantor on the footing of a guarantee shall be recoverable from the Guarantor as sole or principal debtor in respect thereof and shall be paid to the Lender;
- (4) Deemed Satisfaction of Debt: The Guarantor agrees that so long as any Moneys remain actually owing to the Lender, the Guarantor shall remain liable to pay such Moneys notwithstanding any deemed full satisfaction of a debt pursuant to any law or statute, including without limitation the Law of Property Act of Alberta or any successor or similar legislation, that might occur upon any Final Order for Foreclosure being taken on any Mortgage or agreement for sale of realty property that may compromise in whole or in part the Security, it being the intention that the Guarantor shall not be entitled to rely upon any such deemed full satisfaction of a debt as a defence in payment of any Moneys payable pursuant to this Guarantee.

3. GENERAL

3.1 No Subrogation

The Guarantor will not at any time claim to be subrogated in any manner to the position of the Lender and will not claim the benefit of the Security, in whole or in part, until payment has been made in full by the Guarantor of all Moneys to the Lender and this Guarantee shall not be considered as wholly or partially satisfied by the payment or liquidation at any time or times of any sum or sums of money for the time being due or remaining unpaid to the Lender, and all dividends, compositions, proceeds of any Security valued and payments received by the Lender from the Borrower or from others or from estates shall be regarded for all purposes as payments in gross without any right on the part of the Guarantor to claim in reduction of the liability under this Guarantee the benefit of any such dividends, compositions, proceeds or payments or any of the Securities or proceeds thereof.

3.2 Not Bound to Exhaust Remedies

The Lender shall not be bound to exhaust its recourse against the Borrower or any other person or any one or more of the Security it may hold before requiring payment from the Guarantor and the Lender may enforce the various remedies available to it and may realize upon the Security held by it or any part thereof in such order as the Lender may determine.

3.3 No Release or Release of Others

The release of any Guarantor, (if more than one) or any other person from his, its or their liability under this Guarantee or pursuant to any other guarantee, deed, document or agreement in favour of the Lender shall not affect the liability of the Guarantor (or any of them, if more than one), not so

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released, which liability shall remain unimpaired and still in full force and effect as if the Guarantor(s) or any other person so released had not been a Guarantor of the Moneys or obligations of the Borrower or any part thereof, under any one or more of the Security Documents.

3.4 Action on Default

If default shall occur under any one or more of the Security Documents, the Lender shall in its sole discretion be at liberty to proceed against the Guarantor without any demand for payment being made by the Lender upon the Guarantor for payment, or payment of all or any portion of the Moneys owing or payable by virtue of this Guarantee or any one of the Security Documents and whether default or notice of default shall have occurred or shall have been given or not as to the Moneys or any portion thereof or under any one or more of the Security Documents and the Guarantor hereby waives any and all rights that it may have to any such notice or demand.

3.5 Not Affected by Change

This Guarantee and the obligations and liabilities of the Guarantor hereunder shall not be affected by the death or loss or diminution of capacity of the Guarantor or by any change in the name of the Borrower or, if applicable, in the membership of the Borrower's firm through the death or retirement of any one or more partners or the introduction of one or more partners, or otherwise howsoever, or by the acquisition of the Borrower's business by any person, or by any change whatsoever in the objects, capital structure or constitution of the Borrower, or by amalgamation, merger or otherwise howsoever.

3.6 Lien

In addition to all liens upon and right of set off against the monies, securities or other property of the Guarantor given to the Lender by law, the Lender shall have a lien upon and a right of set off against all monies, securities and other property of the Guarantor now or hereafter in the possession of the Lender; and every such lien or right of set off may be exercised without demand. No lien or right of set off shall be deemed to have been waived by any act or conduct on the part of the Lender or by any neglect to exercise such right of set off or to enforce such lien or by any delay in so doing, and every right of set off shall continue in full force and effect until such right of set off or lien is specifically waived or released by an instrument in writing executed by the Lender upon final satisfaction of the Moneys.

3.7 No Obligation Re Insurance

Notwithstanding anything set out in any of the Security Documents, the Lender shall not in any way be responsible for either the holding or the supervision of any insurance policies required to be maintained under any covenants to insure contained therein, or the verification of the compliance with respect to any such covenants to insure and that the Lender's permissive power to place insurance on the assets mortgaged to it is in its sole and absolute discretion. The Guarantor acknowledges that the Lender's action or lack of action in such holding, supervision, verification or in its permissive powers shall in no way diminish the Guarantor's liability hereunder.

3.8 Accounts

Any accounts settled or stated by or between the Lender and the Borrower or admitted by or on behalf of the Borrower may be adduced by the Lender and shall in that case be accepted by the Guarantor as conclusive evidence that the balance or amount thereof appearing is due by the Borrower to the Lender and if no account has been so settled, any account stated by the Lender shall be accepted by the Guarantor as conclusive evidence of the amount which at the date of the account so stated is due by the Borrower to the Lender or remains unpaid by the Borrower to the Lender.

3.9 Costs and Expenses

All costs and expenses incurred by the Lender relating to this Guarantee or the enforcement thereof against the Guarantor (or any of them, if more than one) including without limitation legal costs as

between the Lender and its solicitor, shall be paid by the Guarantor (or any one or more of them, as the case may be, if more than one) and shall be included in any judgment obtained against the Guarantor (or any one or more of them, if more than one) under this Guarantee.

3.10 Judgment

Any judgment obtained against the Guarantor under this Guarantee shall provide for and shall bear Interest (at the rate provided for in the Loan Agreement) thereon, and such Interest shall run and be included and payable on any said judgment, until said judgment shall have been fully satisfied.

3.11 No Contingent Agreements

It is understood, agreed and acknowledged by the Guarantor, that the carrying out by the Guarantor of the covenants and obligations of the Guarantor hereunder is not in any way contingent upon the carrying out by the Borrower or the Lender or any other person of any of their respective obligations or liabilities under any one or more of the Security Documents or in any other instrument contained.

3.12 Operative

This Guarantee shall be operative and binding upon every signatory thereof notwithstanding the non-execution thereof by any other proposed signatory or signatories, and possession of this instrument by the Lender shall be conclusive evidence against the Guarantor that this instrument was not delivered in escrow or pursuant to any agreement that it should not be effective until any conditions precedent or subsequent had been complied with.

3.13 Administrators and Assigns

This Guarantee shall extend to and enure to the benefit of the Lender and if more than one, to each of them and their respective heirs, executors, administrators, legal representatives, assigns and successors, as the case may be, and, if the Security or any of them in whole or in part is assigned by the Lender, to its or their assigns, as the case may be, and reference herein to the undersigned or to the Guarantor is a reference to and shall be construed as including the undersigned, (and if more than one, this Guarantee and the liability hereunder shall be deemed to be both jointly and severally binding on each of the undersigned) and the heirs, executors, administrators, legal representatives, successors and assigns, as the case may be, of the undersigned, to and upon all of whom this Guarantee shall extend and be binding.

3.14 Applicable Law

This Guarantee has been made in Alberta and for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and entered into therein by parties domiciled and resident therein and to be wholly performed therein and the Guarantor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

3.15 Words and Phrases

In this Guarantee unless the Lender otherwise requires, words importing the singular number shall include the plural and vice versa; words importing the use of any gender shall include all genders; words such as "hereunder", "hereto", "hereof" and "herein" shall, unless the context clearly indicates the contrary, refer to the whole of this Guarantee and not to any particular paragraph or section hereof and the word "person" shall include a natural person, firm, partnership, corporation or other entity, whether legal or otherwise. The headings, if any, in this Guarantee are inserted for convenience of reference only and shall not unless otherwise required by the Lender affect the interpretation or construction hereof.

3.16 Severability

If any provision of this Guarantee or the application of such provision to any person or circumstance shall be held invalid or unenforceable, the remainder of this Guarantee, or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

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3.17 Recitals

The Recitals are incorporated herein and form a part hereof.

