

COURT FILE NUMBER

2201-13540

COURT

COURT OF KING'S BENCH
OF ALBERTA

JUDICIAL CENTRE

CALGARY

PLAINTIFFS

BANCORP FINANCIAL SERVICES INC.,
BANCORP BALANCED MORTGAGE FUND
II LTD. and BANCORP GROWTH MORTGAGE
FUND II LTD. COM

May 10, 2023

DEFENDANTS

ALVARO DEVELOPERS INC., ALVARO
LIMITED PARTNERSHIP, CRUZ
CUSTOM HOMES LTD., 1770374
ALBERTA INC., SUNSET HOMES LTD.,
DANIEL RODOLFO ASTETE-CRUZ and
PEDRO ARNOLDO OCANA MULLER



IN THE MATTER OF THE RECEIVERSHIP
OF ALVARO DEVELOPERS INC. and
ALVARO LIMITED PARTNERSHIP

APPLICANT

ALVAREZ & MARSAL CANADA INC. in its
capacity as Court-appointed Receiver and
Manager of the assets, undertakings and
properties of ALVARO DEVELOPERS INC.
and ALVARO LIMITED PARTNERSHIP.

DOCUMENT

SECOND REPORT OF THE RECEIVER

May 2, 2023

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

RECEIVER

ALVAREZ & MARSAL CANADA INC.

Bow Valley Square IV

Suite 1110, 250 - 6th Avenue SW

Calgary, Alberta T2P 3H7

Attention: Orest Konowalchuk / David Williams

Telephone: (403) 538-4736 / (403) 538-7536

Email: okonowalchuk@alvarezandmarsal.com /
david.williams@alvarezandmarsal.com

COUNSEL TO RECEIVER

TORYS LLP

Suite 4600, 525 - 8th Avenue SW

Calgary, Alberta T2P 1G1

Attention: Kyle Kashuba

Phone: (403) 776 3744

Fax: (403) 776 3800

Email: kkashuba@torys.com

File: 39108-2010

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INTRODUCTION

1. On December 2, 2022 (the “**Receivership Date**”), following the Application of Bancorp Financial Services Inc., Bancorp Balanced Mortgage Fund II Ltd. and Bancorp Growth Mortgage Fund II Ltd. (collectively, “**Bancorp**”), the Honourable Justice D. Mah granted an order (the “**Receivership Order**”), pursuant to which Alvarez & Marsal Canada Inc. was appointed receiver and manager (the “**Receiver**”), without security, of all of Alvaro Developers Inc. (the “**Trustee**”) and Alvaro Limited Partnership’s (the “**Beneficial Owner**”, and together with the Trustee, “**Alvaro**”, the “**Company**”, or the “**Debtor**”) current and/ future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”), pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”), and sections 13(2) of the *Judicature Act*, RSA 2000, c J-2, 99(a) of the *Business Corporations Act*, RSA 2000, c B-9 and 65(7) of the *Personal Property Security Act*, RSA 2000, c P-7 (such proceedings referred to herein as the “**Receivership Proceedings**”).
2. The Receivership Order empowers and authorizes, but does not obligate, the Receiver to, among other things, manage, operate, and carry on the business of the Debtor and to take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Debtor, and to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business.
3. On March 29, 2023, this Honourable Court granted an order approving and/or directing, as applicable, *inter alia*, the proposed sale and investment solicitation process (the “**SISP**”), the unsigned sales agent listing agreement between Avison Young Commercial Real Estate Services, LP and the Receiver, the revival of the Trustee as an Alberta Corporation, the extension of the Beneficial Owner’s termination date, Daniel Astete-Cruz (“**Mr. Cruz**”) to produce the Accounting Records (as defined in the First Report of the Receiver dated March 21, 2023) to the Receiver by no later than April 15, 2023, and the conduct, actions, and activities of the Receiver and of the Receiver’s counsel, Torys LLP (the “**Receiver’s Counsel**”), and their fees and disbursements.

4. The purpose of this second report of the Receiver (the “**Second Report**” or “**this Report**”) is to provide this Honourable Court with information in respect of the following:
- a) the activities of the Receiver since the First Report;
 - b) an update on the proposed sale of the Debtor’s Property, including an application for an approval and vesting order;
 - c) the Receiver’s request to this Honourable Court to grant a Restricted Court Access Order in respect of the Confidential Supplemental Report;
 - d) an update on the Receiver’s request for production of Accounting Records by Mr. Daniel Astete-Cruz;
 - e) an update on the status on the temporary revival of the Trustee as an active corporation on the Alberta Corporate Registry and extension of the Beneficial Owner’s registered termination date;
 - f) the Final Statement of Receipts and Disbursements (as defined below) for the period from March 18, 2022 to April 28, 2023 (the “**Reporting Period**”) and the cumulative actual cash flow results since the Receivership Date;
 - g) the Forecast Receipts and Disbursements (as defined below);
 - h) the proposed final distribution of estimated remaining estate funds after the Forecast Receipts and Disbursements;
 - i) approval of the Receiver’s undertaken and remaining actions, activities and conduct, and approval of the Receiver’s fees and disbursements and those of the Receiver’s Counsel;
 - j) the Receiver’s application for a discharge order;
 - k) destruction of records; and
 - l) the Receiver’s conclusions and recommendations.

5. Unless otherwise set forth herein, capitalized words or terms not defined or ascribed a meaning in this Report are as defined or ascribed the meaning set out in the Receiver's First Report and Receivership Order.
6. All references to dollars are in Canadian currency unless otherwise noted.

TERMS OF REFERENCE

7. In preparing this Second Report, the Receiver has relied upon: (a) the representations of certain management and other key stakeholders of the Debtor; and (b) financial and other information contained in the Debtor's books and records (to the extent the Receiver had in its possession), which were produced and maintained principally by the Debtor. The Receiver has not performed an audit, review, or other verification of such information.
8. The Receiver has not performed an audit, review or otherwise attempted to verify the accuracy or completeness of the Company's financial information that would wholly or partially comply with Canadian Auditing Standards ("CASs") pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CASs in respect of the financial information. Future oriented financial information relied upon in this Report is based on the Receiver's assumptions regarding future events and actual results achieved will vary from this information and the variations may be material.

BACKGROUND AND OVERVIEW

9. Alvaro's registered business address is 223 Lakeside Greens Court, Chestermere, Alberta; however, the principal assets of the Company are located at the proposed residential building and land project site location – the municipal address of which is 426 and 430 3rd Avenue NE, Calgary, Alberta (the "**Project Lands**").
10. Alvaro Developers Inc. is the registered owner of the Project Lands and buildings under construction on the Project Lands (the "**Project**"). The Project is an initiated 20,500 square foot multi-residential development located on approximately 0.37 acres of land. When completed, the Project will consist of three (3) individual buildings, namely, the north

building (“**North Building**”), and two south buildings (“**South Building #1**” and “**South Building #2**”) (collectively, the “**Buildings**”). The proposed number of individual units in the Buildings is currently 15 (13 townhomes and two condominium units), with 17 below ground parking stalls located beneath the North Building. The Project has been stalled since September 2022, largely as a result of a lack of funding and is currently approximately 30% to 40% complete. The parkade beneath the North Building and foundation of South Building #1 is complete, and the North Building is completed to the “lock-up stage”. Construction has not yet commenced on South Building #2.

11. According to the Alberta Corporate Registry search results, Alvaro Developers Inc. is the general partner of the Beneficial Owner, a partnership which is scheduled to terminate on August 1, 2023. Mr. Cruz is listed as the sole director of the Trustee.
12. As at the Receivership Date, based on Alvaro’s books and records and other financial information available to the Receiver, Alvaro owes approximately \$6.7 million consisting primarily of: (a) a secured loan from Bancorp of approximately \$4.6 million, (b) a secured vendor take-back mortgage of approximately \$1.1 million from 1788459 Alberta Ltd. (“**178**”), and (c) unsecured debt of approximately \$1.0 million outstanding to various unsecured creditors of Alvaro.
13. Further background is contained in the materials filed in support of the Receivership Order. These documents and other publicly filed Court materials in these proceedings, including the Receiver’s First Report, have been posted on the Receiver’s website at: www.alvarezandmarsal.com/alvaro.

ACTIVITIES OF THE RECEIVER

14. Since the First Report, the Receiver’s activities have included, but are not limited to, the following:
 - a) continued day-to-day management of operations of the Project, including with respect to site supervision and payment of service providers for services rendered and approved by the Receiver;

- b) issuing payment to the City of Calgary for the Outstanding Property Taxes Arrears (defined below);
- c) engaging in communications with the Alberta Corporate Registry with respect to the proposed revival of the Trustee and the extension of the Beneficial Owner's termination date registration;
- d) engaging and providing instructions to the Receiver's Counsel on various legal matters in respect of the Receivership Proceedings;
- e) engaging Avison Young Valuation & Advisory Services, LP ("**Avison Young**") to conduct a formal appraisal of the Project on an "as-is, where-is" sale scenario;
- f) reviewing the unsolicited, non-binding offer that was extended by Honeywell Development Corp. ("**Honeywell**") to the Receiver in and around February 2023;
- g) negotiating and executing an asset purchase and sale agreement with Honeywell for the sale of the Project Lands and Buildings (the "**Transaction**"), subject to court approval, including hosting various discussions with Bancorp and its legal counsel in connection with such negotiations and dealings; and
- h) communicating with the second secured lender, 178, respecting the Receiver's decision to proceed with the Transaction, without conducting a formal sales process, in light of the various valuation metrics the Receiver has obtained and conducted on the Project Lands and Buildings.

Canada Revenue Agency (Potential Priority Claims)

15. Based on the Receiver's communication with the Canada Revenue Agency, the Receiver understands that Alvaro filed GST returns on a quarterly basis up to and including March 31, 2021, and there are no GST amounts currently outstanding up to March 31, 2021. The

Receiver recently received a copy of the Accounting Records from Mr. Cruz and will file all outstanding GST returns in due course.

Employee, Wage Earner Protection Program and s. 81.4(1) BIA Priority Claims

16. Based on discussions with Mr. Cruz, the Receiver understands that Alvaro did not have any employees as at the Receivership Date or within six months of the Receivership Date. The Receiver has confirmed that this is correct with the Canada Revenue Agency (“CRA”) and as such, the Receiver is not required to prepare Wage Earner Protection Program claim packages.

Corporate Registration

17. As discussed in the First Report, the Receiver conducted corporate searches for the Debtor and found the following:
 - a) the Trustee’s annual returns for 2021 and 2022 were outstanding and the Trustee was listed as an inactive corporation that has been struck from the corporate registry; and
 - b) the Beneficial Owner’s termination date was listed as August 1, 2023.
18. In order to allow the Receiver sufficient time to conclude the Receivership Proceedings and complete its administration of the Debtor’s estate, the Receiver requested, and was granted by an Order of this Honourable Court, that the Trustee be reinstated as an active corporation and the Beneficial Owner’s termination date be extended for a period of two years.
19. On or around April 17, 2023, the Alberta Corporate Registry confirmed the temporary revival of the Trustee and the extension of the Beneficial Owner’s termination date to December 31, 2024.

Outstanding Property Taxes

20. As discussed in the First Report, the outstanding 2021 and 2022 property taxes due from Alvaro to the City of Calgary total \$38,620.33, which is comprised of property tax levies of \$33,559.70 and penalties and fees of \$5,060.63 (the “**Outstanding Property Tax Arrears**”).
21. On or around April 28, 2023, the Receiver issued payment for the Outstanding Property Tax Arrears in order to avoid incurring further penalties and fees, which would ultimately remain attached to the Property and become the liability of the owner of the Project Lands. Bancorp confirmed it was in agreement with the Receiver’s payment of the Outstanding Property Tax Arrears on this basis.

Request for Accounting Records

22. Pursuant to the Order granted on March 31, 2023, Mr. Cruz was compelled to deliver a copy of the Accounting Records to the Receiver by April 15, 2023. Mr. Cruz delivered a backup of Alvaro’s QuickBooks accounting system to the Receiver on April 26, 2023.
23. The Receiver is currently unable to view the Accounting Records as they require access to QuickBooks. While the Receiver is unable to confirm the contents of the QuickBooks backup, the Receiver understands, based on its discussion with Mr. Cruz, that it contains the financial records of the Debtor. The Receiver has contacted Mr. Cruz and requested that pdf copies of the Accounting Records be provided as they are required in order for the Receiver to complete its administration of the estate.
24. The Receiver has received a request from 178 to deliver certain of the Debtor’s books and records, including bank statements and other financial information so that it may be able to independently review the flow of funds within the estate at their discretion. The Receiver advised that it did not have any concerns to deliver this information to 178, however, the Receiver believes it would be appropriate to receive approval from this Honourable Court to do so. As a result, the Receiver is seeking an order from this Court to authorize the release of certain Debtor’s information to 178. In light of the fact that the Receiver has not

viewed the contents of the QuickBooks backup, the Receiver also plans to enter into a non-disclosure agreement with 178 prior to delivering the requested books and records.

