

Court File No.

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

B E T W E E N:

**KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL  
ESTATE FUND NO. 301 and as trustee of IGIS GLOBAL PRIVATE PLACEMENT  
REAL ESTATE FUND NO. 434**

Applicant

- and -

**MIZRAHI COMMERCIAL (THE ONE) LP, MIZRAHI DEVELOPMENT GROUP (THE  
ONE) INC., and MIZRAHI COMMERCIAL (THE ONE) GP INC.**

Respondents

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

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**APPLICATION RECORD  
(ORDER APPOINTING RECEIVER)  
VOLUME 2 OF 2**

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October 17, 2023

**OSLER, HOSKIN & HARCOURT LLP**  
P.O. Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8

**Michael De Lellis** (LSO# 48038U)  
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**Mark Sheeley** (LSO# 66473)  
Email: [msheeley@osler.com](mailto:msheeley@osler.com)

Tel: 416.862.5997

Lawyers for the Applicant

THIS IS **EXHIBIT “JJ”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

**AGREEMENT RE: PRIORITY, SUBORDINATION AND STANDSTILL AGREEMENT**  
**AMENDING AGREEMENT**

THIS AGREEMENT (this “Agreement”) made as of August 30, 2022

**B E T W E E N:**

**KEB HANA BANK CANADA**, as administrative agent for and on behalf of the Senior Lenders  
 (the “**Senior Agent**”)

- and -

**NONGHYUP BANK**, in its capacity as trustee of Hana Private Real Estate Investment Trust No. 137  
 (the “**Subordinate Lender**”)

- and -

**KEB HANA BANK CANADA**, as collateral agent for the Subordinate Parties  
 (the “**Subordinate Agent**”)

- and -

**MIZRAHI DEVELOPMENT GROUP (THE ONE) INC.**  
 (the “**Registered Owner**”)

- and -

**MIZRAHI COMMERCIAL (THE ONE) LP**  
 (the “**Beneficial Owner**” and collectively with the Registered Owner, the “**Owner**”)

**WHEREAS:**

- A. The parties to this Agreement entered into a priority, subordination and standstill agreement made as of May 29, 2020 (as amended by an agreement dated February 4, 2021, the “**Priority Agreement**”).
- B. The Term Lenders (as defined in the Senior Credit Agreement) have agreed to extend the maturity date of the term facility provided pursuant to the Senior Credit Agreement on the terms set out in an amendment to the Senior Credit Agreement dated August 30, 2022 (the “**Senior Credit Agreement Amendment**”, and the Senior Credit Agreement, when amended by the Senior Credit Agreement Amendment, the “**Amended Senior Credit Agreement**”).
- C. Pursuant to the Priority Agreement, the Subordinate Parties agreed to execute and provide the Senior Agent with whatever documents as the Senior Agent (acting on the instructions of the Required Lenders) may reasonably require from time to time to carry out the intent of the Priority Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the mutual covenants and agreements hereinafter set forth, the sum of TEN DOLLARS (\$10.00) of lawful money of Canada paid by each of the parties hereto to the other, and for other good and valuable consideration (the receipt and sufficiency of which is hereby expressly acknowledged), the parties hereto hereby covenant and agree, to and with each other, as follows:

1. **Definitions.** Capitalized terms used in this Agreement and not defined herein shall have the meanings given to them in the Priority Agreement.
2. **Agreement.** The parties hereto agree and confirm that:
  - (a) the Priority Agreement shall remain in full force and effect and is hereby ratified and confirmed and continues to apply to the Senior Loan, the Senior Indebtedness and the Senior Credit Agreement as amended by the Senior Credit Agreement Amendment;
  - (b) the Subordinate Parties acknowledge that Events of Default exist under the Senior Credit Agreement and that the amendments to the Senior Credit Agreement made pursuant to the Senior Credit Agreement Amendment do not constitute a waiver of such Events of Default under the Senior Credit Agreement and the Senior Agent and the Senior Lenders shall have all the rights set out in the Senior Credit Agreement in respect of such Events of Default;
  - (c) the Borrower acknowledges that Events of Default exist under the Subordinate Loan Agreement (including, without limitation, the failure to meet certain milestones set forth in Schedule O to the Subordinate Loan Agreement), that the Subordinate Lender has not waived such Events of Default and that the agreements of the Subordinate Lender set forth herein do not constitute a waiver of such Events of Default under the Subordinate Loan Agreement and subject to the terms of the Priority Agreement the Subordinate Parties shall have all the rights set out in the Subordinate Loan Agreement in respect of such Events of Default;
  - (d) notwithstanding any other term to the contrary expressed herein or in any of the Senior Credit Agreement, the Senior Credit Agreement Amendment, the Amended Senior Credit Agreement or the Priority Agreement, the Borrower may pay, and the Subordinate Parties may receive and retain an amount equal to the sum of all reasonable reimbursable fees, costs and expenses owing by each of the Subordinate Parties to their legal counsel in Korea and Canada in respect of the Subordinate Loan Agreement, the “Collateral Agency Agreement” as defined in the Subordinate Loan Agreement, the Priority Agreement and this Agreement; and
  - (e) nothing in this Agreement shall be construed as a consent to any matter or thing contemplated by, or a waiver, amendment or other modification of, any of the terms, conditions, rights or obligations of any of the parties hereto under any other agreement between or among any of them, except for the matters expressly amended by this Agreement.
3. **Further Assurances.** The Subordinate Parties shall execute and deliver upon request by the Senior Agent (acting on the instructions of the Required Lenders), at the Owner’s expense, such further documents or instruments and take such further action as the Senior Agent (acting on the instructions of the Required Lenders) may reasonably require from time to time to carry out the intent of this Agreement, including, without limitation, executing and delivering any short form subordination and postponement agreement or instrument to register or record or file notice of the subordination and

postponement of the Subordinate Security and the Subordinate Indebtedness as provided for herein on title to the Property and/or in any other office of public record and to give notice to third parties of the provisions of this Agreement.

4. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein without application of any principle of conflict of laws which may result in laws other than the laws in force in such Province applying to this Agreement; and the Subordinate Lender consents to the jurisdiction of the courts of the Province of Ontario and irrevocably agrees that all actions or proceedings arising out of or relating to this Agreement shall be litigated in such courts and the Subordinate Lender unconditionally accepts the non-exclusive jurisdiction of the said courts and waives any defense of *forum non-conveniens*, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement, provided nothing herein shall affect the right to serve process in any other manner permitted by law.
5. **Owner Confirmations.** The Owner hereby acknowledges the priorities and postponements, and agrees to be bound by the respective priorities of the Senior Security, being first in priority on the Property, and the Subordinate Security, being subsequent in priority, as hereinbefore set forth, and to pay or fully reimburse each of the Senior Agent, the Subordinate Agent and the Subordinate Lender for all reasonable legal fees, expenses and disbursements incurred by the Senior Agent, the Subordinate Agent and the Subordinate Lender in connection with their execution and delivery of the postponement and subordination documentation hereinbefore provided or contemplated which if not paid shall form part of the Senior Indebtedness and/or the Subordinate Indebtedness, as the case may be and bear interest at the rate stipulated in the Senior Mortgage or the Subordinate Mortgage as the case may be.
6. **Amendment.** Except as specifically amended by this Agreement, the Priority Agreement shall remain in full force and effect and is hereby ratified and confirmed. Time shall remain of the essence of the Priority Agreement, as amended by this Agreement and as it may be further amended, supplemented, restated, extended, renewed or replaced from time to time.
7. **Successors.** The acknowledgements and agreements contained in this Agreement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns and shall likewise be binding on any trustee or receiver in bankruptcy of any party hereto, and on any trustee or appointee of any court or other tribunal, and on any person (including a corporation) who shall receive the property of any party hereto upon any liquidation proceedings, or any proceedings involving the disposition or devolution of property by operation of law or otherwise. Where any reference is made in this Agreement to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the trust) by or with respect to, a trust, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the trust) by or with respect to, the trustee(s) of the trust.
8. **Several Obligations.** The obligations of the Subordinate Agent and the Subordinate Lender hereunder and incurred pursuant hereto are several, and not joint or joint and several.
9. **Severability of Invalid Provisions.** Every provision of this Agreement is intended to be several, and accordingly, if any term or provision hereof is adjudged by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, then such illegal or invalid provision shall not affect the validity of the remainder of this Agreement, but shall be severable therefrom, and this Agreement shall

accordingly be construed and enforced as if such illegal or invalid provision had not been inserted in this Agreement.

10. **Recitals.** The parties hereto understand that the recitals contained herein are true and correct and they shall form an integral part of this Agreement.
11. **Heading and Gender.** Any headings used throughout this Agreement are for ease of reference only, and shall not be deemed or construed to form a part of this Agreement, nor shall they influence the construction or interpretation of this Agreement. This Agreement shall be read and construed with all changes in gender or number as may be required.
12. **Plural and Singular.** Where the context so requires, words importing the singular number will include the plural and vice versa.
13. **Conflicts.** In the event of any conflict between the terms of this Agreement and the Senior Credit Agreement (or any other documentation relating to the Senior Indebtedness), the Subordinate Loan Agreement (or any other documentation relating to the Subordinate Indebtedness), the terms of this Agreement shall govern and control.
14. **Execution.** The words “execution,” “signed,” “signature,” and words of like import in this Agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario) and other similar federal or provincial laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada or its Uniform Electronic Evidence Act, as the case may be.
15. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when executed shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.
16. **Electronic Delivery.** Transmission of a copy of an executed signature page of this Agreement by any party hereto to another party to this Agreement by e-mail in pdf format shall be as effective as delivery to such other party hereto of an original manually executed counterpart hereof.

**SIGNATURES ON NEXT PAGE**

**IN WITNESS WHEREOF** the parties hereto have hereunto executed this agreement as of the date first above-mentioned.

**KEB HANA BANK CANADA**, as administrative agent for and on behalf of the Senior Lenders

Per: 

Name: Young Jun Kim

Title: President & CEO

Per: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the above.

**NONGHYUP BANK**, in its capacity as trustee of Hana Private Real Estate Investment Trust No. 137

Per: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the above.

**KEB HANA BANK CANADA**, as collateral agent for the Subordinate Parties

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the above.

**IN WITNESS WHEREOF** the parties hereto have hereunto executed this agreement as of the date first above-mentioned.

**KEB HANA BANK CANADA**, as administrative agent for and on behalf of the Senior Lenders

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the above.

**NONGHYUP BANK**, in its capacity as trustee of Hana Private Real Estate Investment Trust No. 137

Per: 76 3206  
Name: **KIM JUNG MIN**  
Title: **Manager**

I/We have authority to bind the above.

**KEB HANA BANK CANADA**, as collateral agent for the Subordinate Parties

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the above.



**IN WITNESS WHEREOF** the parties hereto have hereunto executed this agreement as of the date first above-mentioned.

**KEB HANA BANK CANADA**, as administrative agent for and on behalf of the Senior Lenders

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the above.

**NONGHYUP BANK**, in its capacity as trustee of Hana Private Real Estate Investment Trust No. 137

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the above.

**KEB HANA BANK CANADA**, as collateral agent for the Subordinate Parties

Per:  \_\_\_\_\_  
Name: Young Jun Kim  
Title: President & CEO

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the above.

**MIZRAHI DEVELOPMENT GROUP (THE ONE) INC.**

Per:   
Name: \_\_\_\_\_  
Title: **Sam Mizrahi president**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the corporation.

**MIZRAHI COMMERCIAL (THE ONE) LP, by  
its general partner, MIZRAHI COMMERCIAL  
(THE ONE) INC.**

Per:   
Name: \_\_\_\_\_  
Title: **Sam Mizrahi president**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the corporation, and the corporation has the authority to bind the limited partnership

**MIZRAHI DEVELOPMENT GROUP (THE ONE) INC.**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_ 

Name: Jenny Cocol

Title:

I/We have authority to bind the corporation.

**MIZRAHI COMMERCIAL (THE ONE) LP, by  
its general partner, MIZRAHI COMMERCIAL  
(THE ONE) INC.**

Per: \_\_\_\_\_

Name:

Title:

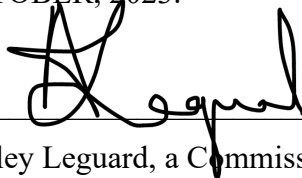
Per: \_\_\_\_\_ 

Name: Jenny Cocol

Title:

I/We have authority to bind the corporation, and the corporation has the authority to bind the limited partnership

THIS IS **EXHIBIT “KK”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.



HEAD OFFICE, Madison Centre, 4950 Yonge St., Suite 1101, Toronto, ON M2N 6K1 T: 416 227 5200 F: 416 222 5822 SWIFT: KOEXCATT

April 1, 2020

**SENT BY EMAIL AND BY COURIER**

Mizrahi Commercial (The One) LP  
and Mizrahi Development Group (The One) Inc.

949 Wilson Avenue  
Toronto, ON M3K 1G2  
Attention: Jenny Coco

– and –

189 Forest Hill Road  
Toronto, ON M5P 2N3  
Attention: Sam Mizrahi

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, KEB Hana Bank Canada, as administrative agent, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (the “Credit Agreement”)**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

We are writing this letter on the instructions of the Lender.

As of the end of the day on March 31, 2020, less than \$213,000,000 had been advanced under the CERIECO Credit Agreement.

We hereby notify you that pursuant to the definition of Applicable Margin set out in Section 1.01 of the Credit Agreement, the Applicable Margin increases by 3% as of April 1, 2020 as a result of the foregoing. Commencing April 1, 2020, the Interest Rate applicable to the Term Facility will reflect such change in the Applicable Margin.

We further notify you that an Event of Default occurs pursuant to Section 11.01(d) of the Credit Agreement if a milestone set out on Schedule O to the Credit Agreement is not met in accordance with the Credit Agreement by the date required in Schedule O to the Credit Agreement. Schedule O to the Credit agreement requires that all amounts to be advanced under the CERIECO Credit Agreement are to be advanced by May 31, 2020 and an Event of Default will occur if that milestone is not met.



HEAD OFFICE, Madison Centre, 4950 Yonge St., Suite 1101, Toronto, ON M2N 6K1 T: 416 227 5200 F: 416 222 5822 SWIFT: KOEXCATT


The Lenders are considering their options under the Loan Documents in connection with the shortfall or delay in funding pursuant to the CERIECO Credit Agreement. We request that the Borrower consider the alternative plans it can propose to deal with this shortfall or delay and make a proposal to the Lenders regarding same. Any proposed alternative plan would be subject to any approvals of the Lenders required pursuant to the terms of Credit Agreement.

This letter does not constitute a waiver of any of the Borrower's obligations under the Loan Documents, nor does this letter constitute an amendment of any of the Loan Documents or any agreement of the Administrative Agent and the Lenders to accept any alternative plan proposed by the Borrower.

Yours very truly,

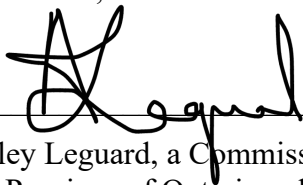
**KEB HANA BANK CANADA,  
as Administrative Agent**

By:

  
Name: Moon Sung Lee  
Title: President & CEO

I/We have authority to bind the  
above.

THIS IS **EXHIBIT “LL”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
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Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

**WAIVER AGREEMENT**

THIS AGREEMENT is made as of April 30, 2020

BETWEEN

**MIZRAHI COMMERCIAL (THE ONE) LP and MIZRAHI DEVELOPMENT GROUP (THE ONE) INC.**, (collectively, the “**Borrower**”)

- and -

**KEB HANA BANK CANADA**, in its capacity as administrative agent for the Lenders (the “**Administrative Agent**”),

- and -

**IGIS ASSET MANAGEMENT CO., LTD.**, as asset manager (the “**Asset Manager**”)

- and -

**KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL ESTATE FUND NO. 301**, as lender (the “**Lender**”)

- and -

**MIZRAHI COMMERCIAL (THE ONE) GP INC., JENNY COCO, SAM MIZRAHI AND MIZRAHI INC.**

WHEREAS the parties hereto entered in to a credit agreement made as of August 29, 2019 (the “**Credit Agreement**”);

AND WHEREAS pursuant to Section 10.01(t) of the Credit Agreement, the Borrower was required to fund Commercial Project Costs in accordance with the schedule for further draws under the CERIECO Agreements set out in Schedule K to the Credit Agreement and Schedule K to the Credit Agreement required that a total of \$213,000,000 be advanced under the CERIECO Agreements by the end of March 2020;

AND WHEREAS \$213,000,000 had not been advanced under the CERIECO Credit Agreement by the end of March 2020 (the “**CERIECO Advance Failure**”);

AND WHEREAS (i) as of April 30, 2020, the CERIECO Advance Failure has not been cured and constitutes an Event of Default pursuant to Section 11.01(e) of the Credit Agreement and (ii) an Event of Default arises pursuant to Section 11.01(d) of the Credit Agreement



if a CERIECO Funding Shortfall (defined below) exists on May 31, 2020 (such Events of Default are, collectively, the “**2020 CERIECO Advance Events of Default**”);

AND WHEREAS the Lender has agreed to waive the 2020 CERIECO Advance Events of Default on the terms set out in this Agreement;

NOW THEREFORE, in consideration of the covenants and agreements herein contained, the parties agree as follows:

### **ARTICLE 1 - INTERPRETATION**

#### **1.01. Definitions.**

Capitalized terms used in this Agreement and not defined in this Agreement have the meanings set forth in the Credit Agreement. In this Agreement, the following terms have the following meanings:

“**CERIECO Funding Shortfall**” means, at any time, that less than \$213,000,000 in principal has been advanced under the CERIECO Credit Agreement at such time.

“**CERIECO Funding Shortfall Amount**” means, at any time, the difference between \$213,000,000 and the amount of principal that has been advanced under the CERIECO Credit Agreement at such time.

“**Hana Commitment**” means the letter of commitment dated February 28, 2020 from Hana Financial Investment Co., Ltd. for a \$55,000,000 term loan that was accepted by Mizrahi Development Group (The One) Inc. on April 26, 2020.

“**Hana Loan**” means the term loan in an amount of no less than \$55,000,000 contemplated by the Hana Commitment.

“**Pebbles Loan**” means a bridge loan in an amount of no less than \$30,000,000 contemplated by the Pebbles LOI.

“**Pebbles LOI**” means the indicative terms and conditions for a \$60,000,000 bridge loan provided by Pebbles Investment Co., Ltd. and accepted by the Borrower on April 26, 2020.

#### **1.02. Extended Meanings.**

In this Agreement words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term “including” means “including without limiting the generality of the foregoing” and the term “third party” means any person other than a person who is a party to this Agreement.

**ARTICLE 2 - WAIVER AND CONDITIONS SUBSEQUENT TO WAIVER****2.01. Waiver.**

(1) The Lender hereby waives the 2020 CERIECO Advance Events of Default. The Lender agrees that from and after the satisfaction of the conditions set out in Sections 2.02(1)(a), (b) and (c) of this Agreement, paragraph (b) of the definition of Applicable Margin shall not apply to any determination of the Applicable Margin pursuant to the Credit Agreement, provided that if a CERIECO Funding Shortfall exists as of April 30, 2021, the provisions of paragraph (b) of the definition of Applicable Margin shall apply until a CERIECO Funding Shortfall no longer exists (provided that any contribution of equity in accordance with Section 2.02(e) of this Agreement shall be deemed to reduce the CERIECO Funding Shortfall by the amount of such contribution).

(2) The waivers set out in Section 2.01(1) of this Agreement are given solely for the purpose of waiving the 2020 CERIECO Advance Events of Default and does not constitute a waiver of: (i) any other term or provision of the Loan Documents or (ii) any other Default or Event of Default (whether known or unknown).

(3) No waiver or indulgence by the Administrative Agent of any of their rights and remedies under the Loan Documents or at law or equity shall be construed as a waiver of any other or subsequent right or remedy of the Administrative Agent or the Lender and no delay or omission in the exercise or enforcement by the Administrative Agent or the Lender of their rights and remedies under any of the Loan Documents or at law or equity shall be construed as a waiver of any right or remedy of the Administrative Agent or the Lender, and the Administrative Agent and the Lender reserve all rights, claims and remedies that they have or may have against the Credit Parties under any Loan Document or at law or equity.

**2.02. Conditions to the Waiver.**

(1) The waiver set out in Section 2.01(1) of this Agreement is provided on the condition that the Credit Parties shall comply with the following covenants and each of the Credit Parties covenants to comply with, or cause compliance with, the following covenants:

- (a) The Borrower shall cause closing of the Hana Loan with a principal amount of no less than \$55,000,000, together with the advance of all amounts to be advanced under the Hana Loan, to occur on or before June 30, 2020, on terms and conditions acceptable to the Lender, such terms to include that the lender of the Hana Loan shall have entered into a priority, subordination and standstill agreement with the Administrative Agent in a form acceptable to the Lender that recognizes that the Obligations and the Security are in first priority. The inclusion of this covenant in this Agreement shall not constitute approval by the Lender of the terms and conditions set out in the Hana Commitment.
- (b) The Borrower shall cause closing of the Pebbles Loan with a principal amount of no less than \$30,000,000, together with the advance of all amounts to be advanced under the Pebbles Loan, to occur on or before October 31, 2020, on terms and conditions acceptable to the Lender, such terms to include (i) that the lender of the Pebbles Loan shall have entered into a priority, subordination and standstill agreement with the Administrative Agent in a form acceptable to the Lender that



recognizes that the Obligations and the Security are in first priority and (ii) all of the principal amount of Pebbles Loan (which shall be no less than \$30,000,000) shall be paid to the Construction Account to be used by the Borrower to pay for the Project Costs. The inclusion of this covenant in this Agreement shall not constitute approval by the Lender of the terms and conditions set out in the Pebbles LOI.

- (c) The Borrower and the Guarantors shall pay all fees, costs and expenses payable in connection with arranging the Pebbles Loan on or before closing under the Pebbles Loan and such fees, costs and expenses shall not constitute Project Costs and shall not be paid from funds in any of the Construction Account, the Holdback Account or the Revenue Account, provided that fees payable to the lender under the Pebbles Loan can be deducted from the advance of the Pebbles Loan in accordance with the terms of the Pebbles Loan.
- (d) If a CERIECO Funding Shortfall exists as of the end of the day on April 30, 2021, the Borrower shall deliver written notice to the Administrative Agent and the Lender setting out the amount of principal that has been advanced under the CERIECO Credit Agreement as of April 30, 2021 and the Borrower's expectation with respect to advances to be made under the CERIECO Credit Agreement after April 30, 2021 and on or before May 31, 2021.
- (e) If less than \$213,000,000 of principal has been advanced under the CERIECO Credit Agreement as of May 31, 2021, the Borrower and the Guarantors shall deposit an amount equal to the CERIECO Funding Shortfall Amount into the Construction Account on May 31, 2021 as an additional contribution of equity to the Commercial Project.

(2) Any breach of a covenant set out 2.02(1) of this Agreement shall constitute an Event of Default. For greater certainty, there shall be no cure period applicable to a breach of a covenant in Section 2.02(1) of this Agreement and an Event of Default arising as a result of a breach of a covenant in Section 2.02(1) of this Agreement shall constitute an Event of Default for all purposes of the Credit Agreement and all applicable provisions of the Credit Agreement shall apply to such Event of Default.

### **ARTICLE 3 - REPRESENTATIONS AND WARRANTIES**

#### **3.01. Representations and Warranties of Credit Parties.**

Each Credit Party represents and warrants, in the case of each of the Guarantors such representations and warranties being only as to itself, himself or herself, as the case may be, to the Administrative Agent and to the Lender as follows, and acknowledges and confirms that the Administrative Agent and the Lender are relying upon such representations and warranties:

(1) Bringdown. After giving effect to this Agreement, each of the representations and warranties of the Borrower contained in the Credit Agreement is true and correct on, and as of, the date hereof as if made on such date.

(2) Default and Event of Default. After giving effect to this Agreement, no Default or Event of Default has occurred and is continuing.

(3) Execution, Delivery, Performance and Enforceability of Documents. The execution, delivery and performance of this Agreement by each Credit Party has been duly authorized by all actions, if any, required on its part and by its shareholders and directors (or where applicable partners, members or managers), and this Agreement has been duly executed and delivered and constitutes a valid and legally binding obligation of each Credit Party enforceable against it in accordance with its terms subject to the Enforceability Exceptions.

#### **ARTICLE 4 - GENERAL**

##### **4.01. General.**

(1) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it has been executed by the Administrative Agent and when the Administrative Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

(2) Electronic Execution of Assignments. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Laws, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario) and other similar federal or provincial laws based on the *Uniform Electronic Commerce Act of the Uniform Law Conference of Canada* or its *Uniform Electronic Evidence Act*, as the case may be.

(3) Time of the Essence. Time shall be of the essence of this Agreement.

(4) No Other Amendment. Except as expressly amended, waived or consented to herein, the Credit Agreement shall be unmodified and shall continue to be in full force and effect in accordance with its terms.

(5) Further Assurances and Confirmation of Guarantees and Security. The Credit Parties shall with reasonable diligence do all such things and provide all such reasonable assurances as may be required to consummate the matters contemplated by this Agreement and shall provide such further documents or instruments required by the Administrative Agent or the Lender as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions. Each of the Credit Parties confirms the terms of the Security and any guarantees provided by such Credit Party in respect of the Obligations and confirms that same shall remain in full force and effect, valid and enforceable in accordance with their terms.

(6) Governing Law. This Agreement is a contract made under and shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.



*[Signature pages follow]*

A handwritten signature in black ink, consisting of a stylized 'D' followed by a horizontal line and a vertical stroke.

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

**BORROWER:**

**MIZRAHI COMMERCIAL (THE ONE)  
GP INC., as sole general partner of  
MIZRAHI COMMERCIAL (THE ONE)  
LP**

By: 

Name: Sam Mizrahi

Title: President

By: 

Name: Jenny Cohen

Title:

We have authority to bind the Corporation.

**BORROWER:**

**MIZRAHI DEVELOPMENT GROUP  
(THE ONE) INC.**

By: 

Name: Sam Mizrahi

Title: President

By: 

Name: Jenny Cohen

Title:

We have authority to bind the Corporation.

**ADMINISTRATIVE AGENT:****KEB HANA BANK CANADA,** as  
Administrative AgentBy: 

Name: MOON Sung Lee

Title: CEO &amp; President

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

I/We have authority to bind the above.

**LENDER:**

**KEB HANA BANK as trustee of IGIS  
GLOBAL PRIVATE PLACEMENT  
REAL ESTATE FUND NO. 301, as Lender**

By:



Name:

Jung Min Cha

Title:

Senior Manager

Trustee and Custodian Business Department

By:

Name:

KEB Hana Bank

Title:

I/We have authority to bind the above.



**CREDIT PARTY:****MIZRAHI INC.**By: 

Name: Sam Mizrahi

Title: President

By: 

Name:

Title:

We have authority to bind the Corporation.

**CREDIT PARTY:****MIZRAHI COMMERCIAL (THE ONE)  
GP INC.**By: 

Name: Sam Mizrahi

Title: President

By: 

Name: Jenny Coco

Title:

We have authority to bind the Corporation.

SIGNED, SEALED & DELIVERED  
In the presence of:

---

Witness

**CREDIT PARTY:**



---

Chny Coco

SIGNED, SEALED & DELIVERED  
In the presence of:

---

Witness

**CREDIT PARTY:**



---

Sam Mizrahi

THIS IS **EXHIBIT “MM”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

**AMENDED AND RESTATED WAIVER AGREEMENT**

THIS AGREEMENT is made as of October 30, 2020

BETWEEN

**MIZRAHI COMMERCIAL (THE ONE) LP and MIZRAHI DEVELOPMENT GROUP (THE ONE) INC.**, (collectively, the “**Borrower**”)

- and -

**KEB HANA BANK CANADA**, in its capacity as administrative agent for the Lenders (the “**Administrative Agent**”),

- and -

**IGIS ASSET MANAGEMENT CO., LTD.**, as asset manager (the “**Asset Manager**”)

- and -

**KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL ESTATE FUND NO. 301**, as lender (the “**Lender**”)

- and -

**MIZRAHI COMMERCIAL (THE ONE) GP INC., JENNY COCO, SAM MIZRAHI AND MIZRAHI INC.**

WHEREAS the parties hereto entered in to a credit agreement made as of August 29, 2019 (the “**Credit Agreement**”);

AND WHEREAS pursuant to Section 10.01(t) of the Credit Agreement, the Borrower was required to fund Commercial Project Costs in accordance with the schedule for further draws under the CERIECO Agreements set out in Schedule K to the Credit Agreement and Schedule K to the Credit Agreement required that a total of \$213,000,000 be advanced under the CERIECO Agreements by the end of March 2020;

AND WHEREAS \$213,000,000 had not been advanced under the CERIECO Credit Agreement by the end of March 2020 (the “**CERIECO Advance Failure**”);

AND WHEREAS (i) as of April 30, 2020, the CERIECO Advance Failure has not been cured and constitutes an Event of Default pursuant to Section 11.01(e) of the Credit Agreement and (ii) an Event of Default arises pursuant to Section 11.01(d) of the Credit Agreement



if a CERIECO Funding Shortfall (defined below) exists on May 31, 2020 (such Events of Default are, collectively, the “**2020 CERIECO Advance Events of Default**”);

AND WHEREAS the Lender agreed to waive the 2020 CERIECO Advance Events of Default on the terms set out in a waiver agreement dated April 30, 2020 between the parties to this Agreement (the “**Waiver Agreement**”);

AND WHEREAS the Hana Loan contemplated in the Waiver Agreement was advanced on May 29, 2020;

AND WHEREAS the Pebbles Loan contemplated in the Waiver Agreement will not be provided pursuant to the Pebbles LOI and an advance pursuant to such loan will not occur by October 30, 2020;

AND WHEREAS the parties to this Agreement have agreed to amend and restate the Waiver Agreement on the terms set out in this Agreement;

NOW THEREFORE, in consideration of the covenants and agreements herein contained, the parties agree as follows:

## **ARTICLE 1 - INTERPRETATION**

### **1.01. Definitions.**

Capitalized terms used in this Agreement and not defined in this Agreement have the meanings set forth in the Credit Agreement. In this Agreement, the following terms have the following meanings:

“**CERIECO Funding Shortfall**” means, at any time, that less than \$213,000,000 in principal has been advanced under the CERIECO Credit Agreement at such time.

“**CERIECO Funding Shortfall Amount**” means, at any time, the difference between \$213,000,000 and the amount of principal that has been advanced under the CERIECO Credit Agreement at such time.

“**Bridge Loan**” means a term loan in an amount of no less than \$30,000,000 on terms approved by the Lender.

### **1.02. Extended Meanings.**

In this Agreement words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term “including” means “including without limiting the generality of the foregoing” and the term “third party” means any person other than a person who is a party to this Agreement.

**ARTICLE 2 - WAIVER AND CONDITIONS SUBSEQUENT TO WAIVER****2.01. Waiver.**

(1) The Lender hereby waives the 2020 CERIECO Advance Events of Default. The Lender agrees that from and after the satisfaction of the conditions set out in Sections 2.02(1)(a), (b) and (c) of this Agreement, paragraph (b) of the definition of Applicable Margin shall not apply to any determination of the Applicable Margin pursuant to the Credit Agreement, provided that if a CERIECO Funding Shortfall exists as of April 30, 2021, the provisions of paragraph (b) of the definition of Applicable Margin shall apply until a CERIECO Funding Shortfall no longer exists (provided that any contribution of equity in accordance with Section 2.02(f) of this Agreement shall be deemed to reduce the CERIECO Funding Shortfall by the amount of such contribution).

(2) The waivers set out in Section 2.01(1) of this Agreement are given solely for the purpose of waiving the 2020 CERIECO Advance Events of Default and does not constitute a waiver of: (i) any other term or provision of the Loan Documents or (ii) any other Default or Event of Default (whether known or unknown).

(3) No waiver or indulgence by the Administrative Agent of any of their rights and remedies under the Loan Documents or at law or equity shall be construed as a waiver of any other or subsequent right or remedy of the Administrative Agent or the Lender and no delay or omission in the exercise or enforcement by the Administrative Agent or the Lender of their rights and remedies under any of the Loan Documents or at law or equity shall be construed as a waiver of any right or remedy of the Administrative Agent or the Lender, and the Administrative Agent and the Lender reserve all rights, claims and remedies that they have or may have against the Credit Parties under any Loan Document or at law or equity.

**2.02. Conditions to the Waiver.**

(1) The waiver set out in Section 2.01(1) of this Agreement is provided on the condition that the Credit Parties shall comply with the following covenants and each of the Credit Parties covenants to comply with, or cause compliance with, the following covenants:

- (a) The Borrower shall cause closing of the Bridge Loan with a principal amount of no less than \$30,000,000, together with the advance of all amounts to be advanced under the Bridge Loan, to occur on or before December 18, 2020, on terms and conditions acceptable to the Lender, such terms to include (i) that the lender of the Bridge Loan shall have entered into a priority, subordination and standstill agreement with the Administrative Agent in a form acceptable to the Lender that recognizes that the Obligations and the Security are in first priority and (ii) all of the principal amount of Bridge Loan (which shall be no less than \$30,000,000) shall be paid to the Construction Account to be used by the Borrower to pay for the Project Costs.
- (b) The Borrower and the Guarantors shall pay all fees, costs and expenses payable in connection with arranging the Bridge Loan on or before closing under the Bridge Loan and such fees, costs and expenses shall not constitute Project Costs and shall not be paid from funds in any of the Construction Account, the Holdback Account or the Revenue Account, provided that fees payable to the lender under the Bridge

Loan can be deducted from the advance of the Bridge Loan to the extent provided for in the terms of the Bridge Loan that are approved by Lender and provided that other costs and expenses payable in connection with the Bridge Loan can be deducted from the advance of the Bridge Loan provided that the Lender has approved the amount of such costs and expenses in writing.