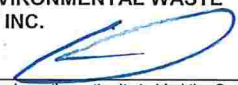
4. POSTPONEMENT

All debts and liabilities present and future of the Borrower to each party comprising the Guarantor are hereby assigned to the Lender and postponed to the Moneys and all monies received by any party comprising the Guarantor in respect thereof, shall be received in trust for the Lender and forthwith upon receipt shall be paid over to the Lender, the whole without in any way limiting or lessening the liability of the Guarantor hereunder, and this guarantee and postponement shall be deemed independent of this Guarantee and shall remain in full force and effect notwithstanding that the liability of the Guarantor under this Guarantee may be extinct and any reference to "this Guarantee" hereunder shall be deemed to refer to the whole hereof or solely to the guarantee portions hereof or solely to the assignment and postponement referred to in this Section 4, as the Lender may require.

5. ACKNOWLEDGMENT

The undersigned acknowledges having received a true copy of this Guarantee this 17th day of April, 2018.

**ABSOLUTE ENVIRONMENTAL WASTE
MANAGEMENT INC.**

Per: 
I/we have the authority to bind the Corporation

Per: _____

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This is **Exhibit "L"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 12 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor



GUARANTEE

RECITALS

WHEREAS:

- A. **3443 ZEN GARDEN LIMITED PARTNERSHIP** (the "**Borrower**") has applied to **ROMSPEN MORTGAGE LIMITED PARTNERSHIP ("RMLP")** for a loan of up to **ONE HUNDRED TWENTY FIVE MILLION US DOLLARS (US\$125,000,000.00)** (the "**Principal Sum**") with interest thereon ("**Interest**") as defined and provided for and on the terms, covenants, conditions and provisos contained in that certain Loan Agreement between RMLP and the Borrower dated the 21 day of April, 2018 as it may be amended from time to time (collectively the "**Loan Agreement**");
- B. The Loan Agreement and any other documents or securities now held or hereafter held by RMLP or Romspen Investment Corporation (collectively, RMLP and Romspen Investment Corporation are referred to herein as the "**Lender**"), in respect of the payment of the Principal Sum and Interest thereon and all other monies ("**Other Monies**") secured, payable, due or owing or which may become secured, due, payable or owing thereunder (said Principal Sum, Interest and Other Monies hereinafter sometimes collectively referred to as "**Moneys**") are hereinafter sometimes collectively referred to as the "**Security**", the "**Securities**" or the "**Security Documents**";
- C. The Guarantor (as hereinafter defined) has agreed to execute these presents in consideration of the Lender agreeing to loan the Principal Sum to the Borrower.

NOW THEREFORE WITNESSETH that in consideration of the Lender agreeing to advance monies to the Borrower, and in consideration of the sum of \$2.00 paid by the Lender to the undersigned, and other good and valuable consideration, (the receipt and sufficiency whereof is hereby acknowledged by DANIEL ALEXANDER WHITE (the "**Guarantor**"), the Guarantor covenants, promises and agrees in favour of and with the Lender that:

1. OBLIGATIONS OF GUARANTOR

1.1 Unconditional Guarantee

The Guarantor unconditionally and irrevocably guarantees to the Lender:

- (1) the due and punctual payment of all Moneys when the same become due, owing or payable; and
- (2) the due performance and observance of all covenants, obligations, conditions, stipulations and provisos of the Borrower and every guarantor or other person (other than the Lender) contained in the Security Documents.

1.2 Continuing and Absolute

- (1) The obligations of the Guarantor hereunder shall be continuing, binding and absolute obligations and shall be direct, unconditional, irrevocable and independent of all past, present or future obligations of the Borrower to the Lender and a fresh cause of action shall be deemed to arise in respect of each default hereunder or under the Security Documents or any one or more of them, and a separate action or actions may be brought or enforced against the Guarantor whether action is brought against the Borrower or whether the Borrower be joined in any such action or actions and without the necessity of joining or proceeding against or exhausting any remedy against the Borrower or any other person or one or more Securities or otherwise howsoever held by the Lender in respect of the Moneys or the obligations of the Guarantor hereunder or otherwise howsoever;
- (2) As between the Lender and the Guarantor, the Guarantor is and shall continue to be liable hereunder and under all the covenants (other than the Lender's) contained in the Security Documents notwithstanding the bankruptcy, insolvency or going into liquidation of the Borrower or any other party to the Security Documents, voluntarily or otherwise, and notwithstanding any transaction or dealing whatsoever which may take place between the Lender and the Borrower or any other person or any neglect, unlawful act or default of the

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Lender whatsoever which might otherwise operate as a discharge, whether partial or absolute, of the Guarantor and without restricting the generality of the foregoing notwithstanding the releasing in whole or in part of any property or assets mortgaged, charged or assigned, whether by fixed and specific Mortgage, charge or assignment or otherwise, in or under the Security Documents;

- (3) This Guarantee is in addition to and not in substitution for any other guarantee by whomsoever given, at any time held by the Lender and any present or future obligations to the Lender incurred or arising otherwise than under a guarantee of the Guarantor or any other obligant, whether bound with or apart from the Borrower;
- (4) Should the Lender receive from the Guarantor a payment or payments in full or on account of the liability under this Guarantee, the Guarantor shall not be entitled to claim repayment against the Borrower or the Borrower's estate until the Lender's claims against the Borrower have been paid in full; in a case of liquidation, winding up or bankruptcy of the Borrower (whether voluntary or compulsory) or in the event that the Borrower shall make a bulk sale of any of the Borrower's assets within the bulk transfer provisions of any applicable legislation or any composition with creditors or scheme of arrangement, the Lender shall have the right to rank for its full claim and receive all dividends or other payments in respect thereof until its claim has been paid in full and the Guarantor shall continue in respect thereof until its claim has been paid in full and the Guarantor shall continue liable, up to the amount guaranteed, less any payments made by the Guarantor for any balance which may be owing to the Lender by the Borrower; and in the event of the valuation by the Lender of any of the Securities and/or the retention thereof by the Lender, such valuation and/or retention shall not, as between the Lender and the Guarantor, be considered as a purchase of such securities, or as a payment or satisfaction or reduction of the Moneys, or any part thereof.

2. DEFENCES

2.1 Waiver

The Guarantor hereby specifically waives any and all defences to any action brought to enforce this Guarantee or any part thereof at law or in equity, including without limitation the following:

- (1) **Extensions and Indulgences:** The Lender in its absolute discretion or in the absolute discretion of any authorized officer or agent of the Lender, and without diminishing the liability of the Guarantor, may from time to time grant any indulgences to the Borrower or any other person now or hereafter liable to the Lender in respect of the Moneys or any one or more of the obligations of the Borrower, the Guarantor or any other person contained in the Security Documents and may give up, modify, vary, exchange, renew or abstain from perfecting or taking advantage of any of the Security in whole or in part and may discharge any part or parts or accept any composition or arrangements or realize upon any of the Security in whole or in part when and in such manner as the Lender or any authorized officer or agent of the Lender may think expedient, and in no case whatsoever shall the Lender be responsible for any neglect, unlawful act or omission with respect to the Security or any part thereof.
- (2) **No Release for Forbearance Etc.:** That the Guarantor shall not be released or exonerated by time being given, or any other forbearance whatsoever whether as to time, performance or otherwise or by any release, discharge, loss or alteration in or dealing with all or any part of the Security or by any failure or delay in giving any notice or making any demand which may be required under this Guarantee or under any one or more of the Security Documents or by modification, amendment, deletion, variation or alteration in or departure from the provisions of any one or more of the Security Documents or by anything done, suffered or permitted by the Lender or any invalidity or unenforceability of, or any limitation on the liability of the Borrower, or on the method or terms of payment under, or any irregularity or other defect in any one or more of the Security Documents or any assignment or other transfer of all or any part of the Security or any Interest therein, whether before or after any default under any one or more of the Security Documents or this Guarantee or any defence, equity, set-off or counterclaim which the Borrower or the Guarantor may have or assert or

any other matter or circumstance, whether or not the Guarantor shall have notice or knowledge of or consented to any one or more of the foregoing; and that the Lender shall not be bound either to seek or exhaust its recourse against the Borrower or against the property or assets of the Borrower or under the Security or any other person before being entitled to payment from the Guarantor and the Lender may abstain from taking any securities and may cease or refrain from giving credit or making loans or advances to the Borrower, and may apply all monies at any time received from the Borrower or other persons or from the Securities upon such part of the Moneys as the Lender deems best and change any such application in whole or in part from time to time as the Lender may see fit;