SALE OF THE PROJECT TO HONEYWELL

Overview

25. As noted in the Receiver's First Report, in or around February 2023, the Receiver was made aware of an unsolicited, non-binding offer submitted by Honeywell to Bancorp to purchase the Project. The consideration being offered by Honeywell appeared to be an attractive and competitive offer in comparison to the range of values that were outlined in the Receiver's confidential Estimated Realization Analysis, which was appended to the First Report as a confidential appendix; however, the Receiver did not receive the offer for its consideration from Bancorp on March 24, 2023.
26. On March 28, 2023, the Receiver contacted Honeywell directly to explain the Receiver's role in the Receivership Proceedings and requested that Honeywell direct any further communication to the Receiver regarding its interest in purchasing the Project Lands and Buildings. The Receiver was advised that Honeywell is represented by Maxwell Central as its sales agent. The Receiver was also informed that Tink Real Estate International ("**Tink**") was in communication with Maxwell Central and communicated directly with Bancorp regarding the Honeywell offer. Tink was previously Alvaro's real estate advisor, but since the Receivership Date (as discussed in greater detail below), the Receiver never affirmed nor selected Tink to act as its sales agent in these proceedings.
27. On March 29, 2023, Honeywell presented its unsolicited offer directly to the Receiver. The consideration included in Honeywell's offer was the same as the consideration provided in the unsolicited offer that was previously presented to Bancorp. The Receiver, in consultation with Bancorp, negotiated an asset purchase and sale agreement (the "**Sale Agreement**") directly with Honeywell with respect to the Project Lands and Buildings and executed the Sale Agreement, which is subject to approval by this Honourable Court, on April 28, 2023. A copy of the redacted version of the Sale Agreement is attached as **Appendix A**.

28. As outlined in the Sale Agreement, the Transaction contemplates the Projects Lands and Buildings to be transferred to Honeywell upon closing (and subject to Court approval) and the Receiver, with the support of Bancorp, will pay a commission to Maxwell Central as the sales representative for Honeywell. As noted in the First Report, the Receiver initiated a request for proposals for a marketing agent to represent the Receiver, should there be a sale process and selected Avison Young. Avison Young did not however represent the Receiver on this contemplated Transaction. As such, there will be no commissions paid to any other sales agent, other than Maxwell Central. Ultimately, the Receiver did not execute a listing agreement with Avison Young as originally contemplated, due to the fact that it had received this unsolicited offer.
29. Due to the confidential nature of the information provided in the Sale Agreement, the Receiver is concerned that, if the information disclosed in the Sale Agreement is disclosed to third parties prior to the closing of the transaction, the disclosure could materially jeopardize the sale, or if the sale does not close, could materially jeopardize subsequent efforts to market the Project. As such, the Receiver is respectfully of the view that it is appropriate for this Honourable Court to seal the Confidential Supplemental Report to the Receiver's Second Report in accordance with the proposed form of the Restricted Court Access Order accompanying the Receiver's application (the "**Restricted Court Access Order**") as it contains:
- a) the Receiver's analysis on the Sale Agreement;
 - b) the "as-is, where-is" appraisal conducted by Avison Young; and
 - c) the unredacted contents of the Sale Agreement, including purchase price and deposit amount.
30. The Receiver considered the following when assessing the offer from Honeywell with respect to the Project, and believes that the approval of the Sale Agreement is in the best interest of all stakeholders for the following reasons:
- a) the Receiver's authority to sell the Property of the Company in accordance with paragraph 3(l) of the Receivership Order;

- b) the appraisal provided by Avison Young;
- c) the Receiver acted in good faith and with due diligence and has made significant efforts to extract the best price with Honeywell for the Project, given the circumstances;
- d) a deposit of 8.75% of the cash component of the purchase price has been remitted but not yet received by the Receiver, and will be held in trust by the Receiver and shall be releasable in accordance with the terms of the Sale Agreement;
- e) Bancorp, as the fulcrum creditor, along with 178 (as second secured creditor) have advised their support of the Sale Agreement;
- f) Mr. Cruz's (as the owner of the Project and guarantor of Bancorp's secured debt) counsel informed the Court previously that his client was supportive of Honeywell's initial unsolicited offer at the Receiver's application on March 29, 2023, and the key terms of the transaction in the Sale Agreement are substantially the same;
- g) the Sale Agreement was negotiated between the respective parties at arm's length in good faith and is commercially reasonable under the circumstances; and
- h) after reviewing the appraisal for the Project conducted by Avison Valuations, the Receiver is of the opinion that the offer submitted by Honeywell is a commercially reasonable "as is, where is" offer.

31. After consideration of the above, the Receiver is seeking and order approval of the Sale Agreement (the "**Approval and Vesting Order**").

PROPOSED SISP PROCESS

32. The SISP was approved by this Honourable Court pursuant to the Order granted on March 29, 2023, which was contemplated to proceed in the event that the transaction between the Receiver and the Honeywell did not materialize.
33. Based on the Receiver's previous analysis as outlined in the First Report, including its review of the recent appraisal obtain provided by Avison Young for the Project Lands and Buildings, the Receiver believes that, in this circumstances, accepting the Sale Agreement is appropriate. The Receiver does not believe that it will be able to generate any offer that would be materially greater than the Sale Agreement, and the cost to the administration of the estate to implement such a SISP would outweigh any potential benefit in seeing if such offers may exist.
34. Bancorp is owed \$5,275,514.15 and the purchase price in the Sale Agreement will not (as outlined in the Confidential Appendix) full pay out Bancorp's outstanding secured debt, including any borrowings that the Receiver obtained from Bancorp in these Receivership Proceedings. As such, Bancorp is considered to be the fulcrum creditor and the most significant stakeholder in these proceedings. Bancorp has advised the Receiver that it is strongly supportive of the Sale Agreement.

RECEIVER'S DEALINGS WITH TINK

35. The Receiver was first made aware of Tink's prior involvement with Alvaro at the initial application for the Receivership Order. Mr. Thomas Keeper ("**Mr. Keeper**"), the CEO of Tink, was present at the initial application and made certain comments to the Court with respect to the Project along with expressing its desire to continue to act as the sales agent of Alvaro. Mr. Keeper also made comments about an unsolicited offer that had been submitted to Alvaro prior to the Receivership Proceedings. The Receiver followed up on this offer shortly after the Receivership Date and confirmed that the interested party was no longer willing to proceed with a sale.
36. Shortly after the Receivership Date, the Receiver contacted Tink to obtain additional information on the Project and advised Mr. Keeper that the Receiver would not be

assuming Tink's listing agreement with Alvaro as the Receiver intended to initiate a request for proposal for offers from other sales agents to act for the Receiver. The Receiver extended the offer to Tink to submit its interest and proposal to the Receiver for its consideration, as discussed in the First Report. On March 6, 2023, the Receiver contacted Mr. Keeper and informed him that the Receiver had completed its final review and analysis of Tink's proposal to act as the Receiver's sales agent, and determined that it would not be accepting Tink's proposal.

37. Shortly after the Receiver advised Tink it would not be accepting their proposal, the Receiver became aware that Tink was engaging in various discussions with Bancorp and Honeywell with respect to Honeywell's unsolicited offer and was purporting to be the Alvaro's sales agent, with the support of Mr. Cruz. As previously discussed, the Receiver informed Honeywell to direct any communication with respect to their offer directly to the Receiver on March 28, 2023.
38. The Receiver understands that there were no transactions entered into with Alvaro and Tink prior to the Receivership and that no monies were owed to Tink. If there were monies owing or potentially to Tink, the Receiver believes they would be an unsecured claim against the Company.

RECEIVER'S BORROWINGS

39. Pursuant to paragraphs 18 to 20 of the Receivership Order, the Receiver has been empowered to borrow up to \$500,000 (or such greater amount as the Court may further order).
40. During the Receivership Proceedings, the Receiver issued \$405,000 in Receiver's Certificates to Bancorp at a notional rate per annum equal to the rate of 5.30% above the prime commercial lending rate of the Bank of Canada:
 - a) Receiver's Certificate No. 1 (January 18, 2023): \$92,000;
 - b) Receiver's Certificate No. 2 (February 22, 2023): \$90,000;
 - c) Receiver's Certificate No. 3 (March 13, 2023): \$73,000; and

d) Receiver Certificate No. 4 (April 26, 2023): \$150,000.

41. Based on the Receiver's experience, the notional financing rate charged by Bancorp appears to be market and commensurate in comparison to the Receiver's borrowings in other insolvency proceedings of this nature and, as a result, the Receiver believes that the rate is fair and reasonable under the circumstances.
42. The terms of Receiver's Certificates No. 1 – 4 are payable on demand by Bancorp with interest thereon calculated and compounded monthly not in advance on the last day of each month at a notional rate per annum equal to the rate of 5.30% above the prime commercial lending rate of the Bank of Canada.

FINAL RECEIPTS AND DISBURSEMENTS

43. The following is a statement of the Receiver's receipts and disbursements in respect of Alvaro during the Reporting Period (the "Final Statement of Receipts and Disbursements"):

Alvaro Developers Inc. (in receivership) Final Statement of Receipts & Disbursements December 2, 2022 to April 28, 2023 CAD \$'s				
	First Report Dec 2/22 to Mar 17/23	Reporting Period Mar 18/23 to Apr 28/23	Total Dec 2/22 to Apr 28/23	
Opening bank balance	\$ -	\$ 13,769	\$ -	
Receiver's certificate (borrowings)	255,000	150,000	405,000	
Receipts				
Bank deposit interest	143	64	207	
Total receipts	\$ 255,143	\$ 150,064	\$ 405,207	
Disbursements				
Property Taxes	-	39,384	39,384	
Site utilities and maintenance	10,621	4,007	14,628	
Insurance	5,000	-	5,000	
General & administrative costs	8,473	4,180	12,653	
GST payments	10,764	5,737	16,501	
OSB Fees	146	-	146	
Professional fees and costs				
Receiver's fees	122,617	44,248	166,866	
Receiver's Counsel's fees	83,753	62,410	146,163	
Total disbursements	\$ 241,374	\$ 159,966	\$ 401,340	
Ending cash balance	\$ 13,769	\$ 3,867	\$ 3,867	

44. There was approximately \$13,800 of opening cash available at the start of the Reporting Period.
45. The Receiver has collected approximately \$150,000 relating to:
- a) the Receiver's borrowings of \$150,000 during the Reporting Period (the Receiver is authorized to borrow up to \$500,000 pursuant to the Order granted on December 2, 2022); and
 - b) \$64 in interest on cash deposits in the Receiver's trust account.
46. The Receiver made disbursements of approximately \$160,000 during the Reporting Period, relating primarily to:
- a) payment for approximately \$39,400 to the City of Calgary for Outstanding Property Tax Arrears;
 - b) site utilities and maintenance costs of approximately \$4,000 relating to the Project Lands security, perimeter fence rental and electricity costs;
 - c) general and administrative costs of approximately \$4,200 related to the appraisal prepared by Avison Young;
 - d) GST paid on disbursements of approximately \$5,700; and
 - e) professional fees and costs of the Receiver and the Receiver's Counsel of approximately \$110,700 that were paid in the Reporting Period and relating to the period of March 1, 2023 to March 31, 2023.
47. Total cash on hand as at April 28, 2023 was \$3,867.

FORECAST RECEIPTS AND DISBURSEMENTS

48. The table below provides a summary of the remaining estimated forecast receipts and disbursements to be collected and paid by the Receiver (the “**Forecast Receipts and Disbursements**”):

Alvaro Developers Inc. (in receivership)		
Forecast Statement of Receipts & Disbursements		
April 29, 2023 to Discharge		
<i>CAD \$'s</i>		
Opening bank balance	\$	3,867
Receipts		
Honeywell Sale Agreement deposit	Pending Court Approval	
Other receipts		16,501
Total receipts	\$	16,501
Disbursements		
Site utilities and maintenance		12,586
Professional fees and costs		75,000
Honeywell Sales Agent commission	Pending Court Approval	
Contingency		15,000
	\$	102,586
Total disbursements		
Ending cash balance	\$	(82,219)

49. Forecast receipts include the following:
- a) Honeywell’s deposit of 8.75% of the purchase price, releasable in accordance with the terms of the Sale Agreement, which is pending Court approval; and
 - b) other receipts, which relate to a forecast GST refund from CRA of approximately \$16,500.
50. Forecast disbursements of approximately \$102,600, primarily relating to:
- a) site utilities and maintenance costs of approximately \$12,500 related to forecast and incurred costs for security, perimeter fence rental and electricity costs until the closing date of the Sale Agreement;

- b) estimated forecast professional fees and costs of the Receiver and its legal counsel totalling \$75,000, in the approximate amounts of \$37,500 each, to complete the Receivership Proceedings. The Receiver notes that this is an estimate which may increase or decreasing depending on the final administrative matters concerning these proceeding or should there be additional time required to address any unforeseen issues that may arise;
- c) commission payable to Honeywell's sales agent (Maxwell Central) upon closing of the Sale Agreement; and
- d) a contingency fee for any unknown and unanticipated costs of \$15,000.

PROPOSED FINAL DISTRIBUTION

- 51. Pursuant to paragraph 13 of the Receivership Order, the monies collected during the Receivership Proceedings shall be held by the Receiver to be paid or distributed in accordance with the terms of the Receivership Order or any order of this Court.
- 52. As discussed in the First Report, the Receiver's Counsel has provided a security opinion to the Receiver, which provides that, subject to the qualifications and assumptions set forth therein, the security documents of Bancorp create a valid security interest in favour of Bancorp, as applicable, in the personal property described therein in which the Debtor presently has rights and are sufficient to create a valid security interest in favour of Bancorp in any such personal property in which the Debtor acquires rights when those rights are acquired by the Debtor to secure payment and performance of the obligations described in such security document as being secured by it and that Bancorp's mortgage registered against the Project Lands creates in favour of Bancorp a mortgage charge of the Project Lands subject only to the prior registered encumbrances, liens, or interests.
- 53. If the forecast receipts (as outlined in the Forecast Receipts and Disbursements) are collected, the Receiver recommends making a final distribution to Bancorp as repayment of the overall indebtedness owing to Bancorp. The final distribution would be made from the estimated forecast ending cash balance after the collection of the Honeywell deposit

and payment of the Honeywell sales agent commission. The unredacted Forecast Receipts and Disbursements can be found in the Confidential Appendices.