- (c) Until the Severance is completed and a Commercial Mortgage Facility or a Commercial Sale has closed, the Guarantors shall contribute such equity into the Borrower on a monthly basis as is required in order to allow the Borrower to comply with its obligations set out in Sections 10.01(1)(aa) and (dd) of the Credit Agreement, including the Borrower's obligation to achieve Construction Completion of the Projects in a timely manner and in accordance with the terms of the Construction Schedule and the Borrower's obligation to pay or cause to be paid all valid claims and demands of contractors, subcontractors, labourers, suppliers of materials or serves, builders, workmen, architects, engineers and others, which if unpaid, might result in, or permit the creation of, a privilege or Encumbrance on the Secured Property.
- (d) The Borrower shall not enter into any agreement in respect of the Bridge Loan or any other Indebtedness or proposed Indebtedness of the Borrower, including any term sheet or letter of intent, unless the Lender has approved the terms of such agreement and the Borrower shall promptly provide all drafts of such agreements to the Lender and the Administrative Agent and shall provide the Lender with at least 10 days to review each such agreement and draft.
- (e) If a CERIECO Funding Shortfall exists as of the end of the day on April 30, 2021, the Borrower shall deliver written notice to the Administrative Agent and the Lender setting out the amount of principal that has been advanced under the CERIECO Credit Agreement as of April 30, 2021 and the Borrower's expectation with respect to advances to be made under the CERIECO Credit Agreement after April 30, 2021 and on or before May 31, 2021.
- (f) If less than \$213,000,000 of principal has been advanced under the CERIECO Credit Agreement as of May 31, 2021, the Borrower and the Guarantors shall deposit an amount equal to the CERIECO Funding Shortfall Amount into the Construction Account on May 31, 2021 as an additional contribution of equity to the Commercial Project.

(2) Any breach of a covenant set out 2.02(1) of this Agreement shall constitute an Event of Default. For greater certainty, there shall be no cure period applicable to a breach of a covenant in Section 2.02(1) of this Agreement and an Event of Default arising as a result of a breach of a covenant in Section 2.02(1) of this Agreement shall constitute an Event of Default for all purposes of the Credit Agreement and all applicable provisions of the Credit Agreement shall apply to such Event of Default.

### **ARTICLE 3 - REPRESENTATIONS AND WARRANTIES**

#### **3.01. Representations and Warranties of Credit Parties.**

Each Credit Party represents and warrants, in the case of each of the Guarantors such representations and warranties being only as to itself, himself or herself, as the case may be, to the Administrative Agent and to the Lender as follows, and acknowledges and confirms that the Administrative Agent and the Lender are relying upon such representations and warranties:

(1) Bringdown. After giving effect to this Agreement, each of the representations and warranties of the Borrower contained in the Credit Agreement is true and correct on, and as of, the date hereof as if made on such date.

(2) Default and Event of Default. After giving effect to this Agreement, no Default or Event of Default has occurred and is continuing.

(3) Execution, Delivery, Performance and Enforceability of Documents. The execution, delivery and performance of this Agreement by each Credit Party has been duly authorized by all actions, if any, required on its part and by its shareholders and directors (or where applicable partners, members or managers), and this Agreement has been duly executed and delivered and constitutes a valid and legally binding obligation of each Credit Party enforceable against it in accordance with its terms subject to the Enforceability Exceptions.

### **ARTICLE 4 - GENERAL**

#### **4.01. General.**

(1) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it has been executed by the Administrative Agent and when the Administrative Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

(2) Electronic Execution of Assignments. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Laws, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario) and other similar federal or provincial laws based on the *Uniform Electronic Commerce Act of the Uniform Law Conference of Canada* or its *Uniform Electronic Evidence Act*, as the case may be.

(3) Time of the Essence. Time shall be of the essence of this Agreement.



(4) No Other Amendment. Except as expressly amended, waived or consented to herein, the Credit Agreement shall be unmodified and shall continue to be in full force and effect in accordance with its terms.

(5) Amendment and Restatement. From the date of this Agreement: (a) this Agreement is and will for all purposes be an amendment and a restatement of the provisions of the Waiver Agreement; and (b) the Waiver Agreement is hereby amended and restated as set forth herein.

(6) Further Assurances and Confirmation of Guarantees and Security. The Credit Parties shall with reasonable diligence do all such things and provide all such reasonable assurances as may be required to consummate the matters contemplated by this Agreement and shall provide such further documents or instruments required by the Administrative Agent or the Lender as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions. Each of the Credit Parties confirms the terms of the Security and any guarantees provided by such Credit Party in respect of the Obligations and confirms that same shall remain in full force and effect, valid and enforceable in accordance with their terms.

(7) Governing Law. This Agreement is a contract made under and shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.

*[Signature pages follow]*



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

**BORROWER:**

**MIZRAHI COMMERCIAL (THE ONE)  
GP INC., as sole general partner of  
MIZRAHI COMMERCIAL (THE ONE)  
LP**

By: 

Name: Sam Mizrahi  
Title: Sam Mizrahi President

By: 

Name: Jenny Coco  
Title:

We have authority to bind the Corporation.

**BORROWER:**

**MIZRAHI DEVELOPMENT GROUP  
(THE ONE) INC.**

By: 

Name: Sam Mizrahi  
Title: Sam Mizrahi President

By: 

Name: Jenny Coco  
Title:

We have authority to bind the Corporation.

**ADMINISTRATIVE AGENT:**

**KEB HANA BANK CANADA,** as  
Administrative Agent

By: 

Name: Moon Sung Lee

Title: CEO & President

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

I/We have authority to bind the above.

**LENDER:**

**KEB HANA BANK as trustee of IGIS  
GLOBAL PRIVATE PLACEMENT  
REAL ESTATE FUND NO. 301, as Lender**

By: 

Name: Jung Min Cha

Title: Senior Manager

Trustee and Custodian Business Department

By: KEB Hana Bank

Name:

Title:

I/We have authority to bind the above.

**CREDIT PARTY:**

**MIZRAHI INC.**

By: 

Name: Sam Mizrahi

Title: President

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

We have authority to bind the Corporation.

**CREDIT PARTY:**

**MIZRAHI COMMERCIAL (THE ONE)  
GP INC.**

By: 

Name: Sam Mizrahi

Title: President

By: 

Name: Jenny Coco

Title: \_\_\_\_\_

We have authority to bind the Corporation.

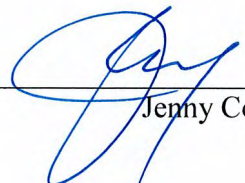
SIGNED, SEALED & DELIVERED  
In the presence of:

  
\_\_\_\_\_  
Witness

SIGNED, SEALED & DELIVERED  
In the presence of:

\_\_\_\_\_  
Witness

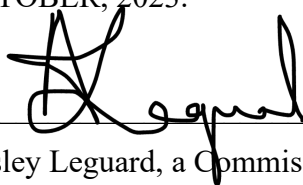
**CREDIT PARTY:**

  
\_\_\_\_\_  
Jenny Coco

**CREDIT PARTY:**

  
\_\_\_\_\_  
Sam Mizrahi

THIS IS **EXHIBIT “NN”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8  
416.362.2111 MAIN

416.862.6666 FACSIMILE

OSLER

Toronto

December 28, 2020

Montréal

Rod Davidge  
Direct Dial: 416.862.4934  
rdavidge@osler.com  
Our Matter Number: 1201149

Calgary

**SENT BY EMAIL**

Ottawa

Mizrahi Commercial (The One) LP  
and Mizrahi Development Group (The One) Inc.

Vancouver

Attention: Sam Mizrahi and Jenny Coco

New York

- and -

Jenny Coco and Sam Mizrahi, as guarantors

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, KEB Hana Bank Canada, as administrative agent, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (the “Credit Agreement”)**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

Pursuant to Section 10.01(t) of the Credit Agreement, the Borrower was required to fund Commercial Project Costs in accordance with the schedule for further draws under the CERIECO Agreements set out in Schedule K to the Credit Agreement and Schedule K to the Credit Agreement required that a total of \$213,000,000 be advanced under the CERIECO Agreements by the end of March 2020.

\$213,000,000 had not been advanced under the CERIECO Credit Agreement by the end of March 2020 (the “**CERIECO Advance Failure**”).

As of April 30, 2020, the CERIECO Advance Failure had not been cured and the failure to cure the CERIECO Advance Failure constituted an Event of Default pursuant to Section 11.01(e) of the Credit Agreement and an Event of Default arose pursuant to Section 11.01(d) of the Credit Agreement as less than \$213,000,000 in principal was advanced under the CERIECO Credit Agreement by May 31, 2020 (such Events of Default are, collectively, the “**2020 CERIECO Advance Events of Default**”).



The Lender agreed to waive the 2020 CERIAECO Advance Events of Default on the terms set out in a waiver agreement dated April 30, 2020, which waiver agreement was amended and restated pursuant to an amended and restated waiver agreement dated October 30, 2020 (the “**Waiver Agreement**”).

Pursuant to the Waiver Agreement, the 2020 CERIAECO Advance Events of Default were waived by the Lender, subject to certain conditions set out in the Waiver Agreement, including the condition set out in Section 2.02(1)(a) of the Waiver Agreement that required that the Borrower would cause closing of the Bridge Loan (as defined in the Waiver Agreement) to occur on certain terms by December 18, 2020. Closing of the Bridge Loan did not occur by December 18, 2020.

The Lender hereby advises that: (a) an Event of Default under the Credit Agreement has occurred that are continuing as a result of the 2020 CERIAECO Advance Events of Default; and (b) from and after December 19, 2020, paragraph (b) of the definition of Applicable Margin applies to each determination of the Applicable Margin until the CERIAECO Funding Shortfall no longer exists.

This letter does not constitute a waiver of any of the Borrower’s or the Guarantors’ obligations under the Loan Documents or of any default that may have occurred under the Loan Documents, nor does this letter constitute an amendment of any of the Loan Documents.

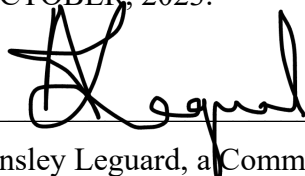
Yours very truly,

A handwritten signature in black ink, appearing to read "P. Rimer", with a stylized flourish at the end.

c. P. Rimer (Dentons)

I. Kady (Fogler)

THIS IS **EXHIBIT “OO”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8  
416.362.2111 MAIN

416.862.6666 FACSIMILE

OSLER

Toronto

June 1, 2021

Montréal

Rod Davidge  
Direct Dial: 416.862.4934  
rdavidge@osler.com  
Our Matter Number: 1201149

Calgary

Ottawa

**SENT BY EMAIL**

Vancouver

Mizrahi Commercial (The One) LP  
and Mizrahi Development Group (The One) Inc.

New York

Attention: Sam Mizrahi and Jenny Coco

- and -

Jenny Coco and Sam Mizrahi, as guarantors

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, KEB Hana Bank Canada, as administrative agent, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (as amended, the “Credit Agreement”)**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

Pursuant to Section 10.01(t) of the Credit Agreement, the Borrower was required to fund Commercial Project Costs in accordance with the schedule for further draws under the CERIECO Agreements set out in Schedule K to the Credit Agreement and Schedule K to the Credit Agreement required that a total of \$213,000,000 be advanced under the CERIECO Agreements by the end of March 2020.

\$213,000,000 had not been advanced under the CERIECO Credit Agreement by the end of March 2020 (the “**CERIECO Advance Failure**”).

As of April 30, 2020, the CERIECO Advance Failure had not been cured and the failure to cure the CERIECO Advance Failure constituted an Event of Default pursuant to Section 11.01(e) of the Credit Agreement and an Event of Default arose pursuant to Section 11.01(d) of the Credit Agreement as less than \$213,000,000 in principal was advanced under the CERIECO Credit Agreement by May 31, 2020 (such Events of Default are, collectively, the “**2020 CERIECO Advance Events of Default**”).



The Lender agreed to waive the 2020 CERIECO Advance Events of Default on the terms set out in a waiver agreement dated April 30, 2020, which waiver agreement was amended and restated pursuant to an amended and restated waiver agreement dated October 30, 2020 (the “**Waiver Agreement**”).

Pursuant to the Waiver Agreement, the 2020 CERIECO Advance Events of Default were waived by the Lender, subject to certain conditions set out in the Waiver Agreement, including the condition set out in Section 2.02(1)(a) of the Waiver Agreement that required that the Borrower would cause closing of the Bridge Loan (as defined in the Waiver Agreement) to occur on certain terms by December 18, 2020. Closing of the Bridge Loan did not occur by December 18, 2020. Pursuant to our letter dated December 28, 2020, the Lender advised that: (a) an Event of Default under the Credit Agreement occurred as a result of the 2020 CERIECO Advance Events of Default; and (b) from and after December 19, 2020, paragraph (b) of the definition of Applicable Margin applies to each determination of the Applicable Margin until the CERIECO Funding Shortfall (as defined in the Waiver Agreement) no longer exists. The CERIECO Funding Shortfall continues to exist.

Further, pursuant to Section 2.01(1)(f) of the Waiver Agreement, the Borrower and the Guarantors were required to deposit an amount equal to the CERIECO Funding Shortfall into the Construction Account on May 31, 2021. Such deposit was not made on May 31, 2021 and in accordance with Section 2.01(2) of the Waiver Agreement, the failure to make that deposit constitutes an Event of Default under the Credit Agreement.

Pursuant Section 11.01(d) of the Credit Agreement, an Event of Default occurs if any of the milestones set out on Schedule O to the Credit Agreement are not met by the date required in Schedule O. Each of the following milestones was to be met by May 31, 2021: (1) completion of the Severance; (2) completion of a Commercial Sale or a Commercial Mortgage providing sale or financing proceeds of no less than \$325,000,000; and (3) the sum of (i) amounts from the Deposit Trust Account utilized for Project Costs; (ii) funds deposited in the Deposit Trust Account that are eligible to be used for Project Costs in accordance with the Deposit Insurer Agreements; and (iii) funds deposited into the Construction Account, to be at least \$171,400,099. Each of the foregoing milestones was not met on May 31, 2021 and each such failure constitutes an Event of Default.

This letter does not constitute a waiver of any of the Borrower’s or the Guarantors’ obligations under the Loan Documents or of any default that may have occurred under the

OSLER

Page 3

Loan Documents, nor does this letter constitute an amendment of any of the Loan Documents.

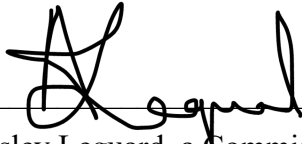
Yours very truly,

A handwritten signature in black ink, appearing to be 'P. Rimer', with a long, sweeping horizontal line extending to the right.

c. P. Rimer (Dentons)

I. Kady (Fogler)

THIS IS **EXHIBIT “PP”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8  
416.362.2111 MAIN

416.862.6666 FACSIMILE

OSLER

Toronto

September 2, 2021

Montréal

Rod Davidge  
Direct Dial: 416.862.4934  
rdavidge@osler.com  
Our Matter Number: 1201149

Calgary

Ottawa

**SENT BY EMAIL**

Vancouver

Mizrahi Commercial (The One) LP  
and Mizrahi Development Group (The One) Inc.

New York

Attention: Sam Mizrahi and Jenny Coco

- and -

Jenny Coco and Sam Mizrahi, as guarantors

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, KEB Hana Bank Canada, as administrative agent, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (as amended, the “Credit Agreement”)**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

Pursuant Section 11.01(d) of the Credit Agreement, an Event of Default occurs if any of the milestones set out on Schedule O to the Credit Agreement are not met by the date required in Schedule O. The following milestones were to be met by August 31, 2021: (1) completion of Construction of the Commercial Project; and (2) completion of the Hotel Fit Out. Each of the foregoing milestones was not met on August 31, 2021 and each such failure constitutes an Event of Default.

This letter does not constitute a waiver of any of the Borrower’s or the Guarantors’ obligations under the Loan Documents or of any default that may have occurred under the

OSLER

Page 2

Loan Documents (including any other existing Events of Default), nor does this letter constitute an amendment of any of the Loan Documents.

Yours very truly,

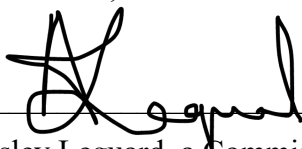
A handwritten signature in black ink, appearing to be 'P. Rimer', with a stylized, cursive script.

c. P. Rimer (Dentons)

I. Kady (Fogler)



THIS IS **EXHIBIT “QQ”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
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Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8  
416.362.2111 MAIN

416.862.6666 FACSIMILE

OSLER

Toronto

March 1, 2022

Montréal

Rod Davidge  
Direct Dial: 416.862.4934  
rdavidge@osler.com  
Our Matter Number: 1201149

Calgary

Ottawa

**SENT BY EMAIL**

Vancouver

Mizrahi Commercial (The One) LP  
and Mizrahi Development Group (The One) Inc.

New York

Attention: Sam Mizrahi and Jenny Coco

- and -

Jenny Coco and Sam Mizrahi, as guarantors

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, KEB Hana Bank Canada, as administrative agent, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (as amended, the “Credit Agreement”)**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

Pursuant Section 11.01(d) of the Credit Agreement, an Event of Default occurs if any of the milestones set out on Schedule O to the Credit Agreement are not met by the date required in Schedule O. The following milestone was to be met by February 28, 2022: Each of the following shall have occurred (i) Qualifying Sales Agreements providing for aggregate projected Gross Sale Proceeds of at least \$857,000,494 shall have been completed; and (ii) at least \$60,000,000 in the aggregate shall have been deposited in the Revenue Account and the Holdback Account. Each of the foregoing milestones was not met on February 28, 2022 and each such failure constitutes an Event of Default.

This letter does not constitute a waiver of any of the Borrower's or the Guarantors' obligations under the Loan Documents or of any default that may have occurred under the

OSLER

Page 2

Loan Documents (including any other existing Events of Default), nor does this letter constitute an amendment of any of the Loan Documents.

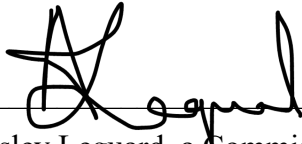
Yours very truly,

A handwritten signature in black ink, appearing to be 'P. Rimer', with a long horizontal line extending to the right.

c. P. Rimer (Dentons)

I. Kady (Fogler)

THIS IS **EXHIBIT “RR”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
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Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8  
416.362.2111 MAIN

416.862.6666 FACSIMILE

OSLER

Toronto

November 4, 2022

Montréal

Rod Davidge  
Direct Dial: 416.862.4934  
rdavidge@osler.com  
Our Matter Number: 1201149

Calgary

Ottawa

**SENT BY EMAIL**

Vancouver

Mizrahi Commercial (The One) LP  
and Mizrahi Development Group (The One) Inc.

New York

Attention: Sam Mizrahi and Jenny Coco

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (as amended, the “Credit Agreement”)**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

We are writing this letter on behalf of the Lenders to notify you of an upcoming Event of Default pursuant to Section 11.01(d) of the Agreement, and to highlight your obligation to arrange for a Commercial Mortgage Facility under Section 10.01(1)(qq) of the Credit Agreement.

**A. The Borrower’s failure to meet the December 31, 2022 milestone in the Credit Agreement will constitute an Event of Default**

Schedule O to the Credit Agreement states that if a Maturity Date is extended for an Extension Period, the Construction of the Condominium Project should be complete and closing should occur under the then existing Condominium Sales Agreements by December 31, 2022. Per Section 11.01(d) of the Credit Agreement, the failure to meet such milestone by the date identified in Schedule O constitutes an Event of Default.

**B. The Borrower must arrange for a Commercial Mortgage Facility by March 29, 2023**

In addition, please take note of the Borrower’s obligation to arrange for a Commercial Mortgage Facility on terms acceptable to the Lenders, pursuant to Section 10.01(1)(qq) of the Credit Agreement.

Pursuant to the amended Section 10.01(1)(qq) of the Credit Agreement, the Commercial Mortgage Facility which the Borrower must arrange must (i) close as soon as possible after the first advance is made under the Standby Facility; (ii) provide for at least \$350,000,000 of funding proceeds; and (iii) permit the Security to remain on title to the Commercial Project, provided it is postponed to the Commercial Mortgage Facility (and must provide for a standstill period in respect of the enforcement of the Security over the Commercial Project of no more than 90 days). Furthermore, the terms of such Commercial Mortgage Facility and all documentation in respect of such facility shall be subject to the Lenders' approval.

If a Commercial Mortgage Facility has not been arranged per the applicable requirements within 18 months of the Standby Advance Date, then Section 10.01(1)(qq) of the Credit Agreement requires the Borrower to immediately commence a sale process in respect of the Commercial Project and cooperate with the Standby Lender in seeking a purchaser for such Project.

Given that the Standby Advance Date occurred on September 29, 2021, the Borrower must arrange for a Commercial Mortgage Facility by no later than March 29, 2023, failing which the Borrower shall be required to commence the abovementioned sale process.

Section 10.01(1)(qq) of the Credit Agreement further stipulates that upon completion of such financing under a Commercial Mortgage Facility or sale, the net proceeds will be applied to the Obligations according to the priorities in Section 11.06 of the Agreement.

This letter does not constitute a waiver of any of the Borrower's obligations under the Loan Documents or of any default that may have occurred under the Loan Documents, nor does this letter constitute an amendment of any of the Loan Documents.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Rod Davidge', with a long horizontal flourish extending to the right.

Rod Davidge

Partner

RD:JB

c. P. Rimer (Dentons)

THIS IS **EXHIBIT “SS”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
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Student-at-Law. Expires June 9, 2025.



Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8  
416.362.2111 MAIN

416.862.6666 FACSIMILE

OSLER

Toronto

January 4, 2023

Montréal

Rod Davidge  
Direct Dial: 416.862.4934  
rdavidge@osler.com  
Our Matter Number: 1201149

Calgary

Ottawa

**SENT BY EMAIL**

Vancouver

Mizrahi Commercial (The One) LP  
and Mizrahi Development Group (The One) Inc.

New York

Attention: Sam Mizrahi and Jenny Coco

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (as amended, the "Credit Agreement")**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

We are writing this letter on behalf of the Lenders to notify you that an Event of Default has occurred pursuant to Section 11.01(d) of the Credit Agreement.

Schedule O to the Credit Agreement states that if a Maturity Date is extended for an Extension Period, the Construction of the Condominium Project should be complete and closing should occur under the then existing Condominium Sales Agreements by December 31, 2022. The foregoing milestone was not met on December 31, 2022, and per Section 11.01(d) of the Credit Agreement, the Borrower's failure to meet such milestone constitutes an Event of Default.

This letter does not constitute a waiver of any of the Borrower's obligations under the Loan Documents or of any default that may have occurred under the Loan Documents, nor does this letter constitute an amendment of any of the Loan Documents.

Yours very truly,



Rod Davidge

Partner

THIS IS **EXHIBIT “TT”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
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**IGIS** Asset Management  
 INTEGRATED GLOBAL INVESTMENT SOLUTION  
 August 30, 2023

**SENT BY EMAIL**

Mizrahi Commercial (The One) LP  
 and Mizrahi Development Group (The One) Inc.

Attention: Sam Mizrahi and Jenny Coco

- and -

Sam Mizrahi, Jenny Coco and  
 Mizrahi Commercial (The One) GP Inc.

Attention: Sam Mizrahi and Jenny Coco

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, Sam Mizrahi, Jenny Coco and Mizrahi Commercial (The One) GP Inc., as guarantors, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (as amended, the “Credit Agreement”)**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

As you are aware, the Maturity Date for the Term Facility is August 30, 2023.

We hereby request repayment on August 30, 2023 by the Borrower, in full, of the outstanding Loans advanced under the Term Facility and payment of all other Obligations in respect of the Term Facility, as required by the Borrower pursuant to Section 5.01(1) of the Credit Agreement.

The amount required to repay, in full, the outstanding Loans advanced under the Term Facility and payment of all other Obligations in respect of the Term Facility is \$894,690,600.93<sup>1</sup>, as further set out in Schedule “A” hereto.

Repayment of the outstanding Loans advanced under the Term Facility and of all other Obligations in respect of the Term Facility should be made by wire transfer no later than August 30, 2023 to the account set out in Schedule “B” hereto. Any failure to make such repayment by such date constitutes an Event Default in respect of which the Lenders and the Administrative Agent will

---

<sup>1</sup> This amount reflects the Obligations outstanding in respect of the Term Facility as of the sending of this letter and further Obligations relating to the Term Facility may arise in accordance with the terms of the loan documents. This statement does not constitute a payoff quote or alter the terms of the loan documents.



have the right to exercise all rights and remedies set out in the Loan Documents, including enforcement of guarantees and other Security.

We note that delivery of this letter does not: (i) constitute a waiver of any of the existing Defaults or Events of Default under the Credit Agreement; (ii) operate as a waiver, release or limitation of any rights, powers or remedies of the Administrative Agent or the Lenders under the Loan Documents, including in respect of any existing Defaults or Events of Default; or (iii) constitute or evidence any waiver, estoppel, stay, release, modification, limitation, forbearance or any agreement by the Lenders to delay the exercise of the Administrative Agent's or the Lenders' rights or remedies under the Loan Documents or a waiver, estoppel, stay, release, modification, limitation, forbearance or postponement of the obligations of any Credit Party under the Loan Documents.

Yours very truly,

**KEB HANA BANK as trustee of IGIS  
GLOBAL PRIVATE PLACEMENT REAL  
ESTATE FUND NO. 301**

By: 

Name: *Jung Min Cho*

Title: *Senior Manager*

I have authority to bind the above.

- c. R. Davidge, Osler, Hoskin & Harcourt LLP
- P. Rimer, Dentons Canada LLP
- S. Hutchison, Henein Hutchison Robitaille LLP
- N. Perfetto, Fogler, Rubinoff LLP
- A. Lavallee, McCarter Grespan Beynon Weir PC

**SCHEDULE “A”**

**REPAYMENT OF THE TERM FACILITY**

Type	IGIS Global Private Placement Real Estate Fund No.301		
	Tranche A	Tranche B	Total
Loan Principal	\$565,000,000.00	\$66,999,999.60	<b>\$631,999,999.60</b>
Accrued Interest <sup>2</sup>	\$228,159,383.56	\$27,458,068.44	<b>\$255,617,452.00</b>
Arrears Fee	\$5,650,000.00	\$670,000.00	<b>\$6,320,000.00</b>
Other Obligations <sup>3</sup>			<b>\$753,149.33</b>

<sup>2</sup> This amount reflects the sum of interest accrued by base interest (9.0%, 12.5% respectively) and applicable margins

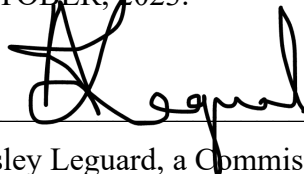
<sup>3</sup> This amount reflects the Administrative Agent's and Lenders' Costs and Expenses Payable Pursuant to the Loan Documents

**SCHEDULE "B"**

**WIRING INSTRUCTION**

<b>Type</b>	<b>Description</b>
Beneficiary Name	KEB Hana Bank Trustee and Custodian Business
Beneficiary Address	35 Euljiro, Jung-gu, Seoul Korea
Beneficiary Acct	035-910001-17738
Receiving Bank SWIFT/BIC	KOEXKRSE
Reference	IGIS Global Private Placement Real Estate Fund No. 301

THIS IS **EXHIBIT “UU”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
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Ainsley Leguard, a Commissioner, etc.  
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Student-at-Law. Expires June 9, 2025.

Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8  
416.362.2111 MAIN

416.862.6666 FACSIMILE

OSLER

Toronto

August 31, 2023

Montréal

Rod Davidge  
Direct Dial: 416.862.4934  
rdavidge@osler.com  
Our Matter Number: 1201149

Calgary

Ottawa

**SENT BY EMAIL**

Vancouver

Mizrahi Commercial (The One) LP  
and Mizrahi Development Group (The One) Inc.

New York

Attention: Sam Mizrahi and Jenny Coco

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (as amended, the “Credit Agreement”)**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

We are writing this letter on behalf of the Lenders. We have previously provided notice of a number of continuing Events of Default under the Credit Agreement.

This letter provides notice of a further default of the obligations of the Credit Parties under the Loan Documents. At the time of writing this letter, the Borrowers have failed to repay in full the outstanding Loans advanced under the Term Facility and all other Obligations under or in respect of the Term Facility on the Maturity Date for the Term Facility, being August 30, 2023 (the “**Term Facility Payment Default**”). The total amount of outstanding Loans advanced under the Term Facility and all other Obligations in respect of the Term Facility as of August 30, 2023 (excluding additional Obligations that may arise after the such date) was \$894,690,600.93.

The Borrower delivered a Construction Financing Request Notice dated August 8, 2023 requesting a Construction Financing Advance in the amount of \$29,918,521.27 pursuant to the Standby Facility (the “**August Financing Request Notice**”) and delivered a notice dated August 23, 2023 requesting a Construction Financing Release in the amount of \$19,482,970.91 (the “**August Release Notice**” and, together with the August Financing Request Notice, the “**August Notices**”) for the purposes of funding Project Costs in accordance with the details attached to such Notices and to satisfy holdback requirements.



The Standby Lender has decided to proceed with the Construction Financing Advance and the Construction Financing Release<sup>1</sup> contemplated by the August Notices as the Construction Financing Advance is required to ensure the Borrower will be in a position to fund Project Costs and the Construction Financing Release is required to fund Project Costs at this time and such Construction Financing Advance and Construction Financing Release (a) are necessary and prudent for the protection and preservation of the Collateral and to avoid the probability and likelihood of losses to the Lenders and (b) are necessary to allow the Borrower to comply with obligations under the Credit Agreement.

This letter, and the decision of the Standby Lenders to proceed with the Construction Financing Advance and the Construction Financing Release requested pursuant to the Notices, do not constitute a waiver of any of the Borrower's obligations under the Loan Documents or of any default or Event of Default that has occurred under the Loan Documents (including the Term Facility Payment Default), nor does this letter constitute an amendment of any of the Loan Documents. The Lenders expressly reserve all of their rights pursuant to the Loan Documents as a result of the Term Facility Payment Default (and any other existing defaults and Events of Default), including the right at any time to demand repayment of all Obligations and to enforce the Security and the right to refuse any further Construction Financing Release on the basis of the Term Facility Payment Default (and any other existing defaults and Events of Default) notwithstanding the making of the Construction Financing Advance contemplated by the August Financing Release Notice.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Rod Davidge', with a long horizontal line extending to the right.

Rod Davidge

Partner


RD:JB

---

<sup>1</sup> The Lenders have not approved the release of the full amount of the Construction Financing Release requested and the Construction Financing Release will be in the amount of \$17,710,836.65. The difference of \$1,772,134.26 reflects an amount the Lenders have advised they are not prepared to allow the release of at this time.

c. P. Rimer (Dentons)

THIS IS **EXHIBIT “VV”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
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Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.



September 29, 2023

**SENT BY EMAIL**

Mizrahi Commercial (The One) LP  
and Mizrahi Development Group (The One) Inc.

Attention: Sam Mizrahi and Jenny Coco

- and -

Sam Mizrahi, Jenny Coco and  
Mizrahi Commercial (The One) GP Inc.

Attention: Sam Mizrahi and Jenny Coco

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc., as borrowers, Sam Mizrahi, Jenny Coco and Mizrahi Commercial (The One) GP Inc., as guarantors, and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301, as lender (as amended, the “Credit Agreement”)**

Capitalized terms used in this letter and not defined in this letter have the meanings given to them in the Credit Agreement.

This letter is further to our letter of August 30, 2023 (the “**Term Repayment Letter**”) requesting repayment of the Term Facility and other Obligations in respect of the Term Facility. This letter constitutes notice of the Borrower’s default with respect to its obligation to pay the Obligations in accordance with the Term Repayment Letter. We note that in addition to the interest set out in the Term Repayment Letter, an additional \$4,867,808.22 of interest under the Term Facility will have accrued under the Term Facility as of September 29, 2023.

As you are aware, the Maturity Date for the Standby Facility is September 29, 2023.

We hereby request repayment on September 29, 2023 by the Borrower, in full, of the outstanding Loans advanced under the Standby Facility and payment of all other Obligations in respect of the Standby Facility, as required by the Borrower pursuant to Section 5.01(1) of the Credit Agreement.



The amount required to repay, in full, the outstanding Loans advanced under the Standby Facility and payment of all other Obligations in respect of the Standby Facility is \$329,074,859.79<sup>1</sup>, as further set out in Schedule “A” hereto.

Repayment of the outstanding Loans advanced under the Standby Facility and of all other Obligations in respect of the Standby Facility should be made by wire transfer no later than September 29, 2023 to the account set out in Schedule “B” hereto. Any failure to make such repayment by such date constitutes an Event of Default in respect of which the Lenders and the Administrative Agent will have the right to exercise all rights and remedies set out in the Loan Documents, including enforcement of guarantees and other Security.

We note that delivery of this letter does not: (i) constitute a waiver of any of the existing Defaults or Events of Default under the Credit Agreement (including any Default or Events of Default arising from the failure to repay the Term Facility Obligations when due); (ii) operate as a waiver, release or limitation of any rights, powers or remedies of the Administrative Agent or the Lenders under the Loan Documents, including in respect of any existing Defaults or Events of Default; or (iii) constitute or evidence any waiver, estoppel, stay, release, modification, limitation, forbearance or any agreement by the Lenders to delay the exercise of the Administrative Agent’s or the Lenders’ rights or remedies under the Loan Documents or a waiver, estoppel, stay, release, modification, limitation, forbearance or postponement of the obligations of any Credit Party under the Loan Documents.

Yours very truly,

**KEB HANA BANK as trustee of IGIS  
GLOBAL PRIVATE PLACEMENT REAL  
ESTATE FUND NO. 301**

By:

Name: Jung Min Cha

Title: Senior Manager

I have authority to bind the above.

<sup>1</sup> This amount reflects the Obligations outstanding in respect of the Standby Facility as of the sending of this letter and further Obligations relating to the Term Facility may arise in accordance with the terms of the loan documents. This statement does not constitute a payoff quote or alter the terms of the loan documents.



**KEB HANA BANK as trustee of IGIS  
GLOBAL PRIVATE PLACEMENT REAL  
ESTATE FUND NO. 434**

By: 

Name: *Jung Min Lee*

Title: *Senior Manager*

I have authority to bind the above.