- (3) Statutes: The Guarantor will not, in any action brought against the Guarantor in respect of this Guarantee, plead or invoke any statute of limitation or law of prescription now or hereafter in force; all monies, advances, renewals, credits, accommodations, transactions and/or considerations in fact borrowed or obtained from the Lender shall be deemed to form part of the Moneys notwithstanding any lack or limitations of status or power, incapacity or disability of the Borrower or of the directors, partners or agents thereof, or that the Borrower may not be a legal or suable entity, or any irregularity, defect or informality in the borrowing or obtaining of such monies, advances, renewals, credits, accommodations, transactions and/or considerations, the whole whether known to the Lender or not; and any sum which may not be recoverable from the Guarantor on the footing of a guarantee shall be recoverable from the Guarantor as sole or principal debtor in respect thereof and shall be paid to the Lender;
- (4) Deemed Satisfaction of Debt: The Guarantor agrees that so long as any Moneys remain actually owing to the Lender, the Guarantor shall remain liable to pay such Moneys notwithstanding any deemed full satisfaction of a debt pursuant to any law or statute, including without limitation the Law of Property Act of Alberta or any successor or similar legislation, that might occur upon any Final Order for Foreclosure being taken on any Mortgage or agreement for sale of realty property that may compromise in whole or in part the Security, it being the intention that the Guarantor shall not be entitled to rely upon any such deemed full satisfaction of a debt as a defence in payment of any Moneys payable pursuant to this Guarantee.

3. GENERAL

3.1 No Subrogation

The Guarantor will not at any time claim to be subrogated in any manner to the position of the Lender and will not claim the benefit of the Security, in whole or in part, until payment has been made in full by the Guarantor of all Moneys to the Lender and this Guarantee shall not be considered as wholly or partially satisfied by the payment or liquidation at any time or times of any sum or sums of money for the time being due or remaining unpaid to the Lender, and all dividends, compositions, proceeds of any Security valued and payments received by the Lender from the Borrower or from others or from estates shall be regarded for all purposes as payments in gross without any right on the part of the Guarantor to claim in reduction of the liability under this Guarantee the benefit of any such dividends, compositions, proceeds or payments or any of the Securities or proceeds thereof.

3.2 Not Bound to Exhaust Remedies

The Lender shall not be bound to exhaust its recourse against the Borrower or any other person or any one or more of the Security it may hold before requiring payment from the Guarantor and the Lender may enforce the various remedies available to it and may realize upon the Security held by it or any part thereof in such order as the Lender may determine.

3.3 No Release or Release of Others

The release of any Guarantor, (if more than one) or any other person from his, its or their liability under this Guarantee or pursuant to any other guarantee, deed, document or agreement in favour of the Lender shall not affect the liability of the Guarantor (or any of them, if more than one), not so

released, which liability shall remain unimpaired and still in full force and effect as if the Guarantor(s) or any other person so released had not been a Guarantor of the Moneys or obligations of the Borrower or any part thereof, under any one or more of the Security Documents.

3.4 Action on Default

If default shall occur under any one or more of the Security Documents, the Lender shall in its sole discretion be at liberty to proceed against the Guarantor without any demand for payment being made by the Lender upon the Guarantor for payment, or payment of all or any portion of the Moneys owing or payable by virtue of this Guarantee or any one of the Security Documents and whether default or notice of default shall have occurred or shall have been given or not as to the Moneys or any portion thereof or under any one or more of the Security Documents and the Guarantor hereby waives any and all rights that it may have to any such notice or demand.

3.5 Not Affected by Change

This Guarantee and the obligations and liabilities of the Guarantor hereunder shall not be affected by the death or loss or diminution of capacity of the Guarantor or by any change in the name of the Borrower or, if applicable, in the membership of the Borrower's firm through the death or retirement of any one or more partners or the introduction of one or more partners, or otherwise howsoever, or by the acquisition of the Borrower's business by any person, or by any change whatsoever in the objects, capital structure or constitution of the Borrower, or by amalgamation, merger or otherwise howsoever.

3.6 Lien

In addition to all liens upon and right of set off against the monies, securities or other property of the Guarantor given to the Lender by law, the Lender shall have a lien upon and a right of set off against all monies, securities and other property of the Guarantor now or hereafter in the possession of the Lender; and every such lien or right of set off may be exercised without demand. No lien or right of set off shall be deemed to have been waived by any act or conduct on the part of the Lender or by any neglect to exercise such right of set off or to enforce such lien or by any delay in so doing, and every right of set off shall continue in full force and effect until such right of set off or lien is specifically waived or released by an instrument in writing executed by the Lender upon final satisfaction of the Moneys.

3.7 No Obligation Re Insurance

Notwithstanding anything set out in any of the Security Documents, the Lender shall not in any way be responsible for either the holding or the supervision of any insurance policies required to be maintained under any covenants to insure contained therein, or the verification of the compliance with respect to any such covenants to insure and that the Lender's permissive power to place insurance on the assets mortgaged to it is in its sole and absolute discretion. The Guarantor acknowledges that the Lender's action or lack of action in such holding, supervision, verification or in its permissive powers shall in no way diminish the Guarantor's liability hereunder.

3.8 Accounts

Any accounts settled or stated by or between the Lender and the Borrower or admitted by or on behalf of the Borrower may be adduced by the Lender and shall in that case be accepted by the Guarantor as conclusive evidence that the balance or amount thereof appearing is due by the Borrower to the Lender and if no account has been so settled, any account stated by the Lender shall be accepted by the Guarantor as conclusive evidence of the amount which at the date of the account so stated is due by the Borrower to the Lender or remains unpaid by the Borrower to the Lender.

3.9 Costs and Expenses

All costs and expenses incurred by the Lender relating to this Guarantee or the enforcement thereof against the Guarantor (or any of them, if more than one) including without limitation legal costs as

between the Lender and its solicitor, shall be paid by the Guarantor (or any one or more of them, as the case may be, if more than one) and shall be included in any judgment obtained against the Guarantor (or any one or more of them, if more than one) under this Guarantee.

3.10 Judgment

Any judgment obtained against the Guarantor under this Guarantee shall provide for and shall bear Interest (at the rate provided for in the Loan Agreement) thereon, and such Interest shall run and be included and payable on any said judgment, until said judgment shall have been fully satisfied.

3.11 No Contingent Agreements

It is understood, agreed and acknowledged by the Guarantor, that the carrying out by the Guarantor of the covenants and obligations of the Guarantor hereunder is not in any way contingent upon the carrying out by the Borrower or the Lender or any other person of any of their respective obligations or liabilities under any one or more of the Security Documents or in any other instrument contained.

3.12 Operative

This Guarantee shall be operative and binding upon every signatory thereof notwithstanding the non-execution thereof by any other proposed signatory or signatories, and possession of this instrument by the Lender shall be conclusive evidence against the Guarantor that this instrument was not delivered in escrow or pursuant to any agreement that it should not be effective until any conditions precedent or subsequent had been complied with.

3.13 Administrators and Assigns

This Guarantee shall extend to and enure to the benefit of the Lender and if more than one, to each of them and their respective heirs, executors, administrators, legal representatives, assigns and successors, as the case may be, and, if the Security or any of them in whole or in part is assigned by the Lender, to its or their assigns, as the case may be, and reference herein to the undersigned or to the Guarantor is a reference to and shall be construed as including the undersigned, (and if more than one, this Guarantee and the liability hereunder shall be deemed to be both jointly and severally binding on each of the undersigned) and the heirs, executors, administrators, legal representatives, successors and assigns, as the case may be, of the undersigned, to and upon all of whom this Guarantee shall extend and be binding.

3.14 Applicable Law

This Guarantee has been made in Alberta and for all purposes shall be construed in accordance with and governed by the laws of Alberta as an agreement made and entered into therein by parties domiciled and resident therein and to be wholly performed therein and the Guarantor (and each of them, if more than one) hereby attorns to the jurisdiction of the courts of Alberta.