APPROVAL OF FEES AND EXPENSES

54. The Receiver previously sought and obtained approval from this Honourable Court of the Receiver's and the Receiver's Counsel's professional fees, disbursements and costs incurred since the Receivership Date (December 2, 2022) to February 28, 2023.
55. The Receiver seeks further approval from this Honourable Court of its, and those of the Receiver's Counsel's fees and disbursements, from March 1 to March 31, 2023, pursuant to paragraphs 18 to 20 of the Receivership Order.
56. Professional fees and expenses rendered by the Receiver from March 1 to March 31, 2023 total \$44,248.37 (exclusive of GST) (the "**Receiver's Fees and Costs**"). The accounts will be made available upon request and are summarized in **Appendix B** to this Report.
57. Professional fees and expenses rendered by the Receiver's Counsel from March 1, 2023 to March 31, 2023 total \$62,409.50 (exclusive of GST) (the "**Receiver's Counsel's Fees and Costs**"). The accounts will be made available upon request and are summarized in **Appendix C** to this Report.
58. The accounts of the Receiver's and the Receiver's Counsel outline the date of the work completed, the description of the work completed, the length of time taken to complete the work and the name of the individual who completed the work.
59. The professional fees and costs of the Receiver and the Receiver's Counsel for December 2, 2022 to March 31, 2023 have been paid and are reflected in the actual cash flow receipts and disbursements discussed above.
60. The Receiver and the Receiver's Counsel's estimated fees and costs to complete this engagement (April 1 to discharge) are estimated at approximately \$75,000 (the "**Forecast Fees and Costs**"), which include fees and costs incurred but not paid.

61. The Receiver respectfully submits that its professional fees and disbursements and those of the Receiver's Counsel are fair and reasonable in the circumstance and as outlined in this Report and respectfully requests that this Court approve the Receiver's Fees and Costs and the Receiver's Counsel's Fees and Costs and the Forecast Fees and Costs.

APPROVAL OF CONDUCT AND DISCHARGE OF THE RECEIVER

62. The Receiver respectfully requests that this Honourable Court grant an Order which, among other things, and subject to the filing of a certificate confirms the Receiver has satisfied its obligations under the Receivership Order, absolutely, forever and unconditionally discharges the Receiver from any claims against the Receiver arising from, relating to, or in connection with, the performance of the Receiver's duties and obligations as Receiver, save and except for claims based on gross negligence or wilful misconduct.
63. The Receiver is respectfully of the view that it has conducted itself appropriately in these Receivership Proceedings and respectfully requests that this Court approve the actions and conduct of the Receiver since the First Report and throughout the Receivership Proceedings.
64. The Receiver's administration of the estate is substantially complete, subject to the forecast receipts to be collected and payments to be made as set out in the forecast disbursements and final distribution described herein. In addition, the Receiver will have some miscellaneous administrative items to attend to post discharge, including the filing of GST returns with the CRA, receiving the forecast receipts and paying the forecast disbursements, final reconciliation of accounts and addressing various other CRA matters. The Receiver is of the view that these items are administrative in nature and should not prevent this Court from granting an unconditional discharge.
65. The Receiver's next steps in these Receivership Proceedings include, but are not limited to:
- a) filing the outstanding GST tax returns;
 - b) closing the transaction contemplated in the Sale Agreement;

- c) collecting the remaining receipts and disbursing funds as described in the Forecast Receipts and Disbursements;
 - d) preparing a final distribution to Bancorp; and
 - e) completing any necessary administrative tasks in accordance with the Receivers' discharge requirements under the BIA.
66. Upon completion, the Receiver will file an affidavit with the Court confirming that all outstanding matters reported in this Report have been completed. Upon filing the Discharge Affidavit, the Receiver will be automatically discharged without further order of the Court. A copy of the proposed form of Discharge Affidavit is attached as **Appendix D** to this Report.

RECEIVER'S CONCLUSIONS AND RECOMMENDATIONS

67. The Receiver is of the view that it has made commercially reasonable efforts to obtain the highest and most efficient realizations of the assets of Alvaro. The Receiver is satisfied that the interests of the financial stakeholders of Alvaro have been considered during the course of the realization process and these Receivership Proceedings.
68. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court approve, *inter alia*:
- a) the Restricted Court Access Order;
 - b) the Sale Agreement and corresponding Approval and Vesting Order;
 - c) the final distribution to Bancorp;
 - d) the Final Statement of Receipts and Disbursements;
 - e) the Forecast Statement of Receipts and Disbursements;
 - f) the release of certain Debtor's financial information to 178;

- g) the Receiver's Fees and Costs and the Receiver's Counsel's Fees and Costs as set out in the Final Statement of Receipts and Disbursements and the Forecast Fees and Costs;
- h) the Receiver's discharge; and the actions, activities and conduct of the Receiver and its counsel to date as set out in this Report and in the First Report.

All of which is respectfully submitted this 2nd day of May, 2023.

**ALVAREZ & MARSAL CANADA INC.,
in its capacity as the Court-appointed Receiver of
Alvaro Developers Inc., and Alvaro Limited
Partnership and not in its personal or corporate capacity**



Orest Konowalchuk, CPA, CA, CIRP, LIT
Senior Vice President



David Williams, CPA
Senior Manager

APPENDIX “A”

(see attached)

ASSET PURCHASE AGREEMENT dated April 28, 2023

BETWEEN:

ALVAREZ & MARSAL CANADA INC., solely in its capacity as receiver and manager of the undertaking, property and assets of Alvaro Developers Inc. and Alvaro Limited Partnership (together, the “**Vendor**”)

- and -

Honeywell Development Corp. (the “**Purchaser**”)

WHEREAS:

- A. Alvarez & Marsal Canada Inc. was appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Alvaro Developers Inc. and Alvaro Limited Partnership (the “**Debtor**”) pursuant to a Receivership Order (the “**Receivership Order**”) granted by the Court of King’s Bench of Alberta (the “**Court**”) pursuant to the provisions of, among other things, the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”) dated December 2, 2022;
- B. It is a provision of the Receivership Order that the Receiver has the power to sell all or any part of the property, assets, and undertaking of the Debtor, subject to certain conditions;
- C. The Debtor had prior to the appointment of the Receiver endeavored to build a residential development on the Lands (defined below) comprising condominium units; and
- E. The Purchaser has agreed to purchase from the Vendor, and the Vendor, subject to an order being issued by the Court approving the sale, has agreed to sell to the Purchaser, the Purchased Assets, which are owned by the Debtor and are now subject to the Receivership Order, on the terms and conditions set forth herein.

NOW THEREFORE this Agreement witnesses that in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each Party to the other, the Parties agree as follows:

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

In this Agreement:

- (a) “**Affiliate**” means, with respect to any person, any other person or group of persons acting in concert, directly or indirectly, that controls, is controlled by or is under common control with such person. The term “control” as used in the preceding sentence 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 ownership of more than 50% of the voting securities of such person, through being the general partner or trustee of the other person, or through contract or otherwise;
- (b) “**Agreement**” means this asset purchase agreement and any Schedule attached hereto;
- (c) “**Applicable Law**” means, in respect of any Person, assets, transaction, event or circumstance:
 - (i) statutes (including regulations enacted thereunder);
 - (ii) judgments, decrees, and orders of courts of competent jurisdiction (including the common law);

- (iii) regulations, orders, ordinances, and directives issued by Governmental Authorities; and
- (iv) the terms and conditions of all permits, licenses, approvals, and authorizations;

in each case which are applicable to such Person, asset, transaction, event or circumstance;

- (d) **“Approval and Vesting Order”** means an order of the Court approving the Transaction in accordance with the provisions of this Agreement, and vesting all of the Vendor’s Interest in, to and under the Purchased Assets in the Purchaser, such order to be substantially in the form attached hereto as Schedule “D” together with such modifications and amendments to such form as may be approved by the Vendor, acting reasonably;
- (e) **“Assumed Liabilities”** means all of the Vendor’s and/or Debtor’s existing, present and future Losses and Liabilities (including, without limitation, utilities and any tenant obligations), including Environmental Liabilities, arising prior to or from and after the Effective Time from the ownership and/or use of the Purchased Assets, including all existing, present and future Losses and Liabilities under any permits, licences, or agreements arising in respect of the period after the Effective Time and whether or not related to or arising out of any breach or default occurring prior to, at or as a consequence of the Closing;
- (f) **“BIA”** has the meaning ascribed to that term in the recitals;
- (g) **“Business Day”** means a day other than a Saturday, Sunday or any other day on which the principal chartered banks located in Calgary, Alberta are not open for the transaction of domestic business during normal banking hours;
- (h) **“Claim”** means any right, claim, cause of action or complaint of any Person that may be asserted or made in whole or in part against the Vendor and/or the Debtor or any of their respective Affiliates and their respective Representatives, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including without limitation, by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right, claim, cause of action or complaint is executory or anticipatory in nature including, without limitation, any right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future, together with any other rights or claims of any kind that, if unsecured, would be a debt provable in bankruptcy within the meaning of the BIA had the Debtor become bankrupt;
- (i) **“Closing”** means the completion of the Transaction and the completion of all other transactions contemplated by this Agreement that are to occur contemporaneously with such sale, all subject to and in accordance with the terms and conditions of this Agreement;
- (j) **“Closing Date”** means May 19, 2023 or such other Business Day as the Parties may agree in writing;
- (k) **“Court”** has the meaning ascribed to that term in the recitals;
- (l) **“Court Approval”** means both the issuance of the Approval and Vesting Order by the Court approving the sale of the Purchased Assets, and such Approval and Vesting Order having become a Final Order;
- (m) **“Debtor”** has the meaning ascribed to that term in the recitals;

- (n) **“Deposit”** has the meaning ascribed to that term in Section 3.2;
- (o) **“Effective Time”** means 12:01 a.m. (Calgary time) on the Closing Date;
- (p) **“Encumbrances”** means any pledges, liens, security interests, encumbrances, claims, charges, options or interests;
- (q) **“Environment”** means the components of the earth and includes ambient air, land, surface and subsurface strata, groundwater, surface water, all layers of the atmosphere, all organic and inorganic matter and living organisms, and the interacting natural systems that include such components, and any derivative thereof shall have a corresponding meaning;
- (r) **“Environmental Liabilities”** means all past, present and future liabilities, obligations and expenses in respect of the Environment which relate to the Purchased Assets (or lands pooled or unitized with lands which may form part of the Purchased Assets), or which arise in connection with the ownership thereof or operations pertaining thereto, including liabilities related to or arising from:
 - (i) transportation, storage, use or disposal of toxic or hazardous substances;
 - (ii) release, spill, escape, emission, leak, discharge, migration or dispersal of toxic or hazardous substances; or
 - (iii) pollution or contamination of or damage to the Environment;

including liabilities to compensate Third Parties for damages and Losses and Liabilities resulting from the items described in items (i), (ii) and (iii) above (including damage to property, personal injury and death) and obligations to take action to prevent or rectify damage to or otherwise protect the Environment;
- (s) **“Final Order”** means an order of the Court that has not been vacated, stayed, set aside, amended, reversed, annulled or modified, as to which no appeal or application for leave to appeal therefrom has been filed and the applicable appeal period with respect thereto shall have expired without the filing of any appeal or application for leave to appeal, or if any appeal(s) or application(s) for leave to appeal therefrom have been filed, any (and all) such appeal(s) or application(s) have been dismissed, quashed, determined, withdrawn or disposed of with no further right of appeal and all opportunities for rehearing, re-argument, petition for certiorari and appeal being exhausted or having expired without any appeal, application or petition having been filed and remaining pending, any requests for rehearing have been denied, and no order having been entered and remaining pending staying, enjoining, setting aside, annulling, reversing, remanding, or superseding the same, and all conditions to effectiveness prescribed therein or otherwise by Applicable Law or order having been satisfied;
- (t) **“General Conveyance, Assignment and Assumption Agreement”** means a general conveyance, assignment and assumption agreement, substantially in the form attached hereto as Schedule “E”, evidencing the conveyance to the Purchaser of the Vendor’s Interest (if any) in, to and under the Purchased Assets and the assumption by the Purchaser of the Assumed Liabilities;
- (u) **“Governmental Authority”** means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, tribunal, commission, bureau, board, court (including the Court) or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government, having jurisdiction over a Party, the Purchased Assets or the Transaction;
- (v) **“Income Tax Act”** means, collectively, the *Income Tax Act*, RSC 1985, c 1 (5th Supplement), the *Income Tax Application Rules*, RSC 1985, c 2 (5th Supplement) and the *Income Tax Regulations*, in each case as amended to the date hereof;

(w) **“Insurance Policies”** means the insurance policies maintained by the Vendor with respect to the Purchased Assets;

(x) **“Lands”** means the real property legally described as:

PLAN 1332N

BLOCK 2

LOT 1

EXCEPTING THEREOUT THAT PORTION OF LOT 1

LYING EAST OF A LINE DRAWN 37.5 FEET

EAST FROM THE WEST BOUNDARY

AND ALL OF LOTS 2 TO 4 INCLUSIVE

EXCEPTING THEREOUT ALL MINES AND MINERALS FROM LOT 2

AND THE THAT PORTION OF LOT 3 WHICH LIES TO THE EAST

OF THE WESTERLY 7 FEET THROUGHOUT OF THE SAID LOT 3

Title Number: 181 195 112.

-and-

PLAN 1332N

BLOCK 2

ALL THAT PORTION OF LOT 1 WHICH LIES TO THE EAST OF A

LINE DRAWN PARALLEL WITH AND 37.5 FEET

PERPENDICULARLY DISTANT EASTERLY FROM THE WEST BOUNDARY

OF SAID LOT

Title Number: 201 009 726.