- c. R. Davidge, Osler, Hoskin & Harcourt LLP
- P. Rimer, Dentons Canada LLP
- S. Hutchison, Henein Hutchison Robitaille LLP
- N. Perfetto, Fogler, Rubinooff LLP
- A. Lavallee, McCarter Grespan Beynon Weir PC

**SCHEDULE "A"****REPAYMENT OF THE STANDBY FACILITY**

<b>Lender</b>	<b>Loan Principal</b>	<b>Accrued Interest</b>	<b>Arrears Fee</b>	<b>Other Obligations</b>
IGIS Global Private Placement Real Estate Fund No.434	\$325,000,000.00	\$0.00	\$3,250,000.00	\$824,859.79 <sup>2</sup>

<sup>2</sup> This amount is in addition to the \$753,149.33 in other Obligations that were set out in our letter of August 30, 2023 as being payable in respect of the Term Facility.

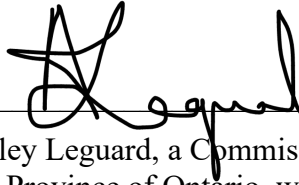
**SCHEDULE "B"**

**WIRING INSTRUCTION**

<b>TYPE</b>	<b>DESCRIPTIONS</b>
Beneficiary Name	KEB Hana Bank Trustee and Custodian Business
Beneficiary Address	35 Euljiro, Jung-gu, Seoul Korea
Beneficiary Acct	035-910001-17738
Receiving Bank SWIFT/BIC	KOEXKRSE
Reference	IGIS Global Private Placement Real Estate Fund No. 434



THIS IS **EXHIBIT “WW”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

### PROJECT STATUS CERTIFICATE

TO: **IGIS GLOBAL PRIVATE PLACEMENT REAL ESTATE FUND NO. 434**

FROM: **MIZRAHI COMMERCIAL (THE ONE) LP AND MIZRAHI DEVELOPMENT GROUP (THE ONE) INC.** (collectively, the “**Borrower**”)

PROJECT: **CONDOMINIUM PROJECT AND COMMERCIAL PROJECT**  
(the “**Projects**”)

DATE: **August 22, 2023**

I, Sam Mizrahi, the President of the Borrower, certify for and on behalf of the Borrower, and not in my personal capacity and without personal liability, that

1. I am familiar with and have examined the provisions of the credit agreement made as of August 30, 2019 between, inter alia, the Borrower, and the lenders from time to time parties thereto as Lenders, as amended, restated, supplemented or otherwise modified from time to time (the “**Credit Agreement**”). All terms used in this certificate that are defined in the Credit Agreement have the same meanings herein.
2. All of the representations and warranties of the Credit Parties contained in the Credit Agreement are true and correct on and as of the date hereof in all material respects as though made on and as of the date hereof, except that the representations and warranties set out in Sections 9.01(17) and 9.01(30) are not true and correct to the extent the 2020 CERIECO Advance Events of Default as defined in the amended and restated waiver agreement dated October 30, 2020, the Shortfall Default as defined in the Credit Agreement Amending Agreement dated August 30, 2022, the Milestone Defaults, and the February 2022 Events of Default as defined in the Credit Agreement Amending Agreement dated August 30, 2022, cause such representations and warranties to not be true.
3. No Default or Event of Default has occurred and is continuing on the date hereof, other than the 2020 CERIECO Advance Events of Default as defined in the amended and restated waiver agreement dated October 30, 2020, the Shortfall Default as defined in the Credit Agreement Amending Agreement dated August 30, 2022, the Milestone Defaults, the February 2022 Events of Default as defined in the Credit Agreement Amending Agreement dated August 30, 2022 and the Milestone Defaults, the December 2022 Events of Default as defined in Schedule O of the Credit Agreement dated August 30, 2019.
4. No Material Adverse Change has occurred and is continuing.
5. The Projects have not been damaged by fire or other casualty which might give rise to an insurance claim, if the cost of any repairs to or replacement of assets of the Borrower exceeds \$2,000,000 and no part of the Secured Property has been expropriated and no proceedings therefor are pending, except as disclosed to you.

6. The requirements of any applicable Construction Lien Legislation, including, where applicable, the administration of any Holdbacks, are being met and nothing has occurred subsequent to the date of the Credit Agreement which has resulted or may result in the creation of any Encumbrance upon the Secured Property (except for a Permitted Encumbrance) or any part thereof or which has or may substantially and adversely impair the ability of the Borrower to make all payments of principal and interest under the Credit Agreement or which has or may substantially and adversely impair the financial standing of any Credit Party or any Security given in connection therewith. All Holdbacks required to be maintained in respect of the Projects have been deposited into the Holdback Account.
7. All zoning by-laws, restrictive covenants or other instruments agreements affecting the Secured Property have been fully complied with by the Borrower.
8. Any and all funds received from the Lenders previously as advances under the Credit Agreement have been expended or are being held in trust solely for the purpose for which they were advanced; no item of construction costs previously certified to you with a request for advance remains unpaid as of the date hereof; further, there are no trade or supplier disputes.
9. The following is the balance of each Account as of the date hereof:
  - a) Revenue Account: \$1,654.80
  - b) Construction Account: \$43,831,037.61
  - c) Holdback Account: \$13,808,031.30
10. The following are all of the facts required to calculate the Applicable Margin as of the date hereof:
  - (a) the aggregate projected Gross Sales Proceeds under then existing Condominium Sales Agreements that constitute Qualifying Sales Agreements is \$674,727,106.00 as of the date hereof;
  - (b) \$182,000,000 has been advanced under the CERIECO Credit Agreement as of the date hereof; and
  - (c) as of the date hereof, \$ 104,164,815.50 represents the sum of (i) Purchaser Deposits that have been used to pay Project Costs in accordance with the terms of the Deposit Insurer agreements, (ii) Purchaser Deposits in the Deposit Trust Account that are eligible to be utilized to pay Project Costs in accordance with the terms of the Deposit Insurer Agreements and (iii) and funds deposited in the Construction Account.
11. The summary of Condominium Project Costs and Commercial Project Costs, as applicable for the Projects, as reported in the report provided to you is true and accurate in all material respects.
12. All of the statements contained in this certificate are true, complete and accurate in all material respects as of the date hereof.

[Signature Page Follows]

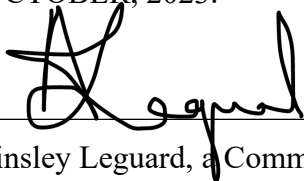
Dated this 22<sup>nd</sup> day of August 2023.

Per: \_\_\_\_\_

Name: Sam Mizrahi

Title: President

THIS IS **EXHIBIT “XX”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

**Osler, Hoskin & Harcourt LLP**  
 Box 50, 1 First Canadian Place  
 Toronto, Ontario, Canada M5X 1B8  
 416.362.2111 MAIN  
 416.862.6666 FACSIMILE

**OSLER**

Toronto

October 4, 2023

Montréal

**Michael De Lellis**  
 Direct Dial: 416.862.5997  
 MDeLellis@osler.com  
 Our Matter Number: 1201149

Calgary

**SENT BY ELECTRONIC MAIL, REGISTERED MAIL & REGULAR MAIL**

Ottawa

Vancouver

New York

Mizrahi Commercial (The One) LP,  
 Mizrahi Development Group (The One)  
 Inc., and Mizrahi Commercial (The One)  
 GP Inc.

Dentons Canada LLP  
 77 King Street West, #400  
 Toronto, Ontario M5K 0A1

949 Wilson Avenue  
 Toronto, ON M3K 1G2

Attention: Philip Rimer

Attention: Jenny Coco  
 - and -

[philip.rimer@dentons.com](mailto:philip.rimer@dentons.com)

271 Spadina Road, 5th Floor  
 Toronto ON M5R 2V3

Attention: Jenny Coco  
 - and -

189 Forest Hill Road  
 Toronto, ON M5P 2N3

Attention: Sam Mizrahi

[sam@mizrahidevelopments.ca](mailto:sam@mizrahidevelopments.ca)

Dear Sirs/Mesdames:

**Credit Agreement made as of August 30, 2019 between, among others, Mizrahi Commercial (The One) LP and Mizrahi Development Group (The One) Inc. (collectively, the “Debtors”), as borrowers, Mizrahi Commercial (The One) GP Inc. (the “General Partner” and, together with the Debtors, the “Credit Parties”), and KEB Hana Bank as (i) trustee of IGIS Global Private Placement Real Estate Fund No. 301 (in such capacity, the “Term Lender”) and (ii) trustee of IGIS Global Private Placement Real Estate Fund No. 434 (in such capacity, the “Standby Lender” and together with the Term Lender, the “Senior Secured Lenders”) (as amended, restated, supplemented or otherwise modified from time to time, the “Credit Agreement”)**

Capitalized terms used herein but not otherwise defined have the meaning given in the Credit Agreement.

We are writing this letter on behalf of the Senior Secured Lenders. We have previously provided notice of a number of continuing Events of Default under the Credit Agreement

(the “**Pre-Existing Defaults**”). The Senior Secured Lenders have not waived, and do not waive, the Pre-Existing Defaults, and continue to expressly assert their rights under the Loan Documents and at law in respect thereof.

As security for the sums advanced and obligations owing under the Credit Agreement, the Senior Secured Lenders hold security from the Credit Parties, including but not limited to a registered first priority fixed and specific mortgage and charge of the lands and premises municipally known as 1 Bloor Street West, Toronto, Ontario and legally described in PIN 21109-0244 (LT).

As of September 29, 2023, the Credit Parties are indebted under the Credit Agreement to the Senior Secured Lenders pursuant to a non-revolving term credit facility (the “**Term Facility**”) in the amount of C\$906,122,776.25 and pursuant to a non-revolving term credit facility (the “**Standby Facility**”) in the amount of C\$329,165,620.51, for an aggregate amount of C\$1,235,288,396.76 (the “**Indebtedness**”), which amount is exclusive of further accruing interest, expenses and other costs, charges, fees and amounts owed under the Credit Agreement.

Repayment of the Term Facility and Standby Facility portions of the Indebtedness were due on August 30, 2023 and September 29, 2023, respectively, being the applicable Maturity Dates under the Credit Agreement. No such repayment has occurred as of the date of this letter.

The failure to repay the Indebtedness when due constitutes an additional Event of Default under the Credit Agreement, in addition to the Pre-Existing Defaults. As such, this letter constitutes a demand for payment under the terms and conditions of the Credit Agreement, and the terms and conditions of all security (the “**Security**”) held by the Senior Secured Lenders directly or indirectly for any of the Indebtedness, including all agreements governing the Indebtedness, and under all security instruments held for the Indebtedness, and all Loan Documents and is made without prejudice to the Senior Secured Lenders’ rights to make such further and other demands as they shall see fit for any other indebtedness or under any other security.

If payment arrangements satisfactory to the Senior Secured Lenders for the total amount of the Indebtedness plus accruing interest, fees, costs and other allowable charges to the date of payment are not made within ten (10) days of the date of this demand, the Senior Secured Lenders may take such further action, remedy or proceeding available to it under the Credit Agreement, the Security, and at law, equity or otherwise. These steps may include the enforcement of the Security.

OSLER

Page 3

We enclose a Notice of Intention to Enforce a Security to the Credit Parties by the Senior Secured Lenders pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada), together with forms of Consent that each of the Credit Parties may execute and return to the undersigned.

Yours very truly,



Michael De Lellis

c: Rod Davidge, *Osler, Hoskin & Harcourt LLP*  
David Bish, *Torys LLP*  
Nina Perfetto, *Fogler, Rubinoff LLP*  
Avril Lavallee, *McCarter Grespan Beynon Weir*



**BANKRUPTCY AND INSOLVENCY ACT**  
**NOTICE OF INTENTION TO ENFORCE A SECURITY**  
**(Section 244 and Rule 124)**

**TO:** Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc. (collectively, the “**Debtors**”), and Mizrahi Development Group (The One) GP Inc. (the “**General Partner**” and, together with the Debtors, the “**Credit Parties**”), insolvent persons

**TAKE NOTICE THAT:**

1. KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 301 (in such capacity, the “**Term Lender**”), and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 434 (in such capacity, the “**Standby Lender**” and together with the Term Lender, the “**Senior Secured Lenders**”), pursuant to a Credit Agreement (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”) made as of August 30, 2019 between, among others, the Debtors, the General Partner, and the Senior Secured Lenders, intend to enforce their security on the assets, undertakings and properties of the insolvent persons described in Schedule “A” hereto.
2. The security that is to be enforced is described in Schedule “B” hereto (the “**Security**”).
3. The total amount of indebtedness secured by the Security is C\$1,235,288,396.76 as of September 29, 2023, which amount is exclusive of further accruing interest, expenses and other costs, charges, fees and amounts owed under the Credit Agreement.
4. The Senior Secured Lenders will not have the right to enforce the Security until after the expiry of the ten (10) day period after this notice is sent unless the Credit Parties consent to an earlier enforcement.

*[Remainder of page intentionally left blank]*

DATED at Seoul, Korea this 4 day of October, 2023.

**SENIOR SECURED LENDER:**

**KEB HANA BANK as trustee of IGIS  
GLOBAL PRIVATE PLACEMENT  
REAL ESTATE FUND NO. 301, as Senior  
Secured Lender**

Address: 35 Eulji-ro, Jung-gu, Seoul,  
Korea

By: 

Name: Jung Min Cha

Title: Senior Manager

Trustee and Custodian Business Department

By:

Name: KEB Hana Bank

Title:

Attention: Jung Min Cha

Email: custody@hanafn.com

I/We have authority to bind the above.

**SENIOR SECURED LENDER:**

**KEB HANA BANK as trustee of IGIS  
GLOBAL PRIVATE PLACEMENT  
REAL ESTATE FUND NO. 434, as Senior  
Secured Lender**

Address: 35 Eulji-ro, Jung-gu,  
Seoul, Korea

By: 

Name: Jung Min Cha

Title: Senior Manager

Trustee and Custodian Business Department

By:

Name: KEB Hana Bank

Title:

Attention: Jung Min Cha

Email: custody@hanafn.com

I/We have authority to bind the above.

## SCHEDULE “A”

Capitalized terms used in this Schedule “A” but not defined herein have the meaning given in the Notice of Intention to Enforce a Security or the Credit Agreement, as applicable.

The assets, undertakings and properties of the Credit Parties over which the Senior Secured Lenders intend to enforce their security includes the “Security Interests”, as defined in the Debenture (listed in item (a) of Schedule “B” hereto) and the Collateral, as defined in the Credit Agreement, which includes but is not limited to the following located at or used primarily in connection with or arising from the Secured Property:

### *Personal Property*

- (a) all present and after-acquired personal property;
- (b) all inventory including goods held for sale, lease or resale, goods furnished or to be furnished to third parties under contracts of lease, consignment or service, goods which are raw materials or work in process, goods used in or procured for packing and materials used or consumed in the business of the Debtors;
- (c) all equipment (other than inventory), machinery, furniture, fixtures, plant, vehicles (excluding motor vehicles) and other goods of every kind and description and all licences and other rights and all related records, files, charts, plans, drawings, specifications, manuals and documents;
- (d) all accounts due or accruing, books, accounts, invoices, letters, documents and papers recording, evidencing or relating to them;
- (e) all money;
- (f) all intangibles including all security interests, goodwill, choses in action, contracts, contract rights, agreements, licenses and other contractual benefits;
- (g) all intellectual and industrial property, whether recorded or not and regardless of form or method of recording, including all works in which copyright subsists or may subsist (such as computer software), data bases (whether or not protected by copyright), designs, documentation, manuals, specifications, industrial designs, trade secrets, confidential information, ideas, concepts, know-how, trademarks, service marks, trade names, domain names, discoveries, inventions, formulae, recipes, product formulations, processes and processing methods, technology and techniques, improvements and modifications, integrated circuit topographies and mask works;
- (h) all substitutions and replacements of and increases, additions and, where applicable, accessions to the property described in (a) through (g) inclusive;
- (i) all proceeds in any form derived directly or indirectly from any dealing with all or any part of the property described in (a) through (h) inclusive, including the proceeds of such proceeds;

***Real Property*****(j) PIN 21109-0244 (LT)**

FIRSTLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP145729 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; SECONDLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP93304 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; THIRDLY: PT PARKLT 9 CON 1 FTB TWP OF YORK PT 1 64R16532; SUBJECT TO AN EASEMENT AS IN AT5101384; FOURTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK PT 163R658; SUBJECT TO AN EASEMENT AS IN AT5101384; FIFTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CA703847; SUBJECT TO AN EASEMENT AS IN AT5101384; SIXTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CT277770; SUBJECT TO AN EASEMENT AS IN AT5101384; SEVENTLY: FIRSTLY: PT PARK LT 9 CON 1 FTB TWP OF YORK, AS IN EP142034 AND SECONDLY: PT PT PARK LT 9 CON 1 FTB TWP OF YORK DESIGNATED AS PT 15 ON PL 63R-3142, SAVE AND EXCEPT PART 2 ON PLAN 66R-32221; SUBJECT TO AN EASEMENT AS IN AT5101384; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 7 AND 8 ON PLAN 66R-32221 AS IN AT6077647; SUBJECT TO AN EASEMENT OVER PARTS 4, 5 AND 6 ON PLAN 66R-32221 AS IN AT6077654; TOGETHER WITH AN EASEMENT OVER PART OF PARK LOT 9, CONCESSION 1 FROM THE BAY (YORK) DESIGNATED AS PART 2 ON PLAN 66R-32221 AS IN AT6077634; SUBJECT TO AN EASEMENT OVER PART 3 ON PLAN 66R-32221 IN FAVOUR OF PART OF PARK LOT 9, CONCESSION 1 FROM THE BAY (YORK) DESIGNATED AS PART 2 ON PLAN 66R-32221 AS IN AT6077634; SUBJECT TO AN EASEMENT AS IN AT6227322; CITY OF TORONTO

(the “Secured Real Property”)

## SCHEDULE “B”

Capitalized terms used in this Schedule “B” but not defined herein have the meaning given in the Notice of Intention to Enforce a Security or the Credit Agreement, as applicable.

The security that is to be enforced is all “Security”, as defined and described in the Credit Agreement, which includes but is not limited to:

- (a) a demand debenture dated as of August 30, 2019 and registered on title to the Secured Real Property on August 30, 2019 as Instrument No. AT5225851, as amended by an amending agreement dated February 4, 2021 and registered on title to the Secured Real Property on February 16, 2021 as Instrument No. AT5650701, and as further amended by an amending agreement dated September 9, 2021 and registered on title to the Secured Real Property on October 5, 2021 as Instrument AT5877000 (collectively, the “**Debenture**”) granted by Mizrahi Development Group (The One) Inc. (the “**Nominee**”) in favour of KEB Hana Bank Canada as security holder for the Senior Secured Lenders (in such capacity, “**KEB Hana Bank Canada**”), which Debenture is in the principal amount of C\$957,000,000, and constitutes a registered first priority fixed and specific mortgage and charge of, *inter alia*, the lands and premises municipally known as 1 Bloor Street West, Toronto, together with all buildings, improvements and structures situated thereon from time to time, the rights in leases and rights of superficies and personal property and appurtenant rights relating thereto owned by the Nominee (collectively, the “**Secured Property**”) (including, without limitation, any accounts pertaining to the Secured Property) and a floating charge over the Secured Property not subject to such fixed and specific mortgages and charges in each case, subject only to the Permitted Encumbrances;
- (b) a general assignment of rents and leases dated as of August 30, 2019 in respect of the Secured Real Property, granted by the Nominee in favour of KEB Hana Bank Canada and registered on title to the Secured Real Property on August 30, 2019 as Instrument No. AT5225852;
- (c) a general security agreement of the Debtors, dated as of August 30, 2019 granted by the Debtors in favour of KEB Hana Bank Canada, granting a security interest in all of the personal property assets and undertakings of the Debtors located at or used primarily in connection with or arising from the Secured Real Property;
- (d) an assignment of condominium sales agreements and purchaser deposits dated as of August 30, 2019 from the Debtors in favour of KEB Hana Bank Canada;
- (e) an assignment of Material Agreements dated as of August 30, 2019 from the Debtors in favour of KEB Hana Bank Canada;
- (f) an assignment of Performance and Payment Bonds dated as of August 30, 2019 from the Debtors, the General Partner, Mizrahi Inc. (the “**Developer**”) and Sam Mizrahi in favour of KEB Hana Bank Canada;

- (g) an assignment of insurance dated as of August 30, 2019 from the Debtors in favour of KEB Hana Bank Canada;
- (h) an assignment of Construction Contracts dated as of August 30, 2019 from the Debtors in favour of KEB Hana Bank Canada;
- (i) a guarantee (being a joint and several guarantee and postponement of claims), dated as of August 30, 2019 from each of the General Partner, Jenny Coco and Sam Mizrahi (collectively, the “**Guarantors**”) in favour of KEB Hana Bank Canada and the Senior Secured Lenders;
- (j) a Cost Overrun and completion guarantee dated as of August 30, 2019 from each of the Guarantors (on a joint and several basis) in favour of KEB Hana Bank Canada, as confirmed pursuant to a confirmation re cost overrun and completion guarantee dated February 4, 2021 from the Guarantors in favour of KEB Hana Bank Canada;
- (k) an environmental warranty and indemnity dated as of August 30, 2019 from the Debtors and the General Partner in favour of KEB Hana Bank Canada;
- (l) an account pledge agreement dated as of August 30, 2019 from the General Partner in favour of KEB Hana Bank Canada in respect of the Revenue Account, the Holdback Account and the Construction Account;
- (m) blocked account agreements dated as of August 30, 2019 among KEB Hana Bank Canada as security holder for the Senior Secured Lenders, the General Partner, and KEB Hana Bank Canada in its capacity as a bank (and not in its capacity as security holder for the Senior Secured Lenders) for each of the Revenue Account, the Holdback Account and the Construction Account;
- (n) a pledge of investment collateral dated August 30, 2019 from Sam M Inc. in favour of KEB Hana Bank Canada of, *inter alia*, its units in Mizrahi Commercial (The One) LP (the “**Beneficial Owner**”) and its common shares in the General Partner;
- (o) a pledge of investment collateral dated August 30, 2019 from 8891303 Canada Inc. (subsequently amalgamated into 12823543 Canada Ltd.) in favour of KEB Hana Bank Canada of, *inter alia*, its units in the Beneficial Owner and its common shares in the General Partner;
- (p) a pledge of investment collateral dated August 30, 2019 from the General Partner in favour of KEB Hana Bank Canada of, *inter alia*, its common shares in the Nominee;
- (q) beneficial owner acknowledgements and directions dated as of August 30, 2019, February 4, 2021 and September 9, 2021 from the Debtors in favour of KEB Hana Bank Canada;
- (r) an assignment of construction contracts and subcontracts dated as of August 30, 2019 from the Developer in favour of KEB Hana Bank Canada; and

- (s) such other security relating to the Secured Property as the Senior Secured Lenders may reasonably require or as may be necessary to give effect to the Security.

**CONSENT TO EARLIER ENFORCEMENT OF SECURITY**  
**(Subsection 244(2) and (2.1) of the *Bankruptcy and Insolvency Act*)**

TO: **KEB Hana Bank as (i) trustee of IGIS Global Private Placement Real Estate Fund No. 301 (in such capacity, the “Term Lender”), and (ii) trustee of IGIS Global Private Placement Real Estate Fund No. 434 (in such capacity, the “Standby Lender” and together with the Term Lender, the “Senior Secured Lenders”)**

The undersigned hereby acknowledges receipt of the Senior Secured Lenders’ notice of its intention to enforce a security pursuant to Section 244 of the *Bankruptcy and Insolvency Act* (the “BIA”).

Pursuant to sections 243(1.1)(a) and 244(2) of the BIA, the undersigned hereby consents to the immediate enforcement of the Senior Secured Lenders’ security and hereby acknowledges and agrees that the Senior Secured Lenders shall not be required to refrain from enforcing its security for the 10-day period referred to in Section 244(1) of the BIA.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2023.

**MIZRAHI COMMERCIAL (THE ONE)**  
**GP INC., as sole general partner of**  
**MIZRAHI COMMERCIAL (THE ONE)**  
**LP**

By: \_\_\_\_\_  
 Name: Sam Mizrahi  
 Title:

By: \_\_\_\_\_  
 Name: Jenny Coco  
 Title:

I/We have authority to bind the above.



**CONSENT TO EARLIER ENFORCEMENT OF SECURITY**  
**(Subsection 244(2) and (2.1) of the *Bankruptcy and Insolvency Act*)**

TO: **KEB Hana Bank as (i) trustee of IGIS Global Private Placement Real Estate Fund No. 301 (in such capacity, the “Term Lender”), and (ii) trustee of IGIS Global Private Placement Real Estate Fund No. 434 (in such capacity, the “Standby Lender” and together with the Term Lender, the “Senior Secured Lenders”)**

The undersigned hereby acknowledges receipt of the Senior Secured Lenders’ notice of its intention to enforce a security pursuant to Section 244 of the *Bankruptcy and Insolvency Act* (the “**BIA**”).

Pursuant to sections 243(1.1)(a) and 244(2) of the BIA, the undersigned hereby consents to the immediate enforcement of the Senior Secured Lenders’ security and hereby acknowledges and agrees that the Senior Secured Lenders shall not be required to refrain from enforcing its security for the 10-day period referred to in Section 244(1) of the BIA.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2023.

**MIZRAHI DEVELOPMENT GROUP  
 (THE ONE) INC.**

By: \_\_\_\_\_  
 Name: Sam Mizrahi  
 Title:

By: \_\_\_\_\_  
 Name: Jenny Coco  
 Title:

I/We have authority to bind the above.

**CONSENT TO EARLIER ENFORCEMENT OF SECURITY**  
**(Subsection 244(2) and (2.1) of the *Bankruptcy and Insolvency Act*)**

TO: **KEB Hana Bank as (i) trustee of IGIS Global Private Placement Real Estate Fund No. 301 (in such capacity, the “Term Lender”), and (ii) trustee of IGIS Global Private Placement Real Estate Fund No. 434 (in such capacity, the “Standby Lender” and together with the Term Lender, the “Senior Secured Lenders”)**

The undersigned hereby acknowledges receipt of the Senior Secured Lenders’ notice of its intention to enforce a security pursuant to Section 244 of the *Bankruptcy and Insolvency Act* (the “**BIA**”).

Pursuant to sections 243(1.1)(a) and 244(2) of the BIA, the undersigned hereby consents to the immediate enforcement of the Senior Secured Lenders’ security and hereby acknowledges and agrees that the Senior Secured Lenders shall not be required to refrain from enforcing its security for the 10-day period referred to in Section 244(1) of the BIA.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2023.

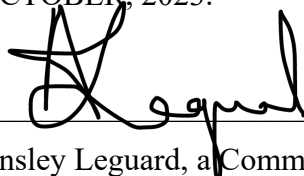
**MIZRAHI COMMERCIAL (THE ONE)  
GP INC.**

By: \_\_\_\_\_  
 Name: Sam Mizrahi  
 Title:

By: \_\_\_\_\_  
 Name: Jenny Coco  
 Title:

I/We have authority to bind the above.

THIS IS **EXHIBIT “YY”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

**Hana Bank Canada H.O Branch**

4950 YONGE STREET, SUITE 1101, TORONTO, ON M2N6K1

Tel.: 1-416-222-5200 Fax: 1-416-222-5822

# ACCOUNT STATEMENT

**MIZRAHI COMMERCIAL (THE ONE) GP INC.**

Date : 2023/09/29

189 FOREST HILL ROAD  
TORONTO  
ON M5P2N3

Customer Name : MIZRAHI COMMERCIAL (THE ONE) GP INC.

Customer Number : 620271483

Joint Account [Y/N] : N

Statement Period : 2023/09/01 ~ 2023/09/28

## Account Summary

Account Type	Account No	Currency	Rate(%p.a)	Opening Balance	Ending Balance
Business Chequing (CAD)	40202010741	CAD	-	50,269,498.42	25,279,492.37
Number of Credit / Amount	3 /	930.00	Average Daily Balance	45,299,191.33	
Number of Debit / Amount	164 /	24,990,936.05	Interest Received	0.00	

## Line Of Credit / Overdraft Information

Loan Term Maturity	Annual Loan Interest Rate	Initial Credit Limit	Available Credit Limit
-	Can.Prime Rate + 0.00 %	0.00	0.00
Applied Interest Rate at the Beginning of the Period	0.00 %	Interest Charged During the Period*	0.00
Applied Interest Rate at the End of the Period	0.00 %	*Shown only for an inquiry for month(s) from the 1st day to the last day of month	

## Account Transaction History

Business Chequing (CAD)

Acct No : 40202010741

Date	Description	Value Date	Debit	Credit	Balance	Cheque No.
2023/09/01	Opening Balance	2023/09/01	0.00	0.00	50,269,498.42	
2023/09/01	Bank Draft(098472)	2023/09/01	19,057.67	0.00	50,250,440.75	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	50,250,430.75	
2023/09/01	Bank Draft(098473)	2023/09/01	1,687.66	0.00	50,248,743.09	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	50,248,733.09	
2023/09/01	Bank Draft(098474)	2023/09/01	10,555.61	0.00	50,238,177.48	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	50,238,167.48	
2023/09/01	Bank Draft(098475)	2023/09/01	1,576.35	0.00	50,236,591.13	

Date	Description	Value Date	Debit	Credit	Balance	Cheque No.
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	50,236,581.13	
2023/09/01	Bank Draft(098476)	2023/09/01	52,011.84	0.00	50,184,569.29	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	50,184,559.29	
2023/09/01	Bank Draft(098477)	2023/09/01	66,373.21	0.00	50,118,186.08	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	50,118,176.08	
2023/09/01	Bank Draft(098478)	2023/09/01	19,166.00	0.00	50,099,010.08	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	50,099,000.08	
2023/09/01	Bank Draft(098479)	2023/09/01	141,039.32	0.00	49,957,960.76	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,957,950.76	
2023/09/01	Bank Draft(098480)	2023/09/01	3,635.88	0.00	49,954,314.88	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,954,304.88	
2023/09/01	Bank Draft(098481)	2023/09/01	15,481.00	0.00	49,938,823.88	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,938,813.88	
2023/09/01	Bank Draft(098482)	2023/09/01	6,424.07	0.00	49,932,389.81	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,932,379.81	
2023/09/01	Bank Draft(098483)	2023/09/01	2,260.00	0.00	49,930,119.81	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,930,109.81	
2023/09/01	Bank Draft(098484)	2023/09/01	18,759.80	0.00	49,911,350.01	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,911,340.01	
2023/09/01	Bank Draft(098485)	2023/09/01	8,588.00	0.00	49,902,752.01	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,902,742.01	
2023/09/01	Bank Draft(098486)	2023/09/01	8,938.30	0.00	49,893,803.71	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,893,793.71	
2023/09/01	Bank Draft(098487)	2023/09/01	18,370.41	0.00	49,875,423.30	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,875,413.30	
2023/09/01	Bank Draft(098488)	2023/09/01	17,826.85	0.00	49,857,586.45	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,857,576.45	
2023/09/01	Bank Draft(098489)	2023/09/01	1,542.73	0.00	49,856,033.72	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,856,023.72	
2023/09/01	Bank Draft(098490)	2023/09/01	4,497.40	0.00	49,851,526.32	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,851,516.32	
2023/09/01	Bank Draft(098491)	2023/09/01	17,142.10	0.00	49,834,374.22	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,834,364.22	
2023/09/01	Bank Draft(098492)	2023/09/01	1,356.00	0.00	49,833,008.22	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,832,998.22	
2023/09/01	Bank Draft(098493)	2023/09/01	3,390.00	0.00	49,829,608.22	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,829,598.22	
2023/09/01	Bank Draft(098494)	2023/09/01	16,346.21	0.00	49,813,252.01	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,813,242.01	
2023/09/01	Bank Draft(098495)	2023/09/01	11,496.34	0.00	49,801,745.67	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,801,735.67	