3.15 Words and Phrases

In this Guarantee unless the Lender otherwise requires, words importing the singular number shall include the plural and vice versa; words importing the use of any gender shall include all genders; words such as "hereunder", "hereto", "hereof" and "herein" shall, unless the context clearly indicates the contrary, refer to the whole of this Guarantee and not to any particular paragraph or section hereof and the word "person" shall include a natural person, firm, partnership, corporation or other entity, whether legal or otherwise. The headings, if any, in this Guarantee are inserted for convenience of reference only and shall not unless otherwise required by the Lender affect the interpretation or construction hereof.

3.16 Severability

If any provision of this Guarantee or the application of such provision to any person or circumstance shall be held invalid or unenforceable, the remainder of this Guarantee, or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

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3.17 Recitals

The Recitals are incorporated herein and form a part hereof.

4. POSTPONEMENT

All debts and liabilities present and future of the Borrower to each party comprising the Guarantor are hereby assigned to the Lender and postponed to the Moneys and all monies received by any party comprising the Guarantor in respect thereof, shall be received in trust for the Lender and forthwith upon receipt shall be paid over to the Lender, the whole without in any way limiting or lessening the liability of the Guarantor hereunder, and this guarantee and postponement shall be deemed independent of this Guarantee and shall remain in full force and effect notwithstanding that the liability of the Guarantor under this Guarantee may be extinct and any reference to "**this Guarantee**" hereunder shall be deemed to refer to the whole hereof or solely to the guarantee portions hereof or solely to the assignment and postponement referred to in this Section 4, as the Lender may require.

5. ACKNOWLEDGMENT

The undersigned acknowledges having received a true copy of this Guarantee this 17 day of April, 2018.



DANIEL ALEXANDER WHITE

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GUARANTEES ACKNOWLEDGEMENT ACT

(Section 3)

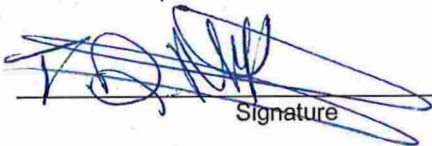
CERTIFICATE

I HEREBY CERTIFY THAT:

1. DANIEL ALEXANDER WHITE, the guarantor in the guarantee dated the 17 day of April, 2018, made between Daniel Alexander White and Romspen Investment Corporation, which this certificate is attached to or noted on, appeared in person before me and acknowledged that he had executed the guarantee.

2. I satisfied myself by examination of the guarantor that he is aware of the contents of the guarantee and understands it.

CERTIFIED by TRAVIS D. MCKAY
BARRISTER & SOLICITOR, Lawyer at the City of Edmonton, in the Province of
Alberta, this 6th day of ~~April~~ June, 2018.



Signature

STATEMENT OF GUARANTOR

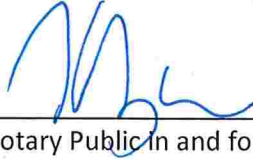
I am the person named in this certificate.



Signature of Guarantor

ED

This is **Exhibit "M"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor



October 11, 2019

Via Registered Mail, First Class Mail, and Electronic Mail

3443 Zen Garden Limited Partnership
Attn: Adam Zarafshani
3443 Ed Bluestein Blvd.
Building V, Suite 100
Austin, Texas 78759
VIA HAND DELIVERY

Adam Zarafshani
3443 Ed Bluestein Blvd.
Building V, Suite 100
Austin, Texas 78759
VIA HAND DELIVERY

3443 Zen Garden Limited Partnership
4210 Spicewood Springs Road, Suite 205
Austin, Texas 78759
Email: adam@panachehomes.com

3443 Zen Garden Limited Partnership
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Dan White
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Lot 11 Limited Partnership
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Eco-Industrial Business Park, Inc.
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Eightfold Developments, LLC
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Absolute Energy Resources Inc.
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Absolute Environmental Waste Management
Inc.
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com



FOLEY & LARDNER LLP

October 11, 2019

Page 2

Adam Zarafshani
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: adam@panache-usa.com

Adam Zarafshani
4210 Spicewood Springs Road, # 205
Austin, Texas 78759
Email: adam@panachehomes.com

Eightfold Developments, LLC
4210 Spicewood Springs Road, # 205
Austin, Texas 78759
Email: adam@panachehomes.com

3443 Zen Garden GP LLC
4210 Spicewood Springs Road, # 205
Austin, Texas 78759
Email: adam@panachehomes.com

Re: **DECLARATION OF DEFAULT AND NOTICE OF ACCELERATION**: Loan Agreement dated April 27, 2018 (the "Loan Agreement") executed by 3443 Zen Garden Limited Partnership (the "Borrower") and Romspen Mortgage Limited Partnership (the "Lender"), arising from and related to that certain Promissory Note ("Note"), dated April 27, 2018, in the original maximum principal amount of \$125,000,000.00, executed by Borrower and payable to the order of Lender, which Note is secured by, inter alia, the lien of that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (together with any other documents granting a security interest to secure the Note, each of which are expressly incorporated herein by reference, collectively, the "Security Instrument"), dated as of April 27, 2018, covering certain real and personal property (as such realty and personalty is specifically described and set forth in the Security Instrument, collectively referred to herein as the "Property") located in Travis County, Texas, which Note has been guaranteed by Adam Zarafshani, Daniel Alexander White, Eightfold Developments, LLC (collectively, the "Guarantors")¹ under those certain guarantee agreements (collectively, the "Guarantees") executed by Guarantors in favor of Lender, and each of the foregoing documents described hereinabove, together with certain other documents executed, delivered and/or completed in connection with the foregoing transaction documents, are collectively referred to herein as the "Loan Documents".

¹ Borrower, Guarantors, each of the parties defined as the "Borrower Parties" under the Loan Agreement, the addressees of this correspondence, and all other parties obligated to Lender under the terms of the Loan Documents are collectively referred to as the "Obligors".

REP



FOLEY & LARDNER LLP

October 11, 2019

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Dear Obligor,

This firm represents the Lender in connection with the above-referenced matter. Lender is the owner and holder of the Loan Agreement, Note, Security Agreements, Guarantees and all Loan Documents executed in connection therewith. Capitalized terms used herein, but not otherwise defined, shall have the meanings specified in the Loan Documents. All future communications concerning this matter should be directed to the undersigned. If you are represented by legal counsel (other than counsel copied herein), please forward this transmission so that we may communicate directly with your attorney.

This letter shall serve as formal notice that Obligor is in default under the Loan Documents. Specifically, this correspondence officially constitutes a Declaration of Default (as such term is defined in the Loan Agreement). Obligor has defaulted under Section 7.1(a) of the Loan Agreement by failing to timely deliver to Lender one or more monetary obligations lawfully due and owing under the Note, the Loan Agreement and the other Loan Documents. Specifically, pursuant to Section 6.6 of the Loan Agreement, the Interest Reserve Fund was initially set at \$8.5 million. Section 6.6 states: *“For so long as no Declaration of Default has occurred hereunder or under any of the other Loan Documents, Lender shall, on each Scheduled Payment Date, advance from the Interest Reserve Fund to itself the amount of the Monthly Debt Service Payment (as defined in the Note) and other accrued interest then due and payable under the Notes [sic]”*. Lender has advanced the full Interest Reserve Fund to pay interest accrued on the Loan. As of the September 2, 2019, Scheduled Payment Date, the remaining balance of the Interest Reserve Fund was \$56,395. Therefore, Borrower is responsible to make Monthly Debt Service Payments on Scheduled Payment Dates from funds other than Loan proceeds (unless, per 6.6, Lender approves Borrower’s request to make Project savings available for Monthly Debt Service Payments. No request was received, and in any event, there are no Project savings available). Borrower did not make Debt Service Payments on either September 2, 2019, or October 1, 2019, of \$796,240.27 (amount due net of the remaining balance in the Interest Reserve Fund), and \$852,671.70, respectively (herein, the “Payment Default”).

In addition to the Payment Default, Obligor has also failed to satisfy additional terms of the Loan Documents, which breaches have triggered additional Events of Default under the terms of the Loan Documents, including, without limitation:

- **Misapplication of Advance Proceeds:** On August 30, 2019, as part of draw request #14, Lender advanced \$1,993,341.75 (out of a total Advance of \$2,852,510.62) to Borrower for the purposes set out in the Draw Request and supporting materials. Without Lender’s consent, and contrary to the representations in the draw request, \$1,387,100.46 of the Advance funds were disbursed by the Borrower for purposes contrary to: (i) Borrower’s representations in the Draw Request; and (ii) the Lender’s approval thereof. Borrower’s action in this regard has breached the terms of the Loan Documents, specifically including, without limitation, an Event



FOLEY & LARDNER LLP

October 11, 2019

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of Default under Section 7.1(e) of the Loan Agreement.