(y) **“Legal Proceeding”** means any litigation, action, suit, investigation, hearing, claim, complaint, grievance, arbitration proceeding or other proceeding and includes any appeal or review or retrial of any of the foregoing and any application for same;

(z) **“Losses and Liabilities”** means any and all assessments, charges, costs, damages, debts, expenses, fines, liabilities, losses, obligations and penalties, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including those arising under any Applicable Law, claim by any Governmental Authority or any order, writ, judgement, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority and those arising under any contract, agreement, arrangement, commitment or undertaking and costs and expenses of any Legal Proceeding, assessment, judgment, settlement or compromise relating thereto, and all interest, fines and penalties and reasonable legal fees and expenses incurred in connection therewith (on a full indemnity basis);

(aa) **“Parties”** means, collectively, the Purchaser and the Vendor, and **“Party”** means any one of them;

(bb) **“Permitted Encumbrances”** means those Encumbrances set out in Schedule “A” to this Agreement;

(cc) **“Person”** means any individual, corporation, limited or unlimited liability company, joint venture, partnership (limited or general), trust, trustee, executor, Governmental Authority or other entity however designated or instituted;

- (dd) **“Prime Rate”** means the rate of interest, expressed as a rate per annum, designated by the main branch in Calgary, Alberta of The Toronto-Dominion Bank as the reference rate used by it to determine rates of interest charged by it on Canadian dollar commercial loans made in Canada and which is announced by such bank, from time to time, as its prime rate, provided that whenever such bank announces a change in such reference rate then the “Prime Rate” for the purposes of this Agreement shall correspondingly change effective on the date the change in such reference rate is effective;
- (ee) **“Property”** means the Lands and all buildings, fixtures and improvements located thereon;
- (ff) **“Purchase Price”** has the meaning ascribed to that term in Section 3.1;
- (gg) **“Purchased Assets”** means all of the Vendor’s Interest (if any) in and to the Property;
- (hh) **“Purchaser”** has the meaning ascribed to that term in the Preamble;
- (ii) **“Purchaser’s Conditions”** means the conditions set forth in Section 6.2;
- (jj) **“Purchaser’s Solicitor”** means Walsh LLP, or such other firm or firms of solicitors as are retained or engaged by the Purchaser from time to time and notice of which is provided to the Vendor;
- (kk) **“Receiver”** means Alvarez & Marsal Canada Inc., LIT, in its capacity as the Court-appointed receiver and manager of all of the current and future assets, properties and undertakings of the Debtor and not in its personal or corporate capacity;
- (ll) **“Receivership Order”** has the meaning ascribed to that term in the recitals;
- (mm) **“Receivership Proceedings”** means the court proceedings where the Receiver was appointed, namely Alberta Court of King’s Bench Action No. 2201-13540;
- (nn) **“Released Parties”** has the meaning ascribed to that term in Section 5.6;
- (oo) **“Representative”** means, in respect of a Person, each director, officer, employee, agent, legal counsel, accountant, consultant, contractor, professional advisor and other representative of such Person and its Affiliates, and with respect to the Vendor, includes the Receiver and their respective Affiliates, directors, officers, employees, agents, legal counsel, accountants, professional advisors and other representatives;
- (pp) **“Tax”** or **“Taxes”** means all taxes, assessments, charges, dues, duties, rates, fees, imposts, levies and similar charges of any kind lawfully levied, assessed or imposed by any Governmental Authority under any applicable Tax Legislation, including, Canadian federal, provincial, state, territorial, county, municipal and local, foreign or other income, capital, capital gains, goods and services, sales, use, consumption, excise, value added, business, carbon fuel, real property, personal property, transfer, franchise, withholding, payroll, or employer health taxes, customs, import, anti-dumping or countervailing duties, Canada Pension Plan contributions, employment insurance premiums, and provincial workers’ compensation payments, levy, assessment, tariff, impost, imposition, toll and duty, whether computed on a separate, combined, unitary, or consolidated basis or any other manner, including any interest, penalties, fines and other additional amounts associated therewith;
- (qq) **“Tax Legislation”** means, collectively, the *Income Tax Act*, *Excise Tax Act*, and all Canadian federal, provincial, state, territorial, county, municipal and local, foreign, or other statutes, ordinances or regulations imposing a Tax, including all treaties, conventions, rules, regulations, orders, and decrees of any jurisdiction;
- (rr) **“Third Party”** means any person who is not a Party, Affiliate or Representative;

- (ss) **“Time of Closing”** means 1:00 p.m. (Calgary, Alberta time) on the Closing Date or such other date and time as the Parties may agree in writing that the Closing shall take place;
- (tt) **“Transaction”** means the transaction for the purchase and sale of the Vendor’s Interest in, to and under the Purchased Assets to the Purchaser, together with all other transactions contemplated in this Agreement, all as contemplated in this Agreement;
- (uu) **“Transfer Taxes”** means all present and future transfer Taxes, sales Taxes, use Taxes, production Taxes, value-added Taxes, goods and services Taxes, land transfer Taxes, registration and recording fees, and any other similar or like Taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets;
- (vv) **“Vendor”** has the meaning ascribed to that term in the Preamble;
- (ww) **“Vendor Entity”** has the meaning ascribed to that term in Section 4.4;
- (xx) **“Vendor’s Interest”** means, when used in relation to any asset, undertaking or property, all the right, title and interest, if any, of the Debtor and/or the Vendor in, to and/or under such asset, undertaking or property; and
- (yy) **“Vendor’s Solicitor”** means Torys LLP, or such other firm or firms of solicitors as are retained or engaged by the Vendor from time to time and notice of which is provided to the Purchaser.

1.2 Interpretation

The following rules of construction shall apply to this Agreement unless the context otherwise requires:

- (a) All references to monetary amounts, unless indicated to the contrary, are to the lawful currency of Canada.
- (b) Words importing the singular include the plural and vice versa, and words importing gender include the masculine, feminine and neuter genders.
- (c) Derivatives of a defined term shall have a corresponding meaning.
- (d) The words “include” and “including” and derivatives thereof shall be read as if followed by the phrase “without limitation”.
- (e) The words “hereto”, “herein”, “hereof”, “hereby”, “hereunder” and similar expressions refer to this Agreement and not to any particular provision of this Agreement.
- (f) The headings contained in this Agreement are for convenience of reference only, and shall not affect the meaning or interpretation hereof.
- (g) Reference to any Article, Section or Schedule means an Article, Section or Schedule of this Agreement unless otherwise specified.
- (h) If any provision of a Schedule hereto conflicts with or is at variance with any provision in the body of this Agreement, the provisions in the body of this Agreement shall prevail to the extent of the conflict.
- (i) All documents executed and delivered pursuant to the provisions of this Agreement are subordinate to the provisions hereof and the provisions hereof shall govern and prevail in the event of a conflict.

- (j) This Agreement has been negotiated by each Party with the benefit of legal representation, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party does not apply to the construction or interpretation of this Agreement.
- (k) Reference to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof.
- (l) Reference to an Applicable Law means such Applicable Law as amended from time to time and includes any successor Applicable Law thereto and any regulations promulgated thereunder.

1.3 Interpretation if Closing Does Not Occur

If Closing does not occur, each provision of this Agreement which presumes that the Purchaser has acquired the Purchased Assets shall be construed as having been contingent upon Closing having occurred.

ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS

2.1 Agreement of Purchase and Sale

Subject to the terms and conditions of this Agreement, and in consideration of the payment of the Purchase Price and the assumption of the Assumed Liabilities by the Purchaser, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser agrees to purchase from the Vendor all of the Vendor's Interest in the Purchased Assets and absolutely release the Vendor and the Debtor of all and any responsibility or liability therefor, effective as of the Effective Time.

2.2 Transfer of Purchased Assets

Provided that Closing occurs and subject to the terms and conditions of this Agreement, possession, risk and legal and beneficial ownership of the Purchased Assets shall transfer from the Debtor to the Purchaser on the Closing Date effective as of the Effective Time.

2.3 Assumption of Liabilities and Environmental Liabilities

- (a) In determining the Purchase Price, the Parties have taken into account Purchaser's assumption of responsibility for the payment of all costs for existing and future Environmental Liabilities associated with the Purchased Assets, as set forth in this Agreement, and the absolute release of the Debtor and Vendor of all and any responsibility or liability therefor.
- (b) Subject to Closing, the Purchaser hereby agrees to: (i) assume, discharge, perform and fulfil the Assumed Liabilities from and after the Effective Time; and (ii) indemnify and save harmless the Vendor from all Claims, Losses and Liabilities, damages, and other amounts arising directly or indirectly out of or in connection with the Assumed Liabilities.
- (c) It is understood and agreed that the Purchaser understands that there are or may be other interests or liens registered against the Purchased Assets that are transferred to the Purchaser in accordance with the Approval and Vesting Order, and this Transaction does not invalidate such interests or lien(s). The Purchaser hereby acknowledges such interests and liens, as outlined in the Approval and Vesting Order, will continue to subsist and such interests and lien claimants' rights under the applicable legislation and/or regulations will not be affected by this Transaction.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The consideration payable by the Purchaser to the Vendor for the Purchased Assets shall be: (i) the sum of CAD \$[REDACTED], exclusive of Transfer Taxes (the “**Purchase Price**”), and (ii) the assumption of the Assumed Liabilities as set forth in Section 2.3.

3.2 Deposit

- (a) Concurrently with the Purchaser’s delivery of its executed copy of this Agreement to the Vendor, the Purchaser shall pay to the Vendor a deposit in the amount of [REDACTED]% of the Purchase Price (being \$[REDACTED]) (the “**Deposit**”).
- (b) The Deposit will be held in trust by the Receiver until one of the following events occur:
 - (i) if Closing occurs, the Deposit shall be paid to the Vendor at Closing for its own account absolutely and be applied as partial payment of the Purchase Price;
 - (ii) if Closing does not occur due to a breach of this Agreement by the Purchaser or by failure of the Purchaser to fulfill the conditions set forth in Section 6.3, the Deposit shall be forfeited to the Vendor for the account of the Vendor absolutely; and
 - (iii) if Closing does not occur due to any reason other than as addressed by Section 3.2(b)(ii), the Deposit shall be paid to Purchaser for the account of Purchaser absolutely.
- (c) If the Deposit is forfeited to the Vendor, such amount forfeited to the Vendor shall be retained by the Vendor as liquidated damages, to compensate the Vendor for any and all current and future Losses and Liabilities in connection with the Transaction and the delay or permanent impairment caused to the Vendor’s efforts to sell the Purchased Assets.
- (d) For greater certainty, the Vendor’s acceptance of the Deposit and in accordance with Section 3.2(c) is not a penalty but is a genuine pre-estimate by the Parties of the full limit of all damages that the Vendor will suffer, having regard to the size of the Purchase Price, the amount of time between the date hereof and the Closing, and the time and expense incurred and to be incurred by the Vendor. The Purchaser hereby expressly waives any present or future right, at law or in equity, that would prohibit or may prohibit the retention of the Deposit as liquidated damages by the Vendor in connection with Closing not occurring after the satisfaction or waiver of the Purchaser’s Conditions and the Purchaser and the Vendor expressly covenant and agree that:
 - (i) this Agreement and all of the Transactions occurring or potentially occurring thereby, including without limitation the potential retention of the Deposit by the Vendor in the manner contemplated by Section 3.2(c) of this Agreement, are the product of an arm’s length negotiations between sophisticated business people represented by counsel;
 - (ii) there has been a course of conduct between the Vendor and the Purchaser giving specific consideration to all the Transactions occurring herein including, without limitation, the potential retention of the Deposit by the Vendor in the manner contemplated by Section 3.2(c) of this Agreement;
 - (iii) the Purchaser be and is hereby estopped from making any Claim to challenge the retention of the Deposit by the Vendor in the manner contemplated by Section 3.2(c) of this Agreement;

- (iv) the Purchaser's agreement to allow the Vendor to retain the Deposit as contemplated by Section 3.2(c) of this Agreement was a material inducement to the Vendor entering into this Agreement with the Purchaser; and
- (v) the Vendor and the Purchaser would not have entered into this Agreement had the Vendor and the Purchaser not agreed to allow the Vendor to retain the Deposit in the manner contemplated by Section 3.2(c) of this Agreement.

3.3 Payment of the Purchase Price

Payment of the Purchase Price (less the Deposit received) shall be satisfied upon documentation substantiating, or confirmation from Bancorp Financial Services Inc., Bancorp Balanced Mortgage Fund II Ltd. and Bancorp Growth Mortgage Fund II Ltd. (the "**Secured Lender**"), that Mortgage Instrument No. 201 011 929 and the corresponding Assignment of Rents and Leases Instrument No. 201 011 930 in favour of the Secured Lender registered against the Lands, have been assigned, accepted, and assumed by the Purchaser in an amount at least equal to the Purchase Price (less the Deposit). The Purchaser shall pay to the Vendor at Closing, by wire transfer, applicable Transfer Taxes. For certainty, interest will not be earned on the Deposit.

3.4 No Adjustments

All benefits and obligations of every kind and nature accruing, payable or paid and received or receivable in respect of the Purchased Assets have been taken into account in the calculation of the Purchase Price and the Parties acknowledge that there will be no adjustments to the Purchase Price.

3.5 Transfer Taxes

The Parties agree that the Purchase Price payable by the Purchaser to the Vendor pursuant to this Agreement does not include any Transfer Taxes and all Transfer Taxes are the responsibility of and for the account of the Purchaser. The Purchaser and the Vendor agree to cooperate to determine the amount of Transfer Taxes payable in connection with the Transaction. If the Vendor is required by Applicable Law or by administration thereof to collect any applicable Transfer Taxes from the Purchaser, the Purchaser shall pay such Transfer Taxes to the Vendor on Closing, unless the Purchaser qualifies for an exemption from any such applicable Transfer Taxes or has the right under Applicable Law to self-assess and remit, as the case may be, in which case the Vendor shall not collect any such applicable Transfer Taxes from the Purchaser, provided that the Purchaser, in lieu of payment of such applicable Transfer Taxes to the Vendor, delivers to the Vendor such certificates, elections, undertakings, indemnities or other documentation required by Applicable Law or the administration thereof or by the Vendor to substantiate and affect the exemption claimed by the Purchaser or its right to self-assess and remit, as the case may be. The Purchaser does hereby agree to indemnify and save harmless the Vendor and the Debtor against any Claims which may arise in connection with such Transfer Taxes, and the Purchaser further agrees to pay all such amounts including interest and penalties, if any, upon written request by the Vendor provided in accordance with the provisions of Section 10.11 hereof.