Date	Description	Value Date	Debit	Credit	Balance	Cheque No.
2023/09/01	Bank Draft(098496)	2023/09/01	3,164.00	0.00	49,798,571.67	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,798,561.67	
2023/09/01	Bank Draft(098497)	2023/09/01	23,391.00	0.00	49,775,170.67	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,775,160.67	
2023/09/01	Bank Draft(098498)	2023/09/01	10,170.00	0.00	49,764,990.67	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,764,980.67	
2023/09/01	Bank Draft(098499)	2023/09/01	65,688.69	0.00	49,699,291.98	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,699,281.98	
2023/09/01	Bank Draft(098500)	2023/09/01	4,337.32	0.00	49,694,944.66	
2023/09/01	Withdrawal	2023/09/01	10.00	0.00	49,694,934.66	
2023/09/01	181 DAVENPORT RETAIL INC.	2023/09/01	37,666.67	0.00	49,657,267.99	
2023/09/01	Monthly fee (included over-the-li	2023/09/01	6.00	0.00	49,657,261.99	
2023/09/01	Cheque	2023/09/01	0.00	380.00	49,657,641.99	
2023/09/01	TO MIZRAHI INC./CANADA	2023/09/01	1,772,224.26	0.00	47,885,417.73	
2023/09/01	Withdrawal(CK)	2023/09/01	248,017.82	0.00	47,637,399.91	001612
2023/09/01	Withdrawal(CK)	2023/09/01	171,590.50	0.00	47,465,809.41	001611
2023/09/01	Withdrawal	2023/09/01	352,012.44	0.00	47,113,796.97	
2023/09/05	Withdrawal(CK)	2023/09/01	696,431.00	0.00	46,417,365.97	001627
2023/09/05	STOP PAYMENT CK NO. 1610	2023/09/05	15.00	0.00	46,417,350.97	
2023/09/06	Withdrawal(CK)	2023/09/05	54,314.61	0.00	46,363,036.36	001613
2023/09/06	Withdrawal	2023/09/06	10.00	0.00	46,363,026.36	
2023/09/06	Withdrawal	2023/09/06	10.00	0.00	46,363,016.36	
2023/09/14	Withdrawal(CK)	2023/09/13	85,990.69	0.00	46,277,025.67	001619
2023/09/14	Withdrawal(CK)	2023/09/13	44,866.65	0.00	46,232,159.02	001623
2023/09/15	Withdrawal(CK)	2023/09/14	11,300.00	0.00	46,220,859.02	001614
2023/09/15	Withdrawal(CK)	2023/09/14	101,630.03	0.00	46,119,228.99	001615
2023/09/15	Withdrawal(CK)	2023/09/14	1,265.60	0.00	46,117,963.39	001626
2023/09/15	Withdrawal(CK)	2023/09/14	203,478.31	0.00	45,914,485.08	001622
2023/09/15	Withdrawal(CK)	2023/09/14	3,435.20	0.00	45,911,049.88	001616
2023/09/15	Withdrawal(CK)	2023/09/14	102.84	0.00	45,910,947.04	001621
2023/09/15	Withdrawal(CK)	2023/09/14	275.67	0.00	45,910,671.37	001625
2023/09/15	Withdrawal(CK)	2023/09/14	90,626.00	0.00	45,820,045.37	001618
2023/09/18	Withdrawal(CK)	2023/09/15	28,468.30	0.00	45,791,577.07	1609
2023/09/18	Withdrawal(CK)	2023/09/15	5,066.54	0.00	45,786,510.53	1620
2023/09/26	MASTERSINSIPS	2023/09/26	269,616.17	0.00	45,516,894.36	
2023/09/26	Withdrawal(CK)	2023/09/25	66,322.70	0.00	45,450,571.66	001617
2023/09/26	Withdrawal	2023/09/25	3,730.21	0.00	45,446,841.45	
2023/09/28	TO MIZRAHI INC./CANADA	2023/09/28	14,765,624.62	0.00	30,681,216.83	
2023/09/28	TO MIZRAHI INC./CANADA	2023/09/28	3,335,053.47	0.00	27,346,163.36	
2023/09/28	TO FOSTER AND PARTNERS LTD./	2023/09/28	25,060.00	0.00	27,321,103.36	
2023/09/28	TO BAE,KIM AND LEE LLC/KOREA	2023/09/28	731.50	0.00	27,320,371.86	

Date	Description	Value Date	Debit	Credit	Balance	Cheque No.
2023/09/28	1062OTT230900079	2023/09/28	33.75	0.00	27,320,338.11	
2023/09/28	TO GLAHOLT BOWLES LLP/CANA	2023/09/28	4,146.78	0.00	27,316,191.33	
2023/09/28	1062OTT230900080	2023/09/28	33.75	0.00	27,316,157.58	
2023/09/28	Bank Draft(098535)	2023/09/28	39,444.40	0.00	27,276,713.18	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	27,276,703.18	
2023/09/28	Bank Draft(098536)	2023/09/28	235.44	0.00	27,276,467.74	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	27,276,457.74	
2023/09/28	Bank Draft(098537)	2023/09/28	7,650.10	0.00	27,268,807.64	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	27,268,797.64	
2023/09/28	Bank Draft(098538)	2023/09/28	1,576.35	0.00	27,267,221.29	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	27,267,211.29	
2023/09/28	Bank Draft(098539)	2023/09/28	9,669.60	0.00	27,257,541.69	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	27,257,531.69	
2023/09/28	Bank Draft(098540)	2023/09/28	9,333.00	0.00	27,248,198.69	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	27,248,188.69	
2023/09/28	Bank Draft(098541)	2023/09/28	153,062.95	0.00	27,095,125.74	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	27,095,115.74	
2023/09/28	Bank Draft(098542)	2023/09/28	453,208.59	0.00	26,641,907.15	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,641,897.15	
2023/09/28	Bank Draft(098543)	2023/09/28	10,734.51	0.00	26,631,162.64	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,631,152.64	
2023/09/28	Bank Draft(098544)	2023/09/28	2,823.87	0.00	26,628,328.77	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,628,318.77	
2023/09/28	Bank Draft(098545)	2023/09/28	48,797.07	0.00	26,579,521.70	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,579,511.70	
2023/09/28	Bank Draft(098546)	2023/09/28	550.89	0.00	26,578,960.81	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,578,950.81	
2023/09/28	Bank Draft(098547)	2023/09/28	10,576.80	0.00	26,568,374.01	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,568,364.01	
2023/09/28	Bank Draft(098548)	2023/09/28	13,861.95	0.00	26,554,502.06	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,554,492.06	
2023/09/28	Bank Draft(098549)	2023/09/28	4,294.00	0.00	26,550,198.06	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,550,188.06	
2023/09/28	Bank Draft(098550)	2023/09/28	26,371.26	0.00	26,523,816.80	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,523,806.80	
2023/09/28	Bank Draft(098551)	2023/09/28	40,279.26	0.00	26,483,527.54	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,483,517.54	
2023/09/28	Bank Draft(098552)	2023/09/28	10,002.18	0.00	26,473,515.36	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,473,505.36	
2023/09/28	Bank Draft(098553)	2023/09/28	17,707.10	0.00	26,455,798.26	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,455,788.26	

Date	Description	Value Date	Debit	Credit	Balance	Cheque No.
2023/09/28	Bank Draft(098554)	2023/09/28	1,073.50	0.00	26,454,714.76	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,454,704.76	
2023/09/28	Bank Draft(098555)	2023/09/28	24,860.00	0.00	26,429,844.76	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,429,834.76	
2023/09/28	Bank Draft(098556)	2023/09/28	12,802.92	0.00	26,417,031.84	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,417,021.84	
2023/09/28	Bank Draft(098557)	2023/09/28	3,955.00	0.00	26,413,066.84	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,413,056.84	
2023/09/28	Bank Draft(098558)	2023/09/28	27,967.50	0.00	26,385,089.34	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,385,079.34	
2023/09/28	Bank Draft(098559)	2023/09/28	17,046.05	0.00	26,368,033.29	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,368,023.29	
2023/09/28	Bank Draft(098560)	2023/09/28	219,509.68	0.00	26,148,513.61	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,148,503.61	
2023/09/28	Bank Draft(098561)	2023/09/28	25,269.42	0.00	26,123,234.19	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,123,224.19	
2023/09/28	Bank Draft(098562)	2023/09/28	38,674.25	0.00	26,084,549.94	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,084,539.94	
2023/09/28	Bank Draft(098563)	2023/09/28	28,979.00	0.00	26,055,560.94	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,055,550.94	
2023/09/28	Bank Draft(098564)	2023/09/28	593.25	0.00	26,054,957.69	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,054,947.69	
2023/09/28	Bank Draft(098565)	2023/09/28	9,492.00	0.00	26,045,455.69	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,045,445.69	
2023/09/28	Bank Draft(098566)	2023/09/28	37,270.52	0.00	26,008,175.17	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,008,165.17	
2023/09/28	Bank Draft(098567)	2023/09/28	3,164.00	0.00	26,005,001.17	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,004,991.17	
2023/09/28	Bank Draft(098568)	2023/09/28	4,337.32	0.00	26,000,653.85	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	26,000,643.85	
2023/09/28	Bank Draft(098569)	2023/09/28	1,916.37	0.00	25,998,727.48	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	25,998,717.48	
2023/09/28	Bank Draft(098570)	2023/09/28	1,265.60	0.00	25,997,451.88	
2023/09/28	Withdrawal	2023/09/28	10.00	0.00	25,997,441.88	
2023/09/28	HOLDBACK	2023/09/28	718,499.51	0.00	25,278,942.37	
2023/09/28	BANK DRAFT SERVICE CHARGE 55	2023/09/28	0.00	10.00	25,278,952.37	
2023/09/28	BANK DRAFT SERVICE CHARGE 55	2023/09/28	0.00	540.00	25,279,492.37	
2023/09/28	Ending Balance	2023/09/28	0.00	0.00	25,279,492.37	

Cheque No.	Date	Amount	Cheque No.	Date	Amount
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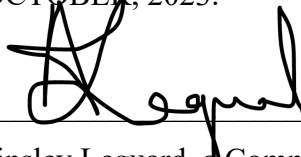
\*\* Please check this statement promptly, and report any errors/omissions within 15 days.

\*\* COMPUTER GENERATED. NO SIGNATURE REQUIRED.

Hana Bank Canada is a trade name of KEB Hana Bank Canada, a member of Canada Deposit Insurance Corporation (CDIC).

Printed By 1052295

THIS IS **EXHIBIT “ZZ”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

Court File No.

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

B E T W E E N:

**KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL  
ESTATE FUND NO. 301 and as trustee of IGIS GLOBAL PRIVATE PLACEMENT  
REAL ESTATE FUND NO. 434**

Applicant

- and -

**MIZRAHI COMMERCIAL (THE ONE) LP, MIZRAHI DEVELOPMENT GROUP (THE  
ONE) INC., and MIZRAHI COMMERCIAL (THE ONE) GP INC.**

Respondents

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

**CONSENT TO ACT AS RECEIVER AND MANAGER**

**ALVAREZ & MARSAL CANADA INC.** hereby consents to act as receiver and manager, without security, pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, on the terms of an order substantially in the form to be filed in the above proceeding, of all of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc., and Mizrahi Commercial (The One) GP Inc.

*[Remainder of page intentionally left blank]*

**DATED** at Toronto, Ontario this 16 day of October, 2023.

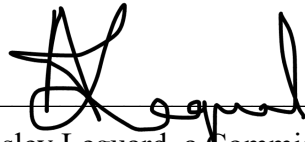
**ALVAREZ & MARSAL CANADA INC.**

By: 

---

Name:	Stephen Ferguson
Title:	Senior Vice President

THIS IS **EXHIBIT “AAA”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

**ALVAREZ & MARSAL CANADA INC., solely in its capacity as court-appointed receiver and manager and not in its personal or corporate capacity, without security, of all of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc. and Mizrahi Commercial (The One) GP Inc., including, without limitation, the real property known municipally as 1 Bloor Street West, Toronto, and as described in Exhibit 1 hereto**

as Borrower

- and -

**IGIS ASSET MANAGEMENT CO., LTD.**

as Asset Manager

- and -

**KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL  
ESTATE FUND NO. 530**

as Lender

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**RECEIVERSHIP FUNDING CREDIT AGREEMENT  
THE ONE**

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## **CREDIT AGREEMENT**

THIS AGREEMENT is made as of October 18, 2023

BETWEEN

**ALVAREZ & MARSAL CANADA INC., solely in its capacity as court-appointed receiver and manager and not in its personal or corporate capacity, without security, of all of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc. and Mizrahi Commercial (The One) GP Inc., including, without limitation, the real property known municipally as 1 Bloor Street West, Toronto, and as described in Exhibit 1 hereto, (in such capacity, the “Borrower”)**

- and -

**IGIS ASSET MANAGEMENT CO., LTD., as asset manager (the “Asset Manager”)**

- and -

**KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL ESTATE FUND NO. 530**

**(the “Lender”)**

WHEREAS the Borrower requires the Credit Facility during the period of the Receivership and the Lender has agreed to provide the Credit Facility to the Borrower for the purposes set out in Section 2.02 and upon and subject to the terms and conditions set out in this Agreement;

NOW THEREFORE, in consideration of the covenants and agreements herein contained, the parties agree as follows:

### **ARTICLE 1 - INTERPRETATION**

#### **1.01. Definitions.**

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

“**Accounts**” means the accounts established by the Receiver in connection with the Receivership, including the Receivership Deposit Trust Account and the Receivership Holdback Account.

“**Additional Compensation**” has the meaning set forth in Section 11.01(2).

**“Affiliate”** means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

**“Agreement”** means this credit agreement, including its recitals and schedules, as amended, restated, supplemented and otherwise modified from time to time.

**“Applicable Accounting Standard”** has the meaning set out in Section 1.03

**“Applicable Law”** means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority, in each case to the extent having the force of law (collectively, the **“Law”**) relating or applicable to such Person, property, transaction, event or other matters and shall also include any interpretation of the Law, or any part of the Law, by any person having jurisdiction over it or charged with its administration or interpretation.

**“Approved Project Costs”** means Budgeted Project Costs that are incurred in accordance with the schedule set out in the Cash Flow Projections.

**“Architect”** means CORE Architects Inc., or such other architect as may be retained by or on behalf of the Borrower in connection with the Construction of the Projects, as approved by the Lender.

**“Beneficial Owner”** means Mizrahi Commercial (The One) LP.

**“Borrower”** means Alvarez & Marsal Canada Inc., solely in its capacity as court-appointed receiver and manager and not in its personal or corporate capacity, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by them, including, without limitation, the real property known municipally as 1 Bloor Street West, Toronto, and as described in Exhibit 1.

**“Budgeted Project Costs”** means, in respect of a Project, all budgeted Hard Costs and all budgeted Soft Costs described as a line item in the Project Budget for such Project, including any Contingency Amount of budgeted Hard Costs and budgeted Soft Costs.

**“Business Day”** means a day of the year, other than a Saturday, Sunday or statutory holiday in Toronto, Ontario or in Seoul, Korea.

**“Canadian Dollars”** and **“Cdn. \$”** means the lawful money of Canada.

**“Capital Lease Obligation”** of any Person means the obligation of such Person, as lessee, to pay rent or other payment amounts under a lease of real or personal property which is required to be classified and accounted for as a capital lease or a liability on a consolidated balance sheet of such Person in accordance with the Applicable Accounting Standard.

**“Cash Flow Projections”** means the cash flow projections set out on Schedule A, as such cash flow projections may be amended by the written agreement of the Receiver and the Lender.

“**CERIECO**” means China-East Resources Import & Export Corporation.

“**CERIECO Agent**” means 10216267 Canada Corp. in its capacity as agent on behalf of CERIECO Canada Corp.

“**CERIECO Agreements**” means the agreements listed on Schedule F.

“**CERIECO Canada**” means CERIECO Canada Corp.

“**CERIECO Parties**” means, collectively, CERIECO, CERIECO Canada and the CERIECO Agent and “**CERIECO Party**” means any one of them.

“**Certificate of Substantial Completion**” means a certificate to be issued by the Independent Cost Consultant certifying that “substantial performance” of the Construction of a Project, the Projects or a relevant portion thereof has been achieved in accordance with Section 2(1) of the Construction Lien Legislation.

“**Change in Applicable Laws**” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Applicable Laws, (b) any change in any Applicable Laws or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any Applicable Laws by any Governmental Authority.

“**Claims**” means, in respect of any event, circumstance, matter or thing, all actions, proceedings, losses, damages, liabilities, taxes, claims, demands, judgments, rights (including set-off), remedies, costs and expenses of any nature or kind, including legal fees and disbursements on a full indemnity basis, and “**Claim**” means any one of them.

“**Closing Date**” means October 18, 2023.

“**Coco Agreements**” means the agreements listed on Schedule G.

“**Coco Lender**” means Coco International Inc.

“**Collateral**” means all real and personal property (and the revenues, insurance proceeds, issues, profits, proceeds and products therefrom) which are subject, or are intended or required to become subject, to the security or Encumbrance granted under any of the Loan Documents.

“**Commercial Construction**” means the design and construction of the Commercial Project in accordance with the Plans and Specifications.

“**Commercial Construction Schedule**” means the construction schedule for the Commercial Construction provided to and approved by the Lender and the Independent Cost Consultant, as it may be amended in accordance with the terms of this Agreement, and the combined Condominium Construction Schedule and Commercial Construction Schedule as of the date of this Agreement is attached as Schedule D.

“**Commercial Project**” means (i) a hotel component consisting of an area of approximately 130,000 gross square feet, to be operated as a full-service hotel, and related amenity areas, (ii) a

retail component consisting of an area of approximately 60,000 gross square feet and (iii) a below-grade parking component consisting of an area of approximately 115,000 gross square feet with approximately 291 parking spaces and related driveways and ramps, in each case in accordance with the Plans and Specifications and in accordance with the Commercial Project Budget.

**“Commercial Project Budget”** means the budget of all Commercial Project Costs, which has specified a line by line itemization of Commercial Project Costs, including Contingency Amounts, as prepared by the Borrower and approved by the Lender and the Independent Cost Consultant, as amended from time to time subject to the requirements of this Agreement.

**“Commercial Project Costs”** means all Hard Costs and all Soft Costs expended or to be expended to achieve completion of the Commercial Project in accordance with the Plans and Specifications and Construction Schedule.

**“Commitment”** means the Lender’s obligations to make the Credit Facility available pursuant to this Agreement and to advance Loans pursuant thereto.

**“Committed Amount”** has the meaning set out in Section 2.01.

**“Condominium Construction”** means the design and construction of the Condominium Project in accordance with the Plans and Specifications.

**“Condominium Construction Schedule”** means the construction schedule for the Condominium Construction provided to and approved by the Lender and the Independent Cost Consultant, as it may be amended in accordance with the terms of this Agreement, and the combined Condominium Construction Schedule and Commercial Construction Schedule as of the date of this Agreement is attached as Schedule D.

**“Condominium Declarations”** means any declarations created in respect of the Condominium Project.

**“Condominium Documents”** means the Condominium Declarations, any condominium corporation by-laws (or agreements relating thereto), shared facility agreements, insurance trust agreement (if any) or other documents relating to the creation and operation of the Condominium Project, including any disclosure statements.

**“Condominium Project”** means a condominium consisting of an area of approximately 720,000 gross square feet (approximately 518,000 of which is anticipated to be net saleable square feet – inclusive of interior and exterior/outdoor spaces) with approximately 416 luxury condominium units on floors 19 through 84, inclusive, of the building to form part of the Secured Property and related residential-specific amenities in accordance with the Plans and Specifications and in accordance with the Condominium Project Budget.

**“Condominium Project Budget”** means the budget of all Condominium Project Costs, which has specified a line by line itemization of Condominium Project Costs, including Contingency Amounts, as prepared by the Borrower and approved by the Lender and the Independent Cost Consultant, as amended from time to time subject to the requirements of this Agreement.

**“Condominium Project Costs”** means the aggregate of all Hard Costs and all Soft Costs expended or to be expended to achieve completion of the Condominium Project in accordance with the Plans and Specifications and Construction Schedule.

**“Condominium Sales Agreements”** means all purchase and sale agreements in respect of units in the Condominium Project.

**“Construct”** means any and all activities to complete the Condominium Construction and the Commercial Construction.

**“Construction”** means the Condominium Construction or the Commercial Construction.

**“Construction Account”** means the account in the name of the General Partner maintained with KEB Hana Bank Canada that was established for the advance of funds for Project Costs and for the payment of Project Costs.

**“Construction Contracts”** means all contracts, subcontracts and agreements entered into by the Beneficial Owner, the Nominee or the Developer relating to the Construction of the Projects, including contracts, subcontracts and agreements relating to the supply of materials or services to or for the Projects.

**“Construction Lien Legislation”** means the *Construction Act* (Ontario), as amended from time to time.

**“Construction Schedule”** means the Condominium Construction Schedule or the Commercial Construction Schedule and **“Construction Schedules”** means the Condominium Construction Schedule and the Commercial Construction Schedule, provided that at any time the Condominium Construction Schedule and the Commercial Construction Schedule may be combined in one master schedule.

**“Consultant Contracts”** means the contracts between the Nominee, the Beneficial Owner or the Developer as agent for the Nominee or the Beneficial Owner and each of the Consultants.

**“Consultants”** means, as applicable, the Architect, the Mechanical and Electrical Consultant, any geotechnical and environmental engineers for the Project and such other consultants required for the Project.

**“Contingency Amount”** means, with respect to a Project Budget, the amount, if any, of any contingency provided in respect of the calculation of Project Costs.

**“Contingent Obligation”** means, with respect to any Person, any obligation, whether secured or unsecured, of such Person guaranteeing or indemnifying, or in effect guaranteeing or indemnifying, any indebtedness, leases, dividends, letters of credit or other monetary obligations (the **“primary obligations”**) of any other Person (the **“primary obligor”**) in any manner, whether directly or indirectly, including any obligation of such Person as an account party in respect of a letter of credit or letter of guarantee issued to assure payment by the primary obligor of any such primary obligation and any obligations of such Person, whether or not contingent, (but for greater certainty, shall exclude “performance” letters of credit issued as security in connection with the construction or development of any property), (i) to purchase any such primary obligation or any

property constituting direct or indirect security therefor, (ii) to advance or supply funds for the purchase or payment of any such primary obligation or to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the obligee under any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the obligee under such primary obligation against loss in respect of such primary obligation; provided, however, that the term Contingent Obligation does not include endorsements of instruments for deposit or collection in the ordinary course of business.

**“Control”** means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. **“Controlling”** and **“Controlled”** have corresponding meanings.

**“Cost to Complete”** means, in respect of a Project, at any given date, that amount established by the Independent Cost Consultant, and approved by the Lender, and after consulting with the Borrower, which is the aggregate of (without duplication):

- (i) the amount of all Project Costs for such Project not then incurred; and
- (ii) the amount of all Project Costs incurred in respect of such Project, to the extent not paid in full (including outstanding cheques); and
- (iii) the amount of all required Holdbacks in respect of such Project as of such date.

**“Court”** means the Ontario Superior Court of Justice (Commercial List).

**“Credit Facility”** has the meaning set out in Section 2.01.

**“CSA Plan”** has the meaning set out in Schedule H.

**“Debtor Accounts”** means the Revenue Account, the Holdback Account and the Construction Account.

**“Debtors”** means the Nominee, the Beneficial Owner and the General Partner, and **“Debtor”** means any one of them.

**“Default”** means any event or condition, the occurrence of which would, with the lapse of time or giving of notice, or both, become an Event of Default.

**“Default Interest Rate”** means 12% per annum.

**“Deposit Insurer”** means Aviva Insurance Company of Canada or its successors or assigns or other deposit insurance or bonding companies acceptable to the Lender, acting reasonably, as the surety for bonds and/or excess deposit insurance issued to Tarion Warranty Corporation.

**“Deposit Insurer Agreements”** mean the agreements (including, without limitation, the Deposit Insurer’s mortgage and any deposit bonding commitment, deposit trust agreement, or excess deposit insurance terms and conditions letter(s)) entered into or to be entered into between the

Deposit Insurer and the Borrower in respect of Purchaser Deposits, bonds issued in respect thereof and/or excess deposit insurance.

**“Deposit Trust Account”** means the account into which Purchaser Deposits are required to be deposited pursuant to the Deposit Insurer Agreements.

**“Developer”** means Mizrahi Inc.

**“Developer Agreements”** means the commercial development management agreement dated July 25, 2014 between the Beneficial Owner and the Developer and the CCDC2 stipulated price contract dated May 14, 2019 between the Nominee and the Developer (as amended by an amending agreement dated September 27, 2019), together with any other agreement entered into between the Developer and the Nominee and/or the Beneficial Owner in accordance with this Agreement, in each case as amended in accordance with the terms of this Agreement and **“Developer Agreement”** means any one of the Developer Agreements.

**“Development and Management Fee”** means, collectively, all fees payable to the Developer in connection with the Projects.

**“Disposition”** means, with respect to a Person, any sale, issuance assignment, transfer, or conveyance of any Equity Interest in such Person and the verb **“Dispose”** has a corresponding meaning.

**“Distribution”** means (i) any payment, declaration of dividend or other distribution, whether in cash or property, to any holder of Equity Interests of any class of the Beneficial Owner, the General Partner or the Nominee, (ii) any repurchase, redemption, retraction or other retirement or purchase for cancellation of Equity Interests of the Beneficial Owner, the General Partner or the Nominee, or of any options, warrants or other rights to acquire any of such Equity Interests; (iii) the payment by the Beneficial Owner, the General Partner or the Nominee of any royalty, consulting fee, management fee, bonus or other fee to any Affiliate or to any director, officer or other management personnel of such Affiliate or of the Beneficial Owner, the General Partner or the Nominee; or (iv) making of any payment on account of any fees, principal, interest or otherwise on any subordinated debt.

**“Encumbrance”** means, with respect to any Person, any mortgage, debenture, pledge, hypothec, lien, charge, lease, sublease, easement, preference, priority, assignment by way of security, hypothecation or security interest granted or permitted by such Person or arising by operation of law, in respect of any of such Person’s property or assets, or any consignment by way of security or Capital Lease Obligations by such Person as consignee or lessee, as the case may be, or any other security agreement, trust or arrangement having the effect of security for the payment of any debt, liability or other obligation, including title reservations, limitations, provisos or conditions, and **“Encumbrances”**, **“Encumbrancer”**, **“Encumber”** and **“Encumbered”** have corresponding meanings.

**“Environmental Law”** means any Applicable Law relating to the natural environment including those pertaining to:

- (i) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same, of Hazardous Substances, and
- (ii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including those pertaining to occupational health and safety.

**“Equity Interests”** means, with respect to any Person, shares of capital stock of (or other ownership or profit interests in) such Person, warrants, options or other rights for the purchase or other acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or other acquisition from such Person of such shares (or such other interests), and other ownership or profit interests in such Person (including, without limitation, partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are authorized on any date of determination.

**“Event of Default”** has the meaning set out in Section 10.01.

**“Excluded Taxes”** means, with respect to the Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower under any of the Loan Documents, (a) taxes imposed on or measured by its net income, capital gains, or capital, and franchise taxes imposed on it by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office or applicable lending office is located, (b) any branch tax, branch profits tax or any similar tax imposed by any jurisdiction, or (c) any taxes imposed under FATCA.

**“Existing Litigation”** means the existing litigation involving, among others, Sam Mizrahi, the Developer, Khashayar Khavari and Mohammad Madhi Tajbakhsh in the Ontario Court of Justice bearing Court File Nol. CV-15-11187-00CL.

**“FATCA”** means Sections 1471 through 1474 of the IRC, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof.

**“Financial Assistance”** means, without duplication and with respect to any Person, all loans granted by that Person and guarantees or Contingent Obligations incurred by that Person for the purpose of or having the effect of providing financial assistance to another Person or Persons, including letters of guarantee, letters of credit, legally binding comfort letters or indemnities issued in connection therewith, endorsements of bills of exchange (other than for collection or deposit in the ordinary course of business), obligations to purchase assets regardless of the delivery or non-delivery thereof and obligations to make advances or otherwise provide financial assistance to any other Person (except tenant inducements made in the ordinary course of business).

**“Financing Advance”** has the meaning given to it in Section 3.03(a).

**“Financing Request Notice”** means a notice in form of Schedule C given by the Borrower to the Lender for the purpose of requesting a Financing Advance.



**“First Advance Date”** means the date that is five Business Days after the date the conditions in Section 3.01 have been satisfied.

**“Force Majeure”** means any of the following events which prevents or materially impairs the Construction of the Projects and is not caused by and is beyond the reasonable control of the Debtors (or any of them): acts of God, floods, earthquakes, tidal waves, hurricanes, windstorms, severe weather conditions, lightning, fire, wars (whether declared or not), riots, insurrections, rebellions, acts of terrorism, civil commotions, sabotage, partial or entire failure of utilities, strikes, walkouts or other labour disruptions, delays in transportation, accidents, shortages of and inability to procure labour, materials and supplies (after all commercially reasonable efforts have been made by the Debtors to obtain replacement for such labour, materials and supplies) or orders, legislation, regulations and directives of any Governmental Authority. For greater certainty, lack of funds, the state of the market or any wilful or negligent act or omission on the part of the Debtors (or any of them) does not constitute Force Majeure.

**“GAAP”** means Canadian Accounting Standards for Private Enterprises at the time any calculation or determination is made or required to be made, applied in a consistent manner from period to period, including the accounting recommendations published in the CPA Canada Handbook, to reflect a fair value basis of accounting.

**“General Partner”** means Mizrahi Commercial (The One) GP Inc.

**“Governmental Authority”** means the government of Canada or any other nation, or any political subdivision thereof, whether state, provincial, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including a Minister of the Crown, Superintendent of Financial Institutions or other comparable authority or agency.

**“Hana Credit Agreement”** means the credit agreement dated May 29, 2020 among, *inter alia*, the Beneficial Owner, as borrower and the Hana Lender, as lender, as amended prior to the date hereof and as further amended in accordance with the terms of this Agreement.

**“Hana Documents”** means the Hana Credit Agreement and the Hana Security.

**“Hana Lender”** means NongHyup Bank, in its capacity as trustee of Hana Private Real Estate Investment Trust No. 137.

**“Hana Security”** means the Security (as defined in the Hana Credit Agreement).

**“Hard Costs”** means, without duplication, amounts expended or to be expended for work, services or materials done, performed, placed or furnished in connection with Construction, all as more particularly set out in the Project Budget (for greater certainty, Hard Costs shall not include amounts payable pursuant to the terms of the Consultant Contracts or the Development and Management Fee).

**“Hazardous Substance”** means any substance or material that is prohibited, controlled or regulated by any Governmental Authority pursuant to Environmental Laws, including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes

(including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law.

**“Holdback”** means any amount required to be retained by or on behalf of the Borrower in respect of the value of work, services and materials actually done, performed, placed or furnished on or in the Project in accordance with the Construction Lien Legislation.

**“Holdback Account”** means the account in the name of the General Partner maintained with KEB Hana Bank Canada that was established for the deposit of Holdbacks.

**“Hotel Agreements”** means the agreements listed on Schedule I.

**“Indebtedness”** of any Person means (without duplication), on a consolidated basis in accordance with the Applicable Accounting Standard (i) any obligation for borrowed money (including for greater certainty, the full principal amount of convertible debt), (ii) any obligation incurred in connection with the acquisition of property, assets or businesses, (iii) any obligation issued or assumed as the deferred purchase price of property, (iv) any Capital Lease Obligation, (v) obligations under letters of credit, guarantees and indemnities issued in respect of borrowed money and any reimbursement obligation or other obligation in connection with a bankers’ acceptance or any similar instrument (but for greater certainty, shall exclude “performance” letters of credit issued as security in connection with the construction or development of any property), (vi) all other indebtedness upon which interest charges are customarily paid by such Person and characterized as indebtedness under the Applicable Accounting Standard, (vii) the aggregate amount at which any securities of such Person that are not qualified by a prospectus and are redeemable or retractable at the option of the holder of such shares (except where the holder is such Person) may be redeemed or retracted prior to the August 30, 2023 for cash or obligations constituting Indebtedness or any combination thereof, and (viii) all Contingent Obligations.

**“Independent Cost Consultant”** means Altus Group Limited, or such other replacement consultant appointed by the Lender and approved by the Borrower, acting reasonably.

**“Independent Insurance Consultant”** means InTech Risk Management Inc. or such other insurance consultant appointed by the Lender and approved by the Borrower, acting reasonably.

**“Interest Rate”** means 10% per annum.

**“Investment”** means, (i) with respect to any Person, any acquisition or investment (whether or not of a controlling interest) by such Person, by means of any of the following: (a) the purchase or other acquisition of any Equity Interest in another Person, (b) a loan, advance or extension of credit to, capital contribution to, guarantee of Indebtedness of, or purchase or other acquisition of any Indebtedness of, another Person, including any partnership or joint venture interest in such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute the business or a division or operating unit of another Person and (ii) with respect to any property or other asset, the acquisition thereof. Any binding commitment to make an Investment in any other Person, as well as any option of another Person to require an Investment in such Person, shall constitute an Investment. Except as expressly provided otherwise, for purposes of determining compliance with any covenant contained in a

Loan Document, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“**IRC**” means the Internal Revenue Code of 1986 of the United States of America.

“**Leases**” means any leases, subleases, agreements to lease, offers to lease, licences or grants of rights of occupation (other than an easement, servitude or a right in the nature of an easement or servitude) granted, from time to time, by a Debtor or a predecessor in title entitling the lessee, sublessee, licensee or grantee thereunder to use or occupy any part of the Secured Property.

“**Lender**” means KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 530.

“**Lender’s Counsel**” means the firms of Osler, Hoskin & Harcourt LLP and Bae, Kim & Lee LLC or such other firm(s) of legal counsel as the Lender may from time to time designate as Lender’s Counsel.

“**Loan**” means an advance under the Credit Facility to the Borrower, including advances made to fund interest, costs or fees payable under the Loan Documents.

“**Loan Documents**” means (a) this Agreement; (b) the Receiver’s Certificates; and (c) all present and future agreements, documents, certificates and instruments delivered by the Borrower to the Lender pursuant to or in respect of this Agreement, in each case as the same may from time to time be amended, restated, supplemented and otherwise modified, and “**Loan Document**” means any one of the Loan Documents.

“**Material Adverse Change**” means (a) any change having a material adverse effect on the Secured Property or the Projects, including the related liabilities, operations, Construction, development, expected revenues, results of operations or condition of the Secured Property or the Projects, (b) any change having an adverse effect on the legality, validity or enforceability of any of the Loan Documents which could reasonably be considered material having regard to any Loan Document, including the validity, enforceability, perfection or priority of any Encumbrance created under any of the Security which could reasonably be considered material having regard to the Security considered as a whole, or (c) any change having an adverse effect on the right, entitlement or ability of the Lender to enforce its rights or remedies under any of the Loan Documents which could reasonably be considered material; provided that the pendency of the Receivership Proceedings shall not constitute a “Material Adverse Change”.

“**Material Agreements**” means (i) the Developer Agreements, (ii) all joint venture agreements relating to the Projects and the interests of the Debtors in the Project, (iii) those Consultant Contracts that provide for aggregate payments in excess of \$5,000,000, (iv) those Construction Contracts or subcontracts that provide for aggregate payments in excess of \$1,000,000, (v) the Plans and Specifications, (vi) the Planning Agreements; (vii) the Hotel Agreements; (viii) the Condominium Documents; (ix) all Leases for premises with an area (or proposed area) of 1,500 square feet or more, (x) the Receiver’s Certificates, and (xi) any other agreement or contract in respect of the Secured Property to which a Debtor is now or may hereafter become a party or by which it is now or may hereafter become bound, the termination of which, or failure to renew, is reasonably likely to have a Material Adverse Change.