- Waste (Section 3.5 of the Security Instrument): Under Section 3.5 of the Deed of Trust, Borrower (Grantor) covenanted not to commit or suffer any waste of the Property (a "*diminution of the Property's value resulting from the Borrower's negligent or willful failure to manage ... or otherwise operate the Property in a commercially reasonable manner*"). Borrower's abandonment of site operations constitutes a breach of this covenant.

There may be additional Events of Default existing under the terms of the Loan Documents that are not listed herein. Lender does not waive any other existing Events of Default by not explicitly referencing the same herein.

As a result of your Payment Default, you are hereby notified that the entire outstanding balance due under the Note and terms of the Loan Documents has been accelerated, and all of such indebtedness is now immediately due and payable to Lender.

Please advised that any discussions that may have occurred or may occur in the future between representatives of Obligors and of Lender regarding the Property or the Note evidence nothing more than the continuing good faith attempts of Lender to work out the existing problems in a manner reasonably acceptable to all parties. Obligors may not rely upon any such discussions in any manner or fashion. Unless and until a binding, written agreement has been fully executed by and between all parties, Lender's rights and remedies are and will continue to be fully enforceable under the terms of the Loan Documents.

Notwithstanding any previous action or inaction by or on behalf of Lender to the contrary, if any, you are hereby notified that Lender will hereafter require strict compliance with the terms and conditions of the Note and other Loan Documents.

Please be advised that we shall assume your debt to our client is valid unless, within thirty (30) days of the date of this letter, you dispute the validity of the debt, or any portion thereof, in writing. If you notify us within the thirty-day period that you dispute the validity of the debt, or any portion thereof, we will obtain verification of the debt, and we will mail such verification to you. If our client is not the original creditor regarding your debt, upon your written request within the above described thirty-day period, we will provide you with the name and address of the original creditor. Please note that your right to request a verification of the debt or to request the name and address of the original creditor does not affect our right to collect the full balance of Obligors' financial obligations and/or foreclose on the Property under the Loan Documents.

Pursuant to the Fair Debt Collection Practices Act, you are advised that this office may be deemed to be a debt collector, that the debt collector is attempting to collect a debt, and any



FOLEY & LARDNER LLP

October 11, 2019

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information obtained will be used for that purpose.

If you are a debtor under the United States Bankruptcy Code or if the debt described herein has been discharged under the United States Bankruptcy Code, notwithstanding anything contained in this letter to the contrary, this letter constitutes neither a demand for payment of the Note nor a notice of personal liability to, nor action against, any recipient hereof who might have received a discharge of the Note obligations in accordance with applicable insolvency laws or who might be subject to the automatic stay of Section 362 of the United States Bankruptcy Code, or other similar insolvency laws, or who has paid or settled or is otherwise not obligated by law for the Loan Documents. If any such discharge or stay is currently applicable to any such recipient, then alternatively, this letter is served only to provide notice of the default under the Loan Documents, as described herein above, and out of an abundance of caution to satisfy certain notice provisions under the Loan Documents and the Texas Property Code, to the extent any such provisions thereunder may be applicable.

Lender reserves all rights provided for under the Loan Documents, including but not limited to the right to pursue and/or invoke any and all remedies permitted by applicable law and/or provided in the Loan Documents. Lender further reserves the right to collect all costs and expenses permitted by applicable law, including attorneys' fees, costs of documentary evidence, abstracts, title reports, appraisals, property condition assessments, broker's price opinions, inspection reports, statutory costs and any additional allowance made pursuant to the Loan Documents and applicable law.

This letter is written without prejudice to Lender's other rights and remedies, all of which are expressly reserved.

In the event that Obligors wish to discuss these matters, you may contact the undersigned counsel for Lender at 214-999-4289.

Your immediate attention to this matter is recommended.

Sincerely,

Thomas C. Scannell

TCS/aac



FOLEY & LARDNER LLP

October 11, 2019

Page 6

cc: Clifton M. Dugas, II, Foley & Lardner LLP (email only)

Nicholas Legatos, Esquire (via email, Certified Mail, First Class Mail)
Hinshaw & Culbertson LLP
222 North LaSalle Street Suite 300
Chicago, Illinois 60601
nlegatos@hinshawlaw.com

Steven Carlyle Cronig, Esquire (via email, Certified Mail, First Class Mail)
Hinshaw & Culbertson LLP
2525 Ponce de Leon Blvd., 4th Floor
Coral Gables, Florida 33134
scc@hinshawlaw.com

Handwritten initials, possibly 'SD', in the bottom right corner of the page.

This is **Exhibit "N"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

October 23, 2019

Via Registered Mail, First Class Mail, and Electronic Mail

3443 Zen Garden Limited Partnership
Attn: Adam Zarafshani
3443 Ed Bluestein Blvd.
Building V, Suite 100
Austin, Texas 78759
VIA HAND DELIVERY

Adam Zarafshani
3443 Ed Bluestein Blvd.
Building V, Suite 100
Austin, Texas 78759
VIA HAND DELIVERY

3443 Zen Garden Limited Partnership
4210 Spicewood Springs Road, Suite 205
Austin, Texas 78759
Email: adam@panachehomes.com

3443 Zen Garden Limited Partnership
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Dan White
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Lot 11 Limited Partnership
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Eco-Industrial Business Park, Inc.
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Eightfold Developments, LLC
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Absolute Energy Resources Inc.
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

Absolute Environmental Waste Management
Inc.
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: dwhite@symmetryinc.com

ESB

October 23, 2019
Page 2

Adam Zarafshani
2833 Broadmoor Boulevard
Suite 260
Sherwood Park, Alberta, Canada T8H 2H3
Email: adam@panache-usa.com

Adam Zarafshani
4210 Spicewood Springs Road, # 205
Austin, Texas 78759
Email: adam@panachehomes.com

Eightfold Developments, LLC
4210 Spicewood Springs Road, # 205
Austin, Texas 78759
Email: adam@panachehomes.com

3443 Zen Garden GP LLC
4210 Spicewood Springs Road, # 205
Austin, Texas 78759
Email: adam@panachehomes.com

Re: **SECOND NOTICE OF DEFAULT:** Loan Agreement dated April 27, 2018 (the "Loan Agreement") executed by 3443 Zen Garden Limited Partnership (the "Borrower") and Romspen Mortgage Limited Partnership (the "Lender"), arising from and related to that certain Promissory Note ("Note"), dated April 27, 2018, in the original maximum principal amount of \$125,000,000.00, executed by Borrower and payable to the order of Lender, which Note is secured by, inter alia, the lien of that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (together with any other documents granting a security interest to secure the Note, each of which are expressly incorporated herein by reference, collectively, the "Security Instrument"), dated as of April 27, 2018, covering certain real and personal property (as such realty and personalty is specifically described and set forth in the Security Instrument, collectively referred to herein as the "Property") located in Travis County, Texas, which Note has been guaranteed by Adam Zarafshani, Daniel Alexander White, Eightfold Developments, LLC (collectively, the "Guarantors")¹ under those certain guarantee agreements (collectively, the "Guarantees") executed by Guarantors in favor of Lender, and each of the foregoing documents described hereinabove, together with certain other documents executed, delivered and/or completed in connection with the

¹ Borrower, Guarantors, each of the parties defined as the "Borrower Parties" under the Loan Agreement, the addressees of this correspondence, and all other parties obligated to Lender under the terms of the Loan Documents are collectively referred to as the "Obligors".

1508

October 23, 2019
Page 3

foregoing transaction documents, are collectively referred to herein as the "Loan Documents".²

Dear Obligor,

As you are already aware from the *Declaration of Default and Notice of Acceleration* delivered to you on October 11, 2019 ("Original Default Notice"), this firm represents the Lender in connection with the above-referenced matter. As requested in the Original Default Notice, if you are represented by legal counsel (other than counsel copied herein), please forward this transmission so that we may communicate directly with your attorney.