3.6 GST

The Purchaser is a registrant for goods and services tax ("**GST**") purposes and will continue to be a registrant at the Closing Date in accordance with the provisions of the Tax Legislation. The Purchaser's GST registration number is:

██████████.

The Purchaser agrees to make an election under subsection 167(1) of the *Excise Tax Act* in respect of the GST payable as a result of the transaction contemplated herein. The Purchaser, acting reasonably, shall prepare, and the Purchaser agrees to execute and file, such elections in the form and within the time periods prescribed or specified under Applicable Law. The Purchaser shall be responsible for the payment of any amount of GST payable in respect of its purchase of the Purchased Assets pursuant hereto and any interest and penalties payable in respect of such additional GST and shall indemnify and save harmless the Vendor in respect thereof.

3.7 No Right to Reduction in Purchase Price

Notwithstanding anything to the contrary in this Agreement, the Purchaser acknowledges and agrees that it shall have no right or other entitlement to any set-off, abatement or reduction in the Purchase Price as a result of, arising from or in connection with any Claim against the Debtor or the Vendor, including in respect of any deficiency or allegation of deficiency in respect of the Purchased Assets, including, without limitation, any Environmental Liability or deficiency or title deficiency.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Purchaser's Representations and Warranties

The Purchaser hereby represents and warrants to and in favour of the Vendor that:

- (a) the Purchaser is a corporation duly organized and validly existing under the laws of its jurisdiction of organization and is authorized to carry on business in the provinces in which the Purchased Assets are located;
- (b) the Purchaser has good right, full power and absolute authority to purchase and acquire the Vendor's Interest in and to the Purchased Assets according to the true intent and meaning of this Agreement;
- (c) provided that Court Approval is obtained, execution, delivery and performance of this Agreement by the Purchaser does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority, except where failure to obtain such consent, approval, authorization or action, or to make such filing or notification, would not prevent or materially delay the consummation by the Purchaser of the Transaction;
- (d) provided Court Approval is obtained, the consummation of the Transaction will not constitute or result in a material violation, breach or default by it under any provision of any agreement or instrument to which it is a party or by which is it bound or any judgment, law, decree, order or ruling applicable to it;
- (e) it is acquiring the Purchased Assets in its capacity as a principal and is not purchasing the Purchased Assets as agent or representative of any Third Party;
- (f) the Vendor will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the Transaction because of any action taken by, or agreement or understanding reached by, the Purchaser other than to MaxWell Central, as a representative of the Purchaser in the amount of \$ [REDACTED], which represents [REDACTED] of the Purchase Price;
- (g) this Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser and is enforceable against the Purchaser in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar Applicable Laws relating to creditors' rights generally and subject to general principles of equity;
- (h) the Purchaser will have the financial resources necessary to pay, as and when due from the Purchaser, an amount equal to the Purchase Price and any other cash amounts payable by the Purchaser pursuant hereto;
- (i) the Purchaser has the financial resources necessary to post or satisfy all necessary security, deposits, letters of credit, guarantees or other financial assurances necessary to take possession of the Purchased Assets and to satisfy the security required by the Purchased Assets;

- (j) there is no requirement for the Purchaser to make any filing with, give any notice to, or obtain any authorization of, any Governmental Authority pursuant to the *Competition Act* (Canada), as a result of, in connection with, or as a condition to the lawful completion of the Transaction;
- (k) the Purchaser is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act* (Canada) on the date hereof and on Closing, and agrees that the Purchaser will be liable for any Tax consequences of not so being; and
- (l) the Purchaser is not a non-Canadian person within the meaning of the *Investment Canada Act* nor a non-resident for the purposes of the *Income Tax Act*.

4.2 “As is, Where Is” and “Without Recourse” Basis, and No Representations and Warranties by the Vendor

- (a) Neither the Vendor nor any of its Representatives makes any representations or warranties, and in particular, and without limiting the generality of the foregoing, the Vendor disclaims and neither the Vendor nor any of its Representatives shall be liable for any representation or warranty which may have been made or alleged to be made in any instrument or document related hereto, or in any statement or information made or communicated to the Purchaser in any manner including any opinion, information, or advice which may have been provided to the Purchaser by the Vendor or any of its Representatives in connection with the Purchased Assets or in relation to the Transaction. For greater certainty, neither the Vendor nor any of its Representatives makes any condition, representation or warranty, express or implied, with respect to:
 - (i) any data or information supplied by the Vendor or any of its Representatives in connection with the Purchased Assets, including by way of management presentations or otherwise;
 - (ii) the value of any of the Purchased Assets or the future cash flow therefrom;
 - (iii) the nature, manner, quality, condition or state of repair, description, fitness for a particular purpose, suitability, marketability, profitability, serviceability or merchantability of the Purchased Assets for any purpose whatsoever;
 - (iv) the ability to assign or transfer any Purchased Assets;
 - (v) any regulatory approvals, permits, consents or authorizations that may be needed or complete the purchase of the Purchased Assets contemplated by this Agreement;
 - (vi) the existence, state, nature, kind, identity, extent, effect or consequences of any administrative orders, control orders, abatement orders, compliance orders or any other orders, proceedings, directions, issues or actions taken under or pursuant to any other Applicable Law;
 - (vii) the compliance of or by the Purchased Assets or their operation with any Applicable Law (including Environmental laws);
 - (viii) the nature and quantum of the Assumed Liabilities;
 - (ix) any defects, errors or omissions on or in the Purchased Assets, or any other conditions (whether patent, latent or otherwise), including, without limitation, soil quality, environmental contamination (including Environmental Liabilities) and geological stability, affecting the Purchased Assets; or
 - (x) any other matter with respect to the Purchased Assets.

- (b) The Purchaser acknowledges that the release and disclaimer described in this Article 4 is intended to be very broad and the Purchaser expressly waives and relinquishes any rights or benefits it may have under any Applicable Law designed to invalidate releases of unknown or unsuspected claims.
- (c) The descriptions of the Purchased Assets are for purposes of identification only and no condition, warranty, or representation has been or will be given by the Vendor concerning the accuracy, completeness or any other matter concerning those descriptions.
- (d) Notwithstanding anything contrary herein, the Purchaser acknowledges and confirms that it is relying on its own investigations concerning the Purchased Assets and it has not relied on advice from the Vendor or any of its Representatives with respect thereto, including with respect to the matters specifically enumerated in this Section 4.2 of the immediately preceding paragraphs in connection with the purchase of the Purchased Assets pursuant to this Agreement. The Purchaser further acknowledges and agrees that it is acquiring the Purchased Assets on an “**as is, where is**” and “**without recourse**” basis with all defects, both patent and latent, and with all faults, whether known or unknown, presently existing or that may hereafter arise and that there are no representations, warranties, or conditions made in respect of the Purchased Assets except as expressly set out herein.
- (e) Except for its express rights under this Agreement, the Purchaser hereby waives all rights and remedies (whether now existing or hereinafter arising and including all common law, tort, contractual and statutory rights and remedies) against the Vendor and its Representatives in respect of the Purchased Assets or the Transaction or any representations or statements made or information or data furnished to the Purchaser or its Representatives in connection herewith (whether made or furnished orally or by electronic, faxed, written or other means). Such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties contained in the *Sale of Goods Act* (Alberta) (or similar applicable statutes, all as may be amended, repealed or replaced), warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including claims regarding defects, whether or not discoverable or latent, product liability claims, or similar claims, and all other claims that may be later created or conceived in strict liability or as strict liability type claims and rights.

4.3 Due Diligence Acknowledgement

The Purchaser acknowledges and agrees that:

- (a) it was solely responsible to perform any inspections it deemed pertinent to the purchase of the Purchased Assets and to be satisfied as to the condition of the Purchased Assets prior to entering into this Agreement with the Vendor;
- (b) notwithstanding the fact that it was permitted to review any diligence materials and disclosures provided by the Vendor, the Vendor assumes no liability for errors or omissions in such diligence materials and disclosure or any other property listings or advertising, promotional or publicity statements and materials, and makes no representations or warranties in respect thereof;
- (c) by entering into this Agreement with the Vendor, the Purchaser shall be deemed to represent, warrant and agree with respect to the Purchased Assets that:
 - (i) the Purchaser has inspected the Purchased Assets and is familiar and satisfied with the physical condition thereof and has conducted such investigation of the Purchased Assets as the Purchaser has determined appropriate;
 - (ii) none of the Vendor or its Representatives have made any oral or written representation, warranty, promise or guarantee whatsoever to the Purchaser, expressed or implied, and in particular, that no such representations, warranties, guarantees, or promises have been made with respect to the physical condition, operation, or any other matter or thing affecting or related to the Purchased Assets and/or the offering or sale of the Purchased Assets;

- (iii) the Purchaser has not relied upon any representation, warranty, guarantee or promise or upon any statement made or any information provided concerning the Purchased Assets to the Purchaser by the Vendor or its Representatives;
- (iv) the Purchaser has entered into this Agreement after having relied solely on its own independent investigation, inspection, analysis, appraisal and evaluation of the Purchased Assets and the facts and circumstances related thereto;
- (v) any information provided or to be provided by or on behalf of the Vendor with respect to the Purchased Assets, was obtained from information provided to the Vendor and the Vendor has not made any independent investigation or verification of such information, and makes no representations as to the accuracy or completeness of such information;
- (vi) without limiting the generality of the foregoing, the Vendor was not under any obligation to disclose to the Purchaser, and shall have no liability for its failure to disclose to the Purchaser, any information known to it relating to the Purchased Assets except as may be required by any Applicable Law;
- (vii) none of the Vendor or its Representatives are liable or bound in any manner by any oral or written statements, representations or information pertaining to the Purchased Assets, or the operation thereof, made or furnished by any real estate broker, agent, employee, or other Person; and
- (viii) the obligations of the Purchaser under this Agreement are not conditional upon any additional due diligence.

The Purchaser forever and irrevocably releases and discharges the Vendor and its Representatives from any claims and all liability to the Purchaser or the Purchaser's assigns and successors, as a result of the use or reliance upon advice, information or materials pertaining to the Purchased Assets which was delivered or made available to the Purchaser by the Vendor or its representatives prior to or pursuant to this Agreement, including, without limitation, any evaluations, projections, reports and interpretive or non-factual materials prepared by or for the Vendor, or otherwise in the Vendor's possession.

4.4 Absolute Waiver

As part of the Purchaser's agreement to purchase the Purchased Assets and to accept the Purchased Assets in "as-is, where-is" condition, and not as a limitation on such agreement, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Purchaser might have against the Vendor and/or Debtor or the Vendor Entity in respect of the Purchased Assets or the Transaction or pursuant to any warranty, express or implied, of any kind or type relating to the Purchased Assets or any other assets, or any other aspect of the Transaction. Such waiver is absolute, unlimited and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties at law and/or in equity, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including, but not limited to, Claims regarding defects, whether or not discoverable, product liability Claims, or similar Claims, and to all other extent or later created or conceived of strict liability or strict liability type Claims and rights. For certainty, "**Vendor Entity**" means the Debtor and the Vendor and their respective Representatives, and each of their respective successors and assigns; and "**Representatives**" means, with, respect to any Party, the respective directors, officers, servants, agents, advisors, employees, consultants and representatives of that Party.

The Vendor shall not be responsible or liable for any misrepresentation, lack of disclosure or incorrect or incomplete disclosure of any nature whatsoever or failure to investigate the Purchased Assets on the part of any broker or sales agent, or any other purported or acknowledged agent, representative, contractor, consultant or employee of the Vendor or any third party.

4.5 Purchaser's Indemnities for Representations and Warranties

The Purchaser shall be liable to Vendor for and shall, in addition, indemnify Vendor from and against, all Losses and Liabilities suffered, sustained, paid or incurred by Vendor insofar as such Losses and Liabilities are a result of any act, omission, circumstance or other matter arising out of, resulting from, attributable to or connected with a breach of the covenants, conditions, and representations and warranties contained in this Agreement, including Section 4.1.

4.6 Survival of Representations and Warranties

The Purchaser acknowledges that the Vendor may rely on the representations and warranties made by the Purchaser pursuant to Section 4.1. The representations and warranties in Sections 4.1 shall be true as of the date hereof and on the Closing Date, and such representations and warranties shall continue in full force and effect and shall survive the Closing Date for a period of twelve (12) months, for the benefit of the Party to which such representations and warranties were made.