**“Material Licences”** means all licences, permits or approvals issued by any Governmental Authority, to the Borrower and which are at any time on or after the date of this Agreement, necessary or material to the business and operations of the Projects (including the Construction of the Projects), other than those not required or able to be obtained until a later stage of Construction or until Substantial Completion of a Project, provided those not obtained may be reasonably expected to be received in the ordinary course of business prior to the date when required to complete the transactions provided for in the Material Agreements and to Construct and operate the Projects.

**“Maturity Date”** means the earliest to occur of: (i) the Outside Date; (ii) the date on which the Borrower completes a Sale Transaction; (iii) the early termination of this Agreement by the Lender upon the occurrence of an Event of Default; (iv) the termination or conversion of the Receivership Proceedings; and (v) payment in full of the Obligations.

**“Mechanical and Electrical Consultant”** means the mechanical/electrical consultant as may be retained by the Borrower in connection with the Construction of the Projects, as approved by the Lender.

**“Net Closing Proceeds”** means the gross proceeds received from the sale of any condominium units in the Condominium Project, less deposits received, any pricing incentives and less any applicable sales Taxes where such sales Taxes were included in the unit sale price, provided that (i) there shall be no deduction for commissions or closing costs in determining Net Closing Proceeds and (ii) for greater certainty any adjustments in favour of the vendor as part of the closing of a sale of a condominium unit will form part of the gross proceeds.

**“Nominee”** means Mizrahi Development Group (The One) Inc.

**“Obligations”** means all obligations of the Borrower to the Lender under or in connection with the Loan Documents, including all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, and obligations of performance, at any time and howsoever arising, owing by the Borrower to the Lender in any currency or remaining unpaid by the Borrower to the Lender under or in connection with the Loan Documents, and all interest, fees, legal and other costs, charges and expenses relating thereto.

**“Other Taxes”** means all present or future stamp or documentary taxes or any other similar excise or property taxes, charges or levies arising from any payment made under any of the Loan Documents or from the execution, delivery or enforcement of any of the Loan Documents, but does not include Excluded Taxes.

**“Outside Date”** means March 31, 2025.

**“Outstanding Loans”** means all Loans that have not been repaid, including all Loans advanced to pay interest, costs or fees that have not been repaid.

**“Performance and Payment Bonds”** means if applicable labour and material or performance bonds issued by a surety acceptable to the Lender relating to all or a portion of the Construction, such bonds to be in customary form typically utilized within the construction industry and

otherwise acceptable to the Lender (which bonds shall contain dual obligee riders in favour of the Lender) and in such amount as may be required hereunder.

“**Permitted Encumbrances**” means, with respect to any Person, the following:

- (i) any subsisting restrictions, exceptions, reservations, limitations, provisos and conditions (including, without limitation, royalties, reservation of mines, mineral rights and timber rights, access to navigable waters and similar rights) expressed in any original grants from the Crown and any statutory limitations, exceptions, reservations and qualifications to title;
- (ii) privileges or liens for Taxes and/or, utilities (including levies or imposts for sewers and other municipal utility services), not yet due or, if due, the validity or amount of which is being contested at the time by the appropriate proceeding in good faith and provided further, with respect to any Taxes which are overdue, such Taxes shall only be a Permitted Encumbrance if the applicable Debtor has posted security with the Lender equal to 115% of the amount of such overdue Taxes or utility charges, as the case may be, together with interest accruing thereon from time to time (by cash or letter of credit in form and content satisfactory to the Lender in its sole and unfettered discretion);
- (iii) unregistered, undetermined or inchoate construction liens, pursuant to the Construction Lien Legislation, incidental to construction of improvements on the Secured Property or operation of the Secured Property, a claim for which shall not at the time have been registered against the Secured Property and of which notice in writing shall not at the time have been given to any Debtor pursuant to the Construction Lien Legislation (a “**Borrower Lien**”) provided that no such Borrower Lien shall have priority at any time, in whole or in part, over the Security and where such notice has been given the applicable Debtor shall have either: (i) where relevant Construction Lien Legislation permits, deposited with the Lender cash or indemnity bonds in an amount satisfactory to the Lender to secure the payment of such Borrower Lien and any other amounts relating thereto (including, without limitation, security for costs as required under applicable Construction Lien Legislation), and the Lender shall be satisfied, acting reasonably, that the priority of the Security relating to same shall enjoy priority over any such Borrower Liens (and the Lender may require opinions of counsel in respect thereof) or (ii) posted a payment bond of such amount, or by payment into court of such amount, as is necessary to remove such Borrower Lien, and, in the case of either (i) or (ii), such actions shall have been completed within 14 days of the date of the applicable Debtor received actual notice of the existence of such Borrower;
- (iv) permits, reservations, covenants, servitudes, watercourse, rights of water, rights of access or user licenses, easements, rights-of-way and rights in the nature of easements (including, without in any way limiting the generality of the foregoing, licenses, easements, rights-of-way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electric light and power, or telephone and telegraph conduits, poles, wires and cables) in favour of any Governmental Authority or utility company in connection with the development, servicing, use or operation of the Secured Property, so long as same have been complied with by each Debtor in all material respects or the Lender has received a title insurance

policy issued by Stewart Title Guaranty Company containing an endorsement covering such Encumbrance to the satisfaction of the Lender ;

- (v) permits, reservations, restrictions, covenants, servitudes, rights of access or user licenses, easements, rights-of-way and rights in the nature of easements and other similar rights and agreements in favour of any Person which do not in the aggregate materially and adversely affect the value or the use of the Secured Property for its current use, so long as same have been complied with by each Debtor in all material respects or the Lender has received a title insurance policy issued by Stewart Title Guaranty Company containing an endorsement covering such Encumbrance to the satisfaction of the Lender;
- (vi) development agreements, subdivision agreements, site plan control agreements, servicing agreements and other similar agreements with any Governmental Authority or utility company affecting the development, servicing, use or operation of the Secured Property; provided that, either (a) any such agreement does not materially adversely affect the current use of the Secured Property to which it relates and provided further that the obligations of the applicable Debtor under such agreement have been complied with in all material respects, or (b) security satisfactory to the Lender , acting reasonably, shall have been provided to the applicable Governmental Authority or utility company in order to guarantee the performance of any remaining obligations thereunder or the Lender has received a title insurance policy issued by Stewart Title Guaranty Company containing an endorsement covering such Encumbrance to the satisfaction of the Lender;
- (vii) cost sharing, servicing, reciprocal or other similar agreements which are necessary or of advantage to the use and/or operation of the Secured Property so long as same have been complied with in all material respects and the terms of same have been approved by the Lender;
- (viii) municipal zoning, land use and building restrictions, by-laws, regulations and ordinances of federal, provincial, municipal or other Governmental Authority, including municipal by-laws and regulations, airport zoning regulations, restrictive covenants, building schemes and other land use limitations, public or private, by-laws and regulations and other restrictions as to the use of the Secured Property, so long as same have been complied with by each Debtor in all material respects;
- (ix) the Security;
- (x) a lien resulting from any judgment or from proceedings instituted or rendered against the relevant Debtor affecting any Collateral, or any claim, judgment, order tender or writ of execution filed against the relevant Debtor, which is being contested by or on behalf of such Debtor at the time in good faith and:
  - (A) security for such judgment or claim has been deposited with the Lender on terms and in form satisfactory to the Lender , acting reasonably; or
  - (B) the Lender is of the opinion, acting reasonably, that such liens are not material; or

- (C) with respect to which a stay of execution is in effect; and
- (D) the Leases (and any notices in respect thereof);
- (xi) the Receiver's Charge;
- (xii) any Encumbrances in existence on the Closing Date; and
- (xiii) such other Encumbrances as may be otherwise approved by the Lender or as disclosed in a title insurance policy that is accepted by the Lender.

**"Person"** means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, limited partnership, Governmental Authority or other entity.

**"Planning Agreements"** means any Section 37 agreement, site plan agreement, heritage easement agreement or other agreement with the City of Toronto entered into, or to be entered into, in connection with the Projects.

**"Plans and Specifications"** means the plans and specifications pertaining to the development and construction of the Projects prepared by or at the direction of the Borrower and as approved by the Lender and the Independent Cost Consultant, as amended from time to time pursuant to Section 9.04(8).

**"Project"** means the Condominium Project or the Commercial Project and **"Projects"** means the Condominium Project and the Commercial Project.

**"Project Budget"** means the Condominium Project Budget or the Commercial Project Budget and **"Project Budgets"** means the Condominium Project Budget and the Commercial Project Budget.

**"Project Costs"** means, collectively, the Condominium Project Costs and the Commercial Project Costs.

**"Project Manager"** means a project manager approved by the Lender and retained by the Borrower to assist with and oversee the administration and construction of the Projects.

**"Purchaser Deposits"** means deposits paid by purchasers of units in the Condominium Project under the applicable purchase agreements.

**"Qualifying Sales Agreement"** means an agreement of purchase and sale for a unit in the Condominium Project: (a) which agreement of purchase and sale provides for a minimum deposit of 25% of the applicable purchase price and in respect of which the Borrower has received a minimum of 20% of the applicable purchase price; (b) to a purchaser that (i) is not a non-resident of Canada, (ii) is not a Related Person of any of the Debtors and (iii) is not (together with its Affiliates or Related Persons) acquiring more than two units in the Condominium Project; and (c) that the purchaser is not entitled to rescind or terminate either immediately or after notice or lapse of time.

**"Receiver"** means Alvarez & Marsal Canada Inc., solely in its capacity as court-appointed receiver and manager and not in its personal or corporate capacity, without security, of all of the assets,

undertakings and properties of the Debtors, including, without limitation, the real property known municipally as 1 Bloor Street West, Toronto, and as described in Exhibit 1 hereto.

**“Receiver’s Borrowings Charge”** means the super priority charge granted by the Court in favour of the Lender on the assets, undertakings and properties of the Debtors to secure payment of the Obligations, which charge shall be subordinate only to the Receiver’s Charge but in priority to all other Encumbrances.

**“Receiver’s Certificates”** means the certificates to be issued by the Receiver for any amount borrowed by it pursuant to this Agreement and the Receivership Order, in substantially the form appended to the Receivership Order.

**“Receiver’s Charge”** means a super priority charge to be granted by the Court over the assets, undertakings and properties of the Debtors to secure payment of the professional fees and disbursements of the Receiver and the Receiver’s counsel, which charge shall rank in priority to the Receiver’s Borrowings Charge and all other Encumbrances.

**“Receivership”** means the receivership in respect of the Debtors created pursuant to the Receivership Order.

**“Receivership Deposit Trust Account”** means an account to be opened by the Receiver or by counsel acceptable to the Lender for the deposit of, and only of, deposits received after the date hereof pursuant to Condominium Sales Agreements.

**“Receivership Holdback Account”** means an account to be opened by the Receiver for the deposit of, and only of, holdbacks maintained pursuant to Construction Lien Legislation.

**“Receivership Order”** means the order of the Court appointing Alvarez & Marsal Canada Inc. as the receiver and manager, without security, of all of the assets, undertakings and properties of the Debtors, including, without limitation, the real property known municipally as 1 Bloor Street West, Toronto, to be substantially in the form set out in Schedule B as such form may be amended with the consent of the Lender.

**“Receivership Proceedings”** means the proceedings in which the Receiver was appointed pursuant to the Receivership Order.

**“Related Persons”** means, with respect to any Person, such Person’s Affiliates and the directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates and **“Related Person”** means any one of them.

**“Release”** means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leaching, migration, dispersal, dispensing or disposal.

**“Revenue Account”** means the account in the name of General Partner maintained with KEB Hana Bank Canada or that was established for the deposit of all revenues from the Project.



**“Sale Transaction”** means any sale, transfer, assumption or acquisition, directly or indirectly, by a Person (or by one or more Persons acting together pursuant to a written agreement or otherwise), in a single transaction or a series of transactions (including for greater certainty a credit bid), of (i) all or substantially all of the assets, properties or undertakings of the Debtors or any one of them, or (ii) all or substantially all of the outstanding or newly-issued shares, units of equity securities or partnership interests of the Debtors or any one of them (or any securities convertible into, or options, warrants or other rights to acquire such equity securities or partnership interests).

**“Secured Property”** means the lands and premises municipally known as Toronto, Ontario, legally described on Exhibit 1, together with all buildings, improvements and structures situated thereon from time to time, all lease rights and rights of superficies and personal property and appurtenant rights relating thereto owned by the Beneficial Owner or the Nominee.

**“Security”** has the meaning given to it in Article 7.

**“Senior Credit Agreement”** means the credit agreement made as of August 30, 2019 between, among others, the Beneficial Owner and Nominee, as borrower, and KEB Hana Bank as trustee of IGIS Global Private Real Estate Fund No. 301, as lender, as amended prior to the date hereof.

**“Senior Loan Agreements”** means the Senior Credit Agreement and the other Senior Loan Documents.

**“Senior Loan Documents”** means the Loan Documents (as defined in the Senior Credit Agreement).

**“Severance”** means the legal severance of the lands and premises on which the Commercial Project is located from the balance of the Secured Property.

**“Soft Costs”** means, without duplication, all amounts expended or to be expended in respect of a Project for consultants, architects, taxes, surveys, construction insurance, bonding costs, legal fees, promotion of such Project, financing, leasing, pre-operating costs and all other costs related to such Project except Hard Costs and being those costs more particularly set out in the applicable Project Budget and approved by the Independent Cost Consultant and the Lender (for greater certainty, Soft Costs includes, without limitation, amounts payable pursuant to the terms of the Developer Agreements and the Consultant Contracts).

**“Standard Form Residential Sales Agreement”** means the standard form agreement of purchase and sale to be utilized in respect of the sale of units in the Condominium Project, as approved by the Lender.

**“Subject Taxes”** means Taxes other than Excluded Taxes.

**“Substantial Completion”** means the date on which a Certificate of Substantial Completion is delivered in respect of a Project, the Projects or the relevant portion thereof, as applicable.

**“Tax”** and **“Taxes”** means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority in Canada, including any interest, additions to tax or penalties applicable thereto, and including any realty taxes, duties, rates, imposts, levies, assessments and other similar charges, whether general

or special, ordinary or extraordinary, or foreseen or unforeseen including municipal taxes, school taxes and local improvement charges and all related interest, penalties and fines which at any time may be levied, assessed, imposed or form an Encumbrances upon real property.

“**Test Period**” means a calendar month.

“**Variance Report**” means the variance calculation required pursuant to Section 9.03(2).

1.02. **Extended Meanings.**

In this Agreement words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term “including” means “including without limiting the generality of the foregoing” and the term “third party” means any person other than a person who is a party to this Agreement.

1.03. **Accounting Principles.**

Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made, for the purpose of this Agreement or any Loan Document, such determination or calculation will, to the extent applicable and except as otherwise specified herein or as otherwise agreed in writing by the parties, be made in accordance with GAAP applied on a consistent basis (as applicable, being the “**Applicable Accounting Standard**”).

1.04. **Interest Calculations and Payments.**

Unless otherwise stated, wherever in this Agreement reference is made to a rate of interest, “per annum” or a similar expression is used, such interest or fee will be calculated on the basis of a Calendar year of 365 days or 366 days, as the case may be, and using the nominal rate method of calculation and not the effective rate method of calculation or on any other basis that gives effect to the principle of deemed reinvestment of interest. Interest will continue to accrue after maturity and default and/or judgment, if any and be compounded monthly, until payment thereof, and interest will accrue on overdue interest, if any and be compounded monthly.

1.05. **Permitted Encumbrances.**

The inclusion of reference to Permitted Encumbrances in any Loan Document is not intended to subordinate and will not subordinate, any Encumbrance created by any of the Security to any Permitted Encumbrance, it being understood and agreed that the Receiver’s Charge shall rank in priority to the Security in accordance with the Receivership Order.

1.06. **Currency.**

Unless otherwise specified in this Agreement, all references to currency (without further description) are to lawful money of Canada. All references to currency in respect of the Credit Facility will be in Canadian Dollars.

1.07. **Entire Agreement and Conflicts.**

The Loan Documents and the Receivership Order and any other order of the Court in the Receivership Proceedings, constitute the whole and entire agreement between the Borrower and the Lender in respect of the Credit Facility and supersede any prior agreements, undertakings, declarations, commitments, representations, written or oral, in respect thereof. In the event of a conflict between the provisions of this Agreement and the provisions of any other Loan Document, then, unless such Loan Document or an acknowledgement from the Borrower and Lender relative to such Loan Document expressly states that this Section 1.07 is not applicable to such Loan Document, notwithstanding anything else contained in such other Loan Document, the provisions of this Agreement will prevail and the provisions of such other Loan Document will be deemed to be amended to the extent necessary to eliminate such conflict. In the event of a conflict or inconsistency between the Receivership Order or any other order of the Court in the Receivership Proceedings and the provisions of this Agreement or of any other Loan Document, notwithstanding anything else contained in this Agreement or such other Loan Document, the provisions of the Receivership Order or such other applicable order of the Court in the Receivership Proceedings will prevail and this Agreement or such other Loan Document will be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency. For greater certainty, the foregoing shall not limit the events that cause an Event of Default.

1.08. **Schedules.**

The following are the Schedules attached hereto and incorporated by reference and deemed to be part hereof:

Exhibit 1	-	Legal Description
Schedule A	-	Cash Flow Projections
Schedule B	-	Receivership Order
Schedule C	-	Financing Request Notice
Schedule D	-	Construction Schedule
Schedule E	-	Certificate Re: Standard Form Residential Sales Agreement
Schedule F	-	CERIECO Agreements
Schedule G	-	Coco Agreements
Schedule H	-	Major Project Milestones
Schedule I	-	Hotel Agreements

1.09. **Nature of Liability and Obligations.**

- (a) Nothing in this Agreement or otherwise shall or shall be interpreted to require the Receiver to do any act or thing that would result in a breach or default by the Receiver of any duty or obligation of the Receiver as provided in or by the Receivership Order, any amendment thereof or any other order of the Court, or of any Applicable Law.
- (b) Notwithstanding any other provision hereof, the Lender agrees and acknowledges that the Obligations hereunder shall have recourse only to the assets, property and undertaking of the Debtors that are subject to the Receivership and are entirely non-recourse to Alvarez & Marsal Canada Inc. and any of its affiliates and any of

their respective shareholders, directors, officers or employees. For the avoidance of doubt, Alvarez & Marsal Canada Inc. shall have no personal or corporate liability for the Obligations or otherwise have any other liability under or in connection with this Agreement or any other Loan Document, or any agreement or document entered into pursuant to this Agreement or such other Loan Document (including for a breach or other non-compliance with any covenant in this Agreement or any other Loan Document) other than liability arising directly from the gross negligence or wilful misconduct of Alvarez & Marsal Canada Inc. as determined pursuant to a final order of the Court that is not subject to appeal or other review and all rights to seek any such appeal or other review shall have expired.

- (c) Wherever in this Agreement or any other Loan Document there is a reference to the Borrower's responsibility for costs, expenses, interest, fees, reimbursements, other amounts payable or the performance of any other obligations by the Borrower, including in respect of or owing to third parties, such obligations shall be satisfied or funded solely and exclusively from funding to the Borrower under the Credit Facility (or, in each case to the extent available to the Borrower at the applicable time, from revenue from the Projects or the proceeds of any realization against the Secured Property), and in no event shall Alvarez & Marsal Canada Inc. be required to expend its own funds in respect thereof, it being understood that all costs, expenses, interest, fees, reimbursements, other amounts payable and other obligations of the Borrower shall form part of the Obligations. In the event that the Borrower is required pursuant to this Agreement or any other Loan Document, or in the performance of its obligations hereunder or as Receiver, to incur a liability, including any contingent liability, the Borrower shall not be required to incur such liability (or enter into any agreement or document in respect thereof) until it has been funded in respect thereof under the Credit Facility or unless and until it has received such other security or assurance in respect thereof as it may require in its sole discretion. Where the Lender has advanced funds to the Borrower hereunder, the Lender acknowledges that, notwithstanding the occurrence of an Event of Default, the Borrower shall be entitled to use such funds to satisfy obligations incurred by the Borrower in its capacity as Receiver as contemplated by the terms hereof, the Receivership Order or any other order of the Court, and the Lender shall have no right to the return or recovery of any such funds held by the Borrower unless and until all such obligations have been satisfied.

1.10. **Project Budgets.**

To the extent that a separate Project Budget or Construction Schedule is not maintained for each of the Commercial Project and the Condominium Project, each reference to a Project Budget or Construction Schedule in this Agreement shall be deemed to be a reference to the Project Budget or Construction Schedule applicable to both Projects.

## **ARTICLE 2 - THE CREDIT FACILITIES**

### **2.01. Credit Facility.**

Subject to the terms and conditions of this Agreement, the Lender establishes in favour of the Borrower a non-revolving term credit facility (the “**Credit Facility**”) in the amount of \$315,000,000 (the “**Committed Amount**”) and agrees that it will make the Credit Facility available to the Borrower as follows:

- (a) on the First Advance Date, an advance under the Credit Facility in the amount of \$80,000,000 will be made in respect of Project Costs and to pay other costs and expenses contemplated in Section 2.02 in accordance with the Cash Flow Projections; and
- (b) advances in an amount not to exceed \$235,000,000 shall be available in accordance with the terms set out in Section 3.03(a).

### **2.02. Purpose of Credit Facility.**

The Credit Facility will only be used for the following purposes:

- (a) to fund Approved Project Costs in accordance with this Agreement, including the Cash Flow Projections;
- (b) to fund the costs of: (A) the exercise of the powers, duties and obligations conferred upon the Receiver by the Receivership Order or any other order of the Court; (B) the performance by the Receiver of any of its obligations and liabilities under and pursuant to this Agreement and the other Loan Documents, including any costs, expenses or liabilities incurred in connection with the Construction as required hereunder; (C) the Receiver’s assessment of realization strategies for the Project and the implementation of same; and (D) the fees and disbursements of the Receiver and its legal counsel in connection with the foregoing (including in connection with preparation for the Receivership), all in accordance with the Cash Flow Projections; and
- (c) to pay fees payable to the Lender and the Asset Manager pursuant to this Agreement and to pay the fees, costs and expenses (including legal fees and fees and expenses) incurred by the Lender and the Asset Manager in connection with: (A) the preparation, negotiation and administration of this Agreement and the other Loan Documents; and (B) all preparations, negotiations and administration in respect of the Receivership, all in accordance with the and subject to Cash Flow Projections.

### **2.03. Account of Record.**

The Lender will open and maintain books of account evidencing the Credit Facility and amounts owing by the Borrower to the Lender hereunder. The Lender will enter in the foregoing accounts details of all amounts from time to time owing, paid or repaid by the Borrower hereunder.

2.04. **Interest on Unpaid Costs and Expenses.**

Unless the payment of interest is otherwise specifically provided for herein, where the Borrower fails to pay any amount required to be paid by it hereunder when due having received notice that such amount is due, the Borrower shall pay interest on such unpaid amount from the time such amount is due until paid at the Default Interest Rate.

**ARTICLE 3 - CONDITIONS TO FUNDING AND CONSTRUCTION FINANCING  
AMOUNT ADVANCES**

3.01. **Conditions Precedent to Funding.**

The obligation of the Lender to make the first advance under the Credit Facility on the First Advance Date by way of a Loan is subject to and conditional upon the prior satisfaction of the following conditions precedent:

- (a) the Receivership Order shall have been issued in the form attached as Schedule B (subject to such changes as are approved by the Lender) on or before October 18, 2023;
- (b) the Receiver shall have executed and returned a copy of this Agreement;
- (c) such Loan shall be in accordance with the Cash Flow Projections;
- (d) the representations and warranties set out in this Agreement will continue to be true and correct in all material respects as if made on and as of the Closing Date;
- (e) no Default or Event of Default will have occurred and be continuing on the Closing Date, or would result from making the requested advance; and
- (f) duly executed copies of the other Loan Documents, if any, will have been delivered to the Lender.

3.02. **Waiver.**

The conditions set forth in Section 3.01 are inserted for the sole benefit of the Lender and may be waived by the Lender, in whole or in part (with or without terms or conditions).

3.03. **Construction Financing Amount Advances.**

- (a) The Borrower shall be entitled to request advances under the Credit Facility for the purposes of funding Approved Project Costs and other costs provided for in the Cash Flow Projections and the Lender agrees to make advances under the Credit Facility in accordance with the terms of this Section 3.03 and each such advance is referred to herein as a “**Financing Advance**”.
- (b) The Borrower must deliver a Financing Request Notice to the Lender at least 10 Business Days prior to the proposed date of a Financing Advance and, unless the

Lender otherwise agrees, Financing Advances can occur no more frequently than once every month and cannot be for an amount in excess of \$30,000,000.

- (c) The Borrower's right to obtain any Financing Advance is subject to and conditional upon satisfaction of the following conditions precedent:
  - (i) the Lender will have received a Financing Request Notice in accordance with Section 3.03(b), which notice shall set out a breakdown of the Approved Project Costs and other costs provided for in the Cash Flow Projection proposed to be paid with such Financing Advance and of the amount to be deposited into the Receivership Holdback Account in order for the Borrower to comply with its obligations in this Agreement, and which notice shall attach a report of the Independent Cost Consultant in accordance with Section 3.03(c)(iv) acceptable to the Lender and, if applicable, a report of the Project Manager (or Borrower or Receiver) in accordance with Section 3.03(c)(iv);
  - (ii) the Receivership Order shall not have been stayed, vacated, appealed, or otherwise caused to be ineffective or amended, restated or modified in any manner without the written consent of the Lender;
  - (iii) the Lender shall have received evidence that all premiums in respect of the insurance for the Secured Property have been paid for a period of 12 months from the Closing Date;
  - (iv) the Lender will have received and be satisfied with a report addressed to the Lender from the Independent Cost Consultant (with appropriate backup certificates and reports from other Consultants as required):
    - (A) confirming the breakdown of the Approved Project Costs to be paid with such Financing Advance and the amount to be deposited into the Receivership Holdback Account for the Borrower to comply with its obligations in this Agreement;
    - (B) confirming that it has reviewed and is satisfied with the Project Budgets, the Plans and Specifications and that the Projects can be completed in accordance with same;
    - (C) containing a projected cash flow estimate for the Construction;
    - (D) verifying the reputation, qualification and capabilities of all major trades and containing its recommendation with respect to the requirement for any Performance and Payment Bonds for major trades and suppliers (and confirming Performance and Payment Bonds in compliance with the requirements of Section 9.01(u) are in place and are in form and content acceptable to the Independent Cost Consultant);

- (E) confirming, based on the reports of the Architect, Borrower's planning counsel, the Mechanical and Electrical Consultant or other applicable Consultants, that all necessary zoning and development approvals, including all necessary permits, have been obtained or will be issued as required pertaining to each stage of the Construction;
  - (F) certifying the amount of Hard Costs and Soft Costs incurred on the Condominium Project and the Commercial Project to date on a line by line basis;
  - (G) estimating the Condominium Project Cost to Complete and the Commercial Project Cost to Complete on a line by line basis;
  - (H) confirming that the Borrower has made all required Holdbacks with respect to Construction completed and confirming the amount of all required Holdbacks;
  - (I) confirming that all Construction to date has been completed in all material respects in accordance with the Plans and Specifications and complies with Applicable Laws;
  - (J) confirming the Standard Form Residential Sales Agreement;
  - (K) confirming the Tarion Bond with respect to Purchaser Deposits (which bond shall act as confirmation that the Project is registered and in good standing with the Tarion Home Warranty Program); and
  - (L) confirming that it has received and satisfactorily reviewed copies of all existing Condominium Sales Agreements and including a schedule of presales, including purchaser name and address, unit number of the unit being acquired, HST payable on such unit, unit model, square footage, asking price, sale price, Purchaser Deposit status (including location of Purchaser Deposit with the Deposit Insurer's trust account holder, amount paid to date, amount and timing of Purchaser Deposit yet to be paid, Purchaser Deposits released to the Borrower in respect of the Construction, and portion of Purchaser Deposit relating to purchaser upgrades), mortgage financing, CMHC insurance (if applicable), closing date and any special conditions;
- (v) from and after the retainer of the Project Manager, the Lender shall have received a report of the Project Manager (or of the Borrower with the input of the Project Manager) in the form agreed to in connection with the engagement of the Project Manager;
  - (vi) the Lender and the Asset Manager will have received payment of all fees and expenses payable pursuant to this Agreement to the Lender and the



Asset Manager that are due and payable at such time, including, but not limited to legal fees;

- (vii) the Accounts shall have been opened and any amounts in the Debtor Accounts shall have been transferred to the Accounts;
  - (viii) no Default or Event of Default (including, without limitation that each milestone set out on Schedule H shall have been met in accordance with the terms of this Agreement by the date required in Schedule H) will have occurred and be continuing on the proposed date of the Financing Advance, or would result from the applicable Financing Advance;
  - (ix) no Financing Advance shall be made for an amount that will cause the total of all amounts advanced under the Credit Facility to exceed the Committed Amount and no Financing Advance shall be made in respect of Project Costs that are not Approved Project Costs or in respect of costs that are not incurred in accordance with the Cash Flow Projections;
  - (x) a Material Adverse Change will not have occurred and be existing on the proposed date of the Financing Advance;
  - (xi) the Lender shall be satisfied that the Borrower has complied with and is continuing to comply in all material respects with all Applicable Laws in relation to the Projects; and
  - (xii) all other terms and conditions of this Agreement applicable to a Financing Advance shall have been waived or fulfilled.
- (d) The conditions set forth in Section 3.03(c) are inserted for the sole benefit of the Lender and may be waived by the Lender, in whole or in part (with or without terms or conditions), in respect of any Financing Advance without prejudicing the right of the Lender at any time to assert such conditions in respect of any subsequent Financing Advance.

3.04. Nothing in this Article 3 shall limit or derogate from the Lender's obligations under Section 1.09 above.

#### **ARTICLE 4 - PAYMENT OF INTEREST AND FEES**

##### **4.01. Interest.**

The Borrower will pay interest on the Credit Facility at a rate equal to the Interest Rate and interest under the Credit Facility will be calculated, accrue and compound daily and be payable on the Maturity Date in full.

4.02. **Commitment Fee.**

The Borrower will pay to the Lender a commitment fee in an amount equal to 1.5% of the amount of the Credit Facility on the First Advance Date which shall be satisfied from the first advance under the Credit Facility.

4.03. **Maximum Rate of Interest.**

- (a) Notwithstanding anything contained herein to the contrary, the Borrower will not be obliged to make any payment of interest or other amounts payable to the Lender hereunder in excess of the amount or rate that would be permitted by Applicable Law or would result in the receipt by the Lender of interest at a criminal rate (as such terms are construed under the Criminal Code (Canada)). If the making of any payment by the Borrower would result in a payment being made that is in excess of such amount or rate, the Lender will determine the payment or payments that are to be reduced or refunded, as the case may be, so that such result does not occur.
- (b) If notwithstanding the provisions of Section 4.03(a) and after giving effect to all adjustments contemplated thereby, the Lender shall have received an amount in excess of the maximum permitted by such Section, then the Borrower shall be entitled, by notice in writing to such party, to obtain reimbursement from such party of an amount equal to such excess, and pending such reimbursement such amount shall be deemed to be an amount payable by such party to the Borrower.

**ARTICLE 5 - REPAYMENT**

5.01. **Mandatory and Voluntary Repayment.**

- (1) The Borrower shall repay in full the Outstanding Loans advanced under the Credit Facility and all other Obligations under or in respect of the Credit Facility on the Maturity Date.
- (2) The Borrower shall apply 100% of net proceeds of property insurance in respect of the Projects, if not required to be applied towards replacement, restoration or rebuilding of same, on the terms and conditions set out herein, to repay Loans outstanding under the Credit Facility (such payment to be received within three Business Days of the closing of the relevant transaction).
- (3) With the consent of the Lender, in its sole and unfettered discretion, the Borrower shall have the right to prepay amounts owing under the Credit Facility upon no less than five Business Days written notice.

**ARTICLE 6 - PLACE AND APPLICATION OF PAYMENTS**

6.01. **Place of Payment of Principal, Interest and Fees.**

- (1) Except as otherwise provided in this Agreement, all payments to be made by the Borrower to the Lender pursuant to this Agreement shall be made to such other

address as the Lender may direct in writing from time to time. All such payments received by the Lender on a Business Day before 3:00 p.m. (Toronto time) shall be treated as having been received by the Lender on that day; payments made after such time on a Business Day shall be treated as having been received by the Lender on the next Business Day.

- (2) Whenever any payment shall be due on a day which is not a Business Day, the date for payment thereof shall be extended to the next succeeding Business Day. Interest shall continue to accrue and be payable thereon as provided herein, until the date on which such payment is received by the Lender.

#### **ARTICLE 7 - SECURITY**

##### **7.01. Security.**

The Obligations shall be secured by a Court ordered Receiver's Borrowings Charge as provided for in the Receivership Order and evidenced by a Receiver's Certificate (the "Security").

#### **ARTICLE 8 - REPRESENTATIONS AND WARRANTIES**

##### **8.01. Representations and Warranties.**

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

- (1) Execution, Delivery, Performance and Enforceability of Documents. Subject to the Court granting the Receivership Order, and the terms thereof, the execution, delivery and performance of each of the Loan Documents by the Borrower, and every other instrument or agreement delivered by it pursuant to any Loan Document, has been duly authorized by all actions, if any, required on its part, and each of such documents has been duly executed and delivered and constitutes a valid and legally binding obligation of the Borrower, enforceable against it in accordance with its terms subject to applicable bankruptcy, insolvency and other laws of general application limiting the enforceability of creditors' rights, to the fact that specific performance is an equitable remedy available only in the discretion of the court.

#### **ARTICLE 9 - COVENANTS**

##### **9.01. Positive Covenants.**

So long as this Agreement is in force, and except as otherwise permitted by the prior written consent of the Lender, the Borrower covenants and agrees to:

- (a) Further Assurances. The Borrower shall use reasonable efforts to provide the Lender with such other documents, opinions, consents, acknowledgments and agreements as are reasonably necessary to implement the Loan Documents from time to time.