As set forth in the Original Default Notice, you are in default under the terms of the Loan Documents and the Indebtedness has been accelerated to maturity. The Indebtedness is currently due and payable to Lender in full. You remain delinquent in payment of the entire balance of Indebtedness owing to Lender. None of the Events of Default described in the Original Default Notice ("Original Defaults") have been cured. You remain in default for, at a minimum, each of the currently existing Original Defaults.

This letter serves as formal notice that, subsequent to the Original Default Notice, Obligor have triggered a separate Event of Default under the Loan Documents. Specifically, pursuant to Section 7.1(c) of the Loan Agreement, Obligor have failed to keep in full force and effect all insurance policies required to secure the Property ("Insurance Default"). Evidence of the Insurance Default is attached hereto as Exhibit A.

There may be additional Events of Default existing under the terms of the Loan Documents that are not listed herein. Lender does not waive any other existing Events of Default by not explicitly referencing the same herein.

As a result of your Insurance Default, you are hereby notified that Obligor have ten (10) calendar days (including holidays and weekends) from the date of this correspondence to fully cure the existing Insurance Default in accordance with the terms of the Loan Documents. If Obligor fail to fully cure the Insurance Default within ten (10) calendar days (including holidays and weekends) from the date of this correspondence, such failure will constitute the existence of another Event of Default under the terms of the Loan Documents without any further notice, in addition to the already existing Original Defaults. PLEASE BE ADVISED THAT EVEN IF YOU CURE THE INSURANCE DEFAULT WITHIN THE 10-DAY PERIOD DESCRIBED HEREIN, THE LOAN WILL NONETHELESS REMAIN ACCELERATED AND DUE IN FULL TO LENDER AS A RESULT OF THE ORIGINAL

² Capitalized terms used herein, but not otherwise defined, shall have the meanings specified in the Loan Documents.

ELP



FOLEY & LARDNER LLP

October 23, 2019

Page 4

DEFAULTS, WHICH REMAIN OUTSTANDING AS OF THE DATE OF THIS LETTER.

Please be further advised that any discussions that may have occurred or may occur in the future between representatives of Obligor and of Lender regarding the Property or the Note evidence nothing more than the continuing good faith attempts of Lender to work out the existing problems in a manner reasonably acceptable to all parties. Obligor may not rely upon any such discussions in any manner or fashion. Unless and until a binding, written agreement has been fully executed by and between all parties, Lender's rights and remedies are and will continue to be fully enforceable under the terms of the Loan Documents.

Notwithstanding any previous action or inaction by or on behalf of Lender to the contrary, if any, you are hereby notified that Lender will hereafter require strict compliance with the terms and conditions of the Note and other Loan Documents.

Please be advised that we shall assume your debt to our client is valid unless, within thirty (30) days of the date of this letter, you dispute the validity of the debt, or any portion thereof, in writing. If you notify us within the thirty-day period that you dispute the validity of the debt, or any portion thereof, we will obtain verification of the debt, and we will mail such verification to you. If our client is not the original creditor regarding your debt, upon your written request within the above described thirty-day period, we will provide you with the name and address of the original creditor. Please note that your right to request a verification of the debt or to request the name and address of the original creditor does not affect our right to collect the full balance of Obligor's financial obligations and/or foreclose on the Property under the Loan Documents.

Pursuant to the Fair Debt Collection Practices Act, you are advised that this office may be deemed to be a debt collector, that the debt collector is attempting to collect a debt, and any information obtained will be used for that purpose.

If you are a debtor under the United States Bankruptcy Code or if the debt described herein has been discharged under the United States Bankruptcy Code, notwithstanding anything contained in this letter to the contrary, this letter constitutes neither a demand for payment of the Note nor a notice of personal liability to, nor action against, any recipient hereof who might have received a discharge of the Note obligations in accordance with applicable insolvency laws or who might be subject to the automatic stay of Section 362 of the United States Bankruptcy Code, or other similar insolvency laws, or who has paid or settled or is otherwise not obligated by law for the Loan Documents. If any such discharge or stay is currently applicable to any such recipient, then alternatively, this letter is served only to provide notice of the default under the Loan Documents, as described herein above, and out of an abundance of caution to satisfy certain notice provisions under the Loan Documents and the Texas Property Code, to the extent any such provisions thereunder may be applicable.

EJP

October 23, 2019

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Lender reserves all rights provided for under the Loan Documents, including but not limited to the right to pursue and/or invoke any and all remedies permitted by applicable law and/or provided in the Loan Documents—EXPRESSLY INCLUDING LENDER'S RIGHT TO FORCE PLACE INSURANCE AND/OR ADVANCE FUNDS ON OBLIGORS' BEHALF DIRECTLY TO THE PROVIDER TO KEEP THE CURRENT POLICIES IN PLACE, WITH ANY AND ALL OF SUCH FUNDS ADVANCED BEING ADDED TO THE BALANCE OF THE INDEBTEDNESS DUE AND OWING TO LENDER. Lender further reserves the right to collect all costs and expenses permitted by applicable law, including attorneys' fees, costs of documentary evidence, abstracts, title reports, appraisals, property condition assessments, broker's price opinions, inspection reports, statutory costs and any additional allowance made pursuant to the Loan Documents and applicable law.

This letter is written without prejudice to Lender's other rights and remedies, all of which are expressly reserved.

In the event that Obligors wish to discuss these matters, you may contact the undersigned counsel for Lender at 214-999-4289.

Your immediate attention to this matter is recommended.

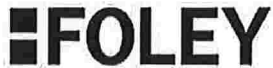
Sincerely,



Thomas C. Scannell

TCS/aac

Enclosures



FOLEY & LARDNER LLP

October 23, 2019

Page 6

cc: Clifton M. Dugas, II, Foley & Lardner LLP (email only)

Nicholas Legatos, Esquire (via email, Certified Mail, First Class Mail)
Hinshaw & Culbertson LLP
222 North LaSalle Street Suite 300
Chicago, Illinois 60601
nlegatos@hinshawlaw.com

Adam L. Saper, Esquire (via email, Certified Mail, First Class Mail)
Hinshaw & Culbertson LLP
151 N. Franklin Street, Suite 2500
Chicago, IL, 60606
asaper@hinshawlaw.com

Daniel K. Ryan (via email, Certified Mail, First Class Mail)
Hinshaw & Culbertson LLP
151 North Franklin Street, Suite 2500
Chicago, IL 60606
dryan@hinshawlaw.com

Steven Carlyle Cronig, Esquire (via email, Certified Mail, First Class Mail)
Hinshaw & Culbertson LLP
2525 Ponce de Leon Blvd., 4th Floor
Coral Gables, Florida 33134
scc@hinshawlaw.com

KAB

ACCOUNT NUMBER
900 - 8501769
Refer to this number on all correspondence
CUSTOMER ID

NOTICE OF INTENT TO CANCEL INSURANCE COVERAGE

NOTICE DATE
10/04/2019
SCHEDULED CANCELLATION DATE
10/19/2019

FIRST INSURANCE*
FUNDING
A WINTRUST COMPANY

FIRST Insurance Funding
450 Skokie Blvd, Ste 1000
Northbrook, IL 60062-7917
Phone: (800) 837-2511 Fax: (800) 837-3709
www.firstinsurancefunding.com

Agent or Broker
BYRNE, BYRNE AND COMPANY 120 S LASALLE STE 1710 CHICAGO, IL 60603

Insured
3443 ZEN GARDEN LIMITED PARTNERSHIP 3443 ED BLUESTEIN BLVD BUILDING V, SUITE 100 AUSTIN, TX 78721

View your client's account status online

RESIDENTS OF FLORIDA, MARYLAND, NEW YORK, SOUTH CAROLINA & VIRGINIA: PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

On the date of this notice, your insurance premium finance account was past due as indicated below. To avoid cancellation of your insurance coverage, the past due amount must be received in our office prior to the scheduled cancellation date.

If we do not receive the past due amount prior to the scheduled cancellation date, we will exercise our rights under the law and in accordance with the terms of your premium finance agreement. This will result in the cancellation of the insurance policies listed on that agreement, which is identified by the account number on this notice.