ARTICLE 5 COVENANTS

5.1 Licences and Third Party Consents

- (a) Both before and after Closing, the Purchaser shall use all commercially reasonable efforts to obtain any and all approvals, licences and permits required under Applicable Law and any and all material consents of Third Parties required to permit the Transaction to be completed or that may be required for the Purchaser to own and operate the Purchased Assets (if any). The Purchaser acknowledges that the Vendor has no obligation to transfer any permits or licences to the Purchaser, and that the Purchaser is solely responsible for obtaining consent to transfer the permits or licences. Without limiting the generality of the foregoing, it is the sole obligation of the Purchaser, at the Purchaser's sole cost and expense, to:
 - (i) obtain and pay the cost of any consents, permits, licences assignments, registration fees, attorney and agent fees, filing fees, issue fees or other authorizations and assignments necessary or desirable for the transfer of such right, title and interest, to the Purchaser or for the operation or use of the Purchased Assets;
 - (ii) obtain all Third Party consents that are required to complete the Transaction and own and operate the Purchased Assets other than the Court Approval;
 - (iii) obtain the consent to transfer the permits or licences; and
 - (iv) provide any and all financial assurances, remedial work or other documentation that may be required by Governmental Authorities or any Third Parties to permit the transfer to the Purchaser of any of the Purchased Assets, and registration of the Purchaser as owner, of any of the Purchased Assets.
- (b) The Purchaser acknowledges that the transfers of the permits or licences shall not be a condition precedent to Closing and that the Purchaser may not obtain transfers of permits or licences at all. The Purchaser shall indemnify the Vendor for any Losses and Liabilities incurred by the Vendor as a result of the Purchaser's failure to obtain any such consent, approval, licence and permit. If any consent or approval is required to assign the permits or licences, but is not obtained, neither the Vendor nor the Purchaser shall be in breach of this Agreement, nor shall: (i) any condition to Closing be unsatisfied; (ii) the Purchase Price be adjusted; or (iii) the Closing delayed.

5.2 Court Approval

The Vendor shall prepare all materials, and shall promptly apply to the Court for, and use its commercially reasonable efforts to obtain, the Court Approval as soon as reasonably practicable following the dates set forth herein. The Purchaser, at its own expense, shall promptly provide to the Vendor all such information and assistance within the

Purchaser's power as the Vendor may reasonably request to obtain the Court Approval, including such information as may be required to reasonably evaluate the Purchaser's financial ability to perform its obligations hereunder. The application for Court Approval may be adjourned or rescheduled by the Vendor or its Representatives upon notice to the Purchaser.

5.3 Environmental Matters

The Purchaser acknowledges that, insofar as the Environmental condition of the Purchased Assets is concerned, the Purchaser is acquiring the Purchased Assets pursuant hereto on an “**as is, where is**” and “**without recourse**” basis. The Purchaser acknowledges that it is familiar and satisfied with the condition of the Purchased Assets, including the past and present use of the Purchased Assets, that the Vendor has provided the Purchaser with a reasonable opportunity to inspect the Purchased Assets at the sole cost, risk and expense of the Purchaser (insofar as the Vendor could reasonably provide such access) and that the Purchaser is not relying upon any representation or warranty of the Vendor as to the Environmental condition of the Purchased Assets, or as to any Environmental Liabilities. Provided that Closing has occurred, the Purchaser shall:

- (a) be solely liable and responsible for any and all Losses and Liabilities which the Vendor and its Representatives may suffer, sustain, pay or incur; and
- (b) indemnify, release, and save harmless the Vendor and its Representatives from any and all Losses and Liabilities, actions, proceedings and demands, whatsoever which may be brought against or suffered by the Vendor or which the Vendor may sustain, pay or incur,

as a result of any matter or thing arising out of, resulting from, attributable to or connected with any Environmental Liabilities. Once Closing has occurred, the Purchaser shall be solely responsible for all Environmental Liabilities both to Third Parties and as between the Vendor and the Purchaser (whether such Environmental Liabilities occur or accrue prior to, on or after the Closing Date), and hereby releases the Vendor from any Claims the Purchaser may have against the Vendor with respect to all such liabilities and responsibilities. Without restricting the generality of the foregoing, the Purchaser shall be responsible for all Environmental Liabilities (whether such Environmental Liabilities occur or accrue prior to, on or after the Closing Date) in respect of the Purchased Assets. This assumption of liability and indemnity by the Purchaser shall apply without limit and without regard to cause or causes, including the negligence (whether sole, concurrent, gross, active, passive, primary or secondary) or the wilful or wanton misconduct or recklessness of any or all of the Vendor, Debtor, their respective Representatives and their respective successors and assigns or any other Person otherwise. The Purchaser further acknowledges and agrees that it shall not be entitled to any rights or remedies as against the Vendor, Debtor, or its Representatives, or their respective successors and assigns under the common law or any statute pertaining to any Environmental Liabilities, including the right to name any or all of the Vendor, its Representatives, and their respective successors and assigns as a ‘third party’ to any action commenced by any Person against the Purchaser. The Purchaser's assumption of liability and the indemnity obligation set forth in this Section 5.3 shall survive the Closing Date indefinitely.

5.4 Permitted Encumbrances

The Purchaser agrees to accept title to the Purchased Assets subject to all of the Permitted Encumbrances. The Purchaser covenants and agrees to satisfy itself as to compliance with all of the Permitted Encumbrances and the Vendor shall not be required to provide letters or certificates of compliance or any releases or partial releases of same.

5.5 Compliance with Permitted Encumbrances and Applicable Laws

The Purchaser covenants and agrees:

- (a) to assume on Closing and be bound by and to comply with all provisions of the Permitted Encumbrances, at the Purchaser's sole cost and expense, and the Purchaser hereby covenants and agrees with the Vendor to discharge, perform and fulfill all terms, covenants, provisos, conditions, stipulations, obligations and liabilities of the Vendor and Debtor's under the Permitted Encumbrances, whether arising before or after the Closing, in the same manner and to the same extent as if the Purchaser had executed the same in the place and stead of the Vendor and/or the Debtor, as applicable. The Purchaser shall indemnify and hold harmless the Vendor with respect thereto, whether or not such compliance or non-compliance occurs before, on or after Closing. If

required by the provisions of any Permitted Encumbrances, or by any party to any Permitted Encumbrances, the Purchaser shall enter into an agreement directly with the other parties to such Permitted Encumbrances confirming such assumption; and

- (b) to assume on Closing, at the Purchaser's sole cost and expense, complete responsibility for compliance with all Applicable Laws which apply to the Purchased Assets and the use thereof by the Purchaser. The Purchaser shall indemnify and hold harmless the Vendor with respect thereto, whether or not such compliance or non-compliance occurs before, on or after Closing.

5.6 Release

Notwithstanding any other provisions of this Agreement, effective as of the Time of Closing, the Purchaser, on behalf of itself and its Affiliates, does hereby forever release and discharge the Vendor, the Debtor and their respective Affiliates and their respective present and former direct and indirect shareholders, officers, directors, employees, advisors (including, without limitation, financial advisors and legal counsel) and agents (collectively, the "**Released Parties**") from any claims based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Time of Closing relating to, arising out of or in connection with, the Purchased Assets, save and except for claims arising out of willful misconduct or fraud by the Released Parties.

ARTICLE 6 CONDITIONS

6.1 Mutual Conditions

The respective obligations of the Parties to complete the Transaction are subject to the following conditions being fulfilled or performed as at or prior to the dates stated below:

- (a) the Court shall have granted the Approval and Vesting Order on or before 30 days after waiver or satisfaction of the conditions set forth in Section 6.2 herein and the Approval and Vesting Order shall be a Final Order;
- (b) no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable order or Applicable Law which has the effect of: (i) making any of the transactions contemplated by this Agreement illegal; or (ii) otherwise prohibiting, preventing or restraining the Vendor from the sale of the Purchased Assets;
- (c) all waivers, consents and/or approvals from any Governmental Authority, as the Parties reasonably determine are required in connection with the consummation of the Transaction, shall have been obtained; and
- (d) on the Closing Date, the Closing is not otherwise prohibited by Applicable Law.

The foregoing conditions are for the mutual benefit of the Vendor and the Purchaser and may be asserted by the Vendor or the Purchaser regardless of the circumstances and may be waived only with the Agreement of both the Vendor and the Purchaser.

6.2 Conditions for the Benefit of the Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions having been fulfilled, performed, waived or satisfied by the Purchaser in writing, or satisfied in its sole discretion on or before the dates stated below (the "**Purchaser's Conditions**"):

- (a) the Vendor has complied with and performed, in all material respects, all of its covenants and obligations contained in this Agreement as at or prior to the Time of Closing; and
- (b) the Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at or before the Closing all the documents contemplated in Section 7.2.

The foregoing condition is for the exclusive benefit of the Purchaser and may be waived by it in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Purchaser may have. If any of the said conditions have not been complied with or waived by the Purchaser at or before the Time of Closing, as applicable, the Purchaser may terminate this Agreement by written notice to the Vendor.

The Vendor shall consider the Purchaser's requests made on or prior to the Closing Date to execute and deliver any authorizations reasonably required by the Purchaser to permit statutory or governmental authorities to release information to the Purchaser concerning the Purchased Assets. The Purchaser hereby agrees that any information or documentation that the Purchaser obtains upon receipt of the authorization from the Vendor shall be considered confidential information/documentation pursuant to this Agreement and the confidentiality agreement to be entered into between the Vendor and the Purchaser.

6.3 Conditions for the Benefit of the Vendor

The obligation of the Vendor to complete the Transaction is subject to the following conditions being fulfilled or performed as at or prior to the Time of Closing:

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects as at the Time of Closing with the same force and effect as if made at and as of such time and the Purchaser shall have delivered to the Vendor at or prior to the Time of Closing a certificate to that effect substantially similar in form to that attached hereto as Schedule "F";
- (b) the Purchaser has complied with and performed in all material respects all of its covenants and obligations contained in this Agreement, and the Purchaser shall have delivered to the Vendor at or prior to the Time of Closing a certificate to that effect substantially similar in form to that attached hereto as Schedule "F";
- (c) the Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor at or prior to the Time of Closing all the documents contemplated in Section 7.3;
- (d) an acknowledgement confirming that all conditions to Closing have been satisfied/waived, substantially similar in form to that attached hereto as Schedule "G";
- (e) the Purchaser shall have paid to the Vendor at or prior to the Time of Closing all amounts required to be paid by it under this Agreement in the form stipulated in this Agreement; and
- (f) no Party comprising the Vendor has lost its ability to convey the Purchased Assets or any of them due to an order of the Court or otherwise pursuant to the Receivership Proceedings, provided such order or other action pursuant to the Receivership Proceedings is not at the voluntary initiative of the Vendor.

The foregoing conditions are for the exclusive benefit of the Vendor and may be waived by it in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Vendor may have. If any of the said conditions have not been complied with or waived by the Vendor at or before the Time of Closing, the Vendor may terminate this Agreement by written notice to the Purchaser.

6.4 Satisfaction of Conditions

Each of the Parties shall proceed diligently and in good faith and use all commercially reasonable efforts to fulfill and assist in the fulfillment of the conditions set forth in Sections 6.1, 6.2 and 6.3. In addition, each of the Parties agrees not to take any action that could reasonably be expected to preclude, delay or have an adverse effect on the Transaction or, in the case of the Purchaser, that would render, or may reasonably be expected to render, any representation or warranty made by the Purchaser in this Agreement untrue in any material respect.

ARTICLE 7 CLOSING

7.1 Closing Date and Place of Closing

Subject to the conditions set out in this Agreement, the Transaction shall close and be completed on the Closing Date. The completion of the Transaction shall take place at the Time of Closing electronically, or at such other time or such other location as the Parties may agree in writing.

7.2 Deliveries on Closing by the Vendor

The Vendor shall deliver (or cause to be delivered) to the Purchaser's Solicitors in sufficient time to allow for registration at the Land Titles Office the following documents, as applicable, fully executed by the Vendor, where applicable, or such other parties as may be specified (other than the Purchaser), subject to Section 7.3:

- (a) a certified true copy of the Approval and Vesting Order;
- (b) the Receiver's Closing Certificate (as defined in the Approval and Vesting Order) executed by the Vendor;
- (c) the General Conveyance, Assignment and Assumption Agreement duly executed by the Vendor; and
- (d) pursuant to the Court Approval, the Purchased Assets on an "as is, where is" and "without recourse" basis, provided that delivery of the Purchased Assets shall occur *in situ* wherever such Purchased Assets are located on the Closing Date.

7.3 Deliveries on Closing by the Purchaser

The Purchaser shall deliver (or cause to be delivered) to the Vendor's Solicitor by the Time of Closing on the Closing Date the following instruments and documents, fully executed by the Purchaser, where applicable, or such other Parties as may be specified:

- (a) documentation substantiating, or confirmation from the Secured Lender, that the Mortgage Instrument No. 201 011 929 and that the corresponding Caveat re: Assignment of Rents and Leases Instrument No. 201 011 930 registered against title to the Lands in favour of the Secured Lender, have been assigned, accepted, and assumed by the Purchaser in an amount equal to the Purchase Price (less the Deposit).
- (b) payment of the applicable Transfer Taxes, by way of wire transfer, details of which are set forth in Schedule "C", attached hereto, made payable to the Vendor;
- (c) a bring-down certificate executed by the Purchaser, in the form attached as Schedule "F", acting reasonably, certifying that all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Time of Closing;
- (d) the elections referred to in Section 3.5, executed by the Purchaser, to the extent such elections are applicable to the Transaction and available to the Purchaser;
- (e) the General Conveyance, Assignment and Assumption Agreement duly executed by the Purchaser; and
- (f) any other documents, resolutions and certificates as is referred to in this Agreement or as the Vendor may require to give effect to this Agreement.

7.4 Risk and Insurance

Until Closing, the Vendor shall maintain all Insurance Policies and give all notices and present all Claims under all Insurance Policies in a timely fashion. Upon Closing, all title and risk with respect to the Purchased Assets shall pass to the Purchaser effective as of the Time of Closing. The Purchaser shall be responsible for placing its own property, liability and other insurance coverage with respect to the Purchased Assets. Pending Closing, in the event of damage to the Purchased Assets prior to the Time of Closing, the Purchaser shall complete the Transactions without reduction of the Purchase Price. For certainty, the Purchaser cannot rescind this Agreement even in the event of substantial damage to the Purchased Assets.