- (b) Obligations and Taxes. The Borrower shall pay or discharge, or cause to be paid or discharged, when the same becomes due and payable (i) all Taxes imposed upon the Borrower or the Project and file all tax returns in respect thereof, subject to the terms of the Receivership Order or any other order of the Court and the Cash Flow Projections and (ii) all lawful claims for labour, materials and supplies incurred in accordance with the Cash Flow Projections; provided, however that it will not be required to pay or discharge or to cause to be paid or discharged any such amount (i) so long as the validity or amount thereof is being contested in good faith by appropriate proceedings and (ii) until it has been funded in respect thereof under the Credit Facility or from revenue from the Projects or proceeds of any realization against the Secured Property.
- (c) Use of Credit Facility. The Borrower shall use the proceeds of the Credit Facility only for the purposes specified in Section 2.02 and not for any other purpose or for any other Person.
- (d) Compliance with Environmental Laws. The Borrower shall to the extent within its control, cause any party that is acting under their authority to comply, in all respects, with all Environmental Laws (including, but not limited to, obtaining any permits) relating to the Secured Property. The Borrower shall obtain the prior written consent of the Lender to (a) any application or submission in respect of the record of site condition required in respect of the Secured Property and (b) the form of the record of site condition for the Secured Property prior to registration of such record of site condition or reference thereto on title to the Secured Property.
- (e) Environmental Audits. The Borrower shall commission an environmental site assessment/audit report, addressed to counsel for the Borrower and counsel for the Lender, of the Secured Property or an update of such assessment/audit report (i) upon the written request of the Lender if, in its reasonable opinion, there is a material concern about the Borrower's compliance with Environmental Laws in respect of the Secured Property, all in scope, form and content satisfactory to the Lender, acting reasonably, (ii) if such assessment/audit report has been prepared at the request of or on behalf of any Governmental Authority, or (iii) if a Default relating to an environmental matter in respect of the Secured Property has occurred, and the Lender has made a written request to it for such an assessment/audit report or update, within 30 Business Days after such request, and all such assessments/audits reports or updates thereof shall be funded under the Credit Facility (or from revenue from the Projects or proceeds of any realization against the Secured Property). An environmental site assessment/audit includes, for purposes of this Section, without limitation, any inspection, investigation, test, sampling, analysis or monitoring pertaining to air, land or water relating to the Secured Property.
- (f) Operation. Subject to the terms of the Receivership Order and any other order of the Court, the Borrower shall diligently oversee the Project, in material compliance with all Applicable Laws and as would a prudent receiver of

comparable property in a proper and efficient manner with a view to preserving and protecting the Secured Property.

- (g) Copies. Subject to Applicable Law, the Borrower shall deliver or cause to be delivered to the Lender a true copy of any Material Agreement (including any Material Agreement entered into after the date of this Agreement) or Material Licence obtained or entered into by it in respect of the Secured Property, including all amendments thereto, and shall deliver or cause to be delivered a true copy of any Permitted Encumbrance in its possession requested from time to time by the Lender.
- (h) Access to Information and Rights of Inspection. The Borrower shall permit the Lender, and its agents, advisors, consultants, officers and employees, and the Independent Cost Consultant, at its expense, provided such expenses are reasonably incurred, and upon reasonable prior notice during normal business hours, from time to time to visit and inspect the Secured Property and to examine and make abstracts from and copies of its physical and computer books of account and records as they pertain to the Secured Property, (and where such information is not kept at the Secured Property, at such other locations where such information is kept) as well as all data and computer data relating to the managing, servicing, developing and marketing of the Secured Property (including, without limitation, the Plans and Specifications, the Project Budgets, and the status of Construction), which are in its possession (subject, in each case, to Applicable Law in respect of privacy) and discuss their affairs, finances and accounts as they pertain to the Secured Property, and be advised as to the same by their officers, consultants and legal counsel (with, prior to an Event of Default which is continuing, representatives of the Borrower present). The Borrower shall maintain, or cause to be maintained adequate books, accounts and records in relation to the Secured Property.
- (i) Insurance. The Borrower shall maintain, or cause to be maintained such insurance for the Secured Property as instructed by the Lender, acting reasonably, from time to time and the costs thereof shall be funded under the Credit Facility.
- (j) Insurance Information. The Borrower shall provide to the Lender and the Independent Insurance Consultant such information relating to the Secured Property or the Loan Documents, as may be reasonably requested and which is within its possession or control. The fees and costs of the Independent Insurance Consultant shall be funded under the Credit Facility (or from revenue from the Projects or from the proceeds of any realization against the Secured Property).
- (k) Notices. The Borrower shall give written notice to the Lender promptly after becoming aware, using reasonable diligence thereof, of:
  - (i) any litigation, dispute, arbitration or other proceeding arising after the Closing Date to which a Debtor is a party, and from time to time provide the Lender with all reasonable information requested by the Lender concerning the status of any such proceeding;

- (ii) any Default or an Event of Default, and shall provide a certificate specifying such Default or such Event of Default and detailing the steps being taken, if any, to cure same;
- (iii) any dispute arising after the Closing Date of which it is aware and which may exist between the Debtors and any Governmental Authority;
- (iv) any communication received by it in respect of the Debtors alleging default under any of the Material Agreements, Material Licences or the Permitted Encumbrances;
- (v) any default under any of the Material Agreements, Material Licences or the Permitted Encumbrances;
- (vi) any labour controversy which would likely have a Material Adverse Change or materially delay the anticipated date of Substantial Completion of a Project;
- (vii) any damage to or destruction of any property that forms part of the Projects, which might give rise to an insurance claim, if the cost of any repairs to or replacement of assets of any Borrower exceeds \$2,000,000;
- (viii) any notices of expropriation, judgments, writs of execution, seizures, injunctions, work orders or directives or notices of deficiency capable of resulting in work orders or directives in respect of the Secured Property in each case arising after the Closing Date;
- (ix) any event or occurrence relating to the Secured Property which, in its opinion, acting reasonably, is likely to give rise to a notice of non-compliance with any Environmental Laws and of any notice of non-compliance actually received by the Borrower or, to the knowledge of the Borrower, threatened, including any investigation, non-routine inspection or material inquiry by any Governmental Authority, in connection with any Environmental Laws;
- (x) any actions taken after the Closing Date by any creditor other than the Lender that is likely to result in a Material Adverse Change;
- (xi) if at any time the aggregate Project Costs in respect of a Project are expected to exceed the current Budgeted Project Costs for such Project as set out in the applicable most recent Project Budget approved by the Lender;
- (xii) of the occurrence of an event of Force Majeure, describing in reasonable detail the effects of such event on the Construction, the action which the Borrower intends to take to remedy such event and the estimated date when the event of Force Majeure will be remedied and will cease to impair Construction;

- (xiii) of the cessation of any event of Force Majeure; and
  - (xiv) any other matter which has had or is reasonably likely to result in a Material Adverse Change.
- (l) Management of the Project. Upon Substantial Completion of the Commercial Project, the Borrower shall cause the Project to be managed by a manager approved by the Lender, acting reasonably, pursuant to an agreement approved by the Lender, acting reasonably.
- (m) Management of Construction. The Borrower shall use commercially reasonable efforts to cause the Construction to be completed in all respects in accordance with (i) prudent industry practice, (ii) the Material Agreements, Material Licences and Permitted Encumbrances, (iii) the Project Budgets, (iv) the Plans and Specifications, and (v) the Construction Schedules, provided that the Lender acknowledges that the Receiver will be investigating the Project Budgets and the Construction Schedules following the commencement of the Receivership and that adjustments may be required to the Project Budgets and the Construction Schedules. Subject to Force Majeure, it shall not abandon (for a single period of 15 days or more), and shall ensure that there is no abandonment of, the Construction. For the avoidance of doubt and notwithstanding any other provision hereof, the Lender and the Borrower agree and acknowledge that the Borrower shall not Construct or perform any Construction directly and that any Construction shall be performed by contractors engaged in connection with the Project.
- (n) Independent Cost Consultant. The Borrower shall permit the Lender, and the Lender shall have the right, to appoint the Independent Cost Consultant to assist the Lender with (i) reviewing and approving the Project Budgets, the Construction Schedules, the Plans and Specifications, the Material Agreements and the Construction Contracts, (ii) projecting the Cost to Complete for each Project, (iii) advising the Lender as to whether the Project has been constructed in accordance with prudent industry practice, Applicable Law, the applicable Project Budget, the Plans and Specifications, the Material Agreements and the Material Licences, and (iv) performing such additional functions as the Lender shall reasonably request. The Borrower shall pay all fees, costs and expenses of the Independent Cost Consultant.
- (o) Project Manager. The Project Manager shall be retained on terms (including with respect to reporting required from the Project Manager) acceptable to the Lender and any independent reporting of the Project Manager that is not included in a report of the Receiver or the Borrower shall be provided to the Lender promptly. The Lender shall have the right to meet with and ask questions to the Project Manager. The Borrower shall pay all fees, costs and expenses of the Project Manager.
- (p) Construction Liens and Holdbacks. The Borrower shall comply with the provisions of the Construction Lien Legislation and shall pay or cause to be paid

from time to time when the same shall be due all valid claims and demands of contractors, subcontractors, labourers, suppliers of materials or services, builders, workmen, architects, engineers and others, which if unpaid, might result in, or permit the creation of, a privilege or Encumbrances arising pursuant to Construction Lien Legislation on the Secured Property or any part thereof or on the revenues, income and profits arising therefrom, but subject in each case to the Receivership Order and any other order of the Court. The Borrower shall maintain all required Holdbacks in respect of the Projects in the Receivership Holdback Account. If the Borrower bona fide disputes the validity or correctness of such registered Encumbrance it may contest such Encumbrance in any manner properly contemplated by Applicable Law, provided it promptly discharges or vacates, or causes to be discharged or vacated, the Encumbrance from the title to the Secured Property by posting of a payment bond in such amount, or by payment into court of such amount or as may otherwise be provided under applicable Construction Lien Legislation, as is necessary to obtain such removal or otherwise posting such security as may be acceptable to the Lender.

- (q) Performance and Payment Bonds. During Construction, obtain and maintain Performance and Payment Bonds as shall be required by the Lender acting reasonably.
- (r) Building Permits. The Borrower shall obtain all necessary Material Licences, including all permits, to facilitate Construction in accordance with the Construction Schedules.
- (s) Completion. Subject to the Receivership Order and any other order of the Court, the Borrower covenants and agrees to do or cause to be done all things necessary to achieve Construction completion of the Projects in a timely manner in accordance with the terms of the Construction Schedules, the Plans and Specifications, the Permitted Encumbrances, the Material Agreements and all Applicable Law, subject to Force Majeure.
- (t) HST Refunds. The Borrower shall file on a monthly basis all returns and other documents necessary to obtain the refund of HST in respect of each Project and apply the amount of any such refund to payment of the applicable Project Costs.
- (u) Notice of Purchaser Deposit Defaults. The Borrower shall promptly inform the Lender and the Independent Cost Consultant of any default by a purchaser of a condominium unit in the Condominium Project beyond all applicable notice or cure periods of payment of any of the contracted purchaser deposit.
- (v) Purchaser Deposits. All Purchaser Deposits received by the Borrower shall be deposited in the Receivership Deposit Trust Account.
- (w) Unit Sales Contracts. Each sale of a unit at the Condominium Project shall be pursuant to an agreement in the form of the Standard Form Residential Sales Agreement (subject to such changes as are required to reflect the Receivership as are approved by the Lender, acting reasonably) and within 90 days of entering



into an agreement for the sale of a unit at the Condominium Project, the Borrower shall provide a certificate in the form of Schedule E in respect of such agreement. The costs related to all upgrades of condominium units shall be paid directly by the purchaser of such unit to the Borrower and shall be used by the Borrower for such upgrades. Upon agreement on the CSA Plan, if applicable, the Borrower shall implement the CSA Plan, subject to obtaining prior Court approval.

(x) **Borrower Accounts:**

(i) The Borrower will open the Accounts within five Business Days of the Closing Date and will transfer any funds in the Debtor Accounts to the Accounts within seven Business Days of the Closing Date.

(ii) All Project revenues shall be deposited into an Account.

(y) **Leasing.** The Borrower shall, if requested by the Lender, engage a leasing agent approved by the Lender to market any premises available or to be available for lease in the Secured Property.

(z) **Sales Process.** The Borrower shall, at any time upon sixty (60) days notice from the Lender (or such shorter period as is agreed to), seek approval of the Court for a sales process in respect of the Secured Property, with such sales process to be on terms agreed upon by the Borrower and the Lender, each acting reasonably, which terms will include a commitment of the Lender to fund the costs required to run the sales process, including any professional fees, expenses, Hard Costs, and Soft Costs associated with the sales process, as the case may be.

9.02. **Condominium Registration/Voting Rights.**

The Borrower shall diligently pursue registration of the Condominium Project under the *Condominium Act* for registration as a condominium thereunder to ensure that the units in the Condominium Project may be delivered in a timely basis in accordance with the planned schedule of closings of such units.

9.03. **Reporting Requirements.**

So long as this Agreement is in force and except as otherwise permitted by the prior written consent of the Lender, the Borrower will deliver to the Lender (in a form and scope acceptable to the Lender, acting reasonably):

(1) **Independent Cost Consultant Monthly Reports.** Within 20 days of the end of each calendar month, a Project status report prepared by the Independent Cost Consultant in respect of each Project recording, in detail:

(a) the Budgeted Project Costs, revised Hard Costs and Soft Costs incurred to date, Hard Costs and Soft Costs paid to date, estimates of the Cost to Complete and accounts payable (each of which will be certified by the Independent Cost Consultant and approved by the Lender);

- (b) a report of the percentage completion of Construction comparing the Construction Schedule to actual Construction completed;
  - (c) a listing of aged accounts payable and outstanding cheques relating to Project Costs and details of Holdbacks; and
  - (d) the details of any changes to the Project Budget and an up-to-date report showing all Condominium Sales Agreements (including the details of unit numbers, unit type, purchaser's name, square footage, selling price, deposits paid and payable and the dates relating to same, the estimated balance payable on closing of such unit and a list of Condominium Sales Agreement entered into the last month), a report of the status of Material Licences and the amounts then deposited in each Account, all in a form approved by the Lender.
- (2) Receiver Reports. Within 20 days of the end of each Test Period a Variance Report setting forth actual receipts and disbursements for such Test Period as against the then-current Cash Flow Projections, and setting forth all the variances, on a line item and aggregate basis in comparison to the amounts set forth in respect thereof for such Test Period in the Cash Flow Projections; each such Variance Report to be promptly discussed with the Lenders, if so requested. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Test Period.
- (3) Other Information. Such other information as the Lender may reasonably request.

9.04. **Negative Covenants.**

So long as this Agreement is in force and except as otherwise permitted by the prior written consent of the Lender or as otherwise required pursuant to the Receivership Order or any other order of the Court in the Receivership Proceedings:

- (1) Disposition of Secured Property. Except as permitted pursuant to the Receivership Order or any other order of the Court, the Borrower shall not sell, transfer, assign, convey or otherwise dispose of the Secured Property or any part thereof or interest therein, including, for the avoidance of doubt, units in the Condominium Project.
- (2) No Indebtedness. The Borrower shall not, create, incur, assume or grant any Indebtedness other than Indebtedness incurred pursuant to this Agreement.
- (3) No Financial Assistance. The Borrower shall not give any Financial Assistance.
- (4) No Investments. The Borrower shall not make, directly or indirectly, any Investment.
- (5) No Distributions. The Borrower shall not make, directly or indirectly, any Distribution.

- (6) No Encumbrances. The Borrower shall not create, incur or assume any Encumbrance upon the Secured Property following the date of this Agreement, except Permitted Encumbrances.
- (7) Material Agreements and Other Documents. The Borrower shall not enter into any Material Agreement without the prior written consent of the Lender. The Borrower shall not amend, vary or alter in any way, consent to any assignment or transfer of, or waive or surrender any Debtor's rights or entitlements under, any Material Agreements, the CERIECO Agreements, Coco Agreements, Hana Documents, Senior Loan Agreements, Deposit Insurer Agreements or Permitted Encumbrances without the prior written consent of the Lender.
- (8) Amendment of Project Budget or Plans and Specifications. The Borrower shall not, without the prior written consent of the Lender and under such conditions as the Lender may establish, in each case acting reasonably, and the concurrence of the Independent Cost Consultant, make or permit any changes to the Project Budget, or to the Plans and Specifications, including any such changes that alter, diminish or add to the work to be performed or change the design of a Project.
- (9) Amendment of Construction Schedules. The Borrower shall not revise a Construction Schedule to permit completion of Construction later than that contemplated in the then-current Construction Schedule except with the consent of the Lender. Upon revision of the Construction Schedule with Lender consent, the Borrower will forthwith provide a copy to the Lender.
- (10) Vendor Take Back Mortgages. The Borrower shall not enter into any Condominium Sales Agreement which contains a provision allowing for partial or full payment of the purchase price payable thereunder by way of a vendor take back mortgage or other Indebtedness instrument in favour of the Borrower (the intent being that all net proceeds of the sale of units shall be in the form of cash).
- (11) Assignment of Condominium Sales Agreements. The Borrower shall not consent to any assignment by a purchaser under a Condominium Sales Agreement unless the Borrower retains the purchaser deposits paid thereunder or a replacement purchaser's deposit has been received in at least the same amount.
- (12) Leases. The Borrower shall not enter into any Leases or renew, amend, terminate, forfeit or cancel any Leases without the prior written consent of the Lender.
- (13) Existing Litigation. The Borrower shall not admit any liability in connection with, or agree to any settlement of the Existing Litigation or any other litigation, without the prior written consent of the Lender.
- (14) Commissions and Marketing Costs. The Borrower shall not pay any commission in respect of a Condominium Sales Agreement in excess of 5% of purchase price under such Condominium Sales Agreement; and (ii) the Borrower shall not pay any instalment of a commission in respect of a Condominium Sales Agreement until the applicable purchaser has paid at least 20% of the applicable purchase

price as a deposit and such deposit has been deposited into the Receivership Deposit Trust Account.

#### **ARTICLE 10 - DEFAULT**

##### **10.01. Events of Default.**

The occurrence of any one or more of the following events (each such event being referred to as an “**Event of Default**”) will constitute a default under this Agreement:

- (a) if actual cash flow disbursements exceed those included in the latest approved Cash Flow Projections in excess of: (i) fifteen percent (15%) in respect of any disbursement line item (not including costs of the Receiver or Receiver’s counsel); or (ii) ten percent (10%) in respect of aggregate costs (not including costs of the Receiver or Receiver’s counsel) for any Test Period;
- (b) if an order is entered or granted that: (i) dismisses the Receivership Order or vacates, stays or otherwise causes the Receivership Order to be ineffective; (ii) lifts the stay provided for in the Receivership Order or otherwise modifies the Receivership Order in a manner not acceptable to the Lender; or (iii) grants any claim of super priority status or a lien equal or superior to that granted to the Lender in the Receivership Order, other than the Receiver’s Charge;
- (c) the non-compliance by the Borrower with any term of the Receivership Order;
- (d) the filing by the Borrower of any motion or proceeding which (i) is not consistent with any provision of this Agreement or the Receiver’s Borrowing Charge; (ii) could reasonably be expected to materially adversely affect the interests of the Lender; (iii) seeks an order which, if granted, could reasonably be expected to result in a Material Adverse Change; or (iv) seeks to continue the Receivership under the jurisdiction of a court other than the Court, unless in the case of any of the foregoing, the Lender has consented thereto in writing, or the granting of any order in the Receivership Proceedings that is not in form and substance satisfactory to the Lender, acting reasonably;
- (e) an order of the Court is made that results in any lender (other than the Lender or any lender under the Senior Credit Agreement) receiving from a Debtor any of the following (i) any retention payment or other type of payment (in cash or otherwise); (ii) any assignment of accounts receivable or any swap of cash for accounts receivable or any swap of cash for accounts receivable or other property; (iii) other property or any other amount transferred to a third party lender for its benefit, other than an order of the Court relating to the interest of the Deposit Insurer in amounts in the Deposit Trust Account as of the date of this Agreement;
- (f) the making by the Borrower of a payment of any kind not permitted by the Receivership Order, this Agreement and the Cash Flow Projections without the prior consent of the Lender;
- (g) if the Borrower fails to pay any amount of principal of the Loan when due;

- (h) if the Borrower fails to pay any interest, fees or other Obligations (other than any principal amount of the Loan) when due and such default continues for three Business Days after notice of such default has been given by the Lender to the Borrower;
- (i) if the Borrower breaches any of the covenants in Section 9.04;
- (j) if a milestone set out on Schedule H is not met in accordance with the terms of this Agreement by the date required in Schedule H or if the Cost to Complete set out in the report to be provided pursuant to Schedule H exceed the then-remaining unadvanced portion of the Credit Facility;
- (k) if any covenant or obligation contained in the Loan Documents on the part of the Borrower to be observed or performed (other than a covenant or condition whose breach or default in performance is specifically dealt with elsewhere in this Section 10.01) is breached or otherwise not performed and the Borrower fails to remedy such default within 15 days from the earlier of (i) the date the Borrower becomes aware of such default, and (ii) the date the Lender delivers written notice of the default to the Borrower;
- (l) if any representation or warranty made by the Borrower in this Agreement, any Loan Document or in any certificate or other document at any time delivered hereunder to the Lender proves to have been incorrect or misleading in any material respect on and as of the date that it was made or was deemed to have been made and such party fails to remedy such default within 15 days of becoming aware of such event;
- (m) if the Borrower denies, to any material extent, its Obligations under any Loan Document or claims any of the Loan Documents to be invalid or withdrawn in whole or in part;
- (n) any of the Loan Documents or any material provision of any of them becomes unlawful or is changed by virtue of legislation or by a Governmental Authority, if the Borrower does not, within 10 Business Days of receipt of notice of such Loan Document or material provision becoming unlawful or being changed, replace such Loan Document with a new agreement that is in form and substance satisfactory to the Lender acting reasonably, or amend such Loan Document to the satisfaction of the Lender acting reasonably;
- (o) if an Encumbrancer takes possession, by appointment of a receiver, receiver and manager or otherwise, of all or any portion of the Secured Property, other than pursuant to the Receivership Order;
- (p) except to the extent stayed by the Receivership Order, if proceedings are commenced for the dissolution, liquidation or voluntary winding-up of any Debtor, or for the suspension of the operations of any Debtor unless such proceedings are being actively and diligently contested in good faith;

- (q) if any Governmental Authority shall condemn, expropriate, seize or appropriate any property which relates to or forms part of the Secured Property and is of a material nature;
- (r) if a Material Adverse Change has occurred;
- (s) if Construction on a Project ceases for a single period of 30 days or more, except as the result of Force Majeure; or
- (t) if any delay in Construction on a Project of 120 days or more occurs as a result of strikes of employees, contractors or subcontractors.

10.02. **Acceleration and Enforcement.**

- (1) If any Event of Default occurs and while it is continuing: (a) the outstanding principal amount or face amount, as the case may be, of all Loans and all other Obligations will, upon the request of the Lender, become immediately due and payable with interest thereon, at the rate or rates determined as herein provided, to the date of actual payment thereof, all without notice, presentment, protest, demand, notice of dishonour or any other demand or notice whatsoever, all of which are hereby expressly waived by the Borrower; and (b) subject to Court approval, the Lender on its behalf may, in its discretion, exercise any right or recourse and proceed by any action, suit, remedy or proceeding against the Borrower authorized or permitted by law for the recovery of all the Obligations of the Borrower to the Lender and, notwithstanding that the Lender has not exercised every right under this Section, proceed to exercise any and all rights hereunder and, subject to Section 10.02, under the Security.
- (2) The Lender is not under any obligation to the Debtors or any other Person to realize upon any collateral or enforce the Security or any part thereof or to allow any of the collateral to be sold, dealt with or otherwise disposed of. The Lender is not responsible or liable to the Debtors or any other Person for any loss or damage arising from such realization or enforcement or the failure to do so or for any act or omission on its part or on the part of any director, officer, employee, agent or adviser of the Lender in connection with any of the foregoing.
- (3) An Event of Default may be waived in writing by the Lender in whole or in part (with or without terms or conditions), all without prejudice to the rights of the Lender at any time to rely on such Event of Default in accordance with the terms of any written waiver.

10.03. **Remedies Cumulative.**

For greater certainty, it is expressly understood that the respective rights and remedies of the Lender under any of the Loan Documents or instruments executed pursuant to this Agreement are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Lender of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in the Loan Documents

will not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Lender may be lawfully entitled in connection with such default or breach.

10.04. **Perform Obligations.**

If an Event of Default has occurred and is continuing and if the Borrower has failed to perform any of its covenants or agreements in the Loan Documents, the Lender, may, but will be under no obligation to perform any such covenants or agreements in any manner deemed fit by the Lender without thereby waiving any rights to enforce the Loan Documents. The reasonable expenses (including any legal costs) paid by the Lender in respect of the foregoing will be an Obligation and will be secured by the Security.

10.05. **Third Parties.**

It is not necessary for any Person dealing with the Lender or any other agent of the Lender to inquire whether the Security has become enforceable, or whether the powers that the Lender is purporting to exercise may be exercised, or whether any Obligations remain outstanding upon the security thereof, or as to the necessity or expediency of the stipulations and conditions subject to which any sale is to be made, or otherwise as to the propriety or regularity of any sale or other disposition or any other dealing with the collateral charged by such Security or any part thereof.

10.06. **Application of Payments.**

If any Event of Default occurs and while it is continuing, all payments made to the Lender by and amounts received by the Lender from the Borrower or received from proceeds of realization of any Security will be applied to amounts due under the Obligations, all as determined by the Lender, as follows:

- (a) to amounts due hereunder as costs and expenses incurred by the Lender in connection with the realization of the Security and the enforcement of the Lender's rights hereunder including any legal fees incurred by the Lender and including interest and such costs and expenses from the date incurred until paid at the rate applicable to overdue;
- (b) to amounts due hereunder as interest in respect of the Credit Facility;
- (c) to amounts due hereunder in respect of Loans made pursuant to the Credit Facility; and
- (d) to all other amounts due under the Obligations, on a *pari passu* basis.

**ARTICLE 11 - COMPENSATION AND SET-OFF**

11.01. **Increased Costs.**

- (1) **Increased Costs Generally.** If any Change in Applicable Laws shall:

- (a) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, the Lender;
- (b) subject the Lender to any Tax of any kind whatsoever with respect to this Agreement, any Loans made by it, or change the basis of taxation of payments to the Lender in respect thereof, except for (x) Subject Taxes or Other Taxes covered by Section 11.02 and (y) any Excluded Tax payable by the Lender; or
- (c) impose on the Lender or any applicable interbank market any other condition, cost or expense affecting this Agreement or Loans made by the Lender;

and the result of any of the foregoing shall be to increase the cost to the Lender of making or maintaining any Loans (or of maintaining its obligation to make any such Loans), or to reduce the amount of any sum received or receivable by the Lender hereunder (whether of principal, interest or any other amount), then upon request of the Lender and subject to the Lender providing the certificate referred to in Section 11.01(2), the Borrower will pay to the Lender such additional amount or amounts as will compensate the Lender for such additional costs incurred or reduction suffered. The Borrower shall have no obligation under this Section if any increase is due to the action of or change of status of the Lender, including without limitation, any assignment or participation of all or any part of Loans by the Lender in accordance with Article 14.

- (2) Certificates for Reimbursement. A certificate of the Lender delivered to the Borrower setting forth the amount or amounts necessary to compensate the Lender or its holding company, as the case may be, as specified in Section 11.01(1) (“**Additional Compensation**”), including a description of the event by reason of which it believes it is entitled to such compensation, and supplying reasonable supporting evidence (including, in the event of a Change in Applicable Laws, a photocopy of the Applicable Laws evidencing such change) and reasonable detail of the basis of calculation of the amount or amounts, shall be conclusive evidence of the Lender’s entitlement to such compensation and the amount thereof absent manifest error. The Borrower shall pay the Lender the amount shown as due on any such certificate within 10 days after receipt thereof.
- (3) Delay in Requests. Failure or delay on the part of the Lender to demand compensation pursuant to this Section shall not constitute a waiver of the Lender’s right to demand such compensation, except that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that the Lender notifies the Borrower of the Change in Applicable Laws giving rise to such increased costs or reductions and of the Lender’s intention to claim compensation therefor, unless the Change in Applicable Laws giving rise to such increased costs or reductions is retroactive, in which case the nine-month period referred to above shall be extended to include the period of retroactive effect thereof.



11.02. **Taxes.**

- (1) Payments Subject to Taxes. If the Borrower or the Lender is required by Applicable Laws to deduct or pay any Subject Taxes (including any Other Taxes) in respect of any payment by or on account of any obligation of the Borrower under any of the Loan Documents, then (i) the sum payable shall be increased by the Borrower when payable as necessary so that after making or allowing for all required deductions and payments (including deductions and payments applicable to additional sums payable under this Section) the Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions or payments been required, (ii) the Borrower shall make any such deductions required to be made by it under Applicable Laws and (iii) the Borrower shall timely pay the full amount required to be deducted to the relevant Governmental Authority in accordance with Applicable Laws.
- (2) Payment of Other Taxes by the Borrower. Without limiting the provisions of Section 11.02(1) above, the Borrower shall cause the timely payment of any Other Taxes to the relevant Governmental Authority in accordance with Applicable Laws, subject to the terms of the Receivership Order.
- (3) Additional Payment by the Borrower. The Borrower shall pay the Lender, with funding under the Credit Facility, (or from revenue from the Project or the proceeds of any realization against the Secured Property) within 15 days after written demand therefor, for the full amount of any Subject Taxes or Other Taxes (including Subject Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Lender and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Subject Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority in Canada. A certificate as to the amount of such payment or liability delivered to the Borrower by the Lender shall be conclusive absent manifest error.
- (4) Evidence of Payments. As soon as practicable after any payment of Subject Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Lender the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Lender.
- (5) Treatment of Certain Refunds and Tax Reductions. If the Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been paid by the Borrower or with respect to which any additional amounts have been paid pursuant to this Section or that, because of the payment of such Taxes or Other Taxes, it has benefited from a reduction in Excluded Taxes otherwise payable by it, it shall pay to the Borrower an amount equal to such refund or reduction (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund or reduction), net of all out-of-

pocket expenses of the Lender, as the case may be, and without interest (other than any net after-Tax interest paid by the relevant Governmental Authority with respect to such refund). The Borrower upon the request of the Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Lender if the Lender is required to repay such refund or reduction to such Governmental Authority. This paragraph shall not be construed to require the Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person, to arrange its affairs in any particular manner or to claim any available refund or reduction.

11.03. **Illegality.**

If the Lender determines that any Applicable Laws has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Lender or its applicable lending office to make or maintain any Loans (or to maintain its obligations to make any Loan), or to determine or charge interest rates based upon any particular rate, then, on notice thereof by the Lender to the Borrower through the Lender, any obligation of the Lender with respect to the activity that is unlawful shall be suspended until the Lender notifies the Borrower that the circumstances giving rise to such determination no longer exist.

**ARTICLE 12 - NOTICES: EFFECTIVENESS; ELECTRONIC COMMUNICATION**

12.01. **Notices, Etc.**

- (1) **Notices Generally.** Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 12.01(3) or 12.01(4)) all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service or mailed by certified or registered mail or sent by electronic mail to the addresses specified in the signature pages to this Agreement.
- (2) **Delivery.** Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by electronic mail shall be deemed to have been given when sent (except that, if not given on a Business Day between 9:00 a.m. and 5:00 p.m. local time where the recipient is located, shall be deemed to have been given at 9:00 a.m. on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in Section 12.01(3) or 12.01(4) below, shall be effective as provided therein.
- (3) **Delivery by Electronic Communication.** Unless the Lender otherwise prescribes, notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such

notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

- (4) Change of Address, Etc. Any party hereto may change its address or e-mail for notices and other communications hereunder by notice to the other parties hereto in accordance with the terms of this Agreement.

### **ARTICLE 13 - EXPENSES; ADDITIONAL PAYMENTS; DAMAGE WAIVER**

#### **13.01. Expenses; Additional Payments; Damage Waiver.**

- (1) Costs and Expenses. The Borrower shall be responsible for, and the Obligations shall include (i) all reasonable out-of-pocket expenses incurred by the Lender, the Asset Manager and their Affiliates (including all amounts payable to the Independent Cost Consultant in connection with the Credit Facility) and the reasonable legal fees, charges and disbursements of Lender's Counsel in connection with the Credit Facility, the preparation, negotiation, execution, delivery and administration of the Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (including those incurred in connection with the review of materials in connection with consents required or other administrative matters) (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all reasonable out-of-pocket expenses incurred by the Lender including the reasonable legal fees, charges and disbursements of counsel, in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with all Loans made including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

- (2) Additional Payments by the Borrower. The Borrower shall be responsible for and the Obligations shall include such amounts as are required to hold the Lender, the Asset Manager and each Related Person of any of the foregoing Persons (each such Person being called an “**Applicable Payee**”) harmless from, any and all Claims suffered or incurred by any Applicable Payee or asserted against any Applicable Payee by any third party or by the Borrower arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated hereby or thereby, the performance or non-performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation or non-consummation of the transactions contemplated hereby or thereby, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of any Hazardous Substance (other than in compliance with Environmental Laws) on or from any property owned or operated by the Borrower or Beneficial Owner, any breach of Environmental Laws by the Borrower or Beneficial Owner or any environmental liability related in any way to the Secured Property, or (iv) any actual or prospective Claim relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower and regardless of whether any Applicable Payee is a party thereto, provided that such additional payments shall not, as to any Applicable Payee, be available to the extent that such Claims (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, criminal acts or omissions or wilful misconduct of such Applicable Payee or (y) result from a claim brought by the Borrower against an Applicable Payee for breach in bad faith of such Applicable Payee’s obligations under any Loan Document, if the Borrower has obtained a final and nonappealable judgment in its favour on such claim as determined by a court of competent jurisdiction, nor shall it be available in respect of matters specifically addressed in Sections 11.01 and 11.02(1) and Section 13.01(1) or (z) are ordinary administrative expenses incurred by the Applicable Payee in the ordinary course of business.
- (3) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Applicable Laws, the Borrower shall not assert, and hereby waives, any claim against any Applicable Payee, on any theory of liability, for indirect, consequential, punitive, aggravated or exemplary damages (as opposed to direct damages) arising out of, in connection with, or as a result of, any of the Loan Documents or any agreement or instrument contemplated hereby (or any breach thereof), the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Applicable Payee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with the Loan Documents or the transactions contemplated hereby or thereby, provided such information or materials are distributed by such Applicable Payee in accordance with the provisions of this Agreement or any related term sheet or other agreement between the Lender and the Borrower in respect of the Credit Facility.