Protect your coverage. Very likely, insurance coverage affords critical protection of your assets, and may even be required by law. Contact us immediately if the above does not agree with your records, or if you are unable to immediately remit the amount past due.

You may pay online or by phone. Our contact information is listed at the top of this statement. **Overnight delivery payments ONLY may be sent to the address listed at the top of this statement. All other payments should be sent to the address listed on the Remittance Stub.**

SCHEDULE OF POLICIES

POLICY NUMBER	POLICY EFFECTIVE DATE	INSURANCE COMPANY GENERAL AGENT NAME	COVERAGE TYPE	PREMIUM	TAXES/FEES
TBD	03/26/2019	EVEREST NATIONAL INSURANCE CO RT SPECIALTY, LLC	PRBR	\$ 174,200.00	\$ 13,710.00

34611807

FIFCNOITC0912
Page 1 of 1

FIRST INSURANCE*
FUNDING

A WINTRUST COMPANY

Please make checks payable and mail to:

FIRST Insurance Funding
PO Box 7000
Carol Stream, IL 60197-7000

URGENT
INSURANCE PAYMENT NOTICE

REMITTANCE STUB

Please detach and return this portion with your payment.

NOTICE DATE	10/04/2019
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SCHEDULED CANCELLATION DATE	10/19/2019
-----------------------------	------------

ACCOUNT NUMBER	900 - 8501769
PAYMENT DUE DATE:	09/28/2019
AMOUNT PAST DUE:	\$ 85,808.74
NEXT DUE: --	\$ 0.00
TOTAL	\$ 85,808.74
AMOUNT ENCLOSED:	\$

Insured
3443 Zen Garden Limited Partnership C/O Panache Development & Constr. PO Box 26539 Austin, TX 78755

90000000850176900008580874

1200P

This is **Exhibit "O"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor

1587

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:

3443 ZEN GARDEN, LP.

Debtor.

§
§
§
§
§

CASE NO. 20-10410-HCM

CHAPTER 11

**EXPEDITED MOTION OF PETITIONING CREDITORS
FOR ORDER REQUIRING THE APPOINTMENT A CHAPTER 11 TRUSTEE**

TO THE HONORABLE H. CHRISTOPHER MOTT,
UNITED STATES BANKRUPTCY JUDGE:

Petitioning creditors Lyle America, Inc. d/b/a Glass.com of Illinois, Austin Glass & Mirror, Inc., and ACM Services, LLC (collectively, the “Petitioning Creditors”) hereby file this Expedited Motion for Order Requiring the Appointment a Chapter 11 Trustee (the “Motion”), and respectfully state as follows:

I. INTRODUCTION

1. 3443 Zen Garden, LP (the “Debtor”) is the owner and developer of a portion of the former Motorola property near the intersection of Ed Bluestein and East Martin Luther King Boulevards (the “Project”). The Project consists of the redevelopment of the property into a 110-acre mixed-use campus that will consist of offices, hotels, and retail spaces. The Project utilizes renewable energy resources, “green” technology, and sustainable design and materials. Once completed, the Project is projected to create thousands of jobs and millions of dollars in revenue in the state and local economies.

2. Upon information and belief, the limited partners of the Debtor are Lincoln 1861, Inc. and Jefferson 1801 Ventures, LLC. Upon information and belief, the owners and directors of Lincoln 1861, Inc. are Dan White (“White”) and Adam Zarafshani (“Zarafshani”). Upon information and belief, Jefferson 1801 Ventures, LLC is owned and managed by Zarafshani. The

KCP

general partner of the Debtor is 3443 Zen Garden GP, LLC ("Zen Garden GP"). Upon information and belief, the Members of Zen Garden GP are Zarafshani and Purple Tree International, Ltd. ("Purple Tree"). Upon information and belief, Purple Tree is owned and controlled by White.

3. White and Zarafshani have critical disputes over the direction and management of the Debtor. The Debtor is in financial crisis with undeniable present insolvency and effective deadlock at the general partner level. It was this deadlock that led to the appointment of Rob Roy Parnell, the state court appointed receiver, on November 26, 2019 (the "Receiver" or "Parnell").¹ Pursuant to the receivership order, Parnell was granted exclusive authority to act on behalf of the Debtor and Zen Garden GP.

4. The general contractor on the Project is Panache Development & Construction, Inc. ("Panache"). Panache is owned or controlled by Zarafshani.

5. The Petitioning Creditors are a group of mechanics and materialmen that have provided goods and/or services on the Project.

6. Rompsen Mortgage Limited Partnership ("Rompsen") has served as lender on the Project and asserts senior secured claims in the approximate aggregate amount of \$90,000,000.

7. In order to preserve and maximize value of the Project for the benefit of all constituencies, the Petitioning Creditors request that the Court enter an order directing the United States Trustee to select and appoint a chapter 11 trustee, which would allow a chapter 11 trustee to negotiate post-petition financing and develop an overall direction for the Project and the Bankruptcy Case.

8. Parnell, Rompsen, White, Zarafshani, and Panache do not oppose the appointment of a chapter 11 trustee.

¹ The Receiver was appointed in Cause No. D-1-GN-007269, *White et al. v. Rompsen Mortgage Ltd P'ship*, in the 261st Judicial District Court of Travis County, Texas.

II. JURISDICTION AND VENUE

9. This Court has jurisdiction over this Bankruptcy Case pursuant to 28 U.S.C. § 1334.
10. This is a core proceeding under 28 U.S.C. § 157(b)(2).
11. Venue of this Chapter 11 Case is proper in this district pursuant to 28 U.S.C. § 1408.
12. The statutory predicate for the relief requested herein is 11 U.S.C. § 1104(a)(1) and (2) of the Bankruptcy Code.

III. BACKGROUND

13. This involuntary bankruptcy case (the "Bankruptcy Case") was filed on March 22, 2020 (the "Petition Date") pursuant to § 303 of the Bankruptcy Code.

14. On March 23, 2020, the Petitioning Creditors served the involuntary petition and summons on the Debtor.

15. On April 8, 2020, with the consent of the Receiver, an order for relief under chapter 11 of the Bankruptcy Code was entered.

16. Without casting any aspersions towards the general skill and competency of Parnell outside of matters involving the Bankruptcy Code, Parnell lacks the requisite experience and expertise to direct the Debtor as a debtor-in-possession through a successful chapter 11 bankruptcy case. The pre-receivership management is similarly impaired and, in any event, is effectively deadlocked. The Petitioning Creditors believe that an experienced chapter 11 trustee will be able to negotiate post-petition financing and chart a path forward that preserves and improves the value of the Project, either through an orderly sale or a completion of the Project and a restructuring of claims. A chapter 11 trustee may find it helpful to retain Parnell in some capacity in connection with the Project.

KSB

17. Parnell has rights, duties, and obligations pursuant to 11 U.S.C. § 543. The Bankruptcy Code provides that a receiver of property of the debtor is a “custodian.” 11 U.S.C. § 101(11). Section 543 states that a custodian with knowledge of the case “may not make any disbursement from, or take any action in the administration of, property of the debtor, proceeds, product, offspring, rents or profits of such property, or property of the estate, in the possession, custody, or control of such custodian, except such action as is necessary to preserve such property.” 11 U.S.C. § 543(a). A custodian is further directed to deliver the debtor's property to the bankruptcy trustee, and then file an accounting of the property, proceeds, products, rents, or profits. *See* 11 U.S.C. § 543(b). Section 543(d) provides that the bankruptcy court may excuse the custodian from such requirements if doing so better serves the interests of creditors. *See* 11 U.S.C. § 543(d). *See, e.g.,* Memorandum Opinion & Order at 6-9, *In re Roxwell Performance Drilling, LLC*, Case No. 13-50301-RLJ (Bankr. N.D. Tex., Dec. 20, 2013) (discussing the issues of post-petition management by a “custodian”).

IV. CAUSE EXISTS TO APPOINT A CHAPTER 11 TRUSTEE

18. Section 1104(a) of the Bankruptcy Code provides, in relevant part, that:

(a) . . . on request of a party in interest, and after notice and a hearing, the Court shall order the appointment of a trustee –

(1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or

...

(2) if such appointment is in the interest of creditors, any equity security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor.