ARTICLE 8 INDEMNITY

8.1 Indemnification Given by Purchaser

If Closing occurs, the Purchaser shall:

- (a) be solely liable and responsible liable to the Vendor for; and
- (b) as a separate covenant, indemnify, release and save harmless the Vendor and its Representatives from and against,

all Losses and Liabilities, proceedings and demands, whatsoever which may be brought against or suffered, sustained, paid or incurred by any of them to arising or accruing prior to, on or after the Effective Time and which relate to the Purchased Assets, including all existing, and future Losses and Liabilities attributable to the ownership, operation, use, construction or maintenance of the Purchased Assets, to the extent that such Losses and Liabilities related thereto arose/arise or occur, as applicable, prior to, on or after the Closing Date, and in respect of the indemnities specified in this Agreement, including, Section 5.3. The Purchaser's indemnity obligation set forth in this Section 8.1 shall survive the Closing Date indefinitely.

8.2 No Merger

There shall not be any merger of any liability or indemnity hereunder in any assignment, conveyance, transfer or document delivered pursuant hereto notwithstanding any rule of law, equity or statute to the contrary and all such rules are hereby waived.

ARTICLE 9 TERMINATION

9.1 Grounds for Termination

This Agreement may be terminated at any time prior to Closing by the Vendor if the conditions for the benefit of the Vendor pursuant to the provisions of Article 6, are not satisfied or waived by or on the date specified for satisfaction or waiver. For certainty, the Purchaser shall not, under any circumstances (except in accordance with section 3.2(b)(iii) be entitled to have the Deposit returned to the Purchaser, notwithstanding whether the Purchaser validly terminates this Agreement.

For certainty, if the Purchaser fails to complete the Transaction in accordance with the terms of this Agreement, then the Vendor may, by notice to the Purchaser, elect to treat the Agreement as having been repudiated by the Purchaser. In all circumstances, the Deposit and any other payments made by the Purchaser shall be forfeited to the Vendor on account of its liquidated damages, not as a penalty, and the Purchased Assets may be resold by the Vendor without prejudice to any claims which the Vendor may have against the Purchaser by reason of such default.

9.2 Effect of Termination

Notwithstanding any termination of this Agreement by the Vendor or the Purchaser as permitted under Section 9.1, the provisions of Sections 10.1, 10.2, 10.3, 10.4, 10.10, 10.13 shall remain in full force and effect following any such permitted termination, and the Deposit shall be governed by Section 3.2.

ARTICLE 10 MISCELLANEOUS

10.1 Confidentiality

- (a) The Purchaser may not disclose the contents of this Agreement, including the name of the Vendor, Receiver or the Debtor, or any information concerning negotiations leading to this Agreement and the Transaction, without the prior written consent of the Receiver.
- (b) Prior to Closing, all information obtained by the Purchaser from the Vendor respecting the Purchased Assets shall be retained in confidence by it and used by it only for the purposes of this Transaction.

10.2 Obligations to Survive

The obligations, covenants, representations and warranties (if any) of the Purchaser set out in this Agreement shall survive Closing, shall remain in full force and effect, shall not merge as a result of Closing and shall be binding on the Purchaser thereafter.

10.3 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta, and the federal laws of Canada applicable therein (excluding any conflict of law rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). Each Party irrevocably submits to the exclusive jurisdiction of the Court with respect to any matter arising hereunder or relating hereto (located, where available, in the judicial district of Calgary).

10.4 Damages

Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any punitive, exemplary, consequential or indirect damages (including for greater certainty, any loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the Transaction.

10.5 Further Assurances

Each of the Parties hereto from and after the date hereof shall, from time to time, and at the request and expense of the Party requesting the same, do all such further acts and things and execute and deliver such further instruments, documents, matters, papers and assurances as may be reasonably requested to complete the Transaction and for more effectually carrying out the true intent and meaning of this Agreement.

10.6 Assignment

Neither Party shall, without the prior written consent of the other Party, acting reasonably, assign any right or interest in this Agreement.

10.7 Waiver

No failure on the part of any Party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any right or remedy in law or in equity or by statute or otherwise conferred. No waiver by any Party of any breach (whether actual or anticipated) of any of the terms, conditions, representations or warranties contained herein

shall take effect or be binding upon that Party unless the waiver is expressed in writing under the authority of that Party. Any waiver so given shall extend only to the particular breach so waived and shall not limit or affect any rights with respect to any other or future breach.

10.8 Amendment

This Agreement shall not be varied in its terms or amended by oral agreement or by representations or otherwise other than by an instrument in writing dated subsequent to the date hereof, executed by a duly authorized representative of each Party.

10.9 Time of the Essence

Time is of the essence in this Agreement.

10.10 Costs and Expenses

Each Party shall be responsible for all costs and expenses (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisors) incurred by it in connection with this Agreement and the Transaction. No Party shall be responsible for the costs and expenses of the other Party.

10.11 Notices

Any notice, demand or other communication required or permitted to be given to any Party shall be given in writing and addressed as follows:

- (a) in the case of the Vendor or the Receiver:

Alvarez & Marsal Canada Inc.
Suite 1110, 250 6th Ave SW
Calgary, AB T2P 3H7
Attention: Orest Konowalchuk / David Williams
Email: okonowalchuk@alvarezandmarsal.com / david.williams@alvarezandmarsal.com

and with a copy to the Receiver's solicitors:

Torys LLP
46th Floor
525 8th Avenue SW
Calgary, AB T2P 1G1
Attention: Kyle Kashuba
Email: kkashuba@torys.com

- (b) In the case of the Purchaser:

Honeywell Development Corp.
2235 30 Avenue NE, Unit #4
Email: rmalik@maxwellrealty.ca

and with a copy to the Purchaser's solicitors:

Walsh LLP
#2800, 801 – 6th Avenue SW
Calgary, AB T2P 4A3
Attention: John Jung
Email: jjung@walshlaw.ca

Any such notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the Business Day of such delivery and if sent by facsimile or other electronic communication with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was received.

10.12 Enurement

This Agreement shall be binding upon, and enure to the benefit of, the Parties and their respective successors and permitted assigns.

10.13 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the Parties and their successors and permitted assigns, and no person, other than the Parties and their successors and permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

10.14 Severability

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision validity or enforceability in any other jurisdiction.

10.15 Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and cancels and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties with respect to the subject matter hereof. There are no conditions, covenants, agreements, representations, warranties or other provisions, whether oral or written, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof other than those contained in this Agreement.

10.16 Dissolution of Debtor

The Purchaser acknowledges and agrees that nothing in this Agreement shall operate to prohibit or diminish in any way the right of each Debtor or the Vendor to dissolve, wind-up, make an assignment in bankruptcy in any manner or at any time subsequent to the Closing Date as it may determine in their sole discretion, which may be exercised without regard to the impact any such action may have on the Vendor's ability to fulfil its obligations under this Agreement that survive Closing.

10.17 Liability of the Parties

The Purchaser acknowledges and agrees that in all matters pertaining to this Agreement, including in its execution, the Vendor is acting solely in its capacity as a receiver and manager of the Debtor and, as such, its liability under this Agreement, if any, will be in its capacity as a receiver and manager, and the Vendor and its Affiliates and their respective Representatives shall have no personal or corporate liability of any kind, whether in contract, in tort or otherwise and in no circumstance will the Vendor be liable for any consequential damages including loss of profit.

10.18 Receiver's Capacity

The Parties hereto agree that the Receiver acts solely in its capacity as receiver and manager of the undertaking, property and assets of the Debtor, and that the Receiver and its directors, officers, agents, representatives, servants or employees shall have no personal or corporate liability under or as a result of this Agreement, or at common law, or by statute, or equity or otherwise in connection herewith.

10.19 Independent Legal Advice

Each of the Parties to this Agreement acknowledges that it has had the time and opportunity to obtain independent legal advice with respect to the execution of this Agreement, or has waived that opportunity, and each of the Parties to this Agreement has read, understands and agrees with all of the terms and conditions contained in this Agreement.

10.20 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or other electronic means of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF this Agreement has been properly executed by the Parties as of the date first above written.

ALVAREZ & MARSAL CANADA INC., in its capacity as the Court-appointed receiver and manager of all of the undertakings, properties and assets of Alvaro Developers Inc. and Alvaro Limited Partnership and not in its personal or corporate capacity



Per: _____

Name: Orest Konowalchuk
Title: Senior Vice President

Honeywell Development Corp.
DocuSigned by:
Rashid Malik
071D6F11DA8B4E0...

Per: _____
Name: Rashid Malik
Title: President

Per: _____
Name:
Title:

I/We have the authority to bind the Corporation

SCHEDULE "A"
PERMITTED ENCUMBRANCES

GENERAL ENCUMBRANCES

- a) The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any mines and minerals in the Crown or in any other person.
- b) Undetermined or inchoate statutory liens for Taxes, assessments, rates, governmental charges or utility charges or levies not due as at the Closing Date;
- c) Without limitation, subdivision agreements, site plan control agreements, development agreements, easements, rights-of-way and rights in the nature of easements (including, without limiting the generality of the foregoing, licenses, easements, rights-of-way and rights in the nature of easements for sidewalks, public ways, sewers, drains, gas, steam and water mains or electric light and power, or telephone and telegraph conduits, poles, wires and cables), heritage easements and agreements relating thereto, servicing agreements, utility agreements, permits, licenses, airport zoning regulations, zoning, land use and building restrictions, by-laws, regulations and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of the Purchased Assets, provided same have been complied with, and provided the same are registered on title to the Purchased Assets on the date hereof.
- d) The rights reserved to or vested in any Governmental Authority to control or regulate any of the Purchased Assets, in any manner.
- e) Title defects, encroachments or irregularities which in the aggregate will not materially impair the use of the Purchased Assets for the purpose for which they are used.
- f) Any registered easements, rights-of-way and other similar rights registered against title to the Purchased Assets.
- g) Any unregistered easements, rights-of-way or other unregistered interests or claims not disclosed by registered title in respect of the provision of utilities to the Purchased Assets, provided same have been complied with.
- h) Any rights of expropriation, access or use or any other similar rights conferred or reserved to any Governmental Authority by Applicable Law.
- i) The right reserved to or vested in any governmental or public authority by any lease, licence, franchise, grant, permit or statutory provision to terminate any lease, licence, franchise, grant or permit, or to require annual or other periodic payments as a condition of the continuance thereof that are not due at the Closing Date.
- j) Encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Purchased Assets that are not yet due and owing or, if due and owing, are paid on or before Closing.
- k) Minor encroachments by the buildings on the Purchased Assets over neighbouring lands and/or permitted under agreements with neighbouring landowners and minor encroachments over the Purchased Assets by improvements of neighbouring landowners and/or permitted under agreements with neighbouring landowners that, in either case, do not materially and adversely impair the current use, operation or marketability of the Purchased Assets.

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- l) The provisions of all Applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Purchased Assets, provided same have been complied with and there are no breaches of same.
- m) The encumbrance resulting from the deposit of cash or obligations as security when required to do so by governmental or other public authority or by normal business practice in connection with contracts, licences or tenders or similar matters in the ordinary course of business and for the purpose of carrying on the same.
- n) The terms and conditions of any applicable permits.
- o) All caveats and instruments registered by or on behalf of the Purchaser.
- p) Assignments of insurance provided to landlords (or their mortgagees) pursuant to the terms of any lease, and liens or rights reserved in any lease for rent or for compliance with the terms of such lease.

SPECIFIC ENCUMBRANCES

All Liens, interests, Encumbrances and legal notations set forth in the certificates of title to the Lands as of the date immediately preceding the date of Closing, including, without limitation, the following:

Title Number 181 195 112		
Registration Number	Date	Encumbrances, Liens & Interests / Particulars
5495FS	18/12/1945	Restrictive Covenant
201 011 929	16/01/2020	Mortgage Mortgagee - Bancorp Financial Services Inc. 1420, 1090 West Georgia Street Vancouver, British Columbia V6E 3V7 Mortgagee - Bancorp Balanced Mortgage Fund II Ltd. Mortgagee - Bancorp Growth Mortgage Fund II Ltd. Both of: #1420, 1090 West Georgia Street Vancouver, British Columbia V6E 3V7 Original Principal Amount: \$5,350,000
201 011 930	16/01/2020	Caveat Re: Assignment of Rents and Leases Caveator - Bancorp Financial Services Inc. Caveator - Bancorp Balanced Mortgage Fund II Ltd. Caveator - Bancorp Growth Mortgage Fund II Ltd. All of:

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Title Number 181 195 112		
Registration Number	Date	Encumbrances, Liens & Interests / Particulars
		Attention: Manager 1420-1090 West Georgia Street Vancouver, British Columbia V6E 3V7 Agent - Gabrielle Motuz

Title Number 201 009 726		
Registration Number	Date	Encumbrances, Liens & Interests / Particulars
991 082 894	27/03/1999	Caveat RE: Encroachment Agreement
201 011 929	16/01/2020	Mortgage Mortgagee – Bancorp Financial Services Inc. 1420, 1090 West Georgia Street Vancouver, British Columbia V6E 3V7 Mortgagee – Bancorp Balanced Mortgage Fund II Ltd. Mortgagee – Bancorp Growth Mortgage Fund II Ltd. Both of: #1420, 1090 West Georgia Street Vancouver, British Columbia V6E 3V7 Original Principal Amount: \$5,350,000
201 011 930	16/01/2020	Caveat Re: Assignment of Rents and Leases Caveator - Bancorp Financial Services Inc. Caveator - Bancorp Balanced Mortgage Fund II Ltd. Caveator - Bancorp Growth Mortgage Fund II Ltd. All of: Attention: Manager 1420-1090 West Georgia Street Vancouver, British Columbia V6E 3V7

Title Number 201 009 726		
Registration Number	Date	Encumbrances, Liens & Interests / Particulars
		Agent - Gabrielle Motuz

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SCHEDULE "B"
PURCHASED ASSETS

The Lands and all buildings, sheds, structures, fixtures, and appurtenances on the Lands.

For certainty, the mobile security camera and the rented fence surrounding the permitted of the Lands do not form part of the Purchased Assets.