- (4) Payments. All amounts due under this Section shall be payable promptly after demand therefor. A certificate of the Lender setting forth the amount or amounts owing to the Lender or Related Person, as the case may be, as specified in this Section, including reasonable detail of the basis of calculation of the amount or amounts, and delivered to the Borrower shall be conclusive absent manifest error.

#### **ARTICLE 14 - SUCCESSORS AND ASSIGNS**

##### **14.01. Successors and Assigns.**

- (1) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Lender. The Lender may assign or otherwise transfer any of its rights or obligations hereunder: (i) prior to the occurrence of any Event of Default, with the consent of the Borrower, which consent shall not be unreasonably withheld and which consent shall be granted if the applicable assignee has the ability to perform the balance of the Lender's obligations under this Agreement, and agrees to do so; and (ii) after the occurrence of an Event of Default, without the consent of the Borrower, provided that the Lender shall provide five (5) days prior written notice of any such assignment, and the assignee agrees to perform the balance of the Lender's obligations under this Agreement.
- (2) Participations. Without limitation to Section 14.01(1), the Lender may at any time, without the consent of, or notice to, the Borrower or the Lender, sell participations to any Person (other than a natural person, a Borrower or any Affiliate of the Borrower (each, a "**Participant**")) in all or a portion of the Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Outstanding Loans owing to it); provided that (i) the Lender's obligations under this Agreement shall remain unchanged, (ii) the Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower shall continue to deal solely and directly with the Lender in connection with the Lender's rights and obligations under this Agreement. Any payment by a Participant to the Lender in connection with a sale of a participation shall not be or be deemed to be a repayment by the Borrower or a new Loan to the Borrower.
- (3) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Sections 11.01 and 11.02 than the Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent.
- (4) Certain Pledges. The Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of the Lender, but no such pledge or assignment shall release the Lender from any of its

obligations hereunder or substitute any such pledgee or assignee for the Lender as a party hereto.

#### **ARTICLE 15 - AMENDMENTS AND WAIVERS**

##### **15.01. Amendments and Waivers.**

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by the Borrower and the Lender. No waiver of any breach of any provision of the Loan Documents and no consent required hereunder will be effective or binding unless made in writing and signed by the party purporting to give the same. Unless otherwise provided, any waiver or consent given hereunder will be limited to the specific breach waived or matter consented to, as the case may be, and may be subject to such conditions as the party giving such waiver or consent considers appropriate.

#### **ARTICLE 16 - GOVERNING LAW; JURISDICTION; ETC.**

##### **16.01. Governing Law; Jurisdiction; Etc.**

- (1) Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in that Province.
- (2) Submission to Jurisdiction. Each party irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Court, and any appellate court therefrom, in any action or proceeding arising out of or relating to any of the Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such court. Each of the parties hereto agrees that a final, non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
- (3) Waiver of Venue. Each party irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Laws, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to the Loan Documents in any court of the Province of Ontario. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Applicable Laws, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.
- (4) Time is of the Essence. Time shall be of the essence of the Loan Documents.

**ARTICLE 17 - WAIVER OF JURY TRIAL****17.01. Waiver of Jury Trial.**

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THE LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THE LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**ARTICLE 18 - COUNTERPARTS; INTEGRATION; EFFECTIVENESS; ELECTRONIC EXECUTION;****18.01. Counterparts; Integration; Effectiveness; Electronic Execution.**

- (1) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it has been executed by the Lender and when the Lender has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

**ARTICLE 19 - TREATMENT OF CERTAIN INFORMATION: CONFIDENTIALITY****19.01. Treatment of Certain Information: Confidentiality.**

- (1) The Lender agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to it, its Affiliates and its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and representatives (to the extent necessary to administer or enforce the Loan Documents) (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and will be bound and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority having jurisdiction over it (including any self-regulatory authority), (c) to the extent required by Applicable Laws or other legal process, (d) to any other party hereto, (e) to the extent reasonable, in connection with the exercise of any remedies under any Loan Document or any action or proceeding relating to any of the Loan Documents or the Receivership

Proceedings, including in connection with any court filing therein, or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap, derivative, credit-linked note or similar transaction relating to the Debtors and any of their respective obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Lender on a non-confidential basis from a source other than the Borrower and provided such source has not, to the knowledge of the Lender, breached a duty of confidentiality owed to the Borrower or the Lender. If the Lender is requested or required to disclose any Information pursuant to or as required by Applicable Laws or by an subpoena or similar legal process, the Lender shall use its reasonable commercial efforts to provide the Borrower with notice of such requests or obligation in sufficient time so that the Borrower may seek an appropriate protective order or waive the Lender's compliance with the provisions of this Section, and the Lender shall co-operate with the Borrower in obtaining any such protective order.

- (2) For purposes of this Section, “**Information**” means all information relating to the Borrower or any of its Affiliates or any of their respective businesses, other than any such information that is available to the Lender on a non-confidential basis prior to such receipt. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. In addition, the Lender may disclose to any agency or organization that assigns standard identification numbers to loan facilities such basic information describing the facilities provided hereunder as is necessary to assign unique identifiers (and, if requested, supply a copy of this Agreement), it being understood that the Person to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to make available to the public only such Information as such person normally makes available in the course of its business of assigning identification numbers.
- (3) In addition, and notwithstanding anything herein to the contrary, the Lender may provide basic information concerning the Borrower and the Credit Facility established herein to recognized trade publishers of information for general circulation in the loan market.
- (4) In addition, and notwithstanding anything herein to the contrary, the Lender shall have the right to redact the interest rate, reference herein to any fees and such other information that the Lender may wish to redact with respect to this Agreement in accordance with National Instrument 51-102 and Applicable Law prior to the Borrower posting this Agreement on SEDAR ([www.sedar.com](http://www.sedar.com)).

*[SIGNATURE PAGES FOLLOW]*



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

**BORROWER:**

Address:

**ALVAREZ & MARSAL CANADA INC.,  
solely in its capacity as court-appointed  
receiver and manager and not in its  
personal or corporate capacity, without  
security, of all of the assets, undertakings  
and properties of Mizrahi Commercial  
(The One) LP, Mizrahi Development  
Group (The One) Inc. and Mizrahi  
Commercial (The One) GP Inc., including,  
without limitation, the real property known  
municipally as 1 Bloor Street West,  
Toronto, and as described in Exhibit 1  
hereto**

Attention:

- and -

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attention:

Facsimile:

Email:

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

We have authority to bind the Corporation.

**LENDER:****KEB HANA BANK as trustee of IGIS  
GLOBAL PRIVATE PLACEMENT  
REAL ESTATE FUND NO. 530**Address:

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attention:

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

Name: \_\_\_\_\_

Email:

Title: \_\_\_\_\_

I/We have authority to bind the above.

**EXHIBIT 1****LEGAL DESCRIPTION****PIN 21109-0244 (LT)**

FIRSTLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP145729 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; SECONDLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP93304 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; THIRDLY: PT PARKLT 9 CON 1 FTB TWP OF YORK PT 1 64R16532; SUBJECT TO AN EASEMENT AS IN AT5101384; FOURTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK PT 163R658; SUBJECT TO AN EASEMENT AS IN AT5101384; FIFTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CA703847; SUBJECT TO AN EASEMENT AS IN AT5101384; SIXTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CT277770; SUBJECT TO AN EASEMENT AS IN AT5101384; SEVENTHLY: FIRSTLY: PT PARK LT 9 CON 1 FTB TWP OF YORK, AS IN EP142034 AND SECONDLY: PT PT PARK LT 9 CON 1 FTB TWP OF YORK DESIGNATED AS PT 15 ON PL 63R-3142, SAVE AND EXCEPT PART 2 ON PLAN 66R-32221; SUBJECT TO AN EASEMENT AS IN AT5101384; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 7 AND 8 ON PLAN 66R-32221 AS IN AT6077647; SUBJECT TO AN EASEMENT OVER PARTS 4, 5 AND 6 ON PLAN 66R-32221 AS IN AT6077654; TOGETHER WITH AN EASEMENT OVER PART OF PARK LOT 9, CONCESSION 1 FROM THE BAY (YORK) DESIGNATED AS PART 2 ON PLAN 66R-32221 AS IN AT6077634; SUBJECT TO AN EASEMENT OVER PART 3 ON PLAN 66R-32221 IN FAVOUR OF PART OF PARK LOT 9, CONCESSION 1 FROM THE BAY (YORK) DESIGNATED AS PART 2 ON PLAN 66R-32221 AS IN AT6077634; SUBJECT TO AN EASEMENT AS IN AT6227322; CITY OF TORONTO

**SCHEDULE A**  
**CASH FLOW PROJECTIONS**

See attached.

## Mizrahi Development Group (The One) Inc et al.

## Monthly Cash Flow Forecast for the Period October 18, 2023 to January 31, 2024

Unaudited, CAD\$000s

Cash Flow Month End	Notes	1 Oct-23	2 Nov-23	3 Dec-23	4 Jan-24	4-Month Total
<b>Receipts</b>						
HST Receipts	1	\$ 2,025	\$ 3,478	\$ 3,650	\$ 3,738	\$ 12,891
Sales Deposits	2	-	-	-	-	-
<b>Total Receipts</b>		<b>\$ 2,025</b>	<b>\$ 3,478</b>	<b>\$ 3,650</b>	<b>\$ 3,738</b>	<b>\$ 12,891</b>
<b>Disbursements</b>						
Construction Costs	3	\$ (25,473)	\$ (27,297)	\$ (28,588)	\$ (27,379)	\$ (108,738)
Design Related Costs	4	(666)	(672)	(666)	(672)	(2,677)
General, Administrative & Marketing	5	(878)	(921)	(671)	(2,821)	(5,292)
Land & Development Costs	6	(783)	(783)	(783)	(783)	(3,131)
Financing Commitment Fee	7	(4,725)	-	-	-	(4,725)
Restructuring Professional Fees	8	(2,716)	(2,634)	(2,113)	(1,609)	(9,072)
<b>Total Disbursements</b>		<b>\$ (35,241)</b>	<b>\$ (32,307)</b>	<b>\$ (32,822)</b>	<b>\$ (33,265)</b>	<b>\$ (133,634)</b>
<b>Net Cash Flow</b>		<b>\$ (33,216)</b>	<b>\$ (28,829)</b>	<b>\$ (29,171)</b>	<b>\$ (29,526)</b>	<b>\$ (120,743)</b>
<b>Cash Balance</b>						
Opening Cash		\$ 31,200	\$ 77,984	\$ 79,154	\$ 78,812	\$ 31,200
Net Cash Flow		(33,216)	(28,829)	(29,171)	(29,526)	(120,743)
Advances		80,000	30,000	28,829	29,171	168,001
<b>Ending Cash</b>		<b>\$ 77,984</b>	<b>\$ 79,154</b>	<b>\$ 78,812</b>	<b>\$ 78,457</b>	<b>\$ 78,457</b>
<b>Receivership Facility</b>						
Facility Capacity		\$ 315,000	\$ 234,715	\$ 203,805	\$ 173,781	\$ 315,000
Draw		(80,000)	(30,000)	(28,829)	(29,171)	(168,001)
Accrued Interest (Paid in Kind)		(285)	(910)	(1,194)	(1,449)	(3,839)
<b>Ending Capacity</b>		<b>\$ 234,715</b>	<b>\$ 203,805</b>	<b>\$ 173,781</b>	<b>\$ 143,161</b>	<b>\$ 143,161</b>

**Mizrahi Development Group (The One) Inc et al.**  
**Monthly Cash Flow Forecast for the Period October 18, 2023 to January 31, 2024**  
**Notes and Summary of Assumptions**

**Disclaimer**

*In preparing this cash flow forecast (the “**Forecast**”), the Receiver has relied upon unaudited financial information and has not attempted to further verify the accuracy or completeness of such information. The Forecast includes assumptions discussed below with respect to the requirements and impact of the contemplated filing under the Bankruptcy and Insolvency Act (the “**BIA**”). Since the Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved will vary from the Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.*

*The Forecast is presented in thousands of Canadian dollars.*

**Notes**

**(1) HST Receipts**

Monthly HST refunds are forecast to be received in the ordinary course.

**(2) Sales Deposits**

No receipts from the sale of condo units or related deposits have been included during the forecast period.

**(3) Construction Costs**

Construction costs include hard costs, construction management fees and project management fees, are based on estimates with input from Altus Group, the Independent Cost Consultant, and may be subject to change. Consistent with past practice, costs are forecast to be paid approximately one month following the month in which they were incurred.

**(4) Design Related Costs**

Design related costs include the fees of architects, consultants and engineers, are based on estimates with input from Altus Group, and may be subject to change. Consistent with past practice, costs are forecast to be paid approximately one month following the month in which they were incurred.

**(5) General, Administrative & Marketing**

General, administrative, and marketing costs include project level legal fees, audit fees, advertising costs and other costs, are based on estimates with input from Altus Group, and may be subject to change.

**(6) Land & Development Costs**

Land & development costs includes estimates for realty tax, land related legal fees, building permits and builders insurance premiums, are based on estimates with input from Altus Group, and may be subject to change.

**(7) Financing Commitment Fee**

1.5% commitment fee payable to the Lender satisfied from the first advance under the Credit Facility.

**(8) Restructuring Professional Fees**

Includes the fees of the Receiver, the Receiver's counsel, and the Lender's counsel.

**SCHEDULE B**  
**RECEIVERSHIP ORDER**

See attached.

**SCHEDULE C**  
**FINANCING REQUEST NOTICE**

**TO: KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL ESTATE FUND NO. 530, as Lender**

**FROM: ALVAREZ & MARSAL CANADA INC. solely in its capacity as court-appointed receiver and manager and not in its personal or corporate capacity, without security, of all of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc. and Mizrahi Commercial (The One) GP Inc., including, without limitation, the real property known municipally as 1 Bloor Street West, Toronto, and as described in Exhibit 1 to the Credit Agreement (the “Borrower”)**

**DATE: ●**

1. This Financing Advance Request Notice is delivered to you, as Lender, pursuant to the receivership funding credit agreement made as of ●, 2023 between, *inter alia*, the Borrower and you, as Lender, as amended, restated, supplemented or otherwise modified from time to time (the “**Credit Agreement**”). All defined terms set forth in this Financing Request Notice shall have the respective meanings set forth in the Credit Agreement.
2. The Borrower hereby requests the following Financing Advance:  
  
Advance Date:  
  
Amount of Advance:  
  
Approved Project Costs proposed and other costs provided for in the Cash Flow Projections to be paid with the Financing Advance: See attached. **[NTD: Borrower to attach.]**
3. All of the representations and warranties of the Borrower contained in of the Credit Agreement are true and correct on and as of the date hereof in all material respects as though made on and as of the date hereof.
4. All of the conditions precedent to the Financing Advance requested hereby that have not been properly waived in writing by or on behalf of the Lender have been satisfied.
5. No Default or Event of Default will have occurred and be continuing on the proposed date of the Financing Advance, or would result from the applicable Financing Advance.



6. No Material Adverse Change has occurred and is continuing or will result from the Financing Advance requested hereby.

Dated this                      day of                      , 20 .

**Per: ALVAREZ & MARSAL CANADA INC., solely in its capacity as court-appointed receiver and manager and not in its personal or corporate capacity, without security, of all of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc. and Mizrahi Commercial (The One) GP Inc., including, without limitation, the real property known municipally as 1 Bloor Street West, Toronto, and as described in Exhibit 1 to the Credit Agreement**

Name: \_\_\_\_\_

Title:

**SCHEDULE D**  
**CONSTRUCTION SCHEDULE**

See attached.

**SCHEDULE E****CERTIFICATE****RE: STANDARD FORM RESIDENTIAL SALES AGREEMENT**

**TO:** **KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL ESTATE FUND NO. 530**, as Lender (the “**Lender**”)

**AND TO:** **OSLER, HOSKIN & HARCOURT LLP**, solicitor for the Lender

**RE:** Loan to Alvarez & Marsal Canada Inc., solely in its capacity as court-appointed receiver and manager and not in its personal or corporate capacity, without security, of all of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc. and Mizrahi Commercial (The One) GP Inc. (the “**Borrower**”) pursuant to the terms of a receivership funding credit agreement dated \_\_\_\_\_, 2023 (as such agreement may be amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the “**Credit Agreement**”) between, among others, the Borrower and the Lender, to finance, among other things, the Receivership Proceedings (as defined in the Credit Agreement)

---

**THE UNDERSIGNED** hereby certifies that:

1. all capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Credit Agreement;
2. the “Standard Form Residential Sales Agreement” means the standard form agreement of purchase and sale to be utilized by the Borrower in respect of the sale of units in the Condominium Project in the form approved in accordance with Section 9.01(w) of the Credit Agreement and attached to this certificate as Appendix A;
3. the agreements of purchase and sale in respect of the sale of units in the Condominium Project have been provided to the Lender and are in the form of the Standard Form Residential Sales Agreement, duly signed by the purchasers, without contingencies or conditions on the part of the purchasers, are enforceable and in full force and effect, and may not be assigned by the purchasers except at the sole discretion of the vendor which may be arbitrarily withheld;
4. it will not make any material amendments to the Standard Form Residential Sales Agreement without the written approval of the Lender, which consent shall not be unreasonably withheld; and
5. it shall not permit or agree to an assignment of any agreement of purchase and sale in respect of the sale of units in the Condominium Project by the applicable purchaser which would cause such agreement of purchase and sale to cease to be a Qualifying Sales Agreement without the prior written consent of the Lender.

Dated this                      day of                      , 20 .

**Per: ALVAREZ & MARSAL CANADA INC., solely in its capacity as court-appointed receiver and manager and not in its personal or corporate capacity, without security, of all of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc. and Mizrahi Commercial (The One) GP Inc., including, without limitation, the real property known municipally as 1 Bloor Street West, Toronto, and as described in Exhibit 1 to the Credit Agreement**

Name: \_\_\_\_\_

Title:

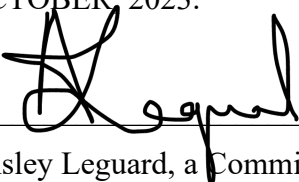
**APPENDIX A**  
**STANDARD FORM RESIDENTIAL SALES AGREEMENT**

(See attached)

**SCHEDULE H**  
**MAJOR PROJECT MILESTONES**

<b>Milestone</b>	<b>Required Date</b>
Retention of the Project Manager on terms acceptable to the Lender	Within one month of the Closing Date
A report on the fair market price for each condominium unit in the Project shall have been delivered to the Lender	Within two months of the Closing Date
A plan acceptable to the Lender shall have been developed with respect to the treatment of any Condominium Sales Agreements existing prior to the Closing Date (the “ <b>CSA Plan</b> ”) and such CSA Plan shall have been approved by the Court	Within 3 months and two weeks of the Closing Date
A comprehensive report setting out the Project Costs incurred to date, the Cost to Complete and expected Project revenues, in form acceptable to the Lender, shall have been delivered to the Lender	Within four months of the Closing Date
A business plan in form acceptable to the Lender will be delivered to the Lender setting out an execution strategy for the Projects including stabilization, value enhancement and the anticipated Receivership termination timeline (the “ <b>Initial Business Plan</b> ”)	Within six months of the Closing Date
Updated business plan to be provided to the Lender	Every six months after delivery of the Initial Business Plan
Completion of the Severance	March 31, 2024

THIS IS **EXHIBIT “BBB”** REFERRED TO IN THE  
AFFIDAVIT OF JOO SUNG YOON,  
SWORN BEFORE ME over videoconference in accordance with  
the Administering Oath or Declaration Remotely Regulation, O.  
Reg. 431/20, on October 17, 2023, while I was located in the City  
of Toronto, in the Province of Ontario, and the affiant was  
located in the City of Toronto, in the Province of Ontario, THIS  
17th DAY OF OCTOBER, 2023.

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

Ainsley Leguard, a Commissioner, etc.  
Province of Ontario, while a  
Student-at-Law. Expires June 9, 2025.

**The One - Summary of Comparable Credit Agreements**

Facilities Reviewed	Commitment (\$MM)	Interest Rate	Fees [1]
Receivership Funding Credit Agreement	\$315.0	10.0%	1.5%
12 Real Estate Credit Agreements (CCAA) See Exhibit 1.A	- Average of ~\$5 million - Up to \$20 million	- Average 10.3% - Ranging from 7.5% to 13.0%	- Average 1.52% - Ranging from 0.0% to 2.5%
Six Credit Agreements in excess of \$100M (CCAA and Chapter 11) See Exhibit 1.B	- Average of ~\$400 million - Up to \$1.4 billion	- Average 13.3% - Ranging from 12.0% to 16.4%	- Average 1.81% - Ranging from 0.25% to 4.0%

Note 1. Many of the agreements reviewed included additional fees (including non-utilization fees, monthly fees, draw fees) not contemplated in the Receivership Funding Credit Agreement.



**Exhibit 1.A. Select Recent Real Estate Credit Agreement Terms**

Debtor	Lender	Proceeding Type	Trustee	Filing Date	Jurisdiction	Industry	Commitment (\$MM)	Fees	Interest Rate
J.W. Carr Holdings Ltd. et al.	MGB Investments Ltd.	CCAA	EY	20-Apr-23	AB	Real Estate	\$2.7	Closing fee of \$25,000; undrawn amount fee of 2% per annum on undrawn amounts	12.0%
Donmar Properties Ltd. and 10058984 Manitoba Ltd.	Morcourt Properties Ltd.	CCAA	EY	18-Apr-23	MB	Real Estate	\$0.8	N/A	8.0%
Groupe Sélection Inc.	National Bank, CIBC, Desjardins, TD, BMO, HSBC, Briva Finance and Fiera	CCAA	PwC	21-Nov-22	QC	Real Estate	\$20.0	None	Prime + 3.75%
Hazelton Development Corporation	Triumph Eastern Investments Inc.	CCAA	GT	20-Apr-22	ON	Real Estate	\$9.0	Commitment fee of \$180,000	13.0%
0989705 B.C. Ltd. et al.	Gatland, REV and South Street LP	CCAA	A&M	1-Apr-22	BC	Real Estate	\$1.0	\$25,000	10.0%
Trinity Ravine Community Inc.	Nahid Corporation or an affiliate	CCAA	Deloitte	23-Feb-22	ON	Real Estate	\$0.9	1. one-time fee of \$20,000; 2. Advance Fee of \$500 per advance; 3. Standby Fee of 0.35% for any unutilized portion of the DIP Facility 4. \$40,000 for lender's legal fees & costs	The greater of 12% or Prime + 9.55%
Boreal Capital Partners	Halmon Properties Corporation	CCAA	EY	25-Nov-21	ON	Real Estate	\$10.0	Borrower responsible for DIP lender's expenses	7.5%
33 Laird Inc. et al.	An Affiliate of Beaux Properties International Inc.	NOI	MNP	3-Dec-20	ON	Real Estate	\$0.3	N/A	10.0%
Port Capital Development (EV) Inc.	Desjardins Financial Security Life Assurance Company	CCAA	EY	29-May-20	BC	Real Estate	\$1.8	Commitment fee of \$25k. The Borrower will be responsible for all of the Interim Lender's reasonable legal fees incurred in respect of the Interim Financing and CCAA proceedings.	The higher of prime + 9.55% and 12%,
2607380 Ontario Inc.	Meridian	CCAA	Richter	26-Feb-20	ON	Real Estate	\$7.2	Commitment fee of \$107,000, availability fee of \$2,000 per month.	9.3%
Gestion KnightsBridge Inc. and Investissements KnightsBridge S.E.C.	Claric Drolet Limited Partnership and Claric Bromont Limited Partnership	NOI	Richter	15-Nov-19	QC	Real Estate	\$0.1	N/A	10.0%
Forme Development Group Inc.	Kingsett Mortgage Corporation	CCAA	KSV	30-Nov-18	ON	Real Estate	\$5.0	\$75.0M commitment fee, extension fee of \$25.0M on each 4-month extension; professional costs of the lender.	Prime + 4.55% (minimum rate of 8.5%)

**Exhibit 1.B. Select Recent Credit Agreement Terms in Excess of \$100 million**

Debtor	Lender	Proceeding Type	Trustee	Filing Date	Jurisdiction	Industry	Commitment (\$MM)	Fees	Interest Rate
Revlon Inc. et al.	The BrandCo Lenders and certain Prepetition ABL Lenders	Foreign order recognition	KSV	20-Jun-22	ON	Manufacturing	Term DIP Facility - \$1.025 billion; ABL DIP Facility - \$400 million	Term DIP Facility - 1% of the aggregate principal amount of each Term DIP Lender's Term DIP Commitment; ABL DIP Facility - 1% of the aggregate Tranche A DIP ABL Commitments as of the Petition Date	Term DIP Facility - SOFR + 7.75% (with a 1% SOFR floor); LIFO ABL DIP Loans - ABR + 2.50% (with a 1.5% ABR floor); SISO ABL DIP Loans - ABR + 4.75% (with a 2.75% ABR floor)
Just Energy Group Inc. (TSX:JE)	LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC and OC II LVS XIV LP	CCAA	FTI	9-Mar-21	ON	Oil and Gas	\$125.0	Commitment fee of \$1.25 million and origination fee of \$1.25 million. The Borrower will be responsible for all of the DIP Lenders' reasonable legal fees incurred in respect of the DIP Financing.	13.0%
Mountain Equipment Co-operative	Toronto-Dominion Bank, Royal Bank of Canada and Canadian Imperial Bank of Commerce	CCAA	A&M	14-Sep-20	BC	Retail	\$100.0	The Interim Lenders also provided the petitioners' pre-filing credit facilities, so an "amendment fee" of \$250,000 is payable on the execution of the Interim Financing Credit Agreement. The petitioners are also required to reimburse the Interim Lenders for all reasonable and documented expenses in connection with the Interim Financing Facility and Interim Financing Credit Agreement.	Interest is payable on the outstanding principal amount at the applicable rate per annum for the Prime Rate, BA Rate and LIBO Rate Loans, any unused line fee, and the Default Rate for past due payments (all as defined in the Updated Credit Agreement), plus a rate of 2% per annum, payable on the Maturity Date
Pier 1 Imports (U.S.), Inc.	Various pre-petition lenders	Foreign order recognition	A&M	18-Feb-20	ON	Retail	US \$256.0	\$2.4 million in aggregate fees (equal to 0.9% of the total financing)	Revolving loans: LIBOR + 3% FILO Loans: LIBOR + 4.5% ABL Term Loan: LIBOR + 8%
Yellow YRC	Citadel Credit Master Fund LLC and MFN Partners, L.P.	Foreign order recognition	A&M	8-Aug-23	ON	Trucking	US\$100.0 Post petition B-2 Facility US\$42.5 Junior DIP Facility	Post petition B-2 Facility: \$4.0 million Junior DIP Facility: \$1.7 million	Post petition B-2 Facility: ABR + 8.5% Junior DIP Facility: 15%
Sungard	PNC Bank & Certain Prepetition 1L Term Loan Lenders and Prepetition 2L Term Loan Lenders	Foreign order recognition	A&M	11-Apr-22	ON	IT	US\$50.0 Senior Secured Revolver US\$285.9 Senior Secured Term Loan	Senior Secured Term Loan: Tranche A: 4% Backstop Fee, 3.0% OID, 2.5% fee on repaid amounts	Senior Secured Revolver: ABR + 3% Senior Secured Term Loan: Tranche A (\$95.3) L+9.5%; Tranche B (\$190.6) L+7.5%

**KEB HANA BANK as trustee of IGIS GLOBAL  
PRIVATE PLACEMENT REAL ESTATE FUND  
NO. 301 and as trustee of IGIS GLOBAL PRIVATE  
PLACEMENT REAL ESTATE FUND NO. 434**

Applicant

**MIZRAHI COMMERCIAL  
(THE ONE) LP, et al.**

and

Court File No:

Respondents

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**PROCEEDING COMMENCED AT: TORONTO**

**AFFIDAVIT OF JOO SUNG YOON**  
**(Made October 17, 2023)**

**OSLER, HOSKIN & HARCOURT LLP**  
100 King Street West, 1 First Canadian Place  
Suite 6200, P.O. Box 50, Toronto ON M5X 1B8

**Michael De Lellis** (LSO# 48038U)  
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Email: [mdelellis@osler.com](mailto:mdelellis@osler.com)

**Jeremy Dacks** (LSO# 41851R)  
Tel: 416.862.4923  
Email: [jdacks@osler.com](mailto:jdacks@osler.com)

**Shawn Irving** (LSO# 50035U)  
Tel: 416.862.4733  
Email: [sirving@osler.com](mailto:sirving@osler.com)

**Mark Sheeley** (LSO# 66473))  
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Lawyers for the Applicant

# TAB 3

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

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

THE HONOURABLE MR.

)

WEDNESDAY, THE 18TH

JUSTICE OSBORNE

)

DAY OF OCTOBER, 2023

**KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL  
ESTATE FUND NO. 301 and KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE  
PLACEMENT REAL ESTATE FUND NO. 434**

Applicant

- and -

**MIZRAHI COMMERCIAL (THE ONE) LP, MIZRAHI DEVELOPMENT GROUP (THE  
ONE) INC., and MIZRAHI COMMERCIAL (THE ONE) GP INC.**

Respondents

**ORDER  
(Appointing Receiver)**

**THIS APPLICATION** made by KEB Hana Bank as trustee of (i) IGIS Global Private Placement Real Estate Fund No. 301 and (ii) IGIS Global Private Placement Real Estate Fund No. 434 (the “**Applicant**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as receiver and manager (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc., and Mizrahi Commercial (The One) GP Inc. (together, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors including, without limitation, in connection with the development of an 85-storey condominium, hotel and retail tower located at the southwest corner of Yonge Street and Bloor Street West in Toronto, Ontario and legally described on Schedule “A” hereto (the “**Project**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Joo Sung Yoon (the “**Yoon Affidavit**”) sworn October 17, 2023 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, counsel for the Receiver, counsel for Sam Mizrahi, Mizrahi Inc. and Sam M Inc. (collectively, the “**Mizrahi Group**”), and counsel for Jenny Coco, Coco International Inc., 12823543 Canada Ltd., no one else appearing although duly served as appears from the affidavit of service of [●] sworn [●] and on reading the consent of A&M to act as the Receiver,

#### **SERVICE AND REFERENCES**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that, in this Order, references to the Debtors shall include references to all Debtors, or any of them, unless otherwise specified.

#### **APPOINTMENT**

3. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, A&M is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including, without limitation, in connection with the Project and the Project itself, including all proceeds thereof (the “**Property**”). For the avoidance of doubt, the Property includes the lands legally described on Schedule “A” hereto and the buildings located thereon.

#### **RECEIVER’S POWERS**

4. **THIS COURT ORDERS** that, subject to the terms of the Receivership Funding Credit Agreement (as defined herein), including, without limitation, the Cash Flow Projections (as defined in the Receivership Funding Credit Agreement), the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or in respect of the Property, including without limitation, the Debtors' bank accounts wherever located;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, including the powers to (i) enter into any agreements, including any agreements for the purchase and sale of condominium units which shall be subject to Court approval, (ii) incur any obligations in the ordinary course of business, (iii) cease to carry on all or any part of the business, or (iv) cease to perform, terminate or disclaim any contracts of the Debtors, or in respect of the Property, subject to paragraph 5 of this Order;
- (d) make, directly or indirectly, payments owing by the Debtors, or any of them, or owing by Mizrahi Inc. solely in its capacity as developer or general contractor of the Project (in such capacity, the "**Developer**"), to suppliers, contractors, subcontractors and other creditors, in respect of amounts owing prior to or after the date of this Order, who the Receiver considers to be critical to the business of the Debtors or the Project;
- (e) to engage construction managers, project managers, contractors, subcontractors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and any other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (f) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (g) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and, with the consent of the Applicant, to exercise all remedies of the

Debtors in collecting such monies and accounts, including, without limitation, to enforce any security held by the Debtors;

- (h) to settle, extend or compromise any indebtedness owing to the Debtors, provided that the Receiver shall obtain the prior consent of the Applicant prior to settling, extending or compromising any indebtedness owing to the Debtors in excess of \$100,000;
- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction permits and any requirements related thereto, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings, provided that the Receiver shall obtain the prior consent of the Applicant prior to settling or compromising any proceeding where the amount claimed is in excess of \$100,000. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) in consultation with the Applicant, to market, whether directly or indirectly, any or all of the Property, including, without limitation, condominium units and leased premises in the Project, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
  - (i) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$2,000,000, and provided further that no condominium unit in the Project shall be sold pursuant to this clause (i); and

- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause, or in respect of any transaction in respect of condominium units in the Project;

and in each such case notice under subsection 63(4) of the *Ontario Personal Property Security Act*, or section 31 of the *Ontario Mortgages Act*, as the case may be, shall not be required;

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and/or the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable, and to conduct any investigations associated with the Debtors' business or the Property as the Receiver deems appropriate;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions and any renewals thereof, and make any filings, in each case as may be required by any governmental authority for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (q) with the consent of the Applicant, to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (r) to exercise any shareholder, partnership, joint venture, contractual, statutory or other rights which the Debtors may have; and



- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to any of the Debtors,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

5. **THIS COURT ORDERS** that the Receiver shall be at liberty to cease to perform, terminate or disclaim either the Commercial Development Management Agreement (the “**Construction Management Agreement**”) made as of the 25th day of July, 2014 between Mizrahi Commercial (The One) LP as owner and Mizrahi Inc. as manager in respect of the development and construction services provided to the Project, or the CCDC2 Stipulated Price Contract 2008 (the “**GC Agreement**”) made on the 14th day of May, 2019, as amended on the 27th day of September, 2019, between Mizrahi Development Group (The One) Inc. as owner and Mizrahi Inc. as contractor, in respect of the general contractor services provided to the Project, subject to providing at least 15 days’ notice to counsel to the Mizrahi Group.