U.S.C. § 1104(a).

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19. Determining whether “cause exists to appoint a chapter 11 trustee is highly fact-intensive and requires the court to consider ‘whether the totality of the circumstances warrant[s] appointment of a trustee.’” *In re ATP Oil & Gas Corp.*, No. 12-36187, 2013 WL 9792582, at *8 (Bankr. S.D. Tex. Feb. 10, 2013) (quoting *In re Sundale, Ltd.*, 400 B.R. 890, 900 (Bankr. S.D. Fla. 2009)).

20. In the Fifth Circuit, a party moving for the appointment of a trustee must demonstrate cause under § 1104(a)(1) by clear and convincing evidence. *Matter of Cajun Elec. Power Coop., Inc.*, 69 F.3d 746, 749 (5th Cir. 1995); see also *In re Bayou Group, LLC*, 564 F.3d 541, 546 (2d Cir. 2009); *In re Euro-American Lodging Corp.*, 365 B.R. 421, 426 (Bankr. S.D.N.Y. 2007). Once that burden is met, however, appointment of a trustee becomes mandatory. 11 U.S.C. § 1104(a) (providing that court “shall order” appointment of trustee where cause exists); *In re V. Savino Oil & Heating Co., Inc.*, 99 B.R. at 525 (holding that where a court finds cause under § 1104, “there is no discretion; an independent trustee must be appointed”).

(i) Cause Exists Under 11 U.S.C. § 1104(a)(1)

21. “Cause exists under § 1104(a)(1) when the debtor engages in conduct such as fraud, dishonesty, incompetence, gross mismanagement, or similar cause.” *In re Cajun Elec. Power Coop., Inc.*, 191 B.R. at 661; see also *In re 1031 Tax Group, LLC*, 374 B.R. 78, 86 (Bankr. S. D.N.Y. 2007). Disputes over the management of a debtor can constitute “cause” under 1104(a)(1). *In re New Towne Dev., LLC*, 404 B.R. 140, 144 n.14 & 147 (Bankr. M.D. La. 2009) (finding that appointment of a chapter 11 trustee was warranted where an ownership dispute concerning a creditor who filed an involuntary petition against the debtor effectively paralyzed the debtor’s management). Here, the appointment of the Receiver followed management disputes at the general partner level of the Debtor. While there is certainly not any allegation that the Receiver has

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engaged in fraud, dishonesty, or gross mismanagement, the Receiver's lack of experience and expertise in guiding a Bankruptcy Case constitutes "similar cause" under 11 U.S.C. § 1104(a)(1). A return to the pre-receivership management is not appropriate or favored by the Petitioning Creditors. Additional cause is found in the potential incongruity of having a state court appointed custodian direct the actions of a debtor in possession.²

(ii) Appointment of a Trustee is Further Supported Under 11 U.S.C. § 1104(a)(2)

22. Section 1104(a)(2) provides the Bankruptcy Court with the statutory authority to employ its equitable powers in determining whether a trustee should be appointed. *In re Evans*, 48 B.R. 46, 48 (Bankr. W.D. Tex. 1985). Section 1104(a)(2), unlike (a)(1), which mandates the appointment of a trustee upon a finding of cause, "envisions a flexible standard . . . giv[ing]... discretion to appoint a trustee 'when to do so would serve the parties' and estate's interests.'" *In re Marvel Entertainment Grp.*, 140 F.3d 463, 474 (3rd Cir. 1998) (citations omitted). *See also In re FPMC Austin Realty Partners, LP*, 573 B.R. 679, n. 172 (Bankr. W.D. Tex. 2017) (collecting cases providing grounds for appointment of a chapter 11 trustee); *In re Patman Drilling Int'l, Inc.*, No. 07-34622, 2008 WL 724086, at *6 (N.D. Tex. Mar. 14, 2008) (the appointment of trustee pursuant to § 1104(a)(2) was appropriate where the management held conflicts of interest, the majority of creditors supported the appointment of a trustee, and the creditor body lost confidence in the debtor's management); *In re Tahkenitch Tree Farm P'ship*, 156 B.R. 525, 528 (Bankr. E.D. La. 1993) (appointment of a trustee to be in the best interest of the estate because the debtor's two

² *But see Kreit v. Quinn (In re Cleveland Imaging & Surgical Hospital, LLC)*, Case No. 16-20744 (5th Cir., June 13, 2017) (*per curiam*) (a case involving a state court receiver subsequently authorized by Bankruptcy Court order to serve as the debtor in possession's management). The facts in *Kreit* are readily distinguishable from those in the instant case. Douglas Brickley of The Claro Group, LLC, the state court receiver for Cleveland Imaging & Surgical Hospital, LLC, frequently serves as a chief restructuring officer and financial advisor in chapter 11 bankruptcy cases. If Parnell had similar debtor in possession experience and expertise, the Petitioning Creditors may have had a different view of the matter.

partners were effectively deadlocked on management issues); and *In re Ionosphere Clubs, Inc.*, 113 B.R. 164, 168 (Bankr. S.D.N.Y. 1990) (court should consider confidence of business community and creditors in present management).

23. In the instant case, it is believed that all creditor constituencies agree that a chapter 11 trustee should be appointed by the United States Trustee to direct the Debtor through a chapter 11 case. The alternatives, a return to the pre-receivership deadlock or requesting an inexperienced (in bankruptcy matters) state court custodian to manage the Debtor, are not favored and are not in the best interests of the parties and estate's interests.

V. CONCLUSION

24. Based upon the forgoing grounds, the Petitioning Creditors request pursuant to 11 U.S.C. 1104(a)(1) or (2) that the Court enter an order directing the United States Trustee to appoint a duly qualified chapter 11 trustee.

WHEREFORE, the Petitioning Creditors respectfully request that this Court (i) enter an order directing the United States Trustee to appoint a chapter 11 trustee to manage the Debtor's estate and (iii) grant the Petitioning Creditors such other and further relief as is just and proper.

Dated: April 9, 2020

Respectfully submitted,

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Kell C. Mercer
Texas Bar No. 24007668

COUNSEL FOR PETITIONING CREDITORS

CERTIFICATE OF SERVICE

Th undersigned certifies that on April 9, 2020, a true and correct copy of the foregoing pleading was forwarded via this Court's CM/ECF notification system and/or email to the parties registered for such service and as identified below and by regular United States mail upon the parties on the attached service list.

Paul H. Jordan on behalf of Creditor Hill Country Electric Supply, L.P., Creditor Koetter Fire Protection of Austin, LLC, and Creditor Texas Air, LLC
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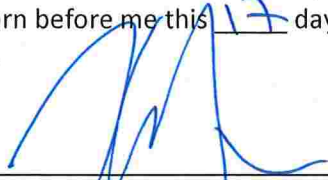
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/s/ Kell C. Mercer
Kell C. Mercer

This is **Exhibit "P"** referred to
in the Affidavit of Wesley Roitman
Sworn before me this 17 day of April, 2020



A Notary Public in and for
the Province of Alberta

KEVIN E. BARR
Barrister & Solicitor





Motion granted at hearing held on 4/15/2020.

IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.

Dated: April 15, 2020.

**H. CHRISTOPHER MOTT
UNITED STATES BANKRUPTCY JUDGE**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:

3443 ZEN GARDEN, LP.

Debtor.

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§
§
§
§

CASE NO. 20-10410-HCM

CHAPTER 11

ORDER REQUIRING APPOINTMENT OF A CHAPTER 11 TRUSTEE

Upon the Motion filed by Lyle America, Inc. d/b/a Glass.com of Illinois, Austin Glass & Mirror, Inc., and ACM Services, LLC (collectively, the "Petitioning Creditors") for entry of an order requiring the appointment of a chapter 11 trustee in the chapter 11 bankruptcy case of 3443 Zen Garden, LP, and the Court having found that good and sufficient cause exists for the granting of relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings before the Court in connection the Motion, it is **HEREBY ORDERED THAT:**

1. The United States Trustee is authorized and directed to appoint a chapter 11 trustee for the Debtor's estate.
2. The Court retains jurisdiction with respect to all matters arising from or related to the

implementation, interpretation, and enforcement of this Order.

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Order prepared by:

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