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SCHEDULE "C"
VENDOR'S WIRE TRANSFER DETAILS

Wiring Funds to RBC in CAD Funds
(Alvarez & Marsal Canada
Inc., Receiver for Alvaro
Developers Inc. et al)

Receiving Client's Name As shown on bank records	Alvarez & Marsal Canada Inc., Receiver for Alvaro Developers Inc. et al
Client's Full Address	Suite 1110, 250 - 6 th Ave SW, Calgary AB T2P 3H7
Branch Transit Number	02319
Bank Number	003
Account Number	104 448 6
Swift Code	ROYCCAT2
Bank Name	Royal Bank of Canada
Bank Address	Bow Valley Square 3 255 5 Ave SW Calgary, AB T2P 3G6 Canada
Bank Phone Number	(403) 292-2048

When sending wires, please ensure that the full 12 digit transit and account number is included in the payment.

In addition, please provide the following information in Field 70 (Payment Details): "DO NOT REJECT WIRE, NOTIFY AND PAY. Payment for TRUSTEED DEPOSIT ACCOUNT <enter Transit and Account number for Trusteed Deposit> "

D-1

SCHEDULE "D"
FORM OF APPROVAL AND VESTING ORDER

E-1

SCHEDULE "E"
FORM OF GENERAL CONVEYANCE, ASSIGNMENT AND ASSUMPTION AGREEMENT

GENERAL CONVEYANCE, ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS AGREEMENT (this "**Agreement**") made as of this ■ day of May, 2023.

BETWEEN:

ALVAREZ & MARSAL CANADA INC., solely in its capacity as receiver and manager of the undertaking, property and assets of Alvaro Developers Inc. and Alvaro Limited Partnership (together, the "**Debtor**") and not in its personal or corporate capacity (the "**Vendor**")

- and -

Honeywell Development Corp. (the "**Purchaser**")

WHEREAS pursuant to an order of the Court of King's Bench of Alberta dated December 2, 2022, the Vendor was appointed receiver and manager of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof;

AND WHEREAS the Vendor has agreed to sell and convey the Vendor's entire right, title, estate and interests (if any) in the Purchased Assets (as defined in the Asset Purchase Agreement, defined below) to the Purchaser, and the Purchaser has agreed to purchase and accept all of the Vendor's right, title, estate and interest in and to the Purchased Assets, subject to and in accordance with the terms and conditions contained in the Asset Purchase Agreement;

AND WHEREAS by entering this Agreement, the Parties wish to: (i) further evidence the sale, assignment, transfer and conveyance all of each Debtor's right, title and interest in, to and under the Purchased Assets to the Purchaser pursuant to the Approval and Vesting Order granted in connection with the subject transaction; and (ii) give effect to the assumption by the Purchaser of the Assumed Liabilities (as defined in the Asset Purchase Agreement).

NOW THEREFORE for the consideration provided in the Asset Purchase Agreement and in consideration of the premises hereto and the covenants and agreements hereinafter set forth and contained, the Parties covenant and agree as follows:

Definitions

In this Agreement, including the recitals hereto, the definitions set forth in the Asset Purchase Agreement are adopted herein by reference and, in addition:

"**Asset Purchase Agreement**" means that Asset Purchase Agreement between the Vendor and the Purchaser dated April 28, 2023.

General Conveyance and Assignment

As of the Effective Time (as defined in the Asset Purchase Agreement), the Vendor hereby sells, assigns, transfers and conveys to the Purchaser all the Vendor's Interest (if any) in, to and under the Purchased Assets, but only to the extent not otherwise expressly transferred or assigned to the Purchaser by separate instrument or agreement or the Approval and Vesting Order, and all rights, benefits and advantages accruing to the Debtor thereunder to have and to hold the same unto the Purchaser absolutely.

Assumption

As of the Effective Time, the Purchaser hereby accepts the assignments, transfers and conveyances in Section 2 and the Approval and Vesting Order and hereby assumes and undertakes to pay, satisfy, discharge, perform, fulfil and otherwise be responsible for the Assumed Liabilities.

No Assignment or Transfer of Unassignable Contracts and Non-Transferrable Assets

Nothing in this Agreement shall be construed as an attempt to: (i) assign to the Purchaser any lease or agreement which, as a matter of law or by its terms, is not assignable in whole or in part without the consent of the other party or parties thereto and in respect of which no such consent has been received; or (ii) transfer to the Purchaser any other Purchased Asset which, as a matter of law or otherwise, is not transferrable in whole or in part to the Purchaser.

Subordinate Document

This Agreement is executed and delivered by the Parties pursuant to the Asset Purchase Agreement and the provisions of the Asset Purchase Agreement shall prevail in the event of a conflict between the provisions of the Asset Purchase Agreement and the provisions of this Agreement.

No Merger

The covenants, representations, warranties and indemnities contained in the Purchase Agreement are incorporated herein as fully and effectively as if they were set out herein and there shall be no merger of any covenant, representation, warranty or indemnity contained in the Purchase Agreement by virtue of the execution and delivery hereof, any rule of law, equity or statute to the contrary notwithstanding.

Governing Law

This Agreement shall be subject to and interpreted, construed and enforced in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and shall, in every regard, be treated as a contract made in the Province of Alberta. The Parties irrevocably attorn and submit to the jurisdiction of the courts of the Province of Alberta and courts of appeal therefrom in respect of all matters arising out of this Agreement.

Enurement

This Agreement shall be binding upon and shall enure to the benefit of each of the Parties and their respective administrators, trustees, receivers, successors and assigns.

Assignment

Neither Party may assign in whole or in part its rights or obligations under this Agreement without the prior written consent of the other Party.

Further Assurances

Each Party will, from time to time and at all times hereafter, at the request of the other Party but without further consideration, do all such further acts and execute and deliver all such further documents as shall be reasonably required in order to fully perform and carry out the terms hereof.

Non-Merger

This Agreement is not intended to supersede the Asset Purchase Agreement or to vary or affect, or effect a merger of any of the terms, conditions, covenants, representations or warranties thereof or contained therein, but is entered into only for the purpose of effecting the sale and conveyance of the Purchased Assets in the manner and on the terms set forth in the Asset Purchase Agreement.

Counterpart Execution

This Agreement may be executed in counterpart and by facsimile or other electronic means and all such executed counterparts together shall constitute one and the same agreement.

[Signature Page to Follow.]

IN WITNESS WHEREOF the Parties have executed this Agreement on the date first above written.

ALVAREZ & MARSAL CANADA INC., solely in its capacity as receiver and manager of the undertaking, property and assets of Alvaro Developers Inc. and Alvaro Limited Partnership and not in its personal or corporate capacity

By:

Name: Orest Konowalchuk
Title: Senior Vice President

HONEYWELL DEVELOPMENT CORP.

Name: Rashid Malik

Title: President

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SCHEDULE "F"
FORM OF OFFICER'S CERTIFICATE →

PURCHASER'S OFFICER'S CERTIFICATE

TO: ALVAREZ & MARSAL CANADA INC. (RECEIVER)

RE: Asset Purchase Agreement dated April 28, 2023 between ALVAREZ & MARSAL CANADA INC., in its capacity as the Court-appointed receiver and manager of all of the undertakings, properties and assets of Alvaro Developers Inc. and Alvaro Limited Partnership and not in its personal or corporate capacity (the "Vendor") and Honeywell Development Corp. (the "Purchaser") (the "Agreement")

Unless otherwise defined herein, the definitions provided for in the Agreement are adopted in this certificate (the "**Certificate**").

I, Rashid Malik, President of the Purchaser hereby certify that as of the date of this Certificate:

1. The undersigned is personally familiar, in his capacity as an officer of the Purchaser, with the matters hereinafter mentioned.
2. Each of the covenants, representations and warranties of the Purchaser contained in the Agreement were true and correct in all material respects when made and are true and correct in all material respects as of the Closing Date.
3. All obligations of the Purchaser contained in the Agreement to be performed prior to or at Closing have been timely performed in all material respects.
4. This Certificate is made for and on behalf of the Purchaser and is binding upon it.
5. This Certificate is made with full knowledge that the Vendor is relying on the same for the Closing of the transactions contemplated by the Agreement.

IN WITNESS WHEREOF I have executed this Certificate this ____ day of _____, 2023.

Honeywell Development Corp.

Per: _____
Name: Rashid Malik
Title: President

I/We have the authority to bind the Corporation

G-1

SCHEDULE “G”

**ACKNOWLEDGMENT
CONDITIONS TO CLOSE SATISFIED/WAIVED**

TO: **ALVAREZ & MARSAL CANADA INC.**, solely in its capacity as the Court-appointed receiver and manager of all of the current and future assets, properties and undertakings of Alvaro Developers Inc. and Alvaro Limited Partnership and not in its personal or corporate capacity, (“**Vendor**”)

RE: Asset Purchase Agreement dated April 28, 2023 between the Vendor and Honeywell Development Corp. (the “**Purchaser**”) (the “**APA**”)

Capitalized terms used herein and not otherwise defined have the meanings given to them in the APA.

The Purchaser hereby acknowledges and agrees that all conditions to Closing under the APA have been satisfied and/or waived.

DATED this _____ day of ■, 2023.

Honeywell Development Corp.

Per: _____
Name: Rashid Malik
Title: President

I/We have the authority to bind the Corporation

APPENDIX “B”

(see attached)

Alvaro Developers Inc. - in Receivership

Summary of Receiver's Fees and Disbursements ("Interim Period Billings")

December 2, 2022 to March 31, 2023

Invoices Subject to Court Approval

Inv. No.	Period	Fees	Disbursements	Total Fees & Disbursements	GST	Total
#4	March 1, 2023 to March 31, 2023	43,782.00	466.37	44,248.37	2,212.42	46,460.79
SUBTOTAL		\$ 43,782.00	\$ 466.37	\$ 44,248.37	\$ 2,212.42	\$ 46,460.79

Invoices Previously Approved

Inv. No.	Period	Fees	Disbursements	Total Fees & Disbursements	GST	Total
#1	December 2, 2022 - December 31, 2022	33,835.00	29.56	33,864.56	1,693.23	35,557.79
#2	January 1, 2023 - January 31, 2023	44,639.00	184.32	44,823.32	2,241.17	47,064.49
#3	February 1, 2023 to February 28, 2023	43,888.50	40.88	43,929.38	2,196.47	46,125.85
SUBTOTAL		\$ 122,362.50	\$ 254.76	\$ 122,617.26	\$ 6,130.87	\$ 128,748.13
TOTAL		\$ 166,144.50	\$ 721.13	\$ 166,865.63	\$ 8,343.29	\$ 175,208.92

APPENDIX “C”

(see attached)

Alvaro Developers Inc. - in Receivership

Summary of Receiver's Counsel's Fees and Disbursements ("Interim Period Billings")

December 2, 2022 to March 31, 2023

Invoices Subject to Court Approval

Inv. No.	Period	Fees	Disbursements	Total Fees & Disbursements	GST	Total
1603321	March 1, 2023 to March 31, 2023	62,324.50	85.00	62,409.50	3,116.23	65,525.73
SUBTOTAL		\$ 62,324.50	\$ 85.00	\$ 62,409.50	\$ 3,116.23	\$ 65,525.73

Invoices Previously Approved

Inv. No.	Period	Fees	Disbursements	Total Fees & Disbursements	GST	Total
1595288	December 2, 2022 to December 31, 2022	40,325.00	507.40	40,832.40	2,023.29	42,855.69
1597511	January 1, 2023 to January 31, 2023	25,569.50	87.50	25,657.00	1,282.85	26,939.85
1599984	February 1, 2023 to February 28, 2023	17,264.00	-	17,264.00	863.20	18,127.20
SUBTOTAL		\$ 83,158.50	\$ 594.90	\$ 83,753.40	\$ 4,169.34	\$ 87,922.74
TOTAL		\$ 145,483.00	\$ 679.90	\$ 146,162.90	\$ 7,285.57	\$ 153,448.47

APPENDIX “D”

(see attached)

AFFIDAVIT OF OREST KONOWALCHUK

Sworn on ■, 2023

I, Orest Konowalchuk, of the City of Calgary, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am a Licenced Insolvency Trustee, and a Senior Vice President with Alvarez & Marsal Canada Inc., which is the Court-appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Alvaro Developers Inc. (the “**Trustee**”) and Alvaro Limited Partnership (the “**Beneficial Owner**”, and together with the Trustee, the “**Debtor**”).
2. Pursuant to the Order granted by the Honourable Justice D. Mah of the Court of King’s Bench of Alberta (the “**Court**”) dated December 2, 2022, Alvarez & Marsal Canada Inc. was appointed as the Receiver over the assets, undertakings and properties of the Debtor.
3. Pursuant to an Order (Final Distribution, Approval of Receiver’s Fees, Disbursements, Activities and Discharge of Receiver, and Sharing of the Books and Records) granted by Justice Colin J. Feasby dated May 10, 2023 (the “**Discharge Order**”), the Court approved the discharge of the Receiver, subject to the filing an Affidavit in the within form confirming that the Receiver had completed certain other administrative activities required to complete its administration of the Debtors’ receivership proceedings.
4. This will confirm that the Receiver has completed all other activities required to complete its administration of the Debtors’ receivership proceedings, including, without limitation, all matters set out in paragraph 2 of the Discharge Order and the Receiver’s Second Report.
5. I make this Affidavit further to the requirements of the Discharge Order, and understand that upon the filing of this Affidavit, Alvarez & Marsal Canada Inc. will be fully and finally discharged from its capacity as the Receiver of the Debtor.
6. I make this Affidavit for no other or improper purpose.

SWORN before me at the City of
Calgary, in the Province of Alberta,
this ____ day of _____, 2023

A Commissioner for Oaths in and
for the Province of Alberta

Name: Orest Konowalchuk, LIT