6. **THIS COURT ORDERS** that the Receiver is authorized and directed to pay the amount of \$[●], in respect of the amounts owing to Mizrahi Inc. pursuant to the Construction Management Agreement and/or the GC Agreement prior to the date of this Order, and the Receiver is further authorized to pay all fees owing under the Construction Management Agreement and the GC Agreement that are properly incurred on or after the date of this Order, pursuant to the terms of such agreements; provided however that, for the avoidance of doubt, in making any payments pursuant to this paragraph 6, the Receiver is not affirming either the Construction Management Contract or the GC Agreement, and the Receiver shall have no personal liability for any payments or other obligations under either the Construction Management Contract or the GC Agreement.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

7. **THIS COURT ORDERS** that (i) the Debtors; (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel, direct and indirect shareholders or other equity holders, limited partners, general partners and all other persons acting on their instructions or behalf; (iii) all construction managers, project managers, contractors, subcontractors and service

providers directly or indirectly involved in the Project, and all other persons acting on their instructions or behalf; and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

8. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, agreements, orders, corporate and accounting records, insurance policies, permits, licenses and any other papers, records, information and cloud-based data of any kind related to the business or affairs of the Debtors or the Property, and any computer programs, computer tapes, computer disks, cloud or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof (in each case within the timeframe specified by the Receiver in writing or such other timeframe as may be agreed to between the Receiver and such Person) and grant to the Receiver unfettered access to and use of accounting, computer, software, cloud and physical facilities relating thereto, provided however that nothing in this paragraph 8 or in paragraph 9 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

9. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer, in the cloud, or in or on other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require

including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers or other account credentials that may be required to gain access to the information.

10. **THIS COURT ORDERS** that all Persons, including, without limitation, the Debtors, Mizrahi Inc., Sam M Inc., 12823543 Canada Ltd., Sam Mizrahi, Jenny Coco, and all construction managers, general contractors, contractors and subcontractors to the Project shall be required to cooperate, and share information, with the Receiver in connection with all books and records, contracts, subcontracts, agreements, permits, licenses and insurance policies and other documents in respect of the Debtors and/or the Property. In addition to the foregoing general cooperation and information sharing requirements, all constructions managers, general contractors, contractors, and subcontractors shall, as applicable, be required to do the following things: (a) in respect of any and all such contracts, subcontracts, agreements, permits, licenses and insurance policies and other documents: (1) maintain them in good standing and provide immediate notice and copies to the Receiver of any communications received from regulators or providers in respect thereof; (2) provide immediate notice to the Receiver of any material change and/or pending material change to the status quo in respect thereof; and (3) provide thirty days' notice of any renewal date, termination date, election date or similar date in respect thereof; and (b) assist, and cooperate with, the Receiver in obtaining any further permits and licenses that may be required.

11. **THIS COURT ORDERS** that, upon termination, disclaimer, expiry or cessation of any contract or agreement between the Debtors and/or or the Receiver and any other Person, such Person shall deliver to the Receiver any Records necessary or desirable for the operation of the Debtors' business or the Project.

12. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon

application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

13. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver or the Receiver’s counsel except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

14. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver, or affecting the Property, including, without limitation, licenses and permits required for the Project regardless of who is the legal holder of any such licenses and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

16. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of the Debtors, the Developer, or in respect of the Project, or held by the Debtors or the Developer, without written consent of the Receiver or leave of this Court.

## CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors, or the Developer or contractual, statutory or regulatory mandates for the supply of goods and/or services to the Debtors, or the Developer and/or the Project, including without limitation, all computer software, communication and other data services, construction management services, project management services, permit and planning management services, accounting services, centralized banking services, payroll and benefit services, warranty services, sub-contracts, trade suppliers, equipment vendors and rental companies, insurance, transportation services, utility, customers, clearing, warehouse and logistics services or other services to the Debtors, or the Developer and/or the Project are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver or the Developer, as determined by the Receiver, in accordance with normal payment practices of the Debtors or the Developer, as applicable, or, with respect to the Debtors or the Developer, such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

18. **THIS COURT ORDERS** that any Person who has provided any kind of letter of credit, guarantee, surety or bond (collectively, "**Financial Assurance**") to or for the benefit of the Debtors, including where such Financial Assurance has been provided to the Developer, on or before the date of this Order shall be required to continue honouring such Financial Assurance in accordance with its terms, notwithstanding any default of cross-default arising as a result of this Order, the financial circumstances of the Debtors or otherwise. For greater certainty, the guarantees of the Guarantors referred to in paragraph 65 of the Yoon Affidavit shall not be affected by this paragraph and such guarantees are not included in the definition of Financial Assurance.

## RECEIVER TO HOLD FUNDS

19. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the

collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new bank accounts to be opened by the Receiver or on the instructions of the Receiver into a lawyer's trust account held in trust in accordance with purchase and sale agreements for condominium units in the Project (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

20. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the respective Debtor until such time as the Receiver, on the applicable Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

21. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property including, without limitation, condominium units and leased premises in the Project (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## LIMITATION ON ENVIRONMENTAL LIABILITIES

22. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act, 1999*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

## LIMITATION ON THE RECEIVER’S LIABILITY

23. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation (including, without limitation, any personal liability or obligation under or in connection with (i) the Receivership Funding Credit Agreement; (ii) the performance, actions, errors, omissions or negligence by or of any construction manager, project manager, developer, contractor, subcontractor or other service provider directly or indirectly involved in the Project, and all other persons acting on their instructions or behalf, or (iii) as a result of its appointment or the carrying out of the provisions of this Order), save and except for liability arising from any gross negligence or wilful misconduct on its part, as determined pursuant to a final order of this Court that is not subject to appeal or other review and all rights to seek any such appeal or other review shall have expired, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

## RECEIVER'S ACCOUNTS

24. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, whether incurred prior to, on or subsequent to the date of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, and provided further that the Receiver’s Charge shall be subordinate to the security interest of Aviva Insurance Company of Canada (“**Aviva**”) in the Condo Deposits in the Condo Deposit Account (each as defined in the Yoon Affidavit).

25. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

26. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

## FUNDING OF THE RECEIVERSHIP

27. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow, by way of the Receivership Funding Credit Agreement dated as of October 18, 2023 among the Receiver, IGIS Asset Management Co., Ltd. and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 530 (the “**Lender**”) (with such minor amendments that are not inconsistent with this Order, as the Lender and the Receiver may agree to, the “**Receivership Funding Credit Agreement**”), such monies from time to time as it may consider necessary or desirable, provided that draws made under the Receivership Funding Credit



Agreement do not exceed \$315,000,000 (or such further amount as this Court may authorize), on the terms contained in the Receivership Funding Credit Agreement, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including as required in order to finance ongoing construction and development costs in connection with the Project and costs associated with the Receivership, including professional fees. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed pursuant to the Receivership Funding Credit Agreement, together with interest, fees and charges thereon, as set forth in the Receivership Funding Credit Agreement, and all other amounts the Debtors are responsible for pursuant to the Receivership Funding Credit Agreement, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, and provided further that the Receiver’s Borrowings Charge shall be subordinate to the security interest of Aviva in the Condo Deposits in the Condo Deposit Account.

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

- (a) upon the occurrence of an event of default under the Receivership Funding Credit Agreement or the Receiver’s Borrowings Charge, the Lender may immediately cease making advances to the Receiver, make demand, accelerate payment and give other notices; and
- (b) the foregoing rights and remedies of the Lender shall be enforceable against any trustee in bankruptcy of the Debtors or the Property.

29. **THIS COURT ORDERS** that the Receiver’s Borrowings Charge shall not be enforced without leave of this Court.

30. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “B” hereto (the “**Receiver’s Certificates**”) as evidence for any amount borrowed by it pursuant to the Receivership Funding Credit Agreement and this Order.

31. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to the Receivership Funding Credit Agreement and this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

### **SERVICE AND NOTICE**

32. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: <https://www.alvarezandmarsal.com/theone>.

33. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

### **GENERAL**

34. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

35. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any or all of the Debtors.

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

37. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

38. **THIS COURT ORDERS** that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Receivership Funding Credit Agreement, the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estates with such priority and at such time as this Court may determine.

39. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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## SCHEDULE “A”

### LEGAL DESCRIPTION OF THE PROJECT

PIN 21109-0244 (LT)

FIRSTLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP145729 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; SECONDLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP93304 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; THIRDLY: PT PARKLT 9 CON 1 FTB TWP OF YORK PT 1 64R16532; SUBJECT TO AN EASEMENT AS IN AT5101384; FOURTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK PT 163R658; SUBJECT TO AN EASEMENT AS IN AT5101384; FIFTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CA703847; SUBJECT TO AN EASEMENT AS IN AT5101384; SIXTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CT277770; SUBJECT TO AN EASEMENT AS IN AT5101384; SEVENTHLY: FIRSTLY: PT PARK LT 9 CON 1 FTB TWP OF YORK, AS IN EP142034 AND SECONDLY: PT PT PARK LT 9 CON 1 FTB TWP OF YORK DESIGNATED AS PT 15 ON PL 63R-3142, SAVE AND EXCEPT PART 2 ON PLAN 66R-32221; SUBJECT TO AN EASEMENT AS IN AT5101384; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 7 AND 8 ON PLAN 66R-32221 AS IN AT6077647; SUBJECT TO AN EASEMENT OVER PARTS 4, 5 AND 6 ON PLAN 66R-32221 AS IN AT6077654; TOGETHER WITH AN EASEMENT OVER PART OF PARK LOT 9, CONCESSION 1 FROM THE BAY (YORK) DESIGNATED AS PART 2 ON PLAN 66R-32221 AS IN AT6077634; SUBJECT TO AN EASEMENT OVER PART 3 ON PLAN 66R-32221 IN FAVOUR OF PART OF PARK LOT 9, CONCESSION 1 FROM THE BAY (YORK) DESIGNATED AS PART 2 ON PLAN 66R-32221 AS IN AT6077634; SUBJECT TO AN EASEMENT AS IN AT6227322; CITY OF TORONTO

## SCHEDULE “B”

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that Alvarez & Marsal Canada Inc., in its capacity as the receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc., and Mizrahi Commercial (The One) GP Inc. (the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors including, without limitation, in connection with the development of an 85-storey condominium, hotel and retail tower located at the southwest corner of Yonge Street and Bloor Street West in Toronto, Ontario (the “**Project**”), including all proceeds thereof (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “**Order**”) made in an action having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 530 (the “**Lender**”) the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable in accordance with the terms of the Receivership Funding Credit Agreement (as defined in the Order) with interest thereon calculated in accordance with the terms of the Receivership Funding Credit Agreement.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**ALVAREZ & MARSAL CANADA INC.,**  
solely in its capacity as Receiver of the Property,  
and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:

# TAB 4

Revised: January 21, 2014  
~~s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver~~

Court File No. [●]\_\_\_\_\_

ONTARIO  
 SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ●MR.

JUSTICE ●OSBORNE

)  
)  
)

●WEDNESDAY, THE ●18TH

DAY OF ●OCTOBER, 20●23

**PLAINTIFF<sup>1</sup>**

**Plaintiff**

KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL ESTATE FUND NO. 301 and KEB HANA BANK as trustee of IGIS GLOBAL PRIVATE PLACEMENT REAL ESTATE FUND NO. 434

Applicant

- and -

**DEFENDANT**

**Defendant**

MIZRAHI COMMERCIAL (THE ONE) LP, MIZRAHI DEVELOPMENT GROUP (THE ONE) INC., and MIZRAHI COMMERCIAL (THE ONE) GP INC.

Respondents

**ORDER**  
**(~~appointing~~Appointing Receiver)**

THIS ~~MOTION~~APPLICATION made by ~~the Plaintiff~~<sup>2</sup>KEB Hana Bank as trustee of (i) IGIS Global Private Placement Real Estate Fund No. 301 and (ii) IGIS Global Private Placement

<sup>1</sup> ~~The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

<sup>2</sup> ~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~



Real Estate Fund No. 434 (the “Applicant”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “CJA”) appointing ~~[RECEIVER’S NAME]~~Alvarez & Marsal Canada Inc. (“A&M”) as receiver ~~and manager~~ (in such ~~capacities~~capacity, the “Receiver”) without security, of all of the assets, undertakings and properties of ~~[DEBTOR’S NAME]~~(Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc., and Mizrahi Commercial (The One) GP Inc. (together, the “DebtorDebtors”)) acquired for, or used in relation to a business carried on by the ~~Debtor~~Debtors including, without limitation, in connection with the development of an 85-storey condominium, hotel and retail tower located at the southwest corner of Yonge Street and Bloor Street West in Toronto, Ontario and legally described on Schedule “A” hereto (the “Project”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of ~~[NAME]~~Joo Sung Yoon (the “Yoon Affidavit”) sworn ~~[DATE]~~October 17, 2023 and the Exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]~~the Applicant, counsel for the Receiver, counsel for Sam Mizrahi, Mizrahi Inc. and Sam M Inc. (collectively, the “Mizrahi Group”), and counsel for Jenny Coco, Coco International Inc., 12823543 Canada Ltd., no one else appearing ~~for [NAME]~~ although duly served as appears from the affidavit of service of ~~[NAME]~~[NAME] sworn ~~[DATE]~~[DATE] and on reading the consent of ~~[RECEIVER’S NAME]~~A&M to act as the Receiver,

## **SERVICE AND REFERENCES**

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Application is hereby abridged and validated<sup>3</sup> so that this ~~motion~~application is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that, in this Order, references to the Debtors shall include references to all Debtors, or any of them, unless otherwise specified.

<sup>3</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

## APPOINTMENT

3. ~~2.~~ **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~ A&M is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the ~~Debtor~~ Debtors acquired for, or used in relation to a business carried on by the ~~Debtor~~ Debtors, including, without limitation, in connection with the Project and the Project itself, including all proceeds thereof (the “**Property**”). For the avoidance of doubt, the Property includes the lands legally described on Schedule “A” hereto and the buildings located thereon.

## RECEIVER'S POWERS

4. ~~3.~~ **THIS COURT ORDERS** that, subject to the terms of the Receivership Funding Credit Agreement (as defined herein), including, without limitation, the Cash Flow Projections (as defined in the Receivership Funding Credit Agreement), the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or ~~from~~ in respect of the Property, including without limitation, the Debtors' bank accounts wherever located;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the ~~Debtor~~ Debtors, including the powers to (i) enter into any agreements, including any agreements for the purchase and sale of condominium units which shall be subject to Court approval, (ii) incur any obligations in the ordinary course of business, (iii) cease to carry on

all or any part of the business, or (iv) cease to perform, terminate or disclaim any contracts of the ~~Debtor~~ Debtors, or in respect of the Property, subject to paragraph 5 of this Order;

(d) make, directly or indirectly, payments owing by the Debtors, or any of them, or owing by Mizrahi Inc. solely in its capacity as developer or general contractor of the Project (in such capacity, the “Developer”), to suppliers, contractors, subcontractors and other creditors, in respect of amounts owing prior to or after the date of this Order, who the Receiver considers to be critical to the business of the Debtors or the Project;

(e) ~~(d)~~—to engage construction managers, project managers, contractors, subcontractors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and ~~such~~ any other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

(f) ~~(e)~~—to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the ~~Debtor~~ Debtors or any part or parts thereof;

(g) ~~(f)~~—to receive and collect all monies and accounts now owed or hereafter owing to the ~~Debtor~~ Debtors and, with the consent of the Applicant, to exercise all remedies of the ~~Debtor~~ Debtors in collecting such monies and accounts, including, without limitation, to enforce any security held by the ~~Debtor~~ Debtors;

(h) ~~(g)~~—to settle, extend or compromise any indebtedness owing to the ~~Debtor~~ Debtors, provided that the Receiver shall obtain the prior consent of the Applicant prior to settling, extending or compromising any indebtedness owing to the Debtors in excess of \$100,000;

(i) ~~(h)~~—to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction

permits and any requirements related thereto, whether in the Receiver's name or in the name and on behalf of the ~~Debtor~~Debtors, for any purpose pursuant to this Order;

(j) ~~(i)~~ to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the ~~Debtor~~Debtors, the Property or the Receiver, and to settle or compromise any such proceedings, provided that the Receiver shall obtain the prior consent of the Applicant prior to settling or compromising any proceeding where the amount claimed is in excess of \$100,000.<sup>4</sup> The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

(k) ~~(j)~~ in consultation with the Applicant, to market, whether directly or indirectly, any or all of the Property, including, without limitation, condominium units and leased premises in the Project, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

(l) ~~(k)~~ to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business<sup>5</sup>;

(i) without the approval of this Court in respect of any transaction not exceeding \$~~\_\_\_\_\_~~500,000, provided that the aggregate consideration for all such transactions does not exceed \$~~\_\_\_\_\_~~2,000,000, and provided further that no condominium unit in the Project shall be sold pursuant to this clause (i); and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable

<sup>4</sup> ~~This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

amount set out in the preceding clause, or in respect of any transaction in respect of condominium units in the Project;

and in each such case notice under subsection 63(4) of the *Ontario Personal Property Security Act*, ~~for~~ section 31 of the *Ontario Mortgages Act*, as the case may be,<sup>5</sup> shall not be required, ~~and in each case the Ontario Bulk Sales Act shall not apply.;~~

- (m) ~~(h)~~ to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) ~~(m)~~ to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and or the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable, and to conduct any investigations associated with the Debtors' business or the Property as the Receiver deems appropriate;
- (o) ~~(n)~~ to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) ~~(o)~~ to apply for any permits, licences, approvals or permissions and any renewals thereof, and make any filings, in each case as may be required by any governmental authority ~~and any renewals thereof~~ for and on behalf of and, if thought desirable by the Receiver, in the name of the ~~Debtor~~ Debtors;
- (q) ~~(p)~~ with the consent of the Applicant, to enter into agreements with any trustee in bankruptcy appointed in respect of the ~~Debtor~~ Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the ~~Debtor~~ Debtors;

<sup>5</sup> ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

(r) ~~(q)~~ to exercise any shareholder, partnership, joint venture, contractual, statutory or other rights which the ~~Debtor~~Debtors may have; and

(s) ~~(t)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to any of the Debtors,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the ~~Debtor~~Debtors, and without interference from any other Person.

5. THIS COURT ORDERS that the Receiver shall be at liberty to cease to perform, terminate or disclaim either the Commercial Development Management Agreement (the “Construction Management Agreement”) made as of the 25th day of July, 2014 between Mizrahi Commercial (The One) LP as owner and Mizrahi Inc. as manager in respect of the development and construction services provided to the Project, or the CCDC2 Stipulated Price Contract 2008 (the “GC Agreement”) made on the 14th day of May, 2019, as amended on the 27th day of September, 2019, between Mizrahi Development Group (The One) Inc. as owner and Mizrahi Inc. as contractor, in respect of the general contractor services provided to the Project, subject to providing at least 15 days’ notice to counsel to the Mizrahi Group.

6. THIS COURT ORDERS that the Receiver is authorized and directed to pay the amount of \$[●], in respect of the amounts owing to Mizrahi Inc. pursuant to the Construction Management Agreement and/or the GC Agreement prior to the date of this Order, and the Receiver is further authorized to pay all fees owing under the Construction Management Agreement and the GC Agreement that are properly incurred on or after the date of this Order, pursuant to the terms of such agreements; provided however that, for the avoidance of doubt, in making any payments pursuant to this paragraph 6, the Receiver is not affirming either the Construction Management Contract or the GC Agreement, and the Receiver shall have no personal liability for any payments or other obligations under either the Construction Management Contract or the GC Agreement.

## DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

7. ~~4.~~ **THIS COURT ORDERS** that (i) the ~~Debtor,~~Debtors; (ii) all of ~~its~~their current and former directors, officers, employees, agents, accountants, legal counsel, direct and indirect shareholders, or other equity holders, limited partners, general partners and all other persons acting on ~~its~~their instructions or behalf, ~~and;~~ (iii) all construction managers, project managers, contractors, subcontractors and service providers directly or indirectly involved in the Project, and all other persons acting on their instructions or behalf; and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person~~s~~<sup>’</sup>s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

8. ~~5.~~ **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, agreements, orders, corporate and accounting records, insurance policies, permits, licenses and any other papers, records ~~and,~~ information and cloud-based data of any kind related to the business or affairs of the ~~Debtor~~Debtors or the Property, and any computer programs, computer tapes, computer disks, cloud or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof (in each case within the timeframe specified by the Receiver in writing or such other timeframe as may be agreed to between the Receiver and such Person) and grant to the Receiver unfettered access to and use of accounting, computer, software, cloud and physical facilities relating thereto, provided however that nothing in this paragraph ~~58~~ or in paragraph ~~69~~ of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

9. ~~6.~~ **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer, in the cloud, or in or on other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records

shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers or other account credentials that may be required to gain access to the information.

10. THIS COURT ORDERS that all Persons, including, without limitation, the Debtors, Mizrahi Inc., Sam M Inc., 12823543 Canada Ltd., Sam Mizrahi, Jenny Coco, and all construction managers, general contractors, contractors and subcontractors to the Project shall be required to cooperate, and share information, with the Receiver in connection with all books and records, contracts, subcontracts, agreements, permits, licenses and insurance policies and other documents in respect of the Debtors and/or the Property. In addition to the foregoing general cooperation and information sharing requirements, all constructions managers, general contractors, contractors, and subcontractors shall, as applicable, be required to do the following things: (a) in respect of any and all such contracts, subcontracts, agreements, permits, licenses and insurance policies and other documents: (1) maintain them in good standing and provide immediate notice and copies to the Receiver of any communications received from regulators or providers in respect thereof; (2) provide immediate notice to the Receiver of any material change and/or pending material change to the status quo in respect thereof; and (3) provide thirty days' notice of any renewal date, termination date, election date or similar date in respect thereof; and (b) assist, and cooperate with, the Receiver in obtaining any further permits and licenses that may be required.

11. THIS COURT ORDERS that, upon termination, disclaimer, expiry or cessation of any contract or agreement between the Debtors and/or or the Receiver and any other Person, such Person shall deliver to the Receiver any Records necessary or desirable for the operation of the Debtors' business or the Project.



12. ~~7.~~ **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

13. ~~8.~~ **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver or the Receiver's counsel except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE ~~DEBTOR~~DEBTORS OR THE PROPERTY**

14. ~~9.~~ **THIS COURT ORDERS** that no Proceeding against or in respect of the ~~Debtor~~Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the ~~Debtor~~Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. ~~10.~~ **THIS COURT ORDERS** that all rights and remedies against the ~~Debtor~~Debtors, the Receiver, or affecting the Property, including, without limitation, licenses and permits required for the Project regardless of who is the legal holder of any such licenses and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the ~~Debtor~~Debtors to carry on any business which the ~~Debtor~~is Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the ~~Debtor~~Debtors

from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### NO INTERFERENCE WITH THE RECEIVER

16. ~~11.~~ **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of the Debtors, the Developer, or in respect of the Project, or held by the ~~Debtor~~ Debtors or the Developer, without written consent of the Receiver or leave of this Court.

#### CONTINUATION OF SERVICES

17. ~~12.~~ **THIS COURT ORDERS** that all Persons having oral or written agreements with the ~~Debtor~~ Debtors, or the Developer or contractual, statutory or regulatory mandates for the supply of goods and/or services to the Debtors, or the Developer and/or the Project, including without limitation, all computer software, communication and other data services, construction management services, project management services, permit and planning management services, accounting services, centralized banking services, payroll ~~services~~ and benefit services, warranty services, sub-contracts, trade suppliers, equipment vendors and rental companies, insurance, transportation services, utility, customers, clearing, warehouse and logistics services or other services to the ~~Debtor~~ Debtors, or the Developer and/or the Project are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the ~~Debtor~~ Debtors' s current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver or the Developer, as determined by the Receiver, in accordance with normal payment practices of the ~~Debtor~~ Debtors or the Developer, as applicable, or, with respect to the Debtors or the Developer, such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

18. **THIS COURT ORDERS** that any Person who has provided any kind of letter of credit, guarantee, surety or bond (collectively, **“Financial Assurance”**) to or for the benefit of the Debtors, including where such Financial Assurance has been provided to the Developer, on or before the date of this Order shall be required to continue honouring such Financial Assurance in accordance with its terms, notwithstanding any default of cross-default arising as a result of this Order, the financial circumstances of the Debtors or otherwise. For greater certainty, the guarantees of the Guarantors referred to in paragraph 65 of the Yoon Affidavit shall not be affected by this paragraph and such guarantees are not included in the definition of Financial Assurance.

## RECEIVER TO HOLD FUNDS

19. ~~13.~~ **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new bank accounts to be opened by the Receiver or on the instructions of the Receiver into a lawyer’s trust account held in trust in accordance with purchase and sale agreements for condominium units in the Project (the **“Post Receivership Accounts”**) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## EMPLOYEES

20. ~~14.~~ **THIS COURT ORDERS** that all employees of the ~~Debtor~~ Debtors shall remain the employees of the respective Debtor until such time as the Receiver, on the ~~Debtor~~ applicable Debtors’s behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

**PIPEDA**  
21. ~~15.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property including, without limitation, condominium units and leased premises in the Project (each, a “Sale”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~ Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

22. ~~16.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act, 1999*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver<sup>2</sup>'s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

## LIMITATION ON THE RECEIVER'S LIABILITY

23. ~~17.~~ **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation (including, without limitation, any personal liability or obligation under or in connection with (i) the Receivership Funding Credit Agreement; (ii) the performance, actions, errors, omissions or negligence by or of any construction manager, project manager, developer, contractor, subcontractor or other service provider directly or indirectly involved in the Project, and all other persons acting on their instructions or behalf, or (iii) as a result of its appointment or the carrying out of the provisions of this Order), save and except for liability arising from any gross negligence or wilful misconduct on its part, as determined pursuant to a final order of this Court that is not subject to appeal or other review and all rights to seek any such appeal or other review shall have expired, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

## RECEIVER'S ACCOUNTS

24. ~~18.~~ **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, whether incurred prior to, on or subsequent to the date of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, and provided further that the Receiver’s Charge shall be subordinate to the security interest of Aviva Insurance Company of Canada (“Aviva”) in the Condo Deposits in the Condo Deposit Account (each as defined in the Yoon Affidavit).<sup>6</sup>

<sup>6</sup> Note that subsection 243(6) of the BIA provides that the Court may not make such an order “unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an

25. ~~19.~~ **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass ~~its~~their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

26. ~~20.~~ **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **FUNDING OF THE RECEIVERSHIP**

27. ~~21.~~ **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow, by way of ~~a revolving credit or otherwise~~ the Receivership Funding Credit Agreement dated as of October 18, 2023 among the Receiver, IGIS Asset Management Co., Ltd. and KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 530 (the “Lender”) (with such minor amendments that are not inconsistent with this Order, as the Lender and the Receiver may agree to, the “Receivership Funding Credit Agreement”), such monies from time to time as it may consider necessary or desirable, provided that draws made under the ~~outstanding principal amount does~~ Receivership Funding Credit Agreement do not exceed \$ ~~\_\_\_\_\_~~ 315,000,000 (or such ~~greater~~ further amount as this Court may ~~by further Order~~ authorize) ~~at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange,~~ on the terms contained in the Receivership Funding Credit Agreement, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including ~~interim expenditures~~ as required in order to finance ongoing construction and development costs in connection with the Project and costs associated with the Receivership, including professional fees. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the **“Receiver’s Borrowings Charge”**) as security for the payment of the monies borrowed pursuant to the Receivership Funding Credit

~~that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations”.~~

Agreement, together with interest, fees and charges thereon, as set forth in the Receivership Funding Credit Agreement, and all other amounts the Debtors are responsible for pursuant to the Receivership Funding Credit Agreement, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, and provided further that the Receiver's Borrowings Charge shall be subordinate to the security interest of Aviva in the Condo Deposits in the Condo Deposit Account.

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

(a)     upon the occurrence of an event of default under the Receivership Funding Credit Agreement or the Receiver's Borrowings Charge, the Lender may immediately cease making advances to the Receiver, make demand, accelerate payment and give other notices; and

(b)     the foregoing rights and remedies of the Lender shall be enforceable against any trustee in bankruptcy of the Debtors or the Property.

29.     ~~22.~~ **THIS COURT ORDERS** that ~~neither~~ the Receiver's Borrowings Charge ~~nor any other security granted by the Receiver in connection with its borrowings under this Order~~ shall not be enforced without leave of this Court.

30.     ~~23.~~ **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "AB" hereto (the "**Receiver's Certificates**") as evidence for any amount borrowed by it pursuant to the Receivership Funding Credit Agreement and this Order.

31.     ~~24.~~ **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to the Receivership Funding Credit Agreement and this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

## SERVICE AND NOTICE

32. ~~25.~~ **THIS COURT ORDERS** that the E-Service ~~Protocol~~Guide of the Commercial List (the “~~Protocol~~Guide”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the ~~Protocol~~Guide (which can be found on the Commercial List website at ~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>~~<https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph ~~21~~3 of the ~~Protocol~~Guide, service of documents in accordance with the ~~Protocol~~Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the ~~Protocol~~Guide with the following URL: ~~{●}~~<https://www.alvarezandmarsal.com/theone>.

33. ~~26.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the ~~Protocol~~Guide is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the ~~Debtor~~Debtors’s creditors or other interested parties at their respective addresses as last shown on the records of the ~~Debtor~~Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## GENERAL

34. ~~27.~~ **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

35. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any or all of the ~~Debtor~~Debtors.

36. ~~29.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States



to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

37. ~~30.~~ **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

38. ~~31.~~ **THIS COURT ORDERS** that the ~~Plaintiff~~Applicant shall have its costs of this ~~motion~~Application, up to and including entry and service of this Order, provided for by the terms of the ~~Plaintiff~~Receivership Funding Credit Agreement, the Applicant's security or, if not so provided by the ~~Plaintiff~~Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the ~~Debtor~~Debtors' ~~s-estate~~ estates with such priority and at such time as this Court may determine.

39. ~~32.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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**SCHEDULE "A"****LEGAL DESCRIPTION OF THE PROJECT**

PIN 21109-0244 (LT)

FIRSTLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP145729 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; SECONDLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN EP93304 EXCEPT THE EASEMENT THEREIN; SUBJECT TO AN EASEMENT AS IN AT5101384; THIRDLY: PT PARKLT 9 CON 1 FTB TWP OF YORK PT 1 64R16532; SUBJECT TO AN EASEMENT AS IN AT5101384; FOURTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK PT 163R658; SUBJECT TO AN EASEMENT AS IN AT5101384; FIFTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CA703847; SUBJECT TO AN EASEMENT AS IN AT5101384; SIXTHLY: PT PARKLT 9 CON 1 FTB TWP OF YORK AS IN CT277770; SUBJECT TO AN EASEMENT AS IN AT5101384; SEVENTHLY: FIRSTLY: PT PARK LT 9 CON 1 FTB TWP OF YORK, AS IN EP142034 AND SECONDLY: PT PT PARK LT 9 CON 1 FTB TWP OF YORK DESIGNATED AS PT 15 ON PL 63R-3142, SAVE AND EXCEPT PART 2 ON PLAN 66R-32221; SUBJECT TO AN EASEMENT AS IN AT5101384; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 7 AND 8 ON PLAN 66R-32221 AS IN AT6077647; SUBJECT TO AN EASEMENT OVER PARTS 4, 5 AND 6 ON PLAN 66R-32221 AS IN AT6077654; TOGETHER WITH AN EASEMENT OVER PART OF PARK LOT 9, CONCESSION 1 FROM THE BAY (YORK) DESIGNATED AS PART 2 ON PLAN 66R-32221 AS IN AT6077634; SUBJECT TO AN EASEMENT OVER PART 3 ON PLAN 66R-32221 IN FAVOUR OF PART OF PARK LOT 9, CONCESSION 1 FROM THE BAY (YORK) DESIGNATED AS PART 2 ON PLAN 66R-32221 AS IN AT6077634; SUBJECT TO AN EASEMENT AS IN AT6227322; CITY OF TORONTO

SCHEDULE "B"

## RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that ~~RECEIVER'S NAME~~, Alvarez & Marsal Canada Inc., in its capacity as the receiver and manager (the "Receiver") of the assets, undertakings and properties ~~DEBTOR'S NAME~~ of Mizrahi Commercial (The One) LP, Mizrahi Development Group (The One) Inc., and Mizrahi Commercial (The One) GP Inc. (the "Debtors") acquired for, or used in relation to a business carried on by the ~~Debtor~~ Debtors including, without limitation, in connection with the development of an 85-storey condominium, hotel and retail tower located at the southwest corner of Yonge Street and Bloor Street West in Toronto, Ontario (the "Project"), including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_\_\_-CL-\_\_\_\_\_, has received as such Receiver from ~~the holder of this certificate~~ KEB Hana Bank as trustee of IGIS Global Private Placement Real Estate Fund No. 530 (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable ~~on demand by the Lender in accordance with the terms of the Receivership Funding Credit Agreement (as defined in the Order)~~ with interest thereon calculated ~~and compounded [daily][monthly not in advance on in accordance with the \_\_\_\_\_ day terms of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time~~ Receivership Funding Credit Agreement.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable ~~at the main office of the Lender~~ at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

~~{RECEIVER'S NAME}~~ ALVAREZ & MARSAL CANADA INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:

**KEB HANA BANK as trustee of IGIS GLOBAL  
PRIVATE PLACEMENT REAL ESTATE FUND  
NO. 301 and as trustee of IGIS GLOBAL PRIVATE  
PLACEMENT REAL ESTATE FUND NO. 434**

Applicant

and

**MIZRAHI COMMERCIAL  
(THE ONE) LP, et al.**

Court File No:

Respondents

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
PROCEEDING COMMENCED AT: TORONTO

**APPLICATION RECORD  
(Order Appointing Receiver)**